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**JUDICIAL MERIT SELECTION  
COMMITTEE**

**EVALUATION OF CANDIDATE  
BY COMMITTEE MEMBERS**

**PUBLIC HEARING ON JUDICIAL QUALIFICATIONS**

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1 0: 01

2 REPRESENTATIVE CLEMMONS: -- code of laws,  
3 requiring the review of candidates for judicial  
4 office. The function of the Commission is not to  
5 choose between candidates, but rather to declare  
6 whether or not candidates who offer for the position  
7 on the bench -- for positions on the bench, in our  
8 judgment, are qualified to fill the positions they  
9 seek.

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

14 Today, we are reconvened to examine Judge  
15 Carolyn Matthews again, who is seeking re-election to  
16 the Administrative Law Court, Seat Three, and to vote  
17 on the judicial candidates for this seat. At, at  
18 this time, staff has requested an executive session.  
19 Do I hear a motion?

20 MR. STROM: I so move.

21 REPRESENTATIVE CLEMMONS: Mr. Strom so  
22 moves.

23 MALE SPEAKER: Second.

24 REPRESENTATIVE CLEMMONS: And seconded.

25 All those in favor, say aye.

1 (Members respond.)

2 REPRESENTATIVE CLEMMONS: Those opposed?

3 The ayes have it.

4 -- executive session, and we are -- this is

5 Alan Clemmons. We are back on the public record.

6 Let the record reflect that there were no decisions

7 made or votes taken during executive session.

8 (INDISTINCT)

9 FEMALE SPEAKER: (INDISTINCT)

10 MALE SPEAKER: (INDISTINCT) Yeah. We need

11 to get Judge Matthews --

12 FEMALE SPEAKER: (INDISTINCT)

13 REPRESENTATIVE CLEMMONS: Yes. We, we are

14 awaiting Judge Matthews.

15 FEMALE SPEAKER: Do I need to go get her?

16 REPRESENTATIVE CLEMMONS: If --

17 (NO AUDIO)

18 JUDGE MATTHEWS: Is that where you want me,

19 or can I sit? I can sit right here?

20 (INDISTINCT)

21 JUDGE MATTHEWS: Okay.

22 MALE SPEAKER: Here you go.

23 REPRESENTATIVE CLEMMONS: Ladies and

24 gentlemen, members of the Commission, we are back on

25 the public record.

1 JUDGE MATTHEWS: I can sit here?

2 REPRESENTATIVE CLEMMONS: Ms. Matthews,  
3 thank you for joining us. We would like to, when  
4 things are situated --

5 MALE SPEAKER: I'm sorry.

6 REPRESENTATIVE CLEMMONS: At the head of  
7 the room --

8 MALE SPEAKER: The chairs are all  
9 connected. I don't --

10 REPRESENTATIVE CLEMMONS: That's fine.  
11 Once we're all situated, Judge Matthews, we'd very  
12 much like for you to introduce your guests with you  
13 today, and we'd like to afford you an opportunity for  
14 a brief opening statement, if you'd like to make it,  
15 as well.

16 (INDISTINCT)

17 REPRESENTATIVE CLEMMONS: Yes. If you'd  
18 take -- if you would take the stand first, and allow  
19 -- and be sworn.

20 JUDGE MATTHEWS: Sure.

21 REPRESENTATIVE CLEMMONS: Would you raise  
22 your right hand? Do you swear to tell the truth, the  
23 whole truth, and nothing but the truth, so help you  
24 God?

25 JUDGE MATTHEWS: I do.

1                   REPRESENTATIVE CLEMMONS: Thank you, Judge  
2 Matthews. We, welcome you to introduce your -- the  
3 folks with you today and to deliver a brief opening  
4 statement.

5                   JUDGE MATTHEWS: All right. With me today,  
6 first, is my husband, John McAllister; my son-in-law  
7 and daughter, Austin and Collin Bruner; my sister  
8 Marty Jones (PHONETIC) from Lexington; my friends  
9 Walter and Eleanor Deraline (PHONETIC) from  
10 Blythewood; and I believe that's everyone that I  
11 brought with me today. I'm sorry; I brought Greg  
12 Harris, my lawyer. He's important.

13                   REPRESENTATIVE CLEMMONS: Your attorney is  
14 with you, Greg Harris. Good to have you all with us  
15 today.

16                   MALE SPEAKER: Thank you.

17                   JUDGE MATTHEWS: But what I would like to  
18 say is that when I appeared before you on November 6<sup>th</sup>  
19 at the initial public hearing and made all the  
20 statements then under oath, and I was informed two  
21 days later by Ms. Shuler that you were keeping the  
22 record open, and I assumed when she told me that two  
23 days later that by keeping the record open, there  
24 were additional items that you wished to ask me  
25 about. I did not realize that you wanted

1 documentation of things I had said at the original  
2 hearing, and so I immediately began compiling the  
3 information which I had already looked at before I  
4 came to this hearing.

5           For example, before I came to the hearing  
6 on November 6<sup>th</sup>, I went to the ALC web site, and I  
7 looked at all my cases, final orders, from January 1<sup>st</sup>  
8 of 2014 through August 6<sup>th</sup> of 2014, which was the  
9 filing date, which I thought was a logical breaking  
10 point. I looked at my 96 orders in that time, and I  
11 looked at all those cases to see which ones fell  
12 within what I call my 30-day policy, and I made a  
13 rough estimate, and it appeared that approximately 90  
14 percent of them had been done within the 30-day  
15 policy, so I felt very comfortable about saying that  
16 as I did at the November hearing.

17           And then I looked at the other judges'  
18 orders for the year, or for that same time period.  
19 All off the web site; anybody can go and pull it up,  
20 and you have it in your notebooks. And at that time,  
21 I prepared a brief summary of all the judges' orders  
22 and -- which revealed that my, my orders for the year  
23 were the top number of all judges and that, for the  
24 past four years -- three out of four -- I had  
25 produced the most orders at the court.

1           I also wanted to check on my 30-day policy,  
2 and so this notebook that you have in front of you  
3 contains affidavits, right behind Tab 1-A. First,  
4 the affidavit of Marshall Tinsley, a young lady and  
5 lawyer who no longer appears in front of me, who  
6 offered to give me an affidavit regarding her  
7 knowledge of my 30-day policy, and you'll note in her  
8 affidavit that now she is a lawyer at Turner Padgett  
9 and Laney -- she appeared before me for a two-and-a-  
10 half-year period as counsel for litigation for the  
11 Department of Revenue -- that she was aware of my 30-  
12 day policy, and that I always informed the parties  
13 appearing in front of me about my 30-day policy, and  
14 that if it was -- an order was not done within 30  
15 days after a hearing or within 30 days after proposed  
16 orders were submitted to me, that someone from my  
17 staff would notify them. And she said that I always  
18 processed her cases in a timely fashion and was  
19 prompt in providing an order after hearing. She  
20 offered this to me when she heard what was happening,  
21 that I was being called back and questions were being  
22 raised about the 30-day policy. I would not have  
23 gotten a lawyer who regularly appears in front of me  
24 to do that, but she had left the Department of  
25 Revenue and assured me she does not have any cases

1 and will not have any coming before me.

2           Next is the affidavit of my law clerk, Mary  
3 Beth Bolt Campbell, who worked for me for 15 months,  
4 from May of 2013 to August of 2014. She echoed Ms.  
5 Tinsley's statement that she was aware of my 30-day  
6 procedure and that either she or someone on my staff,  
7 usually her or my staff attorney, would conduct  
8 -- contact all parties and let them know when the  
9 order would be forthcoming. She further noted that  
10 she also -- always informed -- that I always informed  
11 parties of my practice of getting those orders out.  
12 She further states that I required her to keep track  
13 of when orders needed to be sent to guarantee that  
14 our orders were completed within 30 days. And we  
15 routinely monitored the docket to make sure  
16 everything was processed in a timely fashion.

17           The next affidavit is from Page Snyder, who  
18 was my law clerk from August '11 to April, 2013. She  
19 echoed the fact that she was aware of the 30-day  
20 policy and was required to comply with it, that all  
21 parties were regularly informed of it at hearings,  
22 and that I -- she was required to keep track of when  
23 cases were due so that we would complete cases within  
24 that 30-day window, and that she routinely monitored  
25 my docket to ensure cases were processed in a timely



1 fashion.

2 I also have the affidavit of Shelby  
3 Kellahan, my law clerk for four years, from 2007 to  
4 2011, who talked about my instituting that procedure  
5 in April of 2009, when she was my law clerk, that  
6 someone always contacted parties if orders were not  
7 done within a 30-day window. She noted also that she  
8 was required to keep track of when orders needed to  
9 be sent and that the docket was monitored and that I  
10 routinely ranked at the top or, occasionally, second  
11 among the judges in having the fewest number of cases  
12 remaining on the docket.

13 If we look at Tab B, behind Roman numeral  
14 I, you will note that I have prepared a chart which  
15 lists all of my 96 orders during the time from  
16 January 1<sup>st</sup> to August 6, 2014. You have all of those  
17 in the big, black notebook beside you. I did not  
18 copy all of the inmate orders because that would be  
19 another notebook, at least one or one-and-a-half  
20 times that size in the same time period, simply  
21 because of the sheer volume of those.

22 But if you will look at those 96 orders,  
23 and what I testified on November 6<sup>th</sup> was that I try to  
24 get out all orders, and it -- again, it is  
25 aspirational. It is not perfect. There is nothing

1 in the South Carolina Code, in the regulations, in  
2 our Procedural Rules at the court that ever requires  
3 that any order be out within 30 days. That is  
4 something I did because I wanted to be better than  
5 the average judge, and I know I have people's lives  
6 in my hands. And when people are made to wait for 30  
7 days to wonder if they're going to be able to  
8 continue to practice a profession that they've got a  
9 license in, or what their home is valued for, or if  
10 they're going to be able to build their dock, or if  
11 -- whatever's in front of me, I think 30 days is long  
12 enough because I am always mindful that there are  
13 real people out there.

14           So the cases that I did not say I try to do  
15 or have the 30-day policy on are the ones which are  
16 submitted just on briefs, and those would be the DEW  
17 cases. But you will note, if you look through the DEW  
18 cases on here, all -- almost all of them were done  
19 with -- under, under the 30-day time period.

20           So the first one on here, as you will note  
21 on page 1, number 3, is Linda Smith versus the South  
22 Carolina Employee Benefit Authority, Employee  
23 Insurance Program. That case -- the hearing was held  
24 on May 21<sup>st</sup> in 2014. The proposed orders were  
25 received on June 21, 2014. It was issued on August

1 6<sup>th</sup>. It's -- these are all in reverse order in your  
2 notebooks. Simple math; every one of these things is  
3 simple math. In that case, the reason it was more  
4 than 30 days is because we had very extensive medical  
5 records, and any of you who have ever worked with  
6 medical records that come to you as, as part of a  
7 record from an insurance company realize how hard  
8 they are to read and how difficult it is to plow  
9 through all those. And I am very conscientious. I  
10 learned at the Supreme Court about dealing with  
11 records and reading records, and I try to read  
12 everything that's in those records.

13 Ms. Smith -- it is very hard to deny  
14 someone long-term disability, and we looked at it,  
15 and we scrutinized this case to see if she would  
16 qualify for additional long-term disability benefits.  
17 And as I said, her medical records, the various  
18 cardiologists, pulmonologists, the issues that she  
19 had with various drugs really gave me great pause,  
20 and I would like to have given her long-term  
21 disability in a perfect world, but that's not a  
22 perfect world. My scope of review is substantial  
23 evidence, and the substantial evidence in the record  
24 finally substantiated that she was not entitled to  
25 this, so I had heartburn over that.

1           Anyway, the next case that is more than 30  
2 days is the one with 73, South Carolina Department of  
3 Insurance versus Kimberly M. Hunt. And that was  
4 issued on July 21, 2014. And Ms. Hunt -- this was a  
5 novel issue. She was representing herself, and the  
6 Department of Insurance was trying to take her bail  
7 bondsman's license. The issue there, which I have  
8 never seen before, was whether bail bondsmen could  
9 accept a car as a fee, or was is collateral. It's  
10 not clear in the statutes. It's not clear in the  
11 regulations. My staff attorney, Chris Whitehead, did  
12 a good bit of research looking in other states about  
13 that, and in fact, there's a footnote in there about,  
14 I believe, an Iowa case -- an Indiana case dealing  
15 with whether it could be a premium or a fee. It was  
16 a complicated legal issue, and they were trying to  
17 take -- fine her \$2,000. This woman was pro se, and  
18 I was very concerned about the fact that she had  
19 worked hard for this license. We continued that  
20 hearing, had a second hearing, and, anyway, kept -- I  
21 know we kept in constant touch with Ms. Hunt because  
22 she called all the time, asking about her license  
23 because it was her livelihood. That's the reason  
24 that took 73 days.

25           The next one is 39 days. Lon Shull. That

1 is a case -- another employee insurance program that  
2 had numerous medical records. It's nine days over my  
3 30, and the reason is because it had the novel issue  
4 of whether or not estoppel would lie against the  
5 State when there was a representation that Mr. Shull  
6 could actually go to a particular alcohol treatment  
7 center, and he relied upon that. We had never had  
8 that particular issue before with an out-of-network  
9 provider, and any of you who have ever dealt with the  
10 State health plan and tried to figure out the  
11 interaction between the State health plan and the  
12 statutes of South Carolina, which provide coverage in  
13 that instance, and reading copious medical records  
14 about the necessity for Mr. Shull's going to this  
15 particular facility, that one was 39 days.

16 All right, on the next page, page 2, you  
17 will note that on that entire page, there is only one  
18 in which we did not meet the 30-day rule. That was  
19 Gary Walajtys and Eric Walajtys versus the South  
20 Carolina Department of Revenue. It was on July 9<sup>th</sup>  
21 that I issued that order, and, again, this is simple  
22 math. You can go in there and find in here, in  
23 almost every case, when hearings were held, and if a  
24 transcript was ordered, I gave them 30 days and 30  
25 days afterwards, normally, to write a -- proposed

1 orders. This, again, was a novel issue. I had never  
2 had before the issue of whether or not business  
3 expenses could be deducted on a trip that also  
4 involved personal transportation. The Walajtys' s had  
5 gone to Disney World, and their contention was that  
6 while they were at Disney World, they looked at a lot  
7 of second-hand thrift shops, and that part of the  
8 trip was deductible. We had to pull IRS regs which  
9 govern this. We had to pull all of their tax returns  
10 for years. We had to review numerous documents,  
11 which were handwritten ledgers, et cetera, and the  
12 Walajtys' s were representing themselves. They were  
13 constantly calling the office and talking to my law  
14 clerk, staff attorney, and we were -- so that one  
15 went ten days over, on the Walajtys' s. We ultimately  
16 held that they could not deduct those expenses as  
17 business expenses, based on the federal regulations.

18 All right, then that whole page, everything  
19 complies -- else complies with the 30-day policy.  
20 Okay, turn to the next page, page 3. We go down, and  
21 you'll see that many of them are three days. Many of  
22 them -- and, and one of those first ones, the fourth  
23 one on there, Rosett -- Ronetta Grate, the South  
24 Carolina Department of Employment and Workforce.  
25 That three days means that when we got the last brief

1 in, we began work on it, and the order went out three  
2 days later. We are trying to -- we're, we're trying  
3 to do everything as fast as we possibly can and give  
4 it a fair review.

5           The only one on this entire page which is  
6 out of sequence, and it certainly is, is Roger D.  
7 Parker. You'll note it says 940 days. I call that  
8 the lost case. In 16 years of being a judge, to my  
9 knowledge, we have never lost a case before. I was  
10 sharing a staff attorney with Judge Deb Durden, and  
11 this is a 2011 case. When my new staff attorney  
12 Chris Whitehead came in -- and you can ask him about  
13 that -- he found that case in a drawer. It was  
14 literally thrown in a drawer. And we don't know why  
15 it was there. All I can say is that we got on it  
16 immediately and issued the order, and it was an  
17 important order because it had to do with whether an  
18 individual was -- or individuals were independent  
19 contractors or whether they were employees. So that  
20 case is so anomalous, it doesn't fit anything. And  
21 it also, if we had gotten to it timely, wouldn't have  
22 had fit within my 30-day requirements since it's  
23 submitted totally on briefs. Nonetheless, it's off  
24 the docket now.

25           If you turn to the next page, page 4, you

1 will note that not a single case down there, until  
2 the very last one, is outside the 30 days; again,  
3 simple math. From reading these opinions, the  
4 orders, the 96 orders you have in front of you, Dotsy  
5 versus Greenwood County Assessors, 63, at the bottom.  
6 Dotsy was an assessor's case, and it was a question  
7 of novel impression. The South Carolina statutes are  
8 very murky as to how one construes real property with  
9 land on it if all that real property is stipulated to  
10 be used for agricultural purposes. We had not had  
11 that issue before, and you'll note that on -- this  
12 was issued March 24, 2014. Former Administrative Law  
13 Judge and former head of the Department of Revenue  
14 Ray Stevens was one of the lawyers, and Jim Carpenter  
15 on the other side, and Warren Clayton. Great  
16 lawyers; they gave us a lot of record. We had a lot  
17 of trial. There were extensive exhibits. They made  
18 novel issues, and I had to spend a lot of time on the  
19 statutory construction and a lot of time trying to  
20 figure out the valuation. We also had other cases  
21 pending at the Administrative Law Court which dealt  
22 with this issue, and Judge Deb Durden issued one that  
23 was very helpful to me as this case was being  
24 processed. So that case took an extra 33 days to  
25 draft.



1           And then we go to the next page, page 5,  
2 and we'll see James Longtin. That was issued on  
3 February 19<sup>th</sup>. That was an order -- thank you. That  
4 was an order that actually dismissed a case on  
5 procedural grounds because we tried very hard to get  
6 pre-hearing statements out of this individual, Mr.  
7 James Longtin. That case came in as a regular case.  
8 It was docketed. It was assigned to me, and I, of  
9 course, opened a file and asked, as I always do, for  
10 pre-hearing statements. We didn't get them. So we  
11 wrote him a letter and said, you know, You got to  
12 file them within 15 days of the order. He didn't  
13 file it, so we sent a letter to him saying further  
14 notice has got to be filed or it could possibly be  
15 dismissed. That was on December 4<sup>th</sup>, so it should  
16 have been in by December 19. On this case, I think  
17 we just tried to give the guy the benefit of the  
18 doubt and waited to dismiss it. But this was a  
19 peculiar case. Since he never responded to any of  
20 our orders or in our letters, he wasn't really  
21 waiting on an order, so it wasn't as if someone was  
22 being harmed by not getting it within 30 days.  
23 Nonetheless, that one did take 30 extra days before  
24 we procedurally dismissed it.

25           The next case on here is number 104. It

1 says Langston Foundation, issued on February 24<sup>th</sup>.  
2 Again, it's a Department of Revenue case. It had to  
3 do with a charter school that was seeking exemption  
4 from ad valorem tax for a particular year. I knew  
5 this case would have a lot of impact on every  
6 assessor in the state, and so we looked at this case  
7 very carefully. There were -- transcript order and  
8 proposed orders were sent in. We also had in this,  
9 and it's in the file, there was a request that we  
10 hold doing anything on this case in abeyance until a  
11 Supreme Court case that they thought would resolve it  
12 came out, so we did. But since it did not come --  
13 that Supreme Court case did not resolve the issue, we  
14 went ahead and had a hearing, asked for proposed  
15 orders, and again, it was a peculiar taxation issue,  
16 and some of the tax statutes are the most intricate  
17 and require the most digging and the most looking at  
18 the record of any cases we get. That case did take  
19 104 days.

20           The next one is Ernest Smith, which was  
21 issued on January 30, 2004, and that was a case in  
22 which Mr. Strom's firm was involved. Jessica Lerer  
23 from his firm tried that case. We held a hearing on  
24 October 8, 2013. As I said, the cases that give me  
25 the most heartburn are the ones in which an

1 individual's ability to do whatever it is they have  
2 gotten a professional license for is in jeopardy.  
3 Mr. Smith had pleaded guilty to filing a false income  
4 tax return. He is -- and was a very impressive,  
5 incredible funeral director, and the issue was  
6 whether the penalty which they had imposed,  
7 suspending his license until he could get a  
8 Presidential pardon, was valid. I had never had that  
9 issue. If you research the, the statutes at, at LLR  
10 and the various chapters in the Title 40, you'll see  
11 that various boards have the ability to impose  
12 various penalties. Well, I had never seen anything  
13 where they said, You will suspend it until you get a  
14 Presidential pardon. I mean, even if they said a  
15 state pardon, then maybe it could have gone to  
16 Pardon, Probation, and Parole or something state.  
17 But we researched that, and one of the things, and I  
18 know Mr. Whitehead may be able to tell you -- you can  
19 ask him about that -- researched for me was what had  
20 happened with Presidential pardons, and there's a  
21 footnote in the opinion that notes how rare they are  
22 because in 2013, President Obama granted 17 petitions  
23 for pardon and denied 314. And that's a peculiar  
24 case because in oral argument, the counsel for LLR  
25 conceded that they had never imposed such a penalty

1 before. I do not like to find that any state  
2 agency's decision is arbitrary and capricious, but in  
3 this case, I thought it was arbitrary and capricious.  
4 But I agonized over it, and I kept looking at the law  
5 and looking in other, other states, and I believe  
6 that is why that case took 69 days from receipt of  
7 proposed orders on November 22<sup>nd</sup> to the filing date on  
8 January 30<sup>th</sup>.

9 All right, then the next one is Kathryn  
10 Milner. That's at the bottom of the page. That was  
11 issued on January 16<sup>th</sup>. Aiken County assessor.  
12 Again, these assessor cases are very tricky, and when  
13 the assessors come before us, the rulings that we  
14 make have long-lasting impact upon the assessor in  
15 every county in the state. The Supreme Court has  
16 ruled that when we hear an assessor case from any of  
17 the 46 counties, it is a de novo hearing. That means  
18 it's brand-new. We don't have to go with the  
19 assessor's evaluation. We don't have to rule with  
20 the petitioner's evaluation. We can find anywhere in  
21 the middle or nothing at all, as far as numbers.  
22 Computation of numbers on dollars is not my strong  
23 suit, but we also had to look at all the reasons that  
24 the petitioner was contending that the assessor's  
25 evaluation was wrong. And she was saying, Well, in,

1 in Aiken County, the Aiken County offices are all  
2 moving away from our rental property, and therefore,  
3 it's being diminished. Well, that's a peculiar  
4 question, and that required a lot of looking at. So  
5 that was the reason that Milner took 79 days, and Ms.  
6 Milner did call our office frequently, and our office  
7 called her frequently to tell her where it was going.

8           If you look at the last page, BIC LLC v.  
9 Pickens County Assessor. We had a lot of county  
10 assessor cases last year -- or this year. That order  
11 remanded the case to the Pickens County assessor,  
12 based on the fact that there is a statute, Section  
13 12-60-2540 that says if the taxpayer failed to  
14 provide the county board with the facts, law, and  
15 other authorities supporting his position, the  
16 Administrative judge shall then remand the case.  
17 Well, the legislature left me no wiggle room there;  
18 *shall* means "do it." So I did it. It was done some  
19 days after a motion to dismiss and a motion to  
20 remand. I did not dismiss it, but I remand it. So  
21 that one took 12 days over the 30.

22           The last one on this list is two below  
23 that, Felicia Renee Washington versus South Carolina  
24 Department of Revenue, issued on January 8<sup>th</sup>. We held  
25 a hearing on November 26<sup>th</sup>, the day before

1 Thanksgiving. The Thanksgiving holidays, I excluded  
2 from the computation. I excluded the two -- the  
3 three Christmas holidays and New Year's Day, which  
4 actually made it 38 total days, so it was eight days  
5 over. I have 43 down there, but I -- it's one I  
6 looked at again today. But when you look at these  
7 cases, again, I said my 30-day policy is aspirational  
8 and self-imposed because I am trying to do better  
9 than the average judge. And in 90 percent, 90  
10 percent, 11 out of, of the 96 did not meet that 30  
11 days, and some of them are just a few days over. In,  
12 90 percent of the cases, I did get those orders out  
13 to people within the 30 days. And that's what this  
14 notebook is intended to show you, and as I said, it's  
15 simple computation. And I had done that computation  
16 in a scratched, scratched-on kind of fashion, but  
17 when it -- I knew you wanted documentation of what I  
18 had said, I went back and printed out my cases, and I  
19 have, as I said, the affidavits of my three law  
20 clerks and of a lawyer who appeared before me  
21 regularly for a three-year period that that policy is  
22 in effect, was made known to lawyers, and was  
23 generally adhered to.

24           The second matter which you wanted to note  
25 was basically a work product issue, and if you will

1 look at Tab Roman numeral II-A, the summary exhibit  
2 of all non-inmate issues issued by each judge. I  
3 would note for the record that in 2011, Matthews is  
4 first with 91 orders; Durden, second, with 83.  
5 Robinson, third, with 83; Anderson, fourth, with 61;  
6 McLeod, fifth, with 49; Lenski with only 7, and I --  
7 please let me say, in Judge Lenski's defense, that he  
8 was on military leave that entire year, so that  
9 number is hard -- that's why that number.

10 Then in 2012, again, total number of orders, and  
11 anybody can do this by going to the web site,  
12 punching in the name of the judge, and saying January  
13 1<sup>st</sup> through December 31<sup>st</sup> of the year, and it spits  
14 them all out. 2012, Matthews, one, at 64; McLeod,  
15 two, at 63; Anderson, three, at 61; Durden, fourth,  
16 at 53; Robinson, fifth, at 53; Lenski, sixth, at 29.

17 In 2013, Judge Robinson beat us all. She  
18 had 126 final orders. Durden was second with 109,  
19 and McLeod tied at second with 109. I was actually  
20 third behind them at 104; Anderson, at 95; and  
21 Lenski, at 80.

22 And in 2014, the same documents reveal  
23 Matthews, 96; Robinson, second, at 91; Anderson,  
24 third, at 76; Durden, fourth, at 65; McLeod, fifth,  
25 at 61; Lenski, sixth, at 41; and behind each of these

1 tabs, Tab B, you will see all the printouts from our  
2 web site of each of those. First year is the 2014  
3 period, then the 2013 period behind Tab C, the 2012  
4 period behind Tab D, and the 2011 period behind Tab  
5 E. And you will note, with respect to docket, Tab 3  
6 was an item prepared by my staff attorney Chris  
7 Whitehead for me on August 6<sup>th</sup> before I came over  
8 here. And my hand -- that's my handwritten date at  
9 the top. And it duplicates those numbers of cases  
10 disposed of from January 1<sup>st</sup> to August 6, 2014. And  
11 he was getting that from our case management system  
12 at the office. And it shows under my heading, the  
13 Department of Corrections and Parole, Pardon, and  
14 Probation cases disposed of from -- to August 6,  
15 2014, that was 195, but out of that number of cases  
16 disposed of, again, I lead the crowd, and the numbers  
17 all are the same.

18           So I had every right to rely upon that, and  
19 that's -- those are the things I relied upon before I  
20 came to testify before you the last time, and when I  
21 go and print all these out and recount them again,  
22 they're verified. And the other thing I would like  
23 to point out is that with respect to work product,  
24 there it is. I mean, and here -- I'm proud of my  
25 orders. I think I do a good job. I believe I have



1 demonstrated to you that in three out of the four  
2 years that I looked at, I lead the pack in orders  
3 completed, and I'm getting them done faster. Any  
4 questions?

5 REPRESENTATIVE CLEMMONS: Thank you, Judge  
6 Matthews. We would ask that you answer any questions  
7 of Counsel.

8 JUDGE MATTHEWS: Certainly.

9 REPRESENTATIVE CLEMMONS: Thank you.

10 MS. SHULER: Judge Matthews, Jane Shuler.  
11 I would like to ask at the outset that, Mr. Chairman,  
12 that we offer as an exhibit the notebook of documents  
13 and records that Judge Matthews just testified to in  
14 her opening statement and make that Exhibit 1 for the  
15 record.

16 REPRESENTATIVE CLEMMONS: Thank you. Judge  
17 Matthews, is there any objection?

18 JUDGE MATTHEWS: No, thank you.

19 REPRESENTATIVE CLEMMONS: So ordered.

20 (EXHIBIT 1, Notebook of Documents and  
21 Records from Judge Matthews, admitted.)

22 MS. SHULER: Judge Matthews, after your  
23 public hearing in November 5, 2014, you submitted a  
24 letter amendment on November 24<sup>th</sup> regarding a letter  
25 written by an Anderson attorney named Mike Glenn, and

1 it was written to his local legislative delegation in  
2 support of you. Is the letter of amendment before  
3 you your November 24<sup>th</sup> letter?

4 JUDGE MATTHEWS: Ye -- is it before me?  
5 No, I don't --

6 MS. SHULER: There you go.

7 JUDGE MATTHEWS: I don't have it, but I've  
8 got it somewhere.

9 MALE SPEAKER: (INDISTINCT)

10 MS. SHULER: No, Jaynie's (PHONETIC)  
11 bringing it to you.

12 JUDGE MATTHEWS: Yes, that is, indeed, the  
13 letter --

14 MS. SHULER: All right.

15 JUDGE MATTHEWS: -- which I sent to -- the  
16 original, Ms. Shuler.

17 MS. SHULER: The letter stated that you are  
18 amending your sworn statement, Question 46. Is it  
19 correct that you are actually amending, instead, your  
20 personal data questionnaire number 46?

21 JUDGE MATTHEWS: I'm sorry. I thought the  
22 personal data questionnaire was one's statement. So,  
23 yes, I am (INDISTINCT).

24 MS. SHULER: All right. Mr. Chairman, I  
25 would like to offer Judge Matthews' November 24<sup>th</sup>

1 letter as an exhibit to the public hearing record.

2 REPRESENTATIVE CLEMMONS: Thank you. Is  
3 there any objection? Hearing none, so ordered.

4 (EXHIBIT 2, Judge Matthews' November 24<sup>TH</sup>  
5 letter, admitted.)

6 JUDGE MATTHEWS: Thank you.

7 MS. SHULER: Judge Matthews, would you  
8 explain the circumstances related to Anderson  
9 attorney Mike Glenn writing a letter of support to  
10 the Anderson legislative delegation and asking them  
11 for their vote on your behalf before the expiration  
12 of the 48-hour rule?

13 JUDGE MATTHEWS: I'll be glad to. October  
14 3<sup>rd</sup> and 4<sup>th</sup>, I was attending the Senior Lawyers  
15 Executive Council Retreat in Cashiers, North  
16 Carolina, where Mr. Glenn lives. He's partially  
17 retired from his practice in Anderson. And they were  
18 asking me about the campaign, and I told them that I  
19 had the test on -- coming up the weekend after that  
20 retreat and that -- and he offered. He said, I want  
21 to help you with this thing because you've got an  
22 opponent, and he said, I want to write some letters  
23 to my delegation. And I said, Well, Mike, that would  
24 be very kind of you to do that, but you cannot do  
25 that until after we have the screening reports issued

1 and 48 hours after that date. And he said, Oh, okay.

2 Well, that was the end of that  
3 conversation, and I was flabbergasted on November 20<sup>th</sup>  
4 when he sent me an email saying, Here are the letters  
5 I sent out to the delegation, asking them to support  
6 and/or vote for you. And I immediately emailed him  
7 back and said, You cannot do this until after the  
8 screening report comes out and 48 hours. I told you  
9 that at the meeting, and could you please write them  
10 a letter retracting this. And I immediately picked  
11 up the phone and called you and said, Here's what  
12 happened, Ms. Shuler, and, you know, and sent you the  
13 emails. And Mike -- I believe you called and talked  
14 to him.

15 MS. SHULER: I did. And I did follow up  
16 with Mr. Glenn, and I want to confirm with you, Judge  
17 Matthews, you specifically did not ask him to write  
18 this letter which appears to violate the 48-hour  
19 rule. In other words, a letter of endorsement cannot  
20 come out until noon Tuesday, January 20, 2015.

21 JUDGE MATTHEWS: Yes, I told him that, and  
22 he said -- when, when I called and talked to him  
23 after the fact, he said, Aw, you know, I'm just old.  
24 I forget things. I know you told me that. I just --  
25 I'm from the day when my law partner Cordell Maddox,

1 I could write a letter for him way in advance of  
2 things, and I just wasn't thinking.

3 MS. SHULER: All right. Judge Matthews, in  
4 your opening statement at the November hearing, you  
5 stated you had a 30-day rule with respect to your  
6 orders, and you've said that again today in your  
7 opening statement. What was the reason or the  
8 rationale for implementing your 30-day rule back in  
9 2009?

10 JUDGE MATTHEWS: Well, I believe every  
11 judge that comes before this committee or every judge  
12 who is evaluated by the public thinks -- the public  
13 thinks that they're too long in getting out orders.  
14 And someone asked me about it at a public hearing  
15 when I -- during my screening then, and I had -- I  
16 said then that I had become aware of it, and so  
17 that's why I thought, with all these people's lives  
18 in my hands and all the people who are so worried  
19 coming before you that orders take too long -- and I  
20 had been in private practice, and I have waited on  
21 judges' orders, and, and you're scared to call them  
22 and contact them because that might make them mad.  
23 But I wanted to be better than the average judge and  
24 never have timeliness of getting out written orders  
25 be an issue again. So that's why I came up with the

1 policy, and again, if I didn't make it clear, then or  
2 that the last hearing on November 5<sup>th</sup>, it is  
3 aspirational. It is my order. It is not required  
4 anywhere.

5 MS. SHULER: Judge Matthews, you just said  
6 earlier or testified earlier that your 30-day order  
7 does not submit -- rule does not apply to briefs sub  
8 -- parties submitting matters on briefs. Is that  
9 correct?

10 JUDGE MATTHEWS: Yes, and there were only  
11 two of those in there where it went over, but --

12 MS. SHULER: Right.

13 JUDGE MATTHEWS: -- they, they -- I still  
14 try to get it within the 30 days.

15 MS. SHULER: All right. Judge Matthews,  
16 does your 30-day rule apply differently to appellate  
17 cases than it does to contested cases?

18 JUDGE MATTHEWS: No, it does not. And it's  
19 the same weight as injunctions. Anytime there's a  
20 hearing or proposed orders are submitted or after  
21 there's a hearing, it applies equally.

22 MS. SHULER: All right. Judge Matthews,  
23 there are a lot of different matters that come before  
24 the Administrative Law Court, and -- could you  
25 explain to the Commission what types of matters that

1 the Administrative Law Court has jurisdiction over?

2 JUDGE MATTHEWS: Well, the Administrative  
3 Law Court has jurisdiction over, first of all,  
4 contested cases. A contested case is simply a bench  
5 trial, and witnesses are to -- sworn, exhibits are  
6 introduced, and our standard of review is  
7 preponderance of the evidence. So whoever's brought  
8 the case must prove their case by a preponderance of  
9 the evidence. We -- those contested cases come from  
10 many places. The biggest ones usually come from  
11 DHEC, the most complex ones. The assessors' cases  
12 are contested cases, but we also hear appeals from  
13 the 49 licensing boards of Labor, Licensing, and  
14 Regulation. And again, those are people's  
15 professions and people's lives.

16 We also hear the cases from PEBA when they  
17 deny long-term disability to people. Those are in  
18 appellate fashion. We hear injunctions from various  
19 state agencies, cease and desist orders. We also, of  
20 course, as you know, don't hear argument on or oral  
21 argument on, but we have all the cases from the  
22 Department of Corrections having to do with inmate li  
23 -- loss of liberty or property interests. That's  
24 pursuant to Article 1, Section 22 of the South  
25 Carolina Constitution, and we also hear appellate

1 cases from the Department of Probation, Parole, and  
2 Pardon Services. It, it's a wide variety of cases,  
3 everything from environmental issues to tax  
4 assessment appeals to licensing. It's an extensive  
5 and broad, diverse caseload.

6 MS. SHULER: Judge Matthews, what - can you  
7 explain to the Commission how are the cases assigned  
8 to the judges if -- appellate contested inmate?

9 JUDGE MATTHEWS: The Chief Judge has  
10 absolute power over what cases are assigned to what  
11 judge, and that, that applies to injunctions,  
12 appellate cases, and contested cases.

13 MS. SHULER: All right. You just testified  
14 one of the more complex cases are the DHEC cases. Is  
15 that correct?

16 JUDGE MATTHEWS: That is.

17 MS. SHULER: In the last year, have you --  
18 how many DHEC cases have you handled?

19 JUDGE MATTHEWS: I'm not sure of the exact  
20 number, but there have been very few. One of the  
21 reasons for that is, we've had a severely diminished  
22 caseload from DHEC because, first of all, I think  
23 you'll remember, the Governor did not fund the  
24 Certificate of Need program last year. So for  
25 approximately two years, one of the biggest chunks of



1 cases that we had, Certificates of Need cases, we  
2 just didn't really have any of those. Those are the  
3 cases that take the longest. Those are the cases I  
4 have tried the longest, that'll -- can sometimes take  
5 six weeks to try. I have -- the Kim Murphy case I  
6 tried for approximately four weeks was an  
7 environmental case having to do with the filling of a  
8 wetlands, a stream, at a school. The DHEC board has  
9 almost reviewed no cases of the staff in the past  
10 three or four years, and so the number of appeals to  
11 our court from DHEC has been greatly diminished,  
12 those most complex cases.

13 MS. SHULER: What other cases do you  
14 consider to be complex? I know you cited in your  
15 opening statement some of the cases where the orders  
16 went over 30 days because of novel issues of law or  
17 other matters. But if you look at your list in  
18 Exhibit -- in your notebook, Exhibit 1, number B,  
19 what other type cases would you consider to be  
20 complex?

21 JUDGE MATTHEWS: I believe almost all of  
22 the tax cases are complex. The assessors' cases are  
23 always complex to me. The PEBA cases, where you're  
24 trying to decide if certain benefits should have been  
25 paid on insurance cases, the interplay between the

1 State health plan and the statutes which requires --  
2 to cover them, and the third-party administrator for  
3 Blue Cross Blue Shield, those are very, very complex  
4 cases.

5           Let's see. Oh, the Health and Human  
6 Services cases; we've got -- had several of those  
7 this year. The -- is the most complex mental  
8 exercise I think I've ever done at the court, when  
9 one has to decide -- there's a waiver, and if you're  
10 under the waiver, then you're covered by it. And  
11 once you get past that mental leap and then start  
12 trying to figure out if the federal statutes have  
13 been complied with by the State, those are very  
14 complex. Even though they are appellate cases, they  
15 are extraordinarily complex.

16           MS. SHULER: All right. Judge Matthews,  
17 you stated during your last public hearing that your  
18 caseload is the lowest among the other five judges at  
19 the Administrative Law Court, and you have provided  
20 us with an exhibit, as part of Exhibit 1, that  
21 indicates where you rank among the other judges for  
22 the last four years. What method did you use to  
23 determine that information? I think you alluded to  
24 your staff attorney assisting you with that.

25           JUDGE MATTHEWS: Well, the method I used to

1 determine that I have -- you mean that I have  
2 generated the most cases for -- it's straight off the  
3 web site. As I said, one goes to the web site, one  
4 plugs in the year and judge, and you say Cases, All,  
5 and put in January 1<sup>st</sup> through December 31<sup>st</sup>, and it  
6 just spits it out exactly as you have under Tab 1, or  
7 I guess Tab 2B, C, and D. That's exactly what it  
8 looks like, and then you physically count them. It's  
9 something anyone can do, and it's been on there for  
10 years.

11           And I would note that on some of the  
12 materials I received from Ms. Shealy when I went  
13 through and counted on the same time period, January  
14 1, 2014, to August 6, 2014, the number was exactly  
15 the same, 96, for the cases that I had disposed of,  
16 and that, based on the document behind number 3 of  
17 Docket, that you'll see there, that other than one, I  
18 had the lowest number of cases pending. That's on --  
19 yeah, behind Docket 3. But perhaps I should have  
20 said the converse. If you're getting the most cases  
21 out, then, by definition, what's left is probably  
22 going to be the lowest. So since I have gotten the  
23 most out, 96, in this time period, that means I had  
24 less -- fewer cases pending on August 6<sup>th</sup> than the  
25 other judges, and that's what this thing shows.

1           MS. SHULER: This report from the Court's  
2 web site, does it show how long it takes to get a  
3 case scheduled for hearing, or it just simply shows  
4 the case action num -- number, who the parties are,  
5 and the agency, the date of decision, and the case  
6 type? It doesn't include any information related to  
7 scheduling the hearing and how long it's been since  
8 the case was filed and the hearing was scheduled.

9           JUDGE MATTHEWS: No, but I didn't realize  
10 that was an issue.

11          MS. SHULER: All right.

12          JUDGE MATTHEWS: But I will tell you that I  
13 schedule cases as fast as I possibly can and that no  
14 printout from anywhere can possibly tell you all the  
15 combinations and permutations that happen when a case  
16 comes to our court. When a case comes to our court,  
17 it is filed with our clerk of court, they assign it a  
18 docket number, and then it's given to the Chief Judge  
19 to assign to somebody. And the Chief Judge looks at  
20 it and says, Well, I've got six judges, including  
21 myself, I could assign most of these to. To whom  
22 should I assign it? Then it's assigned to you, and  
23 it becomes part of your docket.

24           After it becomes part of your docket, then  
25 you get it, and you look at it, and the first thing I

1 do, of course, look at it and see if there's any  
2 conflict, anything that would require recusal, and  
3 make sure it's not one of my daughter's cases from  
4 Charleston or my brother-in-law, Cal Watson's, from  
5 Sowell Gray, by mistake, and that I can handle the  
6 case. And then the first thing my staff does is send  
7 out a notice for pre-hearing statements or a request  
8 for briefs, as soon as we can tell who the lawyers  
9 are and to where it goes. Now, what may happen in  
10 between all that, who knows? Motions for  
11 continuance, motions for stay; there could be a  
12 summary judgment motion before there. So it's very  
13 difficult to make generalizations about when things  
14 are set for hearing.

15 MS. SHULER: Who schedules the hearing?  
16 Does the clerk of court, or does the individual judge  
17 handling that hearing -- hearing -- handling that  
18 case set the matter for hearing?

19 JUDGE MATTHEWS: Once it is assigned to an  
20 individual Administrative Law Judge, everything is  
21 done by that judge and the staff.

22 MS. SHULER: All right.

23 JUDGE MATTHEWS: And that's judge's staff.  
24 We schedule hearing. We set hearings. We are  
25 constrained sometimes by the fact that we have three

1 courtrooms and six judges, and sometimes, if somebody  
2 has a long case or whatever, it's -- sometimes you  
3 have to wait on a courtroom. But I can assure you,  
4 we try to schedule them as fast as possible.

5 MS. SHULER: So just to be clear, Judge  
6 Matthews, the information that you obtained through  
7 -- that you submitted to the Commission was obtained  
8 through the Court's web site as to the orders entered  
9 --

10 JUDGE MATTHEWS: That is correct.

11 MS. SHULER: -- for that particular year.

12 JUDGE MATTHEWS: That is correct.

13 MS. SHULER: Did you use the case  
14 management in any way just to double-check those  
15 orders?

16 JUDGE MATTHEWS: I cannot make heads or  
17 tails of our case management system. I find it very  
18 difficult to access, and I know that the clerks and  
19 the staff attorney have looked at it and have told me  
20 -- I'll, I'll say, Can we get the number of, say,  
21 other judges' inmate cases pending? Well, you really  
22 can't get that off the system. And it's -- but this  
23 is so obvious and so easy and so clear and has been  
24 on there for years, since 2009, that anyone can  
25 access it and just count the numbers and look at each

1 one of the orders. It's very simple.

2 MS. SHULER: Going back to your November  
3 hearing, Judge Matthews, in response to the ballot  
4 box concern that you only worked 30 percent of the  
5 time, you previously stated that you did not allow  
6 your other obligations, such as your recent service  
7 as president of the South Carolina Women Lawyers  
8 Association, to affect your work. Is that correct?

9 JUDGE MATTHEWS: That is correct.

10 MS. SHULER: All right. Also, in your  
11 response to your PDQ, Question number 51, you stated,  
12 I am the Administrative Law Judge who is most  
13 involved in county, state, and national organizations  
14 to improve professionalism in courts and improve the  
15 practice of law. I am the ALJ most frequently asked  
16 to speak and serve on panels at the various  
17 continuing education conferences and state and  
18 national conferences. Is that correct?

19 JUDGE MATTHEWS: I believe that to be  
20 correct, and the reason I say that is because I am a  
21 member of the American Bar Association. I am a  
22 member of the South Carolina Women Lawyers  
23 Association. I am a member -- actually a member of  
24 the Richland County Bar, a member of the State Bar.  
25 I am on -- a member of the National Association of

1 Women Lawyers, the National Association of Women  
2 Judges. I have just been appointed the South  
3 Carolina representative for the National Association  
4 of Women Judges.

5 I routinely speak at various seminars, and  
6 was involved this year on the com -- planning  
7 committee for the Women Lawyers Conference down at  
8 Wild Dunes and the gala for Chief Justice Toal. For  
9 11 years, I did the Bridge the Gap program three  
10 times a year; asked by Chief Justice Toal to speak at  
11 that. And I recently gave it up to Judge Durden, who  
12 still uses my materials, because I just thought  
13 they'd seen enough of me, three times a year over 11  
14 or 13 years or whatever it was. I have been on the  
15 national board of the National Conference of Women  
16 Bar Associations.

17 I -- anytime anyone asks me to speak, I try  
18 to do it. My law clerk Mary Beth and I gave a joint  
19 plenary speech to the Department of Education and  
20 Workforce conference this year, and I'm extremely  
21 active in all of those things. I always, I always  
22 attend the South Carolina Bar Convention and usually  
23 am involved in one of the presentations at the  
24 convention.

25 MS. SHULER: Please explain to the



1 Commission members how you balance your workload  
2 serving as an Administrative Law Court Judge and  
3 serving as an ambassador for the Administrative Law  
4 Court, such as through your past -- through all your  
5 active bar services, your presentation through CLE's  
6 and past presidency of the South Carolina Women  
7 Lawyers Association?

8 JUDGE MATTHEWS: Well, I'm sure there were  
9 some who'd say I -- you do a very poor job of  
10 balancing all of it. But I will say, I got my  
11 training as a single parent when my daughter was  
12 young, and my -- her dad and I were divorced, and I  
13 was working here at the General Assembly, and you  
14 know what the long hours are like here and how  
15 grueling that can be. And I was very blessed to have  
16 this job, and I was blessed to have been asked, after  
17 this job, to work at Nelson Mullins Riley and  
18 Scarborough and become a partner at the biggest law  
19 firm in the state, and I assure you, there were some  
20 very long hours, and I know what is involved in, in  
21 becoming a partner at the state's biggest law firm.

22 And I have always felt like, because people  
23 have so aided me in helping me find jobs, such as the  
24 job over here, the job at the Attorney General's  
25 Office before that, the job at the Supreme Court as a

1 staff attorney and as a law clerk to Justice Gregory,  
2 that I, I need to pay back. And I try to help young  
3 people find jobs. I -- my law clerks have found good  
4 jobs, and anyone who calls me, I try to help with  
5 that.

6 But I think we all struggle, struggle with  
7 the balance. But again, whatever it is I'm doing and  
8 however it is I'm conducting my job and my past 16  
9 years as a judge, nonetheless, here's my work product  
10 for the year as far as final orders. And the  
11 statistics show that I'm still leading the pack in  
12 producing number of cases, final cases, in four --  
13 three out of the four years.

14 MS. SHULER: All right. Judge Matthews,  
15 generally, what are your weekly work hours at the  
16 Administrative Law Court?

17 JUDGE MATTHEWS: My general work hours are  
18 pro -- usually around 9 to 5, but I am not there  
19 every day. I told you earlier that there are times  
20 when I work from home and take files home. I, I've  
21 seen this card-swipe stuff that Ms. Shealy has  
22 provided. I have looked at my -- I have looked at my  
23 schedule, and it's very hard because we only got this  
24 stuff Friday night, and I didn't have access to my  
25 work calendar, and I just didn't feel like going by

1 my office this morning and looking at it. But I have  
2 attempted to account for the time when I was not  
3 there, and it appears that, with the card swipe,  
4 there were 230 total work days, of which 119 -- 230  
5 days total from -- in the time period from January 1<sup>st</sup>  
6 to whenever they ended it, November 19.

7           One hundred nineteen of those days were  
8 weekends. Six of those days were state holidays.  
9 That leaves us with 105. We take off 20 for bar  
10 speeches and a conference. That leaves us with 85.  
11 There are 25 that I took as vacation days this year,  
12 and those days included everything from keeping the  
13 grandchildren at Easter break for four days to -- my  
14 husband and I took a trip to France from August 25 to  
15 September 9. That was actually 11 work days because  
16 one of those work days was Labor Day.

17           There were things like Butler Derrick's  
18 funeral. There were nine days in which I was sick,  
19 and thus -- there were also 20 days that were not in  
20 the office, which were involving with the, the South  
21 Carolina Women Lawyers panel that I did with Judge  
22 Hearn, Judge McDonald, Judge Mullen and Kirchner in  
23 Charleston. I attended that South Carolina  
24 Department of Education Workforce conference I told  
25 you about in planning and was the plenary speaker;

1 that was two days. Bar seminar of the Lawyers  
2 Executive Council; two days in Charleston in the  
3 spring, two days in Cashiers in the fall. The Women  
4 Lawyers planning retreat, Habitat project, and the  
5 conference at Wild Dunes which I helped plan, and the  
6 gala, which added another 20 days. And it appears  
7 that, from my computations, that there were  
8 approximately 30 days, 30 to 35 days, in which I  
9 worked from home and took a file home. But the fact  
10 remains that here's the work product. Wherever I  
11 was, whatever I was doing, and whatever extra things  
12 I managed to do, I still got the highest work  
13 product, and I've done it for three out of four  
14 years.

15           And I will say, I am beginning to find --  
16 as a woman, a professional woman who tries to also do  
17 all the things that women in the South are expected  
18 to be -- dressed like Ms. Shuler and I like pretty  
19 clothes, keep up with your family, cook for  
20 Thanksgiving dinner -- and, and all of you gentlemen  
21 who have wives who are professionals, who are  
22 lawyers, doctors, dentists, CEO's whatever -- it is  
23 very difficult, and there are a lot of people in the  
24 world that are trying to take potshots at you all the  
25 time when you are a successful professional woman in

1 the South and when you're trying to, and I think,  
2 have established a record as I have, of being as nice  
3 as I possibly can to everyone I encounter, be they  
4 the janitor or the CEO, and help people find jobs,  
5 and I have never embarrassed a lawyer in my  
6 courtroom. I have been kind to, to all lawyers. I  
7 have been kind to litigants. I won't let lawyers cut  
8 off witnesses. And I expect -- I trust people, and  
9 that may be one of my major failings. I trust  
10 people, and I am kind to everyone. And I was brought  
11 up a Christian, and I will -- if I stand before God  
12 tonight, I will say that everything I have said to  
13 you is the truth. And I am baffled at why you seem  
14 not to believe me.

15           But I believe the proof is in the pudding.  
16 Here are my, here are my -- here's my work product.  
17 There's my four years of comparisons. I was reared  
18 by people -- let me just take what we -- I know you  
19 legislators call a point of personal privilege here.  
20 My grandchildren are 12<sup>th</sup> generation South  
21 Carolinians. My ancestor, however many grandfathers,  
22 was the first Colonial governor of this state,  
23 Landgrave Smith. This building is named after Mr.  
24 Blatt, who my uncle, Joseph Emile Harley, who was  
25 lieutenant governor and governor and in this

1 legislature for some time, gave him his first job as  
2 a lawyer. This building is named after him. My  
3 ancestor is also, my ninth-time great grandfather,  
4 Pierre Robert, who was the first Huguenot priest in  
5 this country. He came here for religious freedom.  
6 He came from the Isle of Re in the Bay of Biscay when  
7 the Edict of Nantes was revoked. I am the child of  
8 Martha and Rich Matthews and the granddaughter of  
9 Carolyn Cason Cook and Anne Lily Richardson Matthews  
10 of the Barnwell Richardsons.

11 I say this because I had a legacy from all  
12 of those people of courage and courage of their  
13 convictions and telling the truth and your word is  
14 your bond, and that's the way I was reared. And I  
15 want someday for my little grandchildren, their  
16 children, who are four and two, to look back on this  
17 public record and say, She had the courage of her  
18 convictions, and she came here, and she told the  
19 truth. And I'll be glad to take any questions.

20 MS. SHULER: Judge Matthews, you also  
21 testified that you work from home. Do you have  
22 remote access to your Administrative Law Court email  
23 account or other court documents?

24 JUDGE MATTHEWS: No, I do not.

25 MS. SHULER: Okay. So what is your method

1 from working from home? Do you call your law clerks  
2 with decisions, or how is that handled

3 JUDGE MATTHEWS: My method of working from  
4 home is to take a file home, and as I mentioned  
5 earlier, with respect to the ones that have to do  
6 with PEBA or insurance matters or tax assessment  
7 matters, our cases are fact-specific. And what  
8 matters is reading that record. And when I try a  
9 case, I keep extensive, handwritten notes, as much as  
10 14 to 15 pages a day; I look at those notes. My law  
11 clerks keep notes; I look at those notes. It's much  
12 more of a question at our court, has the  
13 preponderance of the evidence standard been satisfied  
14 in Circuit Court, or has the substantial evidence --  
15 pardon me, on the contested cases. Or has the  
16 substantial evidence standard been satisfied in  
17 appellate cases? It's much more a fact-specific  
18 question.

19 As far as research, I do not use Westlaw  
20 anymore. Westlaw is for looking around and seeing  
21 what's going on in Iowa, usually. I ask my law  
22 clerks or staff attorneys to do that kind of  
23 research. Most of the cases that we get are South  
24 Carolina-specific cases, and I learned a long time  
25 ago, when I argued over 80 cases solo at the South

1 Carolina Supreme Court, they don't really care much  
2 about what's going on in Wisconsin.

3 In our -- the body of case law in South  
4 Carolina, with respect to administrative law, is  
5 really small. It's only since our court's been in  
6 existence that we're starting to get a body of  
7 administrative law appellate opinions. The cases  
8 that I need, I use the bar's Casemaker system. I  
9 normally -- if a case is cited to me, I'll flip to it  
10 -- you can type in that case on a Google search, and  
11 it pops right up. Or I go to the judicial -- the  
12 South Carolina Supreme Court's web site and pull it  
13 out and print it off. I don't -- Westlaw, to me, is,  
14 is a lot of fishing around. I'm sure there are  
15 people who cannot live without it, but I don't use  
16 Westlaw. I do not use our -- I do not want to have  
17 access to my office emails because I think they may  
18 have been compromised a long time ago.

19 MS. SHULER: Judge Matthews, is it accurate  
20 that you were assigned a law clerk and a staff  
21 attorney to assist you?

22 JUDGE MATTHEWS: That is correct.

23 MS. SHULER: Right. In fact, you submitted  
24 the affidavits of three prior law clerks, and you  
25 have a new law clerk, but how long has she worked for



1 you?

2 JUDGE MATTHEWS: She only began working for  
3 me on October the 20<sup>th</sup>, so she has done very little  
4 for me.

5 MS. SHULER: Right. What are the  
6 responsibilities of your law clerk when they assist  
7 you?

8 JUDGE MATTHEWS: Well, the law clerks are  
9 responsible, once a case is assigned to us, for  
10 sending out pre-hearing statements, pre, pre --  
11 requests for prehearing statements and for sending  
12 out orders, setting up hearings. They are  
13 responsible for dealing with any telephone calls that  
14 come in from litigants. They are responsible for  
15 getting a courtroom when we do set a case or hearing.  
16 They are responsible for docketing -- clocking in any  
17 motions that we get, whether it's a motion for  
18 continuance, motion for summary judgment, motion to  
19 compel discovery, motion to expand discovery.

20 They're responsible for setting up if somebody  
21 wants a conference call, if somebody wants to talk  
22 about settlement in a conference call. They're  
23 responsible for scheduling all of that. And they are  
24 responsible for drafting orders normally, or when we  
25 get proposed orders in, giving those to me and

1 letting me work on those. Sometimes I'll assign them  
2 to them and say, Here are the proposed orders. Tell  
3 me what you think.

4 But when we get proposed orders, I always  
5 read both proposed orders because normally I haven't  
6 made up my mind what I'm going to do on a case when I  
7 get proposed orders. They are responsible for doing  
8 all editing after I scratch all over them, and they  
9 have to do the physical typing of it. They do all  
10 correspondence, notifying protestants in an Alcoholic  
11 Beverage Commission hearing. And they are  
12 responsible, after an order is completed, for serving  
13 it and filing it, and they are also responsible for  
14 closing each file.

15 MS. SHULER: Do they often -- also have the  
16 responsibilities for updating the case management  
17 system to indicate the status of that case?

18 JUDGE MATTHEWS: That's what they do when  
19 it is closed, yes.

20 MS. SHULER: All right. In fact, your law  
21 clerk really serves, for most purposes, as an  
22 administrative assistant; would that be correct?

23 JUDGE MATTHEWS: Yes.

24 MS. SHULER: And the type of orders that  
25 they would draft, would, would they be simply form-

1 type orders, or would they do any independent  
2 research?

3 JUDGE MATTHEWS: Oh, they -- it is split  
4 between the law clerk and the staff attorney,  
5 independent research. And on, on some of the cases,  
6 for example, an alcohol beverage case where there  
7 were protestants who really were just there because  
8 they're opposed to the sale of alcohol, we've got  
9 over 16 years -- I have developed form orders, and  
10 the court has form orders that are really -- it's  
11 just a matter, almost, of plugging in who was there  
12 and who appeared on behalf of individuals and, and --  
13 to draft an order.

14 But I read them all. I look at them. I am  
15 fanatic -- I believe Mr. Whitehead could tell you --  
16 about grammar. I mean, I'm always fixing that. I'm  
17 always trying to clarify things and make it clear  
18 that in, in -- especially in the conclusions of  
19 orders, exactly what we're doing. I insist normally  
20 that all counsel be listed at the top and that we  
21 have the dates on them at the beginning of the order,  
22 not, as most judges do, just stick it at the end  
23 because then you have to flip through it all to find  
24 it.

25 But we determine -- and sometimes we just

1 sit there for -- Mary Beth, Chris, and I used to sit  
2 for hours at a time in my office, talking about cases  
3 and stacks of cases and what do we think about this  
4 one and bouncing ideas off. Does this one need  
5 further research? Does this one need further  
6 drafting? Do we need to ask for proposed orders  
7 here? So by the time it got for either one -- either  
8 of them to draft an order, we had a pretty good idea  
9 of where we wanted to go with it.

10           And I will say, and I think you could ask  
11 Mr. Whitehead, many of these orders, final orders, in  
12 the 96 in my table are, you know, it's somewhere in  
13 the 28-, 27-, 26-day range. That's because he was  
14 aware and all my law clerks have been aware of the  
15 30-day policy, and so they're always coming in and  
16 saying, Judge Matthews, we got to move on this one.  
17 We're getting close to the time on it. So they  
18 helped keep me moving. It was a team effort, and I  
19 can't say enough about how good Mr. Whitehead is at  
20 getting his work done and bringing things to me and  
21 saying, you know, we can now look at this inmate case  
22 or whatever. It's time, and -- and how good he is at  
23 analyzing and helping me clarify my thoughts before I  
24 put pen to paper.

25           MS. SHULER: So would it be accurate for

1 most cases that you would have the law clerk or the  
2 staff attorney draft the order, with your  
3 instructions and after discussion with them, and then  
4 you would edit the order, and then they would make  
5 the final revisions to the order?

6 JUDGE MATTHEWS: That would be a fair  
7 assessment of almost every case.

8 MS. SHULER: Right. Do you ever draft any  
9 orders without their assistance?

10 JUDGE MATTHEWS: Yes, I do. Not -- yes, I  
11 do.

12 MS. SHULER: And how many would you say  
13 that you draft independently of them?

14 JUDGE MATTHEWS: Independently of them?

15 MS. SHULER: Right.

16 JUDGE MATTHEWS: Well, as I've said, it's  
17 such a team effort.

18 MS. SHULER: (INDISTINCT)

19 JUDGE MATTHEWS: Do you mean solely?

20 MS. SHULER: Yes, ma'am.

21 JUDGE MATTHEWS: Probably no more than two  
22 or three a year, solely.

23 MS. SHULER: All right.

24 JUDGE MATTHEWS: From start to finish.

25 MS. SHULER: Oh.

1           JUDGE MATTHEWS: But nonetheless, my name  
2 is on these things. I signed them. It's my work  
3 product. It doesn't go out until I've read it. I  
4 learned that a long time ago at the Supreme Court.

5           MS. SHULER: Judge Matthews, you also have  
6 a staff attorney that is assigned to work with you.  
7 Is that correct?

8           JUDGE MATTHEWS: That's correct.

9           MS. SHULER: And his name is --

10          JUDGE MATTHEWS: Chris Whitehead.

11          MS. SHULER: Right. And how long has he  
12 been working with you?

13          JUDGE MATTHEWS: He began, I believe, last  
14 October, so exactly -- almost exactly -- okay, a  
15 little over a calendar year.

16          MS. SHULER: I think you've discussed or  
17 testified to some of the responsibilities he has, but  
18 what specific responsibilities have you given to  
19 staff attorney Chris Whitehead?

20          JUDGE MATTHEWS: Well, as I said, the  
21 responsibilities are divided between the law clerk  
22 and the staff attorney, and I've been so blessed,  
23 particularly with Mary Beth, that they worked  
24 together so beautifully, and I pretty much allowed  
25 them to choose, if there was a drafting issue, to --

1 which one interested them. You know, if you're  
2 interested in this appeal and doing the research and  
3 doing some drafting on that one, take it. I think  
4 people work better when there's something they're  
5 interested in, rather than being assigned.

6           So there's no absolute arbitrary assignment  
7 of, you get appeals, you get injunctions, you get --  
8 Chris has been a real birddog as far as keeping up  
9 with the Department of Correction cases, and really  
10 very interested in the intricacies of due process at  
11 those -- in those cases, and he is very -- he's done  
12 an excellent job of reading all -- and those cases  
13 are very hard to read because most of it's  
14 handwritten stuff from inmates. But he is very  
15 concerned about affording them due process and has  
16 brought some issues to my attention in those cases  
17 where we have remanded and asked for new transcripts  
18 and other things, and I have done it based on his  
19 recommendation. I think he's got a real gift for  
20 those.

21           MS. SHULER: What type of oversight do you  
22 provide to Mr. Whitehead when he drafts an order in a  
23 -- either appellate contested case?

24           JUDGE MATTHEWS: In a -- what oversight?

25           MS. SHULER: Yes, ma'am.

1           JUDGE MATTHEWS: Well, as I said, whatever  
2 drafts are given to me, I obviously review them and  
3 edit them, but then I'll look and say, Well, you  
4 know, it appears to me that we need to look more at  
5 Exhibit X here and see if it really substantiates the  
6 claim, you know, that is -- that we've drafted here.  
7 Our -- the APA requires that we, in contested cases,  
8 do findings of fact and conclusions of law. We don't  
9 have a choice about how we structure a -- an opinion.  
10 That's just the way it is. So we've got to make sure  
11 that our findings of fact -- and we usually enumerate  
12 them, one, two, three, whatever -- are substantiated  
13 by the record.

14           And he and I will get out our notes, our  
15 handwritten notes, and, you know, do the same with  
16 Mary Beth, my law clerk. We would get out the  
17 handwritten notes and look at them, and if we have a  
18 transcript, we'll go back to a transcript and say,  
19 Well, does -- is that really what this person said?  
20 Or, here's an exhibit. Is that really what this  
21 exhibit shows? So -- and then we'll say, Okay,  
22 let's, let's expand on this.

23           And sometimes it was not so much for just  
24 the law of it, but because human beings are involved.  
25 When you get a Department of Revenue case and some



1 person takes the time to come up here and they're  
2 opposed to the granting of an alcohol permit, for  
3 example, and they really think that it's going to be  
4 a terrible detriment to their town, you want to put  
5 more stuff in there about, Although Mr. Jones is very  
6 committed to his belief and is strong -- has strongly  
7 held it and has the best interest of the community at  
8 heart, nonetheless, his concerns are conjecture. You  
9 know, there are times when I want to put in a little  
10 more about credibility of witnesses and things.

11           So it's a, it's a back-and-forth kind of  
12 tug, but, again, the final decision -- I mean, I've  
13 had Chris or Mary Beth come to me and say, Well, I  
14 think we should put this and this and so in there,  
15 and I'm going to say, No, we're not putting that in  
16 there. Or, We're not going to put that in; that'll  
17 embarrass that person. Or, I don't want this -- I  
18 don't like this footnote because I think if it's --  
19 my normal procedure with footnotes is, if it's  
20 important enough to be in there, it needs to be in  
21 the body of the thing. So we disagree about that.  
22 But I usually win because I'm the judge on that one.

23           MS. SHULER: All right. Mr. Chairman,  
24 that's all I have at this time for Judge Matthews.

25           REPRESENTATIVE CLEMMONS: Thank you, Ms.

1 Shuler. Does any member of the Commission have any  
2 questions of Ms. Matthews? A member of the  
3 Commission? Yes, Dean Wilcox.

4 DEAN WILCOX: Rob Wilcox. I -- Judge, I  
5 just want to double-check my math on, on -- be sure I  
6 understand. I mean, you were talking about the, the  
7 days in the office versus the others. Am I reading  
8 it correctly? You said there were about -- and I'm  
9 going to -- I'm -- let me build a, a little leeway  
10 here because I think that -- but about 20 days was  
11 maybe spent on matters including bar matters,  
12 speeches, those kind of things. About 25 days were  
13 vacation days. Nine days were sick days. So that  
14 adds up to about 54?

15 JUDGE MATTHEWS: That's correct.

16 DEAN WILCOX: Okay. And then you say there  
17 were probably another 30 or so, 30 to 35, I think you  
18 said, that would have been days that you worked at  
19 home.

20 JUDGE MATTHEWS: That's correct.

21 DEAN WILCOX: So you -- your -- what you're  
22 saying is about 80 days, 80 to 85 days, somewhere in  
23 that range, and that's -- that would be the breakdown  
24 of that.

25 JUDGE MATTHEWS: Yes, sir.

1 DEAN WILCOX: Okay.

2 JUDGE MATTHEWS: That's correct.

3 DEAN WILCOX: I just wanted to make sure  
4 and get that clarified. At any time, has the, the  
5 Chief Judge or the clerk raised with you concerns  
6 about the time you spend in the office? Has that  
7 been discussed in a, a matter --

8 JUDGE MATTHEWS: Never.

9 DEAN WILCOX: Okay.

10 JUDGE MATTHEWS: My understanding of the  
11 way we are -- since we are elected by the General  
12 Assembly, we don't really work for anyone except the  
13 public, and there is no, just, real supervision or  
14 oversight of anything at the court. We do not even  
15 have judges' meetings, other than once a year to sign  
16 the rules of revisions which come over here.

17 DEAN WILCOX: And are you aware -- have  
18 there been any communications not involving you --  
19 your, your performance, per se -- my first question  
20 was whether there had been communications regarding  
21 your performance. But has there been any discussion  
22 that, to your knowledge -- among the judges of the  
23 court as to what is considered appropriate, in terms  
24 of hours spent in the court, as opposed to outside?

25 JUDGE MATTHEWS: I have never heard such a

1 di scussi on.

2 DEAN WILCOX: Okay. Those are my  
3 questi ons.

4 JUDGE MATTHEWS: I do know that we -- it's  
5 a peculiar situation because we always have to give  
6 30 days' notice to any -- before any hearing under  
7 the Administrative Procedures Act, so if a case, you  
8 know, drops off the calendar, we can't just call the  
9 next case up for trial. There's -- you've just got a  
10 gap or a hole there, and then you can work on orders.

11 DEAN WILCOX: Just one other question.  
12 Your -- the 30 days you spent at home, how do you  
13 decide -- what is the factor that causes you to stay  
14 at home on a given day versus coming in?

15 JUDGE MATTHEWS: Normally it's when a case  
16 has dropped off, and I think, well, I could do better  
17 looking at, you know, tomorrow's case or something  
18 here at home than I can, you know, going into the  
19 office and all those distractions. That's normally.  
20 One -- there were a few other days in there, and some  
21 of it was when I was studying for the, the test on  
22 October 6<sup>th</sup>. There were about three days in there  
23 that it was easier to study statutes and the advance  
24 sheets of the last year and some of that at home than  
25 have the distractions of the office.

1           DEAN WILCOX: Thank you. Those are my  
2 questions, Mr. Chairman.

3           JUDGE MATTHEWS: Mm-hmm.

4           REPRESENTATIVE CLEMMONS: Thank you, Dean  
5 Wilcox. Commissioner Strom.

6           MR. STROM: (INDISTINCT) Strom. Judge  
7 Matthews, I'm, I'm looking at several different sets  
8 of numbers, and the statistics that seem to come off  
9 the, the system that you rely on doesn't include the  
10 Department of Corrections and -- what is that --  
11 Probation, Pardon, and Parole? It says, Non -- not  
12 including SCDC and PPS cases? Yeah, I think it's  
13 the last page, very last page --

14           JUDGE MATTHEWS: The last page, right.

15           MR. STROM: -- of the book.

16           JUDGE MATTHEWS: What, what is your  
17 question?

18           MR. STROM: Just -- I wonder why those cases  
19 are not included in the statistics.

20           JUDGE MATTHEWS: The reason is that I was  
21 told by Mr. Whitehead that it was too hard to figure  
22 out the other judges' numbers on those types of cases  
23 from the Casemaker system. He just couldn't figure  
24 it out.

25           MR. STROM: Are those cases easier or harder

1 than what -- I mean, for --

2 JUDGE MATTHEWS: It depends. We have  
3 templates for various matters, and if you get one  
4 where they just, Hey, forgot to serve the -- or  
5 didn't serve the Department counsel or whatever,  
6 that's easy. That's a -- just a -- an order, and you  
7 sign it. The ones where they allege various due  
8 process violations or that they weren't provided  
9 transcripts and stuff are generally thorny. I, I  
10 would say, as a rule, they are -- as a rule, they are  
11 more cookie-cutter than the other cases, yes.

12 MR. STROM: And what about the Probation,  
13 Pardon, and Parole cases?

14 JUDGE MATTHEWS: The Supreme Court opinions  
15 have rendered it almost impossible for someone to win  
16 one of those at our court because basically, if they  
17 recite the eight, I think it is, criteria that  
18 they've looked at, then it -- you're not going to get  
19 your probation.

20 MR. STROM: Okay.

21 JUDGE MATTHEWS: You're not going to get  
22 your parole. Yeah, those, those have become very --  
23 in fact, we're getting fewer and fewer of those all  
24 the time.

25 MR. STROM: Thank you.

1           JUDGE MATTHEWS: I'd like to correct one  
2 thing on Dean Wilcox. There are 20 days that had to  
3 be taken off that computation, the original  
4 computation of 105, because of the 20 days' gap in  
5 there that they say that they did not have any of the  
6 card swipe data. It just doesn't exist for any  
7 judge.

8           REPRESENTATIVE CLEMMONS: Anything further,  
9 Mr. Strom?

10          MR. STROM: No.

11          REPRESENTATIVE CLEMMONS: Any other  
12 questions of Commission members? Senator Malloy.

13          SENATOR MALLOY: Thank you. Gerald Malloy.  
14 Judge Matthews, I, I, I heard some of the questions.  
15 Is there any policy, any memoranda, or anything that  
16 they have regarding the judges that they, that they  
17 have as part of a -- of the body that's over there to  
18 say that, This is what we will adhere to?

19          JUDGE MATTHEWS: Do you mean a policy --

20          SENATOR MALLOY: Yes, that the Chief sets  
21 out or that you all have as a memorandum from within  
22 yourselves.

23          JUDGE MATTHEWS: No, sir.

24          SENATOR MALLOY: Okay. Is, is the, the  
25 attendance, and I'm not trying to see who attends

1 more or who attends less. I -- you know, I practice  
2 law. I have my own feelings as to what happens with  
3 judges. Do other judges exercise some of the same  
4 type attendance, that they'll end up working at times  
5 from at home?

6 JUDGE MATTHEWS: Yes, sir. I, I am certain  
7 of that, and I would note, on the card swipes,  
8 there's at least one and possibly two judges who had  
9 fewer card swipes than, than I do. And I, I know  
10 Judge McLeod has taken a lot of vacation recently and  
11 tends to, to come in when he has a hearing, but --

12 SENATOR MALLOY: And, and I can't speak to  
13 the other Commission members. I just -- I'm, I'm not  
14 concerned about who does it more or who does it less,  
15 if someone does it, that that's an accepted practice  
16 over there where, where, where you all are working.

17 JUDGE MATTHEWS: Yes, sir, and, and it  
18 appears -- the way the court is set up and the way  
19 the statute allows each judge to hire one law clerk,  
20 period. The staff attorneys are hired by the Chief  
21 Judge. Sometimes we've had to share staff attorneys  
22 when the money was tighter. Now we each have a staff  
23 attorney. But there is no doubt that, at our court,  
24 each of the six judges runs their courtroom and their  
25 practice totally independent of the others. As I've



1 said, we don't have judges' meetings. There's really  
2 very little sharing. I mean, I'll go in and talk to  
3 a judge now and again about a, a case, but there's no  
4 -- there's nothing formal that says how our offices  
5 are supposed to be run, and people do different cases  
6 in different fashions.

7           SENATOR MALLOY: And I just want to turn  
8 your attention one -- to the one case that we had  
9 that was the lost case. And I can under -- I hate to  
10 say I understand. I have, have a case that's been  
11 going on, believe it or not, for 17 years.

12           JUDGE MATTHEWS: Congratulations.

13           SENATOR MALLOY: And just wanted to just  
14 see if that -- if there were times when the other  
15 counsel or anybody that was making petitions or  
16 calling the court or something to end up having this  
17 case, or that's -- it's just a case that you all  
18 happen to find when the new person that came in, the  
19 one that was in the drawer, the one that was nine  
20 hundred and --

21           JUDGE MATTHEWS: Yes, sir, and you could  
22 ask Mr. Whitehead about that more than I as to  
23 exactly where he found it and what happened. And I  
24 was stunned when he brought it to me and said, Why  
25 haven't they been calling? Has nobody ever contacted

1 this office? Do we have any record of phone calls,  
2 any emails, anything? And we had nothing.

3 SENATOR MALLOY: And I know -- just so you  
4 know, I got a few eyes raised when I said one was 17  
5 years, a Workers' Compensation case, a person has  
6 continuing medicals for life that keep coming back,  
7 if they ever come back, if they never close the case  
8 out. You know, the lawyers normally hold those, hold  
9 those cases open. And the, the other, the other  
10 thing is, you've been, you've been on the  
11 Administrative Law Court for how many years?

12 JUDGE MATTHEWS: Sixteen years this June.

13 SENATOR MALLOY: Sixteen? Okay. And right  
14 now, we have how many members?

15 JUDGE MATTHEWS: There are six.

16 SENATOR MALLOY: Okay. Six members, and  
17 Judge Anderson is the Chief.

18 JUDGE MATTHEWS: That is correct.

19 SENATOR MALLOY: Okay, and Judge Anderson,  
20 has he ever, you know, sent any letters, any  
21 memorandum, or anything to challenge or question what  
22 you are doing on, on the bench, any timeliness for  
23 orders, any of that kind of thing?

24 JUDGE MATTHEWS: Never.

25 SENATOR MALLOY: Okay. And someone may

1 have asked this question before. Has other judges,  
2 the other judges, your colleagues, have they  
3 complained to you about the -- your lengthiness, the  
4 timeliness of orders, any of those kinds of things?

5 JUDGE MATTHEWS: No, and they have no  
6 reason to when you look at the numbers here. I mean,  
7 I'm doing it a lot faster than they are and turning  
8 out more orders in three out of four years. It's  
9 just -- I think it should be the reverse.

10 SENATOR MALLOY: Okay. So (INDISTINCT) --

11 JUDGE MATTHEWS: Thank you, sir.

12 REPRESENTATIVE CLEMMONS: Do any other  
13 Commission members wish to be recognized?

14 SENATOR MALLOY: Mr., Mr. Chairman, I would  
15 just say that obviously, I think that we're going to  
16 have some other witnesses that we -- that she's going  
17 to be subject to, to come back up for clarification  
18 or -- and to, to rebut or answer any questions after  
19 that. Is that, is that, is that --

20 REPRESENTATIVE CLEMMONS: I think that  
21 would be fair, yes. Judge Matthews, I do have a  
22 couple of questions myself.

23 JUDGE MATTHEWS: Certainly.

24 REPRESENTATIVE CLEMMONS: If you'd be so  
25 kind. You mentioned that you believe that your court

1 email had been compromised and that you don't use it.  
2 How do you communicate with your litigant attorneys  
3 when the -- or the litigants whenever they contact  
4 you by email or try to contact you by email?

5 JUDGE MATTHEWS: I, I don't think I have  
6 ever responded to litigant attorneys myself. The law  
7 clerk or staff attorneys respond to it.

8 REPRESENTATIVE CLEMMONS: So your law clerk  
9 and staff attorneys monitor your email account for  
10 you and, and --

11 JUDGE MATTHEWS: No, lawyers don't ever  
12 send me any email directly about a case, other than  
13 they might CC me, you know, something they've sent to  
14 a law -- my staff attorney or law clerk.

15 REPRESENTATIVE CLEMMONS: Is there someone  
16 in your office assigned to monitor your email  
17 account, court email account?

18 JUDGE MATTHEWS: Not to my knowledge.

19 REPRESENTATIVE CLEMMONS: And, and you said  
20 you believe that the court email had been  
21 compromised. I'm curious; in what way has it been  
22 compromised?

23 JUDGE MATTHEWS: There has been an instance  
24 in the past in which I, years ago, was linked in to  
25 the office email, and I could access it at home, and

1 I got some very strange phishing emails and some  
2 others that I had a computer expert at home look at,  
3 and it said it looks as if someone is trying to hack  
4 into your computer at home from this site. And  
5 that's when I decided I no longer wanted to have my  
6 office email in any way linked to my home email or my  
7 Gmail account.

8 REPRESENTATIVE CLEMMONS: By phishing, I  
9 assume that's a P-H phishing and not an F fishing.

10 JUDGE MATTHEWS: Yes, sir. Yes. Yes, sir.

11 REPRESENTATIVE CLEMMONS: And I -- the  
12 expert told you that they believed that the court  
13 email --

14 JUDGE MATTHEWS: Someone at the court was  
15 attempting to access my home email.

16 REPRESENTATIVE CLEMMONS: Okay. Did, did  
17 you report that?

18 JUDGE MATTHEWS: I, I can't remember if I  
19 told Jack Watts (PHONETIC) or not, but I just decided  
20 it was better to not have -- to sever that link and  
21 not have that be a possibility.

22 REPRESENTATIVE CLEMMONS: Okay. So you,  
23 you don't know whether you made that -- any others  
24 aware at court administration or --

25 JUDGE MATTHEWS: Court administration has

1 nothing to do with our email at all. We're not in  
2 any way linked into them.

3 REPRESENTATIVE CLEMMONS: Okay, but --

4 JUDGE MATTHEWS: Ours is only -- it's our  
5 own email.

6 REPRESENTATIVE CLEMMONS: And, and all the  
7 judges have an email account --

8 JUDGE MATTHEWS: Yes.

9 REPRESENTATIVE CLEMMONS: -- through this  
10 web site. Is that correct?

11 JUDGE MATTHEWS: Yes.

12 REPRESENTATIVE CLEMMONS: And you don't  
13 recall whether or not you shared your concerns about  
14 that email account with others?

15 JUDGE MATTHEWS: Mr. Clemmons, if, if we  
16 were going to go into this further, I would suggest  
17 that we go off the record and into executive session.

18 REPRESENTATIVE CLEMMONS: It, it -- you  
19 have more information in that regard that you would  
20 be -- you would like to share with us in executive  
21 session, Judge?

22 JUDGE MATTHEWS: May I confer with Counsel  
23 for a moment?

24 REPRESENTATIVE CLEMMONS: You may.

25 (INDISTINCT)

1 MALE SPEAKER: I think you've got to say  
2 that.

3 (INDISTINCT)

4 MALE SPEAKER: I think that's (INDISTINCT)  
5 discussion.

6 (INDISTINCT)

7 MALE SPEAKER: But if you want to say it,  
8 you can. This is your day to say it. Say it.

9 (INDISTINCT)

10 JUDGE MATTHEWS: Can we go back on the  
11 record?

12 REPRESENTATIVE CLEMMONS: Yes, Judge.  
13 Please continue.

14 JUDGE MATTHEWS: The fact of the matter is,  
15 I did not report it, and it hasn't happened since.

16 REPRESENTATIVE CLEMMONS: Okay. Thank you  
17 very much. Judge, I, I believe that Representative  
18 Mack and I are the only ones on the Commission at  
19 this time that were with you back in 2009 when you  
20 were --

21 JUDGE MATTHEWS: Yes.

22 REPRESENTATIVE CLEMMONS: -- when you were  
23 last reviewed. And in looking back at that  
24 transcript, if you'll remember, Senator Knotts asked  
25 some questions about how much time you spend in the

1 office. And in particular, he asked you, quote, How  
2 many days a week? And you responded, I'm there every  
3 day. Looking at the time records that you referred  
4 to just a moment ago, it -- while, while you have --  
5 certainly gave us explanations for the times that you  
6 weren't there, what, what has changed, if anything,  
7 that's resulted in your absence from the office on  
8 the days that you're absent?

9 JUDGE MATTHEWS: Well, first thing, since  
10 2009, I did become involved with the Women Lawyers as  
11 their president, and I was gone a lot. But I still  
12 managed, for 2012 and 2013 -- 2012 to be the leader  
13 in number of orders put out. We have had, as I've  
14 told you, a diminution in the number and the  
15 complexity of cases since then. First of all, as I  
16 said, the CON cases basically disappeared because of  
17 the nonfunding, so that took two years of cases that  
18 would have lasted weeks at a time and involved  
19 hundreds of lawyers, possibly, and extremely complex  
20 matters.

21 Secondly, the DHEC seems to have calmed  
22 down with respect to wetlands, with respect to solid  
23 waste litigation, nuclear waste litigation. I -- it  
24 looks like it's getting ready to crank up again, but  
25 I -- we just haven't had as many of the complex cases



1 as we've had for a long time. The charter school  
2 cases, which involved lots and lots of witnesses and  
3 lots and lots of records and testimony, have  
4 basically calmed down.

5 We have had, in some ways, a reduced volume  
6 of cases overall, and the other part is that after 16  
7 years, I've gotten pretty good at telling which cases  
8 are going to have complicated issues and which ones  
9 aren't. And when you happen to get a string for  
10 three months or so of Department of Revenue,  
11 Alcoholic Beverage Licensing cases, you know that  
12 you're not going to be investing as much time.  
13 You're not going to be there as much. And you know  
14 that a high percentage of them are going to settle.  
15 So there -- I just don't think the caseload that has  
16 been assigned to me has been as, as complex because  
17 the whole court isn't getting things that are as  
18 complex.

19 REPRESENTATIVE CLEMMONS: Okay. Judge,  
20 you, you have provided us with orders from January 1,  
21 2014, to August 6, 2014. Would you have any  
22 objection to us making that an exhibit to the record?

23 JUDGE MATTHEWS: No, sir. I understood it  
24 already had been. Is that correct, Ms. Shuler?

25 REPRESENTATIVE CLEMMONS: Am I on the right

1 --

2 MS. SHULER: The documents that you  
3 provided in your white notebook were made Exhibit 1.

4 JUDGE MATTHEWS: Okay.

5 MS. SHULER: We had not made --

6 JUDGE MATTHEWS: No, thank you.

7 MS. SHULER: -- specific orders

8 (INDISTINCT)

9 JUDGE MATTHEWS: Thank you, Mr. Clemmons.

10 REPRESENTATIVE CLEMMONS: You would have --

11 JUDGE MATTHEWS: I would like for them to

12 --

13 REPRESENTATIVE CLEMMONS: You would have no  
14 objection?

15 JUDGE MATTHEWS: No objection.

16 REPRESENTATIVE CLEMMONS: So moved. Is  
17 there any objection by Commission members? Hearing  
18 none, so ordered.

19 (EXHIBIT 3, Judge Matthews' Orders from  
20 January 1, 2014, to August 6, 2014, admitted.)

21 REPRESENTATIVE CLEMMONS: Are there any  
22 other questions at this time for Judge Matthews?  
23 Hearing none, Judge Matthews, thank --

24 JUDGE MATTHEWS: What?

25 MALE SPEAKER: Ask for one moment.

1           JUDGE MATTHEWS: Can I have one second with  
2 Counsel?

3           REPRESENTATIVE CLEMMONS: Yes, you may.

4           MALE SPEAKER: Thank you very much. They  
5 asked you if you hadn't had (INDISTINCT), and you  
6 said no. (INDISTINCT) They have this document. They  
7 have this right here, and you said you (INDISTINCT).

8           JUDGE MATTHEWS: Well, I (INDISTINCT)

9           MALE SPEAKER: No, I, I know. You said you  
10 didn't, and you, you had this. I'm just trying to  
11 figure out how you can (INDISTINCT) those two  
12 statements. I'm just (INDISTINCT). You see what I'm  
13 saying? (INDISTINCT)

14           (INDISTINCT)

15           MALE SPEAKER: The question was, in the  
16 computer system, is there something that you  
17 (INDISTINCT).

18           (INDISTINCT)

19           JUDGE MATTHEWS: That's all. Thank you,  
20 sir.

21           MS. SHULER: Judge Matthews, I have one  
22 additional question. To your knowledge, what is a  
23 card reader used for?

24           JUDGE MATTHEWS: I had never heard of a  
25 card reader until I got this -- these documents

1 Friday night.

2 MS. SHULER: All right. Well, let me  
3 clarify. How do you enter your office and leave your  
4 courtroom?

5 JUDGE MATTHEWS: We have a little card that  
6 we flash in front of a square box.

7 MS. SHULER: All right. Are you the only  
8 one that can enter your office through your card  
9 reader, or could your law clerk let you into your  
10 office without using the card reader?

11 JUDGE MATTHEWS: I know the law clerk could  
12 let me in, and, I mean, there are times when you  
13 forget it or misplace it or whatever, and the law  
14 clerks almost always -- I think always do the card  
15 reader in front of the -- to get into the courtroom  
16 for me. I don't do that.

17 MS. SHULER: All right. Thank you, Judge  
18 Matthews.

19 JUDGE MATTHEWS: Mm-hmm.

20 REPRESENTATIVE CLEMMONS: And Judge  
21 Matthews, that line of questioning brought up one  
22 last question --

23 JUDGE MATTHEWS: Okay.

24 REPRESENTATIVE CLEMMONS: -- I have for  
25 you. As I looked over the ti -- dates that you were

1 present in the office and not present, it struck me  
2 that there is a -- the not-present days is highly  
3 weighted towards Fridays.

4 JUDGE MATTHEWS: Mm-hmm.

5 REPRESENTATIVE CLEMMONS: Is, is it your  
6 practice to take Friday off, to be at home or -- just  
7 explain that to us, if you would.

8 JUDGE MATTHEWS: Well, it's, it's true. I  
9 mean, there are a lot of times when I go down to  
10 Charleston and see the little grandbabies, and Friday  
11 is a good time to go down and pick them up early at  
12 school and do that, so yeah, any time off like that  
13 is -- or working at home is weighted -- has been  
14 weighted toward that.

15 REPRESENTATIVE CLEMMONS: Okay. Thank you  
16 very much.

17 JUDGE MATTHEWS: Mm-hmm.

18 REPRESENTATIVE CLEMMONS: Hearing nothing  
19 else, Judge Matthews, do -- if -- do you have  
20 anything further you'd like to present at this time?

21 JUDGE MATTHEWS: No, sir.

22 REPRESENTATIVE CLEMMONS: Hearing nothing,  
23 Judge, we would encourage you to stand by throughout  
24 the remaining deliberations, if you would, in case  
25 there are any other questions. At this time, the

1 Chair would order that we take a five-minute break.

2 Mr. Whitehead, Thank you for being with us.

3 MR. WHITEHEAD: Yes.

4 REPRESENTATIVE CLEMMONS: Will you please  
5 raise your right hand and be sworn? Do you swear to  
6 tell the truth, the whole truth, and nothing but the  
7 truth, so help you God?

8 MR. WHITEHEAD: I do.

9 REPRESENTATIVE CLEMMONS: Thank you very  
10 much. And you are Mr. Christopher Whitehead, staff  
11 attorney to Administrative Law Court Judge Carolyn  
12 Matthews; is that correct?

13 MR. WHITEHEAD: That is correct.

14 REPRESENTATIVE CLEMMONS: Thank you very  
15 much. Mr. Whitehead, if you would please answer Ms.  
16 Shealy's questions.

17 MS. SHULER: Mr. Whitelove -- Whitehead,  
18 how long have you served as a staff attorney at the  
19 Administrative Law Court?

20 MR. WHITEHEAD: My first day was September  
21 23<sup>rd</sup> of 2013.

22 MS. SHULER: Right.

23 MR. WHITEHEAD: So a little more than 14  
24 months.

25 MS. SHULER: Thank you. What are your

1 responsibilities as a staff attorney?

2 MR. WHITEHEAD: I would say doing legal  
3 research, drafting of orders. I've also done the  
4 mail. On occasion I've corresponded with litigants,  
5 so -- but for the most part, drafting orders and  
6 doing research.

7 MS. SHULER: All right.

8 MR. WHITEHEAD: And, you know, reviewing  
9 case files.

10 MS. SHULER: Mr. Whitehead, are you  
11 assigned to all six of the judges at the  
12 Administrative Law Court, or are you assigned to work  
13 with a specific judge?

14 MR. WHITEHEAD: I'm assigned to Judge  
15 Matthews.

16 MS. SHULER: Right. Have you ever worked  
17 with any of the other Administrative Law Court  
18 judges?

19 MR. WHITEHEAD: No.

20 MS. SHULER: No. All right. What are your  
21 job responsibilities for Judge Matthews, specifically  
22 in terms of orders?

23 MR. WHITEHEAD: Now, are we talking after a  
24 hearing? In general? Would you like a more broad --

25 MS. SHULER: After a hearing, and then we

1 can break them down to DOC --

2 MR. WHITEHEAD: Sure. Sure.

3 MS. SHULER: -- contested, and appellate.

4 MR. WHITEHEAD: Okay. Well, after a  
5 hearing, usually we will go back to chambers, and  
6 there, she'll say that, you know, this is how she's  
7 going to rule, upon which time I will draft the  
8 order. Or she'll say that she wants some more  
9 research to be done, or she's -- she'll say she just  
10 wants more time to look at a case or the file.

11 MS. SHULER: All right. And when you draft  
12 the order for her, do you provide her the order and  
13 then she gives you edits back to the order?

14 MR. WHITEHEAD: After I've completed  
15 drafting the order, I will take it downstairs. Let  
16 me preface that by just saying that my office is on  
17 the third floor, and Judge's chambers is on the  
18 second. So I will go downstairs and present the  
19 drafted order to her.

20 MS. SHULER: All right.

21 MR. WHITEHEAD: Upon which time she will  
22 review it and make corrections or, you know, if she  
23 feels that something needs to be added or deleted  
24 from it, she will do that. Then I'll take it back  
25 upstairs to, you know, do the edits.



1           MS. SHULER: All right. Would you explain  
2 how Judge Matthews 30-day rule has been used in cases  
3 you have handled for her?

4           MR. WHITEHEAD: Could you thoroughly ask  
5 that question -- maybe ask it a little differently?

6           MS. SHULER: All right.

7           MR. WHITEHEAD: I'm sorry.

8           MS. SHULER: Are you familiar with the  
9 Judge's 30-day rule?

10          MR. WHITEHEAD: Yes.

11          MS. SHULER: All right.

12          MR. WHITEHEAD: Usually at a hearing, she  
13 will say that she has a 30-day rule which all orders  
14 should be -- or are to be out within 30 days of  
15 either the date of the hearing or a proposed order,  
16 yes.

17          MS. SHULER: And how do you assist her in,  
18 in complying with the 30-day rule for cases that  
19 you're assigned to work on?

20          MR. WHITEHEAD: Basically by drafting the  
21 order.

22          MS. SHULER: Do you ever bring -- do you  
23 ever check deadlines to make sure that she's in  
24 compliance with the 30 -- to -- in, in compliance in  
25 making sure an order goes out within 30 days or

1 notifying the parties that the order will take longer  
2 than 30 days?

3 MR. WHITEHEAD: Sure. Well, I'll answer  
4 your second part of the question first, and I'll just  
5 say that usually, the notification to the parties is  
6 done by the law clerk and not by the staff attorney.  
7 Now, in regards to the first question, how do I make  
8 sure that -- or do I alert her that the 30-day rule  
9 is coming close to being up?

10 MS. SHULER: Right.

11 MR. WHITEHEAD: Is that right?

12 MS. SHULER: Correct.

13 MR. WHITEHEAD: Usually I don't -- I, I  
14 don't think, or I don't recall ever saying to her  
15 that the 30-day rule is coming up.

16 MS. SHULER: Judge Matthews testified that  
17 you actually found one of the longer cases that she  
18 had outstanding in a drawer somewhere. Can you  
19 explain the circumstances regarding that case?

20 MR. WHITEHEAD: Sure. That is, I believe,  
21 Parker versus South Carolina Department of Employment  
22 and Workforce. Now, I think I -- I think -- I do not  
23 know -- but I believe that it was on the shelf of my  
24 office upon -- you know, when I first began to work  
25 there. So I don't know if it was in a drawer or not.

1 I think it was up in my office though.

2 MS. SHULER: And so you just found the case  
3 when you began work in your office and notified the  
4 judge.

5 MR. WHITEHEAD: Yes. I don't know, you  
6 know, how many days from the time when I started, but  
7 it was, I think, in October of 2013.

8 MS. SHULER: All right. Mr. Whitehead,  
9 what amount of oversight or supervision does Judge  
10 Matthews exercise over your work as a staff attorney?

11 MR. WHITEHEAD: Well, you know, as I spoke  
12 earlier, she does review, you know, my orders and  
13 make corrections or whatever, so that would be what I  
14 would say the oversight is.

15 MS. SHULER: All right. Have you ever  
16 served in a capacity temporarily as her law clerk,  
17 assisting her with any administrative-type duties?

18 MR. WHITEHEAD: Yes. After -- Ms.  
19 Campbell, she left the Administrative Law Court to  
20 take a different position. Her last day was October  
21 -- I mean, August 14<sup>th</sup> of this year, and from, I  
22 guess, August 15<sup>th</sup> to, I think, October 22<sup>nd</sup>, I was  
23 acting as law clerk and staff attorney.

24 MS. SHULER: All right. And during that  
25 time, did you actually work downstairs, outside of

1 her office, or were you still using your staff  
2 attorney office?

3 MR. WHITEHEAD: Generally, I was still  
4 using my staff attorney office. Now, when I would go  
5 through mail, I would be downstairs. But for the  
6 most part, I was upstairs on the third floor.

7 MS. SHULER: All right. Has -- what type  
8 of interaction weekly do you have with Judge  
9 Matthews?

10 MR. WHITEHEAD: Well, daily, I would come  
11 down at 10 o'clock in the morning and 2 p.m. to see  
12 -- to speak with the law clerk, see if the Judge is  
13 in, and then, if the Judge is there, I would go in if  
14 we had a case that, you know, was getting close to  
15 having an order or, you know, there was a hearing to  
16 be scheduled, then we would discuss that. Otherwise,  
17 I would ask her if there was anything that she needed  
18 to be done. And, you know, other than that, then we  
19 would just, you know, talk casually about anything,  
20 so.

21 MS. SHULER: Right. So when you would go  
22 down each day of the week at 10 o'clock, how often  
23 would find Judge Matthews in her office?

24 MR. WHITEHEAD: On days that's not a  
25 hearing?

1 MS. SHULER: Yes.

2 MR. WHITEHEAD: Not frequently.

3 MS. SHULER: All right. And what about at  
4 2 o'clock when you went down to talk with her about  
5 additional matters?

6 MR. WHITEHEAD: The days that she was  
7 there, she would, she would be there, yes, for the  
8 most part, yes.

9 MS. SHULER: When Judge Matthews was not in  
10 the office, how -- what method of accessibility could  
11 you reach her through?

12 MR. WHITEHEAD: Now, are we talking when a  
13 law clerk was present, or are we just speaking when I  
14 acted in both positions?

15 MS. SHULER: Let's start when -- just as a  
16 staff attorney --

17 MR. WHITEHEAD: Sure.

18 MS. SHULER: -- and, and when you also  
19 served temporarily as her law, law clerk.

20 MR. WHITEHEAD: Okay. Well, first, usually  
21 communication with Judge Matthews would have been  
22 done by the law clerk, you know, about whether she's  
23 going to be in or not or any sort of thing like that.  
24 I rarely would call her on my own.

25 MS. SHULER: All right.

1           MR. WHITEHEAD: Now, as a -- when I was  
2 doing both positions, if something was very pressing,  
3 such as, you know, the parties are asking for a  
4 continuance with a hearing the next day, then I would  
5 call her to tell her that and see what she -- how she  
6 wished to proceed.

7           MS. SHULER: So, Mr. Whitehead, when you  
8 served as her law clerk and you needed to reach her,  
9 you would make a phone call. You wouldn't email her  
10 or text her or anything like that.

11          MR. WHITEHEAD: No, I would not text her.

12          MS. SHULER: All right.

13          MR. WHITEHEAD: On occasion, I've -- I have  
14 emailed her, yes.

15          MS. SHULER: And did she respond to your  
16 emails?

17          MR. WHITEHEAD: Not that I recall, no.

18          MS. SHULER: What has been your working  
19 relationship like with Judge Matthews?

20          MR. WHITEHEAD: I would say that it has  
21 been very good. I really enjoy working with her.  
22 She's very nice, and she's very pleasant with me.

23          MS. SHULER: All right. Mr. Whitehead,  
24 that's all I have at this time.

25          REPRESENTATIVE CLEMMONS: Thank you. First

1 of all, let me apologize for the record to Ms.  
2 Shuler. I referred to her as Ms. Shealy just a  
3 moment ago. That was a mental lapse that occurs  
4 quite frequently with me. Thank you very much. Do  
5 any members of the Commission have questions? Mr.  
6 Mack, you're recognized.

7 REPRESENTATIVE MACK: Thank you, Mr.  
8 Chairman. David Mack III.

9 MR. WHITEHEAD: Yes, sir.

10 REPRESENTATIVE MACK: Were you able to  
11 detect any negativity coming from any, anywhere in  
12 the office or around? Were you able to, to sense  
13 some folks had problems with Judge Matthews'  
14 attendance or anything of that nature?

15 MR. WHITEHEAD: Not particularly, no, sir.  
16 If there was an issue, I kind of thought that that  
17 was none of my business. My job was a -- as a staff  
18 attorney, and my job was just to review cases, so I  
19 didn't really perceive anything as being negative or  
20 a hostile environment, I guess.

21 REPRESENTATIVE MACK: So this came out of  
22 left field as far as you're concerned, the --

23 MR. WHITEHEAD: About me being subpoenaed,  
24 or appearing before you --

25 REPRESENTATIVE MACK: About -- as --

1 MR. WHITEHEAD: -- or all these issues?

2 REPRESENTATIVE MACK: As relates to the, to  
3 the subject matter that there was some, some problems  
4 with the Judge's attendance that -- you know,  
5 sometimes you can feel some negative vibes within an  
6 office setting.

7 MR. WHITEHEAD: Sure.

8 REPRESENTATIVE MACK: Sometimes a culture  
9 is set --

10 MR. WHITEHEAD: Right.

11 REPRESENTATIVE MACK: -- where you just  
12 sense something is wrong. You never felt any of  
13 that?

14 MR. WHITEHEAD: Not that I can really, you  
15 know, testify to, no.

16 REPRESENTATIVE MACK: Okay.

17 REPRESENTATIVE CLEMMONS: Thank you,  
18 Representative Mack. Are there any other questions  
19 by any members of the Commission? Hearing none, Mr.  
20 Whitehead, thank you very much for being with us  
21 today.

22 MR. WHITEHEAD: Sure.

23 REPRESENTATIVE CLEMMONS: The Commission  
24 would ask Jana Shealy to come forward.

25 (INDISTINCT)



1                   REPRESENTATIVE CLEMMONS: Ms. Shealy, thank  
2 you for being with us.

3                   MS. SHEALY: Thank you.

4                   REPRESENTATIVE CLEMMONS: Would you please  
5 raise your right hand and be sworn? Do you swear to  
6 tell the truth, the whole truth, and nothing but the  
7 truth, so help you God?

8                   MS. SHEALY: I do.

9                   REPRESENTATIVE CLEMMONS: Thank you very  
10 much, and you are Jana Shealy, clerk of the  
11 Administrative Law Court.

12                  MS. SHEALY: Yes, sir.

13                  REPRESENTATIVE CLEMMONS: Is that right?

14                  MS. SHEALY: Yes, sir.

15                  REPRESENTATIVE CLEMMONS: Very good. Thank  
16 you so much for being with us today.

17                  MS. SHEALY: Thank you.

18                  REPRESENTATIVE CLEMMONS: If you would  
19 please respond to Counsel's questions.

20                  MS. SHEALY: Certainly. Thank you.

21                  REPRESENTATIVE CLEMMONS: Thank you.

22                  MS. SHULER: Ms. Shealy, how long have you  
23 served as the clerk of court for the Administrative  
24 Law Court?

25                  MS. SHEALY: I was appointed as interim

1 clerk in the fall of two thousand and -- 2001, and  
2 became act -- permanent clerk in May of 2002.

3 MS. SHULER: All right. What are your  
4 responsibilities as the clerk of court?

5 MS. SHEALY: By statute, I am assigned as  
6 the record keeper of the agency and any other duties  
7 that are assigned to me by the Chief Judge. In  
8 general, I am responsible for the intake of all the  
9 new cases, for overseeing the clerk's office,  
10 including the receptionist's office; you know,  
11 maintaining the appropriate records and exhibits. I  
12 work with the Chief Judge on policy issues for the  
13 court, any issues regarding legislation that may be  
14 introduced that affects the agency.

15 We also have the Office of Motor Vehicles  
16 hearings, which is an office underneath the  
17 Administrative Law Court that the Chief Judge is the  
18 director of, and I oversee the staff; not the hearing  
19 officers, but the staff of that. And so I have  
20 supervisory functions for that staff, as well as the  
21 staff of the clerk's office and the receptionist at  
22 the ALC.

23 MS. SHULER: What matters does the  
24 Administrative Law Court have jurisdiction over?

25 MS. SHEALY: A pretty broad list, and a

1 couple of things that I gave you, the rotation  
2 schedule that we use to assign cases that come into  
3 the court, and all of our cases are divided into two  
4 groups. We hear everything from Department of  
5 Revenue, which probably is the large majority of the  
6 numbers of cases that we receive. That's anything  
7 from gaming cases to alcohol permits, alcohol  
8 violations, county tax matters.

9           We hear multiple cases under DHEC: health  
10 licensing -- that would be nursing homes, nursing  
11 facilities violations -- environmental permitting  
12 cases, ocean and coastal resource management, the  
13 Certificate of Need cases. We hear BUI cases under  
14 DNR, hunting and fishing violations. Department of  
15 Insurance: agent licenses, all the POL boards under  
16 LLR. We have a wide variety of appellate case  
17 jurisdiction that came to us, mostly under the 2006  
18 that was passes, Act 387. Basically, if it is a  
19 contested case or an appellate proceeding in the  
20 state that involves a state agency, with the  
21 exception of three, which is Workers' Comp,  
22 Procurement Review Panel, and I think one other one,  
23 we, we would hear the case somehow, either in an  
24 appellate or a contested case capacity.

25           MS. SHULER: All right. Ms. Shealy, when

1 the case is filed, who makes the decision as to which  
2 judge that case will be assigned to for hearing and  
3 orders (INDISTINCT) --

4 MS. SHEALY: Again, I reference the  
5 rotation schedule. By statute, it's 1-23-570. The  
6 Chief Judge is responsible for the assignment of  
7 cases on a general rotation basis. We've kind of --  
8 we've adjusted that a little bit over the years,  
9 depending on the jurisdiction, the new jurisdiction  
10 that comes to us and looking at the balance of cases  
11 between those that are maybe, perhaps, more complex,  
12 more time-consuming, so we have two types of -- or  
13 two groups of cases, Group 1 and Group 2. We break  
14 all of the case types up. Within the individual  
15 agency, you may have two cases types with DHEC that  
16 are in Group 1 and two case types that are in Group  
17 2.

18 So everything is divided up, and then the  
19 judges rotate on a general rotation basis out of  
20 those groups every quarter. So in other words, for  
21 the quarter we're in, October/November/December, you  
22 may have Judge Anderson, Judge Durden, and Judge  
23 Robinson in Group 1, the other three judges in Group  
24 2, and so when those cases come in, they're docketed  
25 by the assistant clerk. Once she has all the

1 information put into the system, she prints out a  
2 sheet that has all the information on the case: the  
3 case caption, whether it's a contested case or  
4 appellate, whether it's Group 1 or Group 2, and I  
5 review that information. I make the initial  
6 assignments, based on the rotation schedule, and we  
7 do try to balance numbers as well as, perhaps,  
8 complexity of cases as well. In other words, we  
9 wouldn't necessarily give one judge all of the  
10 Certificate of Need cases or another judge all of the  
11 Department of Insurance agent licensing cases. We  
12 try to balance among the numbers and the type of case  
13 that it is.

14           Then once I finish that initial review, I  
15 go into the Chief Judge's office. We sit down, and  
16 I'll go over the basic information. I'll say, We've  
17 got -- and we generally assign our cases once a week.  
18 We don't do it every day as they come in. So that  
19 once a week, I'll go into the Judge's office -- Chief  
20 Judge's office, and I'll say, you know, we've got 15  
21 cases this week that we need to assign. Twelve are  
22 in Group 1; three are in Group 2. This is what we  
23 have. They're kind of run-of-the-mill cases. We've  
24 got two Department of, you know, Revenue application  
25 cases. We have a Certificate of Need. We have a

1 DHEC environmental. We'll go over those.

2           You know, occasionally, he might look at  
3 the file to see what the issues are within them. You  
4 know, I'll discuss what the issues may be, and then  
5 he looks at them. Sometimes he makes changes to  
6 that. You know, sometimes, he doesn't. He'll just  
7 say, Okay, these look good, and then once that  
8 happens, I go back to the assistant clerk. She puts  
9 that information into the system as far as which  
10 judge is assigned to the case, and then the case  
11 files go to the judge's office.

12           For the contested cases, we do retain it in  
13 the clerk's office for 10 days because in contested  
14 cases, the agencies have to file what's called an  
15 Agency Information Sheet, which provides basic  
16 information to the office about what the case is.  
17 And so once that information is received, then those  
18 case files go directly to the judge's office as well.  
19 And once the case is assigned, it does stay with that  
20 judge's office until final disposition of the case.  
21 They're responsible for all matters regarding the  
22 case, scheduling of the hearing, dealing with  
23 motions, and, correspondence and communication with  
24 the parties.

25           MS. SHULER: Ms. Shealy, you have this

1 assignment rotation schedule where you have three  
2 judges in case-type Grouping 1 and then three judges  
3 in case-type Grouping 2. When the Chief Judge looks  
4 at the judges in that -- in those groupings --

5 MS. SHEALY: Mm-hmm.

6 MS. SHULER: -- does he try to evenly  
7 distribute the complex cases among the judges within  
8 that grouping, or does -- or do certain judges end up  
9 having the more complex, and other judges the, so to  
10 speak, easier type cases to handle?

11 MS. SHEALY: As, as a, as a general  
12 practical matter, we do try to do that. We have had  
13 instances over, you know, the course of time where,  
14 you know, we may not be able to assign certain cases  
15 or case types to an individual judge just --  
16 specifically, Judge Matthews alluded to that earlier.  
17 We don't assign her Charleston County assessor cases  
18 that come in because of her daughter's employment.  
19 So, you know, things like that will go into play with  
20 it.

21 And again, in general, we do try to do  
22 that; however, when there are -- and this was  
23 actually a practice that has, has been in, in place  
24 for a long time -- the Chief Judge, if there is an  
25 unusual case, if there is a, a, perhaps, a high-

1 profile case, a case that, on its surface, seems to  
2 be extremely complex, he generally likes to take  
3 those cases, and he will generally take them.

4           If he's not in the rotation, then there  
5 generally is one or two other judges that he will  
6 assign those cases to, based on, you know, several  
7 factors: you know, availability, you know, ability  
8 to what he sees is the ability to handle a case, and  
9 so there, there are -- it's, it's not, it's not  
10 assembly line. It's not scientific. It is a  
11 deliberative process that he and I go through each  
12 week in sitting down and saying, These are the cases  
13 that we have, and based on the three judges that are  
14 in each group, here's who we're going to assign them  
15 to.

16           MS. SHULER: In that situation, is Judge  
17 Matthews ever one of the two other judges when Judge  
18 Anderson does not take that case --

19           MS. SHEALY: No.

20           MS. SHULER: -- that he assigns complex  
21 matters to?

22           MS. SHEALY: No.

23           MS. SHULER: All right. Can you explain  
24 why?

25           MS. SHEALY: There, there is -- I mean, she



1 certainly is, is, you know, one of our most capable  
2 judges, but there is a concern about her time in the  
3 office, and for those complex cases, particularly  
4 those that may require extensive discovery, you know,  
5 preliminary motions, hearings, and that type of  
6 thing, it, it does come, come into play in the  
7 assignment of the cases.

8 MS. SHULER: All right. Ms. Shealy, are  
9 you aware of any conversations between Judge Anderson  
10 and Judge Matthews where he indicated any concern  
11 about her timeliness in office or any policy of the  
12 --

13 MS. SHEALY: No, there's certainly no  
14 policy. You know, we have an internal office manual  
15 that has a portion that is just an office guideline  
16 and a portion that the judges have to vote on,  
17 pursuant to statute that talks about time for --  
18 office time for the staff and, you know, whether or  
19 not they can use flex time, those types of issues,  
20 issues regarding legislation, issues regarding  
21 volunteer -- there are a number of issues that are  
22 covered in it. But there is no requirement that  
23 judges be in the office a certain amount of time.  
24 There's no internal manual or policy among the judges  
25 that say you have to be in the office X number of

1 hours a day or a week.

2 To my knowledge, I'm not aware that there  
3 has ever been a direct conversation between Judge  
4 Anderson and Judge Matthews because they are all  
5 autonomous in their handling of their office and  
6 their docket. But he solely has the statutory  
7 responsibility to assign the cases in the fashion in  
8 which he, as Chief Judge, feels like that, that the  
9 cases should be assigned.

10 MS. SHULER: All right. Do you want to ask  
11 something? (INDISTINCT)

12 SENATOR MALLOY: I'm Gerald Malloy.

13 MS. SHEALY: Yes, sir, Senator.

14 SENATOR MALLOY: Ms. Shealy, Ms. Shealy,  
15 I'm, I'm sort of trying to understand what's the  
16 criteria that the Chief Judge would use to see who  
17 the, the, the best judge is for a complex case.

18 MS. SHEALY: Well, again --

19 SENATOR MALLOY: Do you, do you know that,  
20 or is this, is this a -- I'm trying to get to --

21 MS. SHEALY: Well --

22 SENATOR MALLOY: In your tes -- my question  
23 -- I'm trying to get to the meat of your testimony to  
24 see what is the criteria that is used for a person  
25 that has capacity or the ability to handle a com -- a

1 complex case.

2 MS. SHEALY: Well, again, and if I can, you  
3 know -- ability, like I said, I think all of the  
4 judges have the ability. But there is discussion in  
5 assigning the cases as to whether or not a case that  
6 is going to be extremely involved and perhaps have a  
7 lot of issues that are going to need to be addressed  
8 either through hearings --

9 SENATOR MALLOY: Yes, ma'am.

10 MS. SHEALY: -- through multiple motion  
11 hearings, you know, scheduling conferences, keeping  
12 your hand kind of on discovery, seeing what the  
13 parties are filing as far as needing extra discovery  
14 or motions to compel or that type of thing, that,  
15 yes, that, that -- I mean, I -- you -- Ms. Shuler  
16 asked the question, and I answered it that, yes, that  
17 does go into play.

18 SENATOR MALLOY: All right, but I'm asking  
19 the question now. The question is is that who, who  
20 is that discussion had with? Is that discussion had  
21 with you, or is that discussion had with other  
22 judges?

23 MS. SHEALY: No. Between myself and the  
24 Chief Judge when we're assigning the cases.

25 SENATOR MALLOY: Okay, and so -- and you

1 take part of the responsibility in assigning the case  
2 with the, with the Chief Judge.

3 MS. SHEALY: Yes. I do the initial  
4 assignments.

5 SENATOR MALLOY: Okay. And so, and so,  
6 like, so I'm a lawyer. I have four secretaries. And  
7 if I have a document that I need to end up preparing  
8 or if I have a case that is, that is going for a  
9 trial, I mean, I would imagine that some is probably  
10 a little better than the other. I have one that's  
11 been with me for 20 years. I give her most of the  
12 stuff, even though I don't -- I'm not going to argue  
13 and say that she's the best, but I give it to whoever  
14 is available, and, you know, I have an idea as to  
15 what I personally think is the best, but I don't have  
16 any subjective criteria -- I don't have any objective  
17 criteria as to who is the best.

18 So I'm trying to end up saying we, we have  
19 a bunch of lawyers here. We know all about motions  
20 and all that kind of stuff. You, you made a judgment  
21 that Judge Matthews does not get complex cases.

22 MS. SHEALY: That, that's not specifically  
23 a judgment that is based on --

24 SENATOR MALLOY: An opinion.

25 MS. SHEALY: -- the types of cases that

1 come in and doing the assignments each week with the  
2 Chief Judge.

3 SENATOR MALLOY: Okay. And so can -- so  
4 then, since it's not a, since it's not a judgment,  
5 would you offer it as an opinion?

6 MS. SHEALY: And just -- Senator, I'm not  
7 an attorney, so I'm, I'm trying --

8 SENATOR MALLOY: I understand. I'm just  
9 trying to see --

10 MS. SHEALY: -- to, you know --

11 SENATOR MALLOY: -- why you, why you -- I  
12 understand.

13 MS. SHEALY: I'm, I'm trying to, you know  
14 -- I -- that -- it, it's not --

15 SENATOR MALLOY: Let me, let me help you  
16 out. Let me help you out.

17 MS. SHEALY: Okay.

18 SENATOR MALLOY: I'm just trying to see how  
19 you're basing --

20 MS. SHEALY: Right.

21 SENATOR MALLOY: -- your testimony on this  
22 very serious hearing. And my next question, before  
23 you answer it, is, I want to see how you quantify it.

24 MS. SHEALY: Right. And, and I appreciate  
25 that, and, you know, just -- I'm, I'm here under

1 subpoena, and I --

2 SENATOR MALLOY: I understand. I just want  
3 an answer to it.

4 MS. SHEALY: This is not a comfortable  
5 position to be in at all. And I feel like that I  
6 have answered the question because I know what cases  
7 come in, I sit down, I preliminarily assign them, and  
8 then I go in with the Chief Judge. Now, what he may  
9 determine is ability. That's not what I was saying.  
10 I wasn't saying it was based on ability. I said that  
11 it is a factor among other things that if someone  
12 that he feels like is not in the office on a regular  
13 basis, that those most complex cases are not  
14 necessarily going to get assigned to them.

15 Now, do they, once in a while? Yes,  
16 because we, we do have to try and be mindful of not  
17 having other judges have too much of a heavy caseload  
18 based on that. And also, I will say, there are times  
19 when a simple Department of Revenue alcohol permit  
20 comes in, and on the surface of it, yes, it may look  
21 straightforward, but because of the nature of  
22 administrative law, and because it is very fact-based  
23 and fact-driven, any number of these cases can  
24 develop into complex cases over time.

25 SENATOR MALLOY: And I'm just trying to see

1 if you can quantify it. That's all.

2 MS. SHEALY: Yes, sir, and I, I --

3 SENATOR MALLOY: Can you, or can you not?

4 MS. SHEALY: I'm, I'm not sure that I'm  
5 understanding what your definition of *quantifying* is.

6 SENATOR MALLOY: Well, let's use your  
7 definition: a number. I mean, what percentage goes  
8 to a certain judge? You don't have to use my, my  
9 definition. Let's use yours.

10 MS. SHEALY: Well, I'm not sure that I have  
11 a statistic for those. I mean, I gave Ms. Shuler,  
12 based on the subpoena and the documents that were  
13 requested, the printouts for each judge for calendar  
14 year 2013 and calendar year 2014 that shows all of  
15 their assignments except for the inmate cases. So,  
16 you know, we can go through those and look at, okay,  
17 this judge got three CON's; that judge got one. This  
18 judge got two environmental cases; this judge got  
19 five. Again, it's not a scientific, black-and-white  
20 designation of who gets what.

21 It is, okay, you know, we've got -- most of  
22 these are appellate cases in Group 2. Say we have  
23 ten cases that we need to assign in Group 2. Eight  
24 of them are appeals. They're DEW appeals, and  
25 they're PEBA appeals. So for those, you know, unless

1 there's some sort of, you know, issue that really is,  
2 perhaps, a first-time issue that we can see on the  
3 surface of it, we'll split those up. Two DEW goes to  
4 this judge, two DEW to that judge, and two DEW to  
5 that judge. So there are a large number of factors  
6 that go into assignment of each case -- of the cases  
7 each week, and we sit down, and we discuss those  
8 together, based on my preliminary assignment and then  
9 based on the rotation group.

10           We also try not to -- we have a number of  
11 cases that -- where they will request an expedited  
12 hearing, especially in the Department of Revenue  
13 alcohol applications. We try not to give one judge,  
14 say, in a three-month period, all of those. We will  
15 say, Okay, we've got Matthews, Lenski, and Robinson  
16 in this group. Well, Matthews got an expedited  
17 hearing last week. We've got one this week, so we're  
18 going to give it to, to Robinson instead. So it --  
19 there is a lot that goes into it, and I don't think I  
20 can just make one specific quantification of, of how  
21 that gets assigned.

22           SENATOR MALLOY: Well, I appreciate you  
23 being here. I understand that you are here under  
24 subpoena. I understand that it's not comfortable.  
25 It's not comfortable for a -- everybody that's here.



1 But I coached little league football in my past, and  
2 I have a kid that would come to me and say, I can run  
3 the football better than the kid that ran it the last  
4 time. So they always think that they can do it the  
5 best. So when you made your statement, and the  
6 record, the record is what the record is, it's that,  
7 are those cases assigned to Judge Matthews and,  
8 unless I recall different, your, your comment was,  
9 it's that, no.

10 MS. SHEALY: That's correct.

11 SENATOR MALLOY: Okay. And so what I'm  
12 trying to say is, that is an opinion that you have  
13 submitted to this Commission, but you don't have  
14 statistics to back it up.

15 MS. SHEALY: Other than looking at the  
16 actual cases that are assigned, based on that  
17 information that I submitted to Ms. Shuler.

18 SENATOR MALLOY: Okay. Okay. All right.  
19 I understand.

20 SENATOR MARTIN: Is -- Senator Martin. Mr.  
21 Chairman, may I ask a question, please, of Ms.  
22 Shealy? Larry Martin for the record.

23 MS. SHEALY: Senator Martin.

24 SENATOR MARTIN: Thank you, Ms. Shealy.  
25 Along the lines with the Senator from Darlington,

1 one, one question I have and I've been thinking  
2 about, you mentioned, in response to the question  
3 about the way the scheduling of the cases go out --

4 MS. SHEALY: Mm-hmm.

5 SENATOR MARTIN: -- that it -- or maybe I  
6 misheard, I understand -- I understood you to say you  
7 didn't -- that routinely you didn't assign complex  
8 cases to Judge Matthews, but there seems to be a  
9 suggestion that possibly some other judges as well  
10 that you didn't routinely assign complex cases to.  
11 Did I hear correctly?

12 MS. SHEALY: No. Just -- and again, it is  
13 not necessarily an every-week thing.

14 SENATOR MARTIN: Right.

15 MS. SHEALY: But say, for instance -- the  
16 cases that come to mind over the last couple of years  
17 --

18 SENATOR MARTIN: Right.

19 MS. SHEALY: -- that are what I would say,  
20 some of the banner cases that we have had, based on  
21 the issues involved and the complexities, the  
22 Savannah River dredging case.

23 SENATOR MARTIN: Right.

24 MS. SHEALY: The -- we had a Duke Energy,  
25 \$126 million tax -- state tax case with the

1 Department of Revenue. We've had a number of complex  
2 Certificate of Need cases that have come in over the  
3 last couple of years. You know, and, again, there --  
4 it's certainly not to say that we have a large number  
5 of cases that are just easy cases because, again, any  
6 of them can rise to the level of requiring a lot of  
7 deliberation in disposing of the case because of what  
8 may arise in them, but that those -- typically, if he  
9 does not take them himself, then he will look to see  
10 who is in the other group. Judge Lenski is one that  
11 he will assign those types of cases, if he decides  
12 not to assign them himself.

13           SENATOR MARTIN: Let me ask you this.  
14 There's never been -- I -- has there ever been an  
15 effort made by the Chief Justice that you're -- I  
16 mean, of the Chief Judge that you're aware of to  
17 communicate with all the ALJ's, not just directly  
18 with Judge Matthews, but the other ALJ's, what the  
19 expectations would be in terms of being in the  
20 office, to be available to respond to motions for  
21 hearings or that type thing?

22           MS. SHEALY: I, I, I mean, I guess my  
23 answer to that question would have to be, no, not on  
24 any sort of formal basis or certainly formal policy  
25 because, first of all, he has absolutely no authority

1 or -- I mean, I guess you could look at the Carnegie  
2 success principles of how to, you know, get your  
3 viewpoint across, but as far as issues like that, I  
4 don't know.

5 SENATOR MARTIN: Okay.

6 MS. SHEALY: But it, it's not an issue --  
7 he communicates on a regular basis with the other  
8 judges in the office. Judge McLeod just about every  
9 morning comes down to his office, and they talk. He  
10 and Judge Lenski talk on a regular basis; Judge  
11 Robinson. There's -- it's, it's not like there's no  
12 communication in the office among the judges. There  
13 is, and you don't necessarily have formal judges'  
14 meetings to do that, especially in a small office.

15 SENATOR MARTIN: Is -- I guess, for lack of  
16 a better way to put it, I think the, the statute, and  
17 of course, the General Assembly, I believe, views the  
18 position of Administrative Law Judge as a full-time  
19 job. Statute's clear on that. Do you think, or, or  
20 is the belief over there that it's being viewed as a  
21 full-time job by Judge Matthews?

22 MS. SHEALY: And, and this is going to be a  
23 judgment answer to that question. It, it, it's my  
24 judgment and, and my opinion that it is not viewed as  
25 a full-time judge position by the other judges.

1           SENATOR MARTIN: And, and, and that's based  
2 on -- by the other judges, that's based on just her  
3 -- when she's in the office, or when she's available  
4 to --

5           MS. SHEALY: Yes.

6           SENATOR MARTIN: -- be assigned cases. And  
7 the assignment of cases bears somewhat, in your mind,  
8 based on her availability of being in the office.

9           MS. SHEALY: That, that is, that is a --  
10 that is one factor that goes into the, the process of  
11 assigning cases.

12           SENATOR MARTIN: Right. Thank you, Ms.  
13 Shealy.

14           SENATOR MALLOY: Mr. Chair.

15           REPRESENTATIVE CLEMMONS: Senator Malloy,  
16 you're recognized.

17           SENATOR MALLOY: One of my -- Gerald Malloy  
18 again. One of the -- my great friends in the  
19 practice of law, and I'll call his name, Terry  
20 Richardson, always tells me, he says that I can do 11  
21 months -- I can do 12 months' worth of work in 11,  
22 but I can't do 12 months' worth of work in 12. And  
23 what he means by that is that, even though the law is  
24 a jealous mistress, you've still got to do some other  
25 things.

1           I've been over here only about 12, 13 years  
2 now, and I've been -- but I've been here long enough  
3 to know that in 2009, or around that time, 2008,  
4 Judge Anderson and Judge Matthews ran against each  
5 other for chief. And so I'm trying to see -- I  
6 understand that, that in my world, truth is better  
7 than harmony. I don't have to get along with you to  
8 end up getting to the truth and to being able to work  
9 together, and I'm going to ask you the question,  
10 first of all, is there harmony in the court, and you,  
11 you've already said it, they -- that they work  
12 autonomously, so it doesn't necessarily have to be  
13 harmony. But is there harmony? Is it just that,  
14 seriously, that they don't get along?

15           MS. SHEALY: I mean, I don't think that  
16 anybody that has been through this process and --

17           SENATOR MALLOY: I know. I want you to  
18 answer this question and then tell -- and then do  
19 everything that you explain. Do they get along, or  
20 not?

21           MS. SHEALY: I -- that's not a question  
22 that I feel comfortable answering. I think you'd  
23 have to ask Judge Matthews and Judge Anderson that  
24 question.

25           SENATOR MALLOY: You, you, you've put Judge

1 Anderson, the things that he would say and do, in, in  
2 front of this Commission. You said, This is the work  
3 that we end up doing together. You're working hand  
4 in, hand in glove with him in handing out cases. And  
5 so you're spending that time with him. Do they get  
6 along, or do, do they not? That's a, that's a,  
7 that's a judgment question I'm asking you to make.

8 MS. SHEALY: Well, since I'm under oath, I  
9 guess I'm going to have to answer that as directly as  
10 I can because I, I was trying to answer it with, you  
11 know, some understanding of the entire process, and  
12 as you said that, you know, you have been here, and I  
13 have been at the court for 20 years, and I was over  
14 here for several years before that. There were  
15 issues. There were issues in the Chief Judge race  
16 back in 2009. Do I think that they are both  
17 professional enough to move beyond that? I certainly  
18 hope so.

19 It is my judgment that -- and I can't speak  
20 for Judge Matthews -- but it is my judgment that  
21 Judge Anderson has handled himself in a completely  
22 professional quality of judicial temperament,  
23 temperament with the other judges, how he assigns the  
24 cases, in his view as to what the best way to assign  
25 those cases is. So, you know, is there complete

1 harmony? No. I don't think that you're ever going  
2 to find complete harmony.

3 SENATOR MALLOY: I don't have complete  
4 harmony with my wife. I'm just asking you do they  
5 get along.

6 MS. SHEALY: And I don't with my husband  
7 either. Trust me; he'll tell you. But, no, there's  
8 not complete harmony.

9 SENATOR MALLOY: No, I just asked you, do  
10 they get along?

11 MS. SHEALY: But I don't think that that is  
12 why we're here today.

13 SENATOR MALLOY: Can you answer my  
14 question? Do they get along or not?

15 MS. SHEALY: I, I just answered the  
16 question.

17 SENATOR MALLOY: You can't.

18 MS. SHEALY: I don't -- they're not  
19 completely harmonious. It, it's difficult to get  
20 along with someone when they're not there.

21 SENATOR MALLOY: Now -- okay. And you, and  
22 you actually -- you're appointed by the Chief Judge.

23 MS. SHEALY: Yes.

24 SENATOR MALLOY: And that appointment is  
25 his sole appointment. He doesn't have to -- he



1 doesn't get a chance to --

2 MS. SHEALY: No.

3 SENATOR MALLOY: -- have to go to the rest  
4 of the group to end up --

5 MS. SHEALY: No.

6 SENATOR MALLOY: -- doing, doing that.

7 MS. SHEALY: No, and likewise, he doesn't  
8 get a say in the individual law clerks that are hired  
9 by the individual judges. He's responsible for  
10 appointment of the clerk and all other staff of the  
11 court.

12 SENATOR MALLOY: Okay. Thank you.

13 REPRESENTATIVE CLEMMONS: Thank you. Ms.  
14 Sheal --

15 MS. SHULER: Ms. Shuler.

16 REPRESENTATIVE CLEMMONS: Ms. Shuler;  
17 excuse me. Would you please proceed.

18 MS. SHULER: Ms. Shealy, you've touched on  
19 the assignment of contested and appellate cases, but  
20 inmate cases are handled a little bit differently.

21 MS. SHEALY: They are.

22 MS. SHULER: How are they assigned to the  
23 judges?

24 MS. SHEALY: Because of the volume of those  
25 cases, we have one assistant clerk who is responsible

1 for docketing and processing of nothing but the  
2 inmate cases and closing those cases out, once the  
3 order had been issued by the, by the judge assigned  
4 to them, and it really is a numbers game. Those  
5 don't go through the same sort of review that he and  
6 I sit down with.

7           The, the decision, the final decision that  
8 is issued by the Department of Corrections in those  
9 cases is called a Step 2 Grievance Form, and on those  
10 forms, they include the information about, basically,  
11 this is a grievable decision, and you can file an  
12 appeal with the Administrative Law Court, and there  
13 are others that, you know, that they're not  
14 grievable. So basically, those are done just, you  
15 know, straight numbers. We've got 65 cases that came  
16 in this week, and we're going to split them up among  
17 the judges. Now, for the inmate cases as well as the  
18 regular cases, Judge Anderson does take a smaller  
19 percentage because of his administrative duties.

20           MS. SHULER: All right.

21           MS. SHEALY: But that basically is just a  
22 numbers issue. Now, if there is something unusual  
23 that comes in that the assistant clerk is not sure if  
24 it is a normal appeal or if it needs to be assigned  
25 as an injunction or some other issue involved with

1 it, then she'll go over it with me. If I need to  
2 discuss it with the Chief Judge, I will. But other  
3 than that, it is basically a numbers -- of divvying  
4 those cases up among the judges.

5 MS. SHULER: All right. And Ms. Shealy,  
6 you have testified to this that, as clerk of the  
7 court, you -- your responsibilities include  
8 maintaining true, complete, and accurate records,  
9 correct?

10 MS. SHEALY: Correct.

11 MS. SHULER: Ms. Shealy, were you  
12 subpoenaed to provide statistical information for the  
13 2013 calendar year docket list of cases and the  
14 status of those cases for each of the six  
15 Administrative Law Judges, that is Judge Anderson,  
16 Judge McLeod, Judge Durden, and Judge Robinson, as  
17 well as Judge Lenski? For them, you provided from  
18 November 2013 to November 2014. For Judge Matthews,  
19 you provided January 2012 to date. And I would --

20 MS. SHULER: And that's for the decisions  
21 issued, not for the full docket and pending cases.  
22 That is just for the actual decisions issued.

23 MS. SHULER: All right. Then let me  
24 clarify because you actually did the same time period  
25 for those statistics.

1 MS. SHEALY: Correct.

2 MS. SHULER: You did 2013 for each judge,  
3 and 2014 for each judge.

4 MS. SHEALY: Correct.

5 MS. SHULER: And how did you ascertain that  
6 information? Where did you pull that information  
7 from?

8 MS. SHEALY: That's on the case management  
9 system.

10 MS. SHULER: All right. So it was not  
11 pulled from the --

12 MS. SHEALY: Web site.

13 MS. SHULER: -- web site where the clerk --  
14 where the orders are entered.

15 MS. SHEALY: No. No.

16 MS. SHULER: All right.

17 MS. SHEALY: I did provide that information  
18 based strictly on the decisions that were issued for  
19 that time period.

20 MS. SHULER: All right. I'm going to ask  
21 you to identify two different sets of --

22 (INDISTINCT)

23 MS. SHULER: Thank you. Ms. Shealy,  
24 pursuant to the subpoena, what documents have you  
25 provided that you are reviewing at this item?

1           MS. SHEALY: It looks like Exhibit 10, and  
2 that is just a key for statistics, the first page  
3 that will give some understanding of the information  
4 that is on the spreadsheet, and this, as Judge  
5 Matthews alluded to, is directly from the web site,  
6 where you go to the decision page and you can search  
7 by judge and the time period. And so that's what  
8 this information is. And it shows the docket number,  
9 the judge, a brief caption, the decision date, the  
10 case type, and then the total age of the case from  
11 the time that it was filed until final disposition;  
12 then the disposition method, whether it was  
13 dismissed. If there was a final order issued,  
14 whether it was an appellate case that was done just  
15 on briefs in the record or whether it was after a  
16 trial, the order will be designated there when a  
17 substantive order was issued.

18           Otherwise, if it was dismissed or if there  
19 was a consent order or if the parties settled, it is  
20 indicated as well. You know, where I was able to --  
21 the, the hearing dates are on the case management  
22 system, so those dates there are reflected under  
23 hearing date. And then the age from the hearing date  
24 to the final order issued is in that last column.

25           Now, again, while I am the statutorily

1 defined record keeper of the agency, it's -- you  
2 know, because they are autonomous and because once  
3 the case is assigned to a judge and that judge  
4 retains the case file and all the information and  
5 processing of the case until final disposition, there  
6 is a lot that is -- the clerk of court, I don't have  
7 control over. So the case management system is where  
8 all of the law clerks should be inputting all of that  
9 information. So as far as looking at whether or not  
10 there were proposed orders or letters that went out,  
11 you know, requesting proposed orders, that type of  
12 thing, that's not information that is a hundred  
13 percent readily available on the case management  
14 system.

15           But where it was, I did indicate that in  
16 the last column, where I would have PO for "proposed  
17 order," the date that the proposed order was  
18 received, and then in parentheses, I would put the  
19 age of the case from the proposed order to the final  
20 order. And again, these are unaudited statistics  
21 because for them to be completely audited, I would  
22 have to go into every single case for every single  
23 judge and verify it myself for the actual information  
24 as there. So again, this is coming off of the case  
25 management system, and -- for this information.

1 MS. SHULER: Just for a moment, for  
2 Commission members, there is a folder on your laptop  
3 that says ALC Clerk of Court Subpoenaed Documents,  
4 and that's where you will find these documents. Ms.  
5 Shealy, you state -- testified that the law clerk for  
6 the individual judge has the responsibility for  
7 updating the case management system; is that correct?

8 MS. SHEALY: That's correct.

9 MS. SHULER: All right. What type of  
10 training, and who trains the law clerk, on how to put  
11 this information into the system?

12 MS. SHEALY: It's kind of developed over  
13 the last couple of years. This case management  
14 system went into effect in 2008, and we have had  
15 office-wide training on it a few times over the  
16 years. And then typically, because each judge does  
17 handle their docket, and how they issue their  
18 decisions or how they manage their docket is a little  
19 bit different. It's kind of evolved to, the staff  
20 attorney that is there when a new law clerk comes in  
21 basically does the training for, for the case  
22 management system and how that judge's office  
23 operates.

24 MS. SHULER: All right. Mr. Chairman, I  
25 would like to offer that the key for statistics and

1 this 2013 calendar year docket list of cases and  
2 status of those cases be entered into the record, in  
3 that it contains the docket and status for each of  
4 the six Administrative Law Court judges.

5 REPRESENTATIVE CLEMMONS: Is there any  
6 objection?

7 SENATOR MALLOY: Mr. Chair.

8 REPRESENTATIVE CLEMMONS: Senator Malloy.

9 SENATOR MALLOY: I would, I would -- could  
10 I, could I, could I ask a question before we vote on  
11 that? Because what I think what I heard her say was  
12 is that she -- that this is unaudited, that she could  
13 not fully attest to the accuracy of, of all of it. I  
14 mean, on its face, we'll take it based upon that  
15 because she said she'd have to go into --

16 REPRESENTATIVE CLEMMONS: Senator, you may  
17 certainly ask her whatever question you deem  
18 appropriate.

19 SENATOR MALLOY: Okay. So help me  
20 understand then. So are you, are you able to testify  
21 to the absolute accuracy of these documents that you  
22 have provided?

23 MS. SHEALY: For the information that is on  
24 there, yes.

25 SENATOR MALLOY: Okay. And are you able to



1 attest to the, to the information that is on there,  
2 that it's all accurate?

3 MS. SHEALY: No, because there may be some  
4 information that is not there that I would then have  
5 to go to the file to verify; in other words,  
6 specifically, that some of the cases that may have  
7 had proposed orders, because it gets to the testimony  
8 of whether or not the orders are issued within 30  
9 days, I can't necessarily, a hundred percent attest  
10 to the fact that a request was made for proposed  
11 orders --

12 SENATOR MALLOY: I understand.

13 MS. SHEALY: -- if it's not on the case  
14 management system.

15 SENATOR MALLOY: Okay. And so the  
16 documents that's being provided to us is, is just  
17 taken directly from the case management system.

18 MS. SHEALY: Yes.

19 SENATOR MALLOY: And so as a custodian --

20 MS. SHEALY: Yes.

21 SENATOR MALLOY: -- you're providing those  
22 documents --

23 MS. SHEALY: Yes.

24 SENATOR MALLOY: -- to us as a custodian.

25 MS. SHEALY: Yes.

1           SENATOR MALLOY: So you don't have to --  
2 you don't go back and, and go in check the accuracy  
3 of them. You're just providing this --

4           MS. SHEALY: Well --

5           SENATOR MALLOY: -- pursuant to the  
6 subpoena.

7           MS. SHEALY: Correct.

8           SENATOR MALLOY: Okay. Under those  
9 circumstances, I have no objection to it.

10           REPRESENTATIVE CLEMMONS: Thank you.  
11 Hearing no objection, so ordered.

12           (EXHIBIT 4, Key for Statistics and 2013  
13 Calendar Year Docket List of Cases and Status of  
14 Those Cases, admitted.)

15           MS. SHULER: All right.

16           (INDISTINCT)

17           MALE SPEAKER: Could we have a moment on  
18 that last issue, please?

19           REPRESENTATIVE CLEMMONS: Certainly.

20           MALE SPEAKER: Thank you so much.

21           (INDISTINCT)

22           FEMALE SPEAKER: Let's see. Were all those  
23 part of that?

24           MALE SPEAKER: (INDISTINCT)

25           FEMALE SPEAKER: Excuse me. Is there a

1   canned Diet Coke over there?

2                   (INDISTINCT)

3                   FEMALE SPEAKER:   Yes, please.   Thank you.

4                   (INDISTINCT)

5                   MALE SPEAKER:   -- nobody (INDISTINCT) a  
6   hundred percent accurate and (INDISTINCT).   What we  
7   have now is a document that she's created.

8                   FEMALE SPEAKER:   Do you have a Diet Coke?

9                   MALE SPEAKER:   -- by her own admission --

10                   FEMALE SPEAKER:   Coke Zero.

11                   FEMALE SPEAKER:   Okay.   Just -- can I get a  
12   water?

13                   MALE SPEAKER:   -- by her own admission is  
14   (INDISTINCT) is neither complete or has been audited,  
15   the accuracy of which is credible -- which is  
16   questionable.

17                   (INDISTINCT)

18                   FEMALE SPEAKER:   Thank you.

19                   (INDISTINCT)

20                   MALE SPEAKER:   (INDISTINCT) records  
21   (INDISTINCT) whose accuracy no one would question.  
22   She has (INDISTINCT) that are, by her own admission,  
23   are neither complete nor have they been audited, and  
24   the accuracy of which is, is extremely questionable.  
25   And we will object to these documents being used in

1 this hearing. Okay?

2 (INDISTINCT)

3 JUDGE MATTHEWS: Mr. Chairman, may I have a  
4 moment to state an objection?

5 REPRESENTATIVE CLEMMONS: You may.

6 JUDGE MATTHEWS: Well, I would like to  
7 point out that the documents which I introduced were  
8 written directly from our web site, that I  
9 individually went to each of those files and checked  
10 for the numbers on them. And these documents Ms.  
11 Shealy is submitting, by her own admission, are not  
12 complete, are not audited, and the accuracy on them  
13 is extremely questionable. And I object to their  
14 coming in to evidence.

15 REPRESENTATIVE CLEMMONS: Thank you. Your  
16 objection is noted.

17 JUDGE MATTHEWS: Thank you.

18 MS. SHEALY: If I may, Mr. Chairman, if you  
19 will do a side-by-side of the list that Ms. Shuler  
20 just -- the exhibit that we were discussing, the  
21 actual list is the exact, same list. I went to the  
22 web site. I put in 'Matthews.' I put in the date  
23 filed. So the actual list itself is the exact list  
24 off of our web site that shows the decisions issued  
25 by each judge. The information to the far right,

1 regarding whether a proposed order was issued,  
2 whether a letter regarding a proposed iss -- order  
3 was sent out, that is the information that I'm saying  
4 is not a hundred percent audited because for every  
5 judge, for every case that I printed off of our web  
6 site, I would have had to have gone in and  
7 individually pulled each file to determine whether or  
8 not there was a proposed order or a letter or a  
9 request for proposed orders.

10           So the list itself is the exact, same list  
11 for each judge that came off of the web site. The  
12 web site itself is not a hundred percent audited and  
13 accurate. Each individual judge's office is  
14 responsible for uploading those decisions once the  
15 judge issued a decision. So could there possibly be  
16 one that a law clerk or staff attorney, if they were  
17 doing it in that person's stead, missed? Yes. Any  
18 statistics, unless you, again, go through them and  
19 open up the file, are not going to be a hundred  
20 percent audited. That is a statement that we make  
21 when we give statistics to the General Assembly  
22 regarding new jurisdiction and that type of thing.  
23 That is to cover all possibilities.

24           Again, the list that Judge Matthews printed  
25 off the web site is the exact, same one that I

1 printed off the web site, and it, in and of itself,  
2 may not be a hundred percent accurate unless we go in  
3 and do a complete audit of the system, go to every  
4 case that was filed, go to case management, see if it  
5 was closed, and then verify that it was uploaded to  
6 the web site.

7 REPRESENTATIVE CLEMMONS: Thank you. Ms.  
8 Shuler, please proceed.

9 MS. SHULER: I would just like to compare  
10 -- and you have before you the Exhibit 10 that was  
11 just offered, that you provided -- (INDISTINCT) each  
12 judge -- judge's orders, but it adds hearing date age  
13 and hearing to order, and --

14 (INDISTINCT)

15 MS. SHEALY: Ms. Shuler, I, I believe that  
16 that exhibit was taken back.

17 MS. SHULER: Will you provide it to her?

18 FEMALE SPEAKER: Yes.

19 MS. SHULER: Thank you.

20 REPRESENTATIVE CLEMMONS: Will you restate  
21 the question for the record?

22 MS. SHEALY: Thank you.

23 MS. SHULER: Ms. Shealy, you have two  
24 documents before you. The first document is the  
25 exhibit we just entered into the record that you have

1 been testifying about, with all the judges' orders,  
2 the age of the case, disposition method, hearing  
3 date, and age, hearing to order, this.

4 MS. SHEALY: And you also have before you  
5 Judge Matthews' exhibit, Exhibit 1, Part B, that  
6 talks about her cases for 2014, the 96 final orders.  
7 And I just want to turn to -- okay, Ms. Shuler, may I  
8 correct for the record -- I've -- is it Exhibit 2?  
9 Because that's what I've got. It says Exhibit 2 on  
10 here.

11 MS. SHULER: Let me look at it.

12 MS. SHEALY: Is that, is that it?

13 MS. SHULER: That's it. Okay. But it's  
14 Exhibit -- okay. I want to go over three examples  
15 with you. The first case that Judge Matthews  
16 explained had an order that was 45 days was Linda  
17 Smith versus South Carolina Public Employee Benefit  
18 Authority on her Exhibit 2. And you have on your  
19 report what information?

20 MS. SHEALY: Okay, I'm sorry. Can you tell  
21 me what page that's on of her --

22 MS. SHULER: Hers is on the page -- first  
23 page, the first item, number 3, that says 45 to the  
24 side.

25 MS. SHEALY: Okay.

1 MS. SHULER: On your document that we just  
2 entered into the record, it is on the first page --  
3 six, seven, eight -- ninth from the bottom. And it's  
4 a PEBA case.

5 MS. SHEALY: Okay.

6 MS. SHULER: Linda Smith versus PEBA. And  
7 she has 45 days from hearing or proposed orders to  
8 final orders. And what does your document reflect?

9 MS. SHEALY: Well, it doesn't reflect that  
10 any proposed orders -- it does not reflect that I was  
11 able to determine from case management system that  
12 there were a -- that there was a request for proposed  
13 orders.

14 MS. SHULER: All right.

15 MS. SHEALY: So --

16 MS. SHULER: When was the hearing date?

17 MS. SHEALY: What I'm showing is May 21,  
18 2014.

19 MS. SHULER: And what age, hearing to  
20 order?

21 MS. SHEALY: Seventy-seven.

22 MS. SHULER: All right. So there's kind of  
23 a difference in the dates, in terms of when the  
24 orders --

25 MS. SHEALY: And again, I'm assuming that



1 that would be because of her documentation or  
2 whatever she may have shown, that proposed orders  
3 were submitted.

4 MS. SHULER: All right. Another example is  
5 Lon Shull, S-H-U-L-L-E. He's on the same page of her  
6 Exhibit 2, the sixth item down. It shows 39 days.  
7 And on the same page as your handout that we entered  
8 as an exhibit, what was the hearing date?

9 MS. SHEALY: Thirteen, two, seventy three.  
10 My document shows April 9<sup>th</sup>.

11 MS. SHULER: All right, 2014. And what was  
12 the age, hearing to order?

13 MS. SHEALY: I've got a hundred days.

14 MS. SHULER: All right. Can you explain --  
15 are you able to explain that difference in --

16 MS. SHEALY: Again, I was strictly looking  
17 at numbers, statistics that I had available on the  
18 web site -- on the case management system. I, I, I  
19 was not putting this information together to reach  
20 any sort of conclusion.

21 MS. SHULER: Right.

22 MS. SHEALY: I was putting this information  
23 together based on the subpoena and, again, time-wise,  
24 that in order to -- I mean, it -- and that's why I  
25 explained what I did on this. There may have been a,

1 an email. It may have been the, the file -- I don't  
2 know, and -- that said, you know, we need proposed  
3 orders, and they should be filed by this date.  
4 That's the date that the proposed orders came in, and  
5 then they issued the decision after that.

6 MS. SHULER: All right. All right. On  
7 page 4 of her exhibit, the very last item, 63, Dotsy  
8 versus Greenwood County Assessor, and on your  
9 Exhibit, it is page 3. When was the hearing  
10 scheduled?

11 MS. SHEALY: The case management system  
12 showed October 24, 2013.

13 MS. SHULER: And was the age, hearing to  
14 order?

15 MS. SHEALY: With no indication of proposed  
16 orders, that would be 151.

17 MS. SHULER: All right. So Ms. Shealy,  
18 it's really hard to compare the two different  
19 documents that we received, one from the  
20 Administrative Law Court and one from Judge Matthews,  
21 because of different information and maybe some  
22 information is missing; is that correct?

23 MS. SHEALY: Well, obviously, if there is  
24 a, an email that I wouldn't have privy to or if, you  
25 know, if there was something, perhaps, in the file,

1 then, you know, that was not reflected on the case  
2 management system, then, yes, there would, perhaps,  
3 be a discrepancy there if proposed orders were what,  
4 what the numbers on Judge Matthews' were reflecting.

5 MS. SHULER: You should also have before  
6 you other documents that we requested by subpoena  
7 called My Case Load for each of the judges for year  
8 2013 and 2014. Do you have those before you? In all  
9 the series (INDISTINCT). To the Commission members,  
10 it's also on your laptops, but judges are grouped  
11 together because it was such a large document, so you  
12 may have two judges, each grouped together. All  
13 right.

14 (INDISTINCT)

15 MS. SHULER: Are you familiar with the --  
16 this document?

17 MS. SHEALY: Yes.

18 MS. SHULER: All right. Would you -- was  
19 this document made and then kept in the course of  
20 regularly conducted business activity for the  
21 Administrative Law Court?

22 MS. SHEALY: Yes.

23 MS. SHULER: Where is this information  
24 contained in the document stored after it's prepared?  
25 Is it --

1 MS. SHEALY: This is printout from our  
2 automated case management system, which is on our --  
3 it, it's not -- it's, it's on the network, but it is  
4 a web-based case management system.

5 MS. SHULER: All right. And who is, who is  
6 the person that's required to input that information  
7 into the system?

8 MS. SHEALY: Because the judges' offices  
9 retain authority over their cases until they're  
10 disposed, the law clerks are responsible for updating  
11 the information on case management system.

12 MS. SHULER: Is this a regular part of the  
13 Administrative Law Court, to keep and maintain  
14 records of this type?

15 MS. SHEALY: Yes.

16 MS. SHULER: All right. At this time I  
17 would ask, Mr. Chairman, that this caseload summary  
18 sheet for each of the six Administrative Law Judges  
19 for years 2013 and 2014, which reflect the case  
20 number, the title, the age, and the status be  
21 admitted into the record --

22 REPRESENTATIVE CLEMMONS: Does any  
23 Commission member --

24 MS. SHULER: -- as Exhibit --

25 REPRESENTATIVE CLEMMONS: -- have an

1 objection?

2 SENATOR MALLOY: Mr. Chairman?

3 REPRESENTATIVE CLEMMONS: Senator Malloy,  
4 you're recognized.

5 SENATOR MALLOY: Ms. Shealy, and as you  
6 present these documents, you are submitting the  
7 documents as to documents that you produced, but you  
8 are not able to testify -- or can you testify as to  
9 the accuracy of all the information within that  
10 document?

11 MS. SHEALY: I can testify to the accuracy  
12 of what is on this printout because it came directly  
13 from case management system, and that is the  
14 information that is on there.

15 SENATOR MALLOY: As far as a custodian,  
16 that information came from case management, and you  
17 produced it.

18 MS. SHEALY: Yes.

19 SENATOR MALLOY: But the accuracy of the  
20 numbers and the information that is within it, can  
21 you testify to the accuracy of each one of those  
22 numbers?

23 MS. SHEALY: Unfortunately, not all the  
24 judges had the opportunity to review this. Judge  
25 Durden's office did review it and verify the accuracy

1 of it. I'm assuming that because Judge Matthews was  
2 provided this information that she can verify the  
3 accuracy of hers. Without the opportunity for the  
4 other judges to say and to verify against it, but  
5 this is what is the record of the court.

6 SENATOR MALLOY: I understand. And no  
7 disrespect. It seems to be a little in disarray.  
8 But the question is is that the, the documentation  
9 that you sent as custodian is the information that  
10 you took from the case management and produced to us.

11 MS. SHEALY: Correct.

12 SENATORY MALLOY: Okay. And my question  
13 is, is that you were not able to get to all of the  
14 judges to go to the factual and the accuracy of the  
15 numbers that are within it.

16 MS. SHEALY: Each individual judge's  
17 office's law clerks are responsible for putting the  
18 information on Case Management System. So, again, if  
19 there is one case on here where, oops, they issued an  
20 order two weeks ago and they didn't close it out  
21 properly on here, then when I went to case management  
22 system, I would not know that they did not do that.

23 SENATOR MALLOY: I understand.

24 MS. SHEALY: So I'm trying to be as  
25 completely honest as I can about what is in this

1 information.

2 SENATOR MALLOY: And I know that, and I'm  
3 not trying to make this about you. I'm trying to see  
4 -- I'm trying to get -- the question now is that are  
5 you able to attest to and testify to the accuracy of  
6 each one of those law clerks as to what they did and  
7 whether or not it's accurate or not?

8 MS. SHEALY: No. I absolutely cannot  
9 attest to what the law clerks do as far as making  
10 sure that they are a hundred percent accurate.

11 SENATOR MALLOY: Under those grounds, I  
12 would have no, I would have no objection.

13 JUDGE MATTHEWS: Mr. Chairman, may I  
14 interpose an objection?

15 REPRESENTATIVE CLEMMONS: One moment,  
16 please. I'm sorry, Senator Malloy. Did you raise an  
17 objection?

18 SENATOR MALLOY: I don't object to the  
19 document coming in. I do have a problem with the  
20 manner that we are bringing these documents in, and  
21 we cannot attest to the accuracy that are within  
22 them. As custodian, that's all she can do.

23 REPRESENTATIVE CLEMMONS: That's correct.

24 SENATOR MALLOY: She's brought them to us,  
25 but she can't go back and say that the law clerks did

1 this accurately, because it looks to me that we got  
2 contradictory information in a lot of these  
3 documents, and I don't know if anybody can attest to  
4 absolutely what is accurate. So I don't want to make  
5 it about her, but what she's done is that as the  
6 custodian, she's brought us the records that she's  
7 been asked.

8 REPRESENTATIVE CLEMMONS: Thank you. Are  
9 there any objections? Hearing none, so ordered.

10 (EXHIBIT 5, Caseload Summary Sheet for Each  
11 Administrative Law Judge, years 2013 and 2014,  
12 admitted.)

13 REPRESENTATIVE CLEMMONS: Ms. Shealy, would  
14 you please relinquish to me --

15 MS. SHEALY: Sure. Certainly.

16 REPRESENTATIVE CLEMMONS: -- for just one  
17 moment. Judge Matthews?

18 JUDGE MATTHEWS: Mr. Chairman, same  
19 objection. Can't attest to the accuracy of it; very  
20 questionable. Not the person who's inputting the  
21 data. Has no real control over the people who are  
22 inputting the data. And so, therefore, it's all  
23 questionable as best I can see.

24 REPRESENTATIVE CLEMMONS: Your objection is  
25 noted for the record.



1 JUDGE MATTHEWS: Thank you.

2 REPRESENTATIVE CLEMMONS: Thank you. Ms.  
3 Shealy, if you would please take the stand again.  
4 Thank you. Please proceed, Ms. Shuler.

5 MS. SHULER: Ms. Shealy, the documents that  
6 were just admitted as an exhibit, what do they  
7 reflect for each judge?

8 MS. SHULER: If you will look on the far  
9 right-hand corner -- and these are field names that  
10 are in the case management system -- will indicate  
11 whether the case is closed. That would indicate  
12 final disposition, that there is nothing pending  
13 before the court in that case. The other indicators  
14 would be whether it's scheduled. If it's anything  
15 other than closed on this report, then it means that  
16 it's still pending.

17 MS. SHULER: And so you wrote handwritten  
18 notes at the top for what year, what judge, and how  
19 many were pending.

20 MS. SHEALY: Still pending. Correct.

21 MS. SHULER: And you provided these  
22 documents for each judge for 2013 and for 2014.

23 MS. SHEALY: Yes.

24 MS. SHULER: All right. Ms. Shealy, I now  
25 want to turn to an administrative aspect of the

1 court. How many staff attorneys are employed by the  
2 Administrative Law Court?

3 MS. SHEALY: We currently have five staff  
4 attorneys and the General Counsel.

5 MS. SHULER: And how are staff attorneys  
6 assigned?

7 MS. SHEALY: Currently they are assigned  
8 specifically to an individual judge. The General  
9 Counsel serves as one of the judge's staff attorney.  
10 Budgetary reasons, we did not fill the last staff  
11 attorney position when that one became vacant because  
12 the one individual judge, Judge McLeod, does not  
13 utilize the staff attorney resources quite as much as  
14 the others. So Nancy Riley as our General Counsel is  
15 assigned to do his research.

16 MS. SHULER: All right. What amount, if  
17 any, of oversight or supervision does each judge, to  
18 your knowledge, exercise over their assigned staff  
19 attorneys?

20 MS. SHEALY: I mean, as far supervision,  
21 there's really not any direct supervision because  
22 they are under the supervision of the General Counsel  
23 and ultimately to the Chief Judge. But, you know, on  
24 a general day-to-day basis, the judges do confer with  
25 the staff attorneys and their law clerks as far as,

1 you know, what cases they may have pending. They --  
2 it varies between each judge's office how they may  
3 divvy that up. Some of them may give all of the  
4 appeals to their staff attorney. Some may divvy up  
5 contested cases and appeals. It, it, it can vary as  
6 far as how the individual judge utilizes their staff  
7 attorney with their, with their law clerk.

8 MS. SHULER: All right. How many law  
9 clerks are employed by the Administrative Law Court?

10 MS. SHEALY: There are six positions. Five  
11 of those are filled by attorneys and one is filled by  
12 a paralegal.

13 MS. SHULER: All right. With respect to  
14 the assignment of law clerks, are they assigned to  
15 work with a specific Administrative Law Court judge  
16 or to all the judges?

17 MS. SHEALY: No. That judge by statute has  
18 the sole authority to hire, fire, and supervise that  
19 individual allotment.

20 MS. SHULER: All right. Ms. Shealy, to  
21 your knowledge, what amount, if any, of oversight or  
22 supervision does each judge exercise over their  
23 assigned law clerk?

24 MS. SHEALY: Again, that is really solely  
25 up to that individual judge. There's, you know,

1 there's, there's no -- I mean, there's no set  
2 standard other than the fact that they are state  
3 employees and required to work 37.5 hours a week or  
4 take leave.

5 MS. SHULER: Would this be a correct  
6 statement, that really the judges' law clerks often  
7 serve as administrative assistant with some basic  
8 order-writing responsibilities?

9 MS. SHEALY: Yes, and that's actually how  
10 they are still specifically set up, if you look at  
11 the budget construction for the agency. And the  
12 statute itself says the one administrative assistant  
13 individually allotted. But over the years, while  
14 they may initially have had just individuals in those  
15 positions that were not necessarily attorneys,  
16 because of the development of the court and the  
17 jurisdiction and complexity of some of the cases over  
18 the years, most of the judges have determined that  
19 it's important to have an attorney in those  
20 positions.

21 MS. SHULER: All right. Turning to work  
22 hours, Ms. Shealy, what are the six judges' typical  
23 work hours weekly?

24 MS. SHEALY: As far as my knowledge -- do  
25 you want me kind of just to go through --

1 MS. SHULER: Your personal knowledge. Then  
2 I will talk to you about --

3 MS. SHEALY: Okay.

4 MS. SHULER: -- I will ask you questions  
5 about the card reader history.

6 MS. SHEALY: Okay. Judge Anderson is  
7 usually there 7:30, 7:45 every day and works until  
8 about 5:30 or 6.

9 Judge McLeod is in on a regular basis. He  
10 does travel from Winnsboro. There might be times  
11 that he's, you know, not in there at 8:30 or 9. I  
12 don't know exactly. His office is on the other side  
13 of the hall.

14 Judge Lenski is in the office pretty much  
15 every day from, say, 8, 8:30 until 5:30 or 6. He, my  
16 understanding, generally takes his boys to school and  
17 then comes in to work.

18 Judge Durden is, is there on a regular  
19 basis. I don't know, I mean, I don't -- you know,  
20 other than looking at the card reader report and  
21 saying, Okay, this is what time she came in on this  
22 day.

23 And Judge Robinson is -- she's probably not  
24 quite as -- I guess her time in the office may be a  
25 little bit less than some of the other judges.

1                   And then, you know, Judge Matthews, her  
2 office is a couple doors down from mine, a few feet  
3 down from mine, and it varies as to her time in the  
4 office.

5                   MS. SHULER: All right. As a follow-up,  
6 are the judges required to report leave and sick days  
7 to the Chief Judge of the Administrative Law Court?

8                   MS. SHEALY: No.

9                   MS. SHULER: Is there anybody that they are  
10 required to report that information to?

11                  MS. SHEALY: No.

12                  MS. SHULER: All right. Ms. Shealy, you  
13 were also subpoenaed to provide card reader access to  
14 the Administrative Law Court for each of the six  
15 Administrative Law Court judges. Is that correct?

16                  MS. SHEALY: Yes.

17                  MS. SHULER: Could you explain to the  
18 Commission what a card reader access does?

19                  MS. SHEALY: We have security cards. Our  
20 offices are secured from the public. There is a  
21 back, a rear hall entry that most of the judges and  
22 staff use so that they don't have to come through the  
23 front. The card reader reports only show access into  
24 the main office or main back offices. They don't --  
25 you don't have to use your card when you exit the

1 offices. You don't have to use them to access the  
2 courtrooms because there is a button that you push on  
3 the outside. You do have to access your secure card  
4 to exit the courtrooms. And so those card history  
5 reports show when you come into the office, not when  
6 you leave.

7 MS. SHULER: All right. Have you complied  
8 with the subpoena to provide the card reader access  
9 for each Administrative Law Court judge --

10 MS. SHEALY: I have --

11 MS. SHULER: -- for last year?

12 MS. SHEALY: Yes. For the, for the time  
13 requested, there apparently -- it is, it is -- it's a  
14 software program, so there are liable to be glitches  
15 in it, and there was about a three-week time period  
16 that there were no -- there was no access noted on  
17 the system.

18 MS. SHULER: All right. So were these  
19 documents made and kept in the regular course of  
20 business activity for the Administrative Law Court?  
21 Do you maintain card reader history documents?

22 MS. SHEALY: We don't print it and maintain  
23 it. It was printed and provided pursuant to the  
24 subpoena, but it is available in a wide variety of  
25 ways that you can get reports off of the security

1 system.

2 MS. SHULER: All right. Are these the  
3 documents -- are these documents of the type that  
4 would be under your custody and control?

5 MS. SHEALY: Yes.

6 MS. SHULER: All right. Mr. Chairman, I  
7 would like to offer the card reader history and the  
8 summary of that history for each judge as an exhibit  
9 for the record.

10 REPRESENTATIVE CLEMMONS: Does any  
11 Commission member have an objection?

12 SENATOR MALLOY: Mr. Chair, no objection as  
13 to the subpoenaed documents, but I do have exception  
14 to the fact that -- pursuant to the earlier testimony  
15 as to how it's used and that kind of thing, under  
16 that caveat, because the card reader is not  
17 indicative of full time. It's just the document is  
18 on its face -- I'll accept it as that, but not to  
19 substantiate her hearsay testimony as to what she  
20 believes, a person comes in, and how do you know a  
21 person on the other side, that kind of --

22 REPRESENTATIVE CLEMMONS: Thank you,  
23 Senator Malloy.

24 Is there any objection? Hearing none, so  
25 ordered.



1                   (EXHIBIT 6, Card Reader History and Summary  
2 of That History, admitted.)

3                   MS. SHULER: The card reader history that  
4 you provided for each judge, what does it generally  
5 indicate?

6                   MS. SHEALY: When someone comes into the  
7 office.

8                   MS. SHULER: Can someone enter the office  
9 without using their card reader?

10                  MS. SHEALY: They could come to the front  
11 and have the receptionist buzz them in.

12                  MS. SHULER: And is this the practice by  
13 the Administrative Law Court judges?

14                  MS. SHEALY: No.

15                  MS. SHULER: What is the general practice?

16                  MS. SHEALY: They use the rear entry.

17                  MS. SHULER: All right. Ms. Shealy, what  
18 type, if any, computer remote access do the six  
19 judges have to the Administrative Law Court,  
20 including their emails?

21                  MS. SHEALY: I am -- I've been made aware  
22 from our IT person that the only two judges that have  
23 had registration for the remote access are Judge  
24 Robinson and Judge Anderson but that they have not  
25 been used.

1 MS. SHULER: All right. And did I request  
2 this information through a subpoena?

3 MS. SHEALY: Yes.

4 MS. SHULER: All right. Jaynie, could you  
5 provide her with that document? Who handles the IT  
6 matters at the Administrative Law Court?

7 MS. SHEALY: Jack Watts.

8 MS. SHULER: All right. And did he assist  
9 you in complying with that subpoena?

10 MS. SHEALY: Yes.

11 MS. SHULER: All right. Are you familiar  
12 with how remote access is configured for the  
13 Administrative Law Court?

14 MS. SHEALY: Because I'm not an IT person  
15 either, you know, vaguely, we went on the cloud  
16 probably about nine months to year ago, so there is a  
17 different access now through a VPN that is provided  
18 upon request, and he would have to set the system up  
19 for an individual to remotely access the office.

20 Currently -- and I believe this was once we  
21 went on the cloud also, there -- anybody can check  
22 their email through the Microsoft Online, so you  
23 don't necessarily have to have access through our  
24 network or through the system to access email. And  
25 again, I think we were on the cloud somewhere in the

1 last eight, nine months to maybe a year. So you can  
2 access your email through Microsoft Online. You  
3 don't have to go through our network or our system.  
4 But in order to actually remote in to the workplace,  
5 you would have to be set up through our IT staff.

6 MS. SHULER: So the document that you  
7 provided us regarding remote access for the six  
8 Administrative Law Court judges, is this a document  
9 that would have been made and kept in the regular  
10 course of business activity at the Administrative Law  
11 Court?

12 MS. SHEALY: Yes. The -- yes.

13 MS. SHULER: And where is this information  
14 retrieved from?

15 MS. SHEALY: It would be retrieved from the  
16 server information that is housed in the IT office.

17 MS. SHULER: Is this the regular part of  
18 the Administrative Law Court, to keep and maintain  
19 records of this type?

20 MS. SHEALY: Yes.

21 MS. SHULER: All right. Is this a document  
22 that would be kept under your custody and control --

23 MS. SHEALY: Once requested.

24 MS. SHULER: -- as a records custodian?

25 MS. SHEALY: Mm-hmm.

1 MS. SHULER: All right. I would offer the  
2 two-page information regarding remote access to the  
3 Administrative Law Court as an exhibit for the  
4 record.

5 REPRESENTATIVE CLEMMONS: Does any  
6 Commission member have an objection? Hearing none,  
7 so ordered.

8 (EXHIBIT 7, Information Regarding Remote  
9 Access to the Administrative Law Court, admitted.)

10 MS. SHULER: All right. That's really all  
11 the questions that I have at this time for Ms.  
12 Shealy.

13 REPRESENTATIVE CLEMMONS: Thank you. Does  
14 any Commission member have a question for Ms. Shealy?  
15 Yes, Dean Wilcox.

16 DEAN WILCOX: I'm Rob Wilcox. If I can go  
17 back to the earlier discussion about the handling of  
18 sched -- of, of allocation of cases, my, my notes  
19 that I wrote down here as to the gist of what you  
20 said -- and I just want to make sure you agree with  
21 my understanding of what you said -- was that a  
22 factor, not necessarily the only factor, but a factor  
23 in assigning complex cases is the perception of  
24 whether a particular judge's work ethic might  
25 interfere with the ability of the judge to handle

1 that matter in a --

2 MS. SHEALY: Correct

3 DEAN WILCOX: -- manner consistent with  
4 justice or whatever.

5 MS. SHEALY: Correct

6 DEAN WILCOX: You talk there about  
7 perception a lot. Do you have any personal knowledge  
8 of a, a specific situation where Judge Matthews' work  
9 habits did, in fact, interfere with her handling of a  
10 complex case?

11 MS. SHEALY: Can, can I have just a moment  
12 please, Mr. Chairman?

13 REPRESENTATIVE CLEMMONS: Yes, yes, you  
14 may.

15 MS. SHEALY: Can I get you to rephrase  
16 that? Are you talking about as far as assignment of  
17 cases or just my knowledge of an instance where her  
18 time out of the office may reflect on the case?

19 DEAN WILCOX: The latter. I think, and my  
20 understanding is that you said a factor could be a  
21 perception, and I think I'm following up a little bit  
22 on Senator Malloy's earlier questions as to how that  
23 perception is measured. But my question to you is  
24 specifically, is there a specific matter that you are  
25 aware of where, in fact, her work ethic did interfere

1 with the handling of a matter justly?

2 MS. SHEALY: If I can just state for the  
3 record that, again, I'm subpoenaed, and I am, I'm,  
4 you know, answering questions that perhaps are not  
5 comfortable.

6 There is a specific case that is pending on  
7 her docket that was scheduled for a hearing September  
8 16th and 17th of this year. It was an OCRM matter.  
9 It had been scheduled, I'm not exactly sure for how  
10 long. But she sent an email to the parties  
11 indicating that she was to speak out of state at a  
12 conference and that they had contacted her and  
13 requested her to be at this conference earlier than  
14 expected and that the case would be continued, that  
15 her current law clerk was leaving the office, and  
16 that they would contact them at a later time to  
17 reschedule that hearing. To my knowledge, that  
18 hearing has not been rescheduled, and she did not go  
19 out of state on that conference.

20 DEAN WILCOX: Okay. Is that the only  
21 example you know of, or are there others?

22 MS. SHEALY: I mean, I am sure that there  
23 are others. If you look at the pending docket, there  
24 are some cases that have not been scheduled for a  
25 while. You know, again, I didn't come here prepared

1 to --

2 DEAN WILCOX: I, I, I understand. All I am  
3 asking, based on what you, you know. I mean --

4 MS. SHEALY: Right.

5 DEAN WILCOX: -- if the answer is, I'm not  
6 aware of any --

7 MS. SHEALY: Right.

8 DEAN WILCOX: -- or that I can't recall any  
9 right now, that's a legitimate answer as well. So  
10 that is what -- I'm just trying to figure out --  
11 perceptions can arise from a lot of reasons, and I'm  
12 trying to find out if this perception is -- has  
13 arisen because of specific instances where there were  
14 problems, and therefore -- because what we are  
15 hearing is that she is handling her cases in a timely  
16 manner, and that is the contrary to this, and I am  
17 trying to see, do you have something -- some  
18 information that says, in fact, to your knowledge  
19 there have been problems caused by her failure --

20 MS. SHEALY: And I'm not -- I don't think I  
21 have made any testimony to the issue of whether she  
22 has or has not issued her orders in a timely fashion.  
23 The specific request that was made of me that  
24 initially started this was the day after her public  
25 hearing when I was contacted by Commission staff to

1 provide statistics and information on when cases are  
2 issued, that the orders are issued within 30 days  
3 after the hearing, not only for her but also for the  
4 other judges as well.

5           So that is -- that's the information that I  
6 originally started pulling together. And again, I've  
7 not made any testimony on the timeliness of issuing  
8 orders because there are a number of different  
9 factors that can go into the timeliness of issuing  
10 orders, not just from the hearing date, but from the  
11 total time -- from the time the case is filed until  
12 the time of disposition.

13           DEAN WILCOX: And I'm not asking you about  
14 that data which you did bring. I'm asking you about  
15 the earlier discussion of the method of assigning  
16 cases.

17           MS. SHEALY: Correct

18           DEAN WILCOX: And you indicated, if I  
19 understood correctly, that this perception could be a  
20 factor, and that, in fact, in her case, it has been a  
21 factor. Now, is that accurate?

22           MS. SHEALY: That is accurate

23           DEAN WILCOX: Okay. In those situations,  
24 is that your perception or the Chief Judge's  
25 perception or a jointly held perception?



1 MS. SHEALY: It is -- it's not really a  
2 perception. It is -- I mean, there, there are ways  
3 you can verify whether or not someone has come into  
4 the office. And --

5 DEAN WILCOX: But I'm not asking whether or  
6 not she is there or not there. I'm asking about the  
7 perception that the ethic has actually interfered  
8 with the handling of a case. That's different from  
9 whether she's there or not. That is whether it has  
10 had a material impact on the matter.

11 MS. SHEALY: Right. And again, that is,  
12 that is a very subjective opinion that I -- again,  
13 you asked if I had a specific example.

14 DEAN WILCOX: And I appreciate that. Did  
15 you give me one?

16 MS. SHEALY: And I gave you a specific  
17 example.

18 DEAN WILCOX: Yes, but I -- and I simply  
19 asked, is that the only one that comes to mind right  
20 now?

21 MS. SHEALY: And again, that was not  
22 information that I was prepared to answer, but I, I,  
23 I -- yes, there may be, there may be other times.  
24 This was just one that I was specifically aware of.

25 DEAN WILCOX: Is the -- in your view -- and

1 I understand the Chief Judge makes these decisions,  
2 not you -- but in your view, when a decision is made  
3 as to whether to assign a complex case to Judge  
4 Matthews, when you say there is a perception problem,  
5 is that based upon the fact that there is a  
6 perception she is not in the office much, or is it  
7 based upon the fact that there is a perceived  
8 shortcoming in the way in which she has handled cases  
9 in the past?

10 MS. SHEALY: And -- I mean, certainly we  
11 can go back and look at the exact testimony, but I  
12 don't recall me using the term 'perception'. It --  
13 whether or not someone is in the office on a regular  
14 basis is a factor that goes into assignment of the  
15 cases.

16 DEAN WILCOX: So it is the attendance  
17 that's the factor.

18 MS. SHEALY: One of many factors.

19 DEAN WILCOX: Exactly. One of many  
20 factors.

21 MS. SHEALY: Yes

22 DEAN WILCOX: Thank you. I appreciate  
23 that.

24 REPRESENTATIVE CLEMMONS: Does any other  
25 Commission member have a question of Ms. Shealy?

1 Senator Malloy is recognized.

2 SENATOR MALLOY: Ms. Shealy, I'm going to  
3 wrap up. The -- you mentioned that there is an  
4 interoffice document, manual, or something that you  
5 all have that all the judges agree to.

6 MS. SHEALY: Yes.

7 SENATOR MALLOY: Where is that? Where is  
8 the document?

9 MS. SHEALY: Each judge's office, it has --  
10 it's actually put in a binder, in a manual.

11 SENATOR MALLOY: In a, in a binder.

12 MS. SHEALY: Mm-hmm.

13 SENATOR MALLOY: And in that binder, are  
14 you familiar with the, the, the information and the  
15 terms and stuff that's in that binder in general?

16 MS. SHEALY: In general.

17 SENATOR MALLOY: Do they define *full time*  
18 in there?

19 MS. SHEALY: No, not for the judges.

20 SENATOR MALLOY: And do you all have an  
21 understanding over at the court as to what *full time*  
22 is as defined in the statute?

23 MS. SHEALY: I mean, to answer your  
24 question specifically -- let me just make sure I  
25 understand -- have the judges gotten together and

1 said 30 hours a week is appropriate or --

2 SENATOR MALLOY: Just -- I'm trying to find  
3 your understanding. The statute says, Each  
4 administrative judge shall devote full time to his  
5 duties. I'm trying to see if there is an  
6 understanding or written documentation or anything  
7 that defines *full time* over there that they have all  
8 agreed to.

9 MS. SHEALY: No sir, because I've --

10 SENATOR MALLOY: The answer is no.

11 MS. SHEALY: I think that's a policy  
12 decision for the General Assembly and this Commission  
13 to make.

14 SENATOR MALLOY: I understand that. I'm  
15 just trying to see if there is -- just because that's  
16 what the General Assembly makes, that doesn't mean  
17 what the judges do.

18 MS. SHEALY: Right.

19 SENATOR MALLOY: So the question is, is  
20 that if the judges don't have it, I, I, I understand,  
21 because my dad thinks full time is 40 hours, okay?  
22 But it's not his purview. So I'm trying to see if  
23 there is something that the judges have as to  
24 designate what full time is. And so my question is  
25 is that do you know from your own personal knowledge

1 whether any judge over there does not put in full  
2 time?

3 MS. SHEALY: And the statute does not  
4 define full time. For an employee that earns leave  
5 and is a salaried employee, it is 37 1/2 hours a  
6 week.

7 SENATOR MALLOY: Do you -- and I'm not  
8 trying to trick. I'm just trying to see is there a  
9 consensus, your feeling, because you, you, you've  
10 said that you believe there's other cases that she  
11 may not have done something on but believe that. I'm  
12 trying to see is there a feeling or perception or  
13 anything over there that, that, that any, any judge  
14 is not working full time.

15 MS. SHEALY: Perception by judges  
16 themselves or staff?

17 SENATOR MALLOY: Well, let's start with  
18 you.

19 MS. SHEALY: Yes.

20 SENATOR MALLOY: Okay. And, and, and who  
21 is that?

22 MS. SHEALY: Well -- and, certainly, based  
23 on the card reader history, if I had to say -- and,  
24 again, I don't make the definition of *full time*.

25 SENATOR MALLOY: I understand.

1 MS. SHEALY: And, yes, there are  
2 considerations to be made whether perhaps, maybe,  
3 they have a five-day hearing going on, and they stay,  
4 you know, through the hearing until 6 or 6:30. But  
5 generally, there are two or three judges that  
6 probably work 37 1/2 hours a week, and there are  
7 perhaps two others that don't meet that, and, you  
8 know, and I'm not sure -- I'm trying to answer your  
9 question.

10 SENATOR MALLOY: What about this --

11 MS. SHEALY: I'm not sure that there is a  
12 specific question that you're asking me.

13 SENATOR MALLOY: Well, let me ask you this:  
14 When you refer to that, you refer to in-office time  
15 over at the court.

16 MS. SHEALY: Correct.

17 SENATOR MALLOY: Okay. You're not  
18 referring to the time that the person may spend at  
19 their home reading transcripts, preparing orders,  
20 that kind of thing.

21 MS. SHEALY: Correct. I wouldn't have any  
22 direct --

23 SENATOR MALLOY: Because you wouldn't know  
24 that.

25 MS. SHEALY: I wouldn't know that. I

1 wouldn't have any direct knowledge of that.

2           SENATOR MALLOY: And so it would be unfair  
3 of you to make a judgment, then, as to what time they  
4 are putting in whenever they are outside the office;  
5 correct?

6           MS. SHEALY: Again, I wouldn't have any  
7 knowledge of that.

8           SENATOR MALLOY: Exactly. And so --

9           MS. SHEALY: And I don't think that I have  
10 testified to that. It's just been off my indication  
11 of -- you asked the question of what my perception is  
12 of judges and whether they are working full time.  
13 And, yes, I can't answer whether or not they are  
14 doing it outside of the office.

15           SENATOR MALLOY: Okay. Exactly. And the  
16 dean, Dean Wilcox, asked you about any specific case  
17 that you felt that it was not -- that the work ethic  
18 -- I'm not certain of what the question was -- was  
19 not there. And you said, I am sure there are others.  
20 Then, I want to see why would you say that you are  
21 sure there are others.

22           MS. SHEALY: Well, I know there was one  
23 instance just recently where a conference call was  
24 scheduled in her chambers, and she didn't show up.  
25 And the staff attorney handled the conference call.

1 Again, there are others that I can probably state in  
2 looking at my recollection, but, you know, that -- I  
3 mean, I'm not sure --

4 SENATOR MALLOY: Sure.

5 MS. SHEALY: Again, I'm not sure, if there  
6 is a specific question that you are asking me that I  
7 would be able to answer.

8 SENATOR MALLOY: They all have been  
9 specific, but because -- there seems to be some --  
10 you know, that what you believe and think -- and I  
11 can appreciate that because that goes to, to the  
12 answer. Like, I'm supposed to be in Hartsville now  
13 at a meeting.

14 MS. SHEALY: Yes.

15 SENATOR MALLOY: I set the meeting up. I'm  
16 not going to be there.

17 MS. SHEALY: Right.

18 SENATOR MALLOY: And so that doesn't mean  
19 that I don't have a good work ethic because I'm here.  
20 And so no one can say exactly what I was doing but me  
21 for that partic -- for that period of time. And so  
22 I'm not at the meeting.

23 And so what I -- my question is more so  
24 geared toward your personal knowledge. And so not  
25 what you believe or not what you think and those kind



1 of things; what you actually know, personally  
2 observed. For example, how much time a person spends  
3 working, and it's evidenced by the card reader, and  
4 that's how much time they are working, that would not  
5 be what I'm looking for. And so what I'm asking is  
6 is that from your own personal knowledge. You would  
7 be only testifying from the card reader; correct?

8 MS. SHEALY: No, not -- no.

9 SENATOR MALLOY: Well, she walks into the  
10 office with a law clerk, and the law clerk fans the  
11 card reader, and the card reader goes into the  
12 building whenever she's walking with the other lawyer  
13 or whatever. Then the card reader would not  
14 necessarily show her time, would it?

15 MS. SHEALY: No, but on -- again, my  
16 personal knowledge, I'm, I'm not aware of her --  
17 again, I'm not, I'm not exactly sure what -- I mean,  
18 are you asking me with my personal knowledge of the  
19 office how many hours each judge in the office each  
20 week?

21 SENATOR MALLOY: No. What I'm think I'm  
22 getting at is that the card reader doesn't show all  
23 the time that a person works.

24 MS. SHEALY: No.

25 SENATOR MALLOY: Okay. And so I'll change

1 up this line now, which is that, do you all have any  
2 file system, anything over there in your office,  
3 where litigants complain?

4 MS. SHEALY: I mean, there's not a -- we  
5 don't have, like, a --

6 SENATOR MALLOY: A file.

7 MS. SHEALY: -- a box out at the  
8 receptionist's area that says, you know, Drop your  
9 suggestions in here.

10 SENATOR MALLOY: I didn't ask you for that.

11 MS. SHEALY: And --

12 SENATOR MALLOY: I'm asking you if you all  
13 have -- let me ask you, do you all have something  
14 that you are the records custodian over where  
15 litigants complain that you keep as complaints filed  
16 by litigants?

17 MS. SHEALY: No, because that --

18 SENATOR MALLOY: I'm saying you don't have  
19 it.

20 MS. SHEALY: We don't. We wouldn't because  
21 there is -- I mean, what would we, what would we do  
22 with it? I mean, yes, have we had calls from  
23 litigants before saying, I can't believe this judge  
24 ruled this way, or, It's taking forever to get my  
25 case out. You know, who do I complain to? Then we

1 refer them to the appropriate review.

2 SENATOR MALLOY: You're taking it to  
3 another question. My question is, specifically, it's  
4 specifically this: Do you have --

5 MS. SHEALY: No.

6 SENATOR MALLOY: -- a file there or  
7 anything where you keep --

8 MS. SHEALY: No.

9 SENATOR MALLOY: -- your control over where  
10 you have that litigants complain?

11 MS. SHEALY: No.

12 SENATOR MALLOY: Okay. All right. Thank  
13 you.

14 REPRESENTATIVE CLEMMONS: Any other  
15 questions? Mr. -- Representative Mack.

16 REPRESENTATIVE MACK: Thank you, Mr.  
17 Chairman. David Mack, III. I think what, what we're  
18 trying to establish, I think, is a benchmark. And  
19 let me put it this way. From a subjective point of  
20 view, not hours, not exact days, but in your point of  
21 view, from a subjective point of view, has the  
22 benchmark in your mind been missed with regards to  
23 the appropriate amount of time that the judge should  
24 have been there, or any of the judges? Can you give  
25 us a subjective point of view with regards to that?

1 MS. SHEALY: Put that way, I would have to  
2 answer yes.

3 REPRESENTATIVE MACK: And some examples?

4 MS. SHEALY: This is, this is my personal  
5 opinion.

6 REPRESENTATIVE MACK: Mm-hmm.

7 MS. SHEALY: Again, I don't make the  
8 policy. I have absolutely no control or authority  
9 over the individual judges or their dockets once the  
10 cases are assigned to them. But I think five to ten  
11 to 15 hours a week in the office is not full time.

12 REPRESENTATIVE MACK: Mm-hmm. Okay. And  
13 you've observed five, ten, 15 hours a week?

14 MS. SHEALY: Yes.

15 REPRESENTATIVE MACK: On a regular basis?

16 MS. SHEALY: Yes.

17 REPRESENTATIVE MACK: Okay.

18 REPRESENTATIVE CLEMMONS: Any other  
19 questions, Representative Mack? Okay. Are there any  
20 other questions? Hearing none, Ms. Shealy, thank you  
21 for complying with the subpoena today. We appreciate  
22 your presence. The Commission is going to take a  
23 brief recess. We're going to take a brief recess,  
24 say about ten minutes. Thank you.

25 (NO AUDIO)

1           REPRESENTATIVE CLEMMONS: -- brief  
2 executive session. Is there a motion?

3           SENATOR MARTIN: So move.

4           REPRESENTATIVE CLEMMONS: So moved by  
5 Senator Martin. Is there a second?

6           REPRESENTATIVE MACK: Second.

7           REPRESENTATIVE CLEMMONS: We have a second  
8 by Representative Mack. All those in favor say  
9 "aye."

10           (Members respond.)

11           REPRESENTATIVE CLEMMONS: Those opposed?  
12 The ayes have it.

13           (NO AUDIO)

14           REPRESENTATIVE CLEMMONS: This reconvened  
15 hearing of the Judicial Merit Selection Commission is  
16 back on the record, and we have before us Judge  
17 Matthews.

18           Judge Matthews, do you -- would you like to  
19 share comments or rebuttal with the Commission?

20           JUDGE MATTHEWS: Well, first of all, I want  
21 to thank all of you for your extraordinary patience  
22 this afternoon. I have not felt rushed. I have felt  
23 you have listened to everything I had to say, and I  
24 can tell that you have given it careful  
25 consideration. But I do have a couple of things I

1 think need to be said in rebuttal just about personal  
2 matters.

3           First of all, I'm real glad the clerk  
4 brought these records, glad she brought them, because  
5 they prove I have, in fact, moved the most cases over  
6 there in three out of the four years. Ninety percent  
7 of the time, I abide by my 30-day rule, and my  
8 caseload is the smallest.

9           I was surprised to hear they don't consider  
10 my cases complex, because it appears that I have just  
11 the same basic output and input as everybody else,  
12 based on her testimony. I believe what she said  
13 confirmed everything I brought you last Friday.

14           I agree with Senator Malloy regarding his  
15 objections to her interpretations, that they are  
16 horribly flawed. Here's what I don't agree with: I  
17 don't agree with records that haven't been audited  
18 having any validity at all. They are inaccurate.  
19 There's flat-out wrong data in them.

20           She took three cases I gave you numbers on  
21 that was wrong. I actually went to every one of  
22 these files and audited these things. She didn't  
23 have access to the files and the judge's documents.  
24 I had access to mine. So there are three wrong  
25 examples. So she could be wrong about all of them.

1 Her opinion does not affect the fact that I moved 96  
2 cases in the time period I showed to you.

3 As far as case assignment, she and Judge  
4 Anderson, whom I ran against for Chief Judge, and who  
5 is still angry at me about that, assign cases. She  
6 wants to say I don't get complex cases because I'm  
7 not getting my cases out? First I've ever heard of  
8 that. The notebook and the website show that I am  
9 getting my cases out.

10 She keeps saying she's under subpoena and  
11 not wanting to testify, but she's certainly saying a  
12 lot I've never heard before. If there is an issue  
13 about my being assigned certain types of cases or  
14 they have some problem with my job performance, come  
15 and tell me about it. No one has ever mentioned one  
16 word to me.

17 And the final thing I'm going to say and  
18 let you folks, good folks get out of here is that my  
19 work ethic -- I have records that clearly demonstrate  
20 I am getting the job done, the most cases in the past  
21 three or four years. And she reluctantly said she  
22 doesn't know what I do at home. She wouldn't answer  
23 your questions. Dean Wilcox had to ask five times  
24 the most basic issue, if there was a specific  
25 instance.

1           And I can tell you about that email where I  
2 moved a case. That is supposed to mean I'm not doing  
3 my job? I moved the case because I was going to be a  
4 speaker at a national conference, but I looked at my  
5 caseload and decided that I needed to concentrate on  
6 getting cases out here, so I canceled. That was the  
7 National Conference of State Tax judges in Denver,  
8 Colorado. And I sent the email out at least a month  
9 in advance to change it so they would have time, and  
10 it has been rescheduled. You know, quibbling over  
11 what perception is, her example of this that I said  
12 continue the trial is -- that's an example?

13           Anyway, I work hard. I get the work out.  
14 My staff and I, I believe, work well together. And I  
15 thank you for your time so very much and appreciate  
16 your service to the state. Thanks.

17           REPRESENTATIVE CLEMMONS: Thank you, Judge  
18 Matthews. Perhaps I should ask the Commission  
19 members if they have any questions of Judge Matthews.

20           Hearing none, that concludes this portion  
21 of our screening process. As you know, the record  
22 will remain open until the report is published, and  
23 you may be called back at such time if that need  
24 should arise. We remind you of the 48-hour rule and  
25 ask you to be mindful of it. Anyone that should



1 inquire whether or not they may or may not advocate  
2 for you in the event that you are screened out,  
3 please remind them of the 48-hour rule and its  
4 implications. We thank you again for your service to  
5 South Carolina and for being here tonight. Thank  
6 you, Judge Matthews.

7 JUDGE MATTHEWS: Thank you all very much.

8 REPRESENTATIVE CLEMMONS: Let's -- is there  
9 a motion to recede to executive session? We have a  
10 motion, a motion by Ms. Wall, seconded by Dean  
11 Wilcox. All those in favor say "aye."

12 (Members respond.)

13 REPRESENTATIVE CLEMMONS: Aye. Those  
14 opposed? The ayes have it. We are in executive  
15 session. We would invite all other than staff and  
16 Commission members to excuse us while we take up a  
17 matter in executive session.

18 REPRESENTATIVE CLEMMONS: We are back on  
19 the public record. For the record, there has been --  
20 there was no vote taken or matters concluded during  
21 executive session. That said, is there a motion to  
22 -- with regard to finding Harold W. Funderburk, Jr.  
23 and Carolyn C. Matthews qualified and/or nominated?

24 COMMISSIONER STROM: I move that we find  
25 both of them qualified and nominated.

1                   REPRESENTATIVE CLEMMONS:   Commi ssi oner  
2   Strom moves that we find both candidates qualified  
3   and nominated, seconded by Dean Wilcox.

4                   SENATOR MARTIN:   Mr. Chairman, do we need  
5   to --

6                   REPRESENTATIVE CLEMMONS:   Please turn your  
7   microphone on, Senator.

8                   SENATOR MARTIN:   For the record, our  
9   reservations.

10                  REPRESENTATIVE CLEMMONS:   Our what?

11                  SENATOR MARTIN:   What, what we -- Yeah.  
12   Mr. Chairman, let me just say as we ponder our vote  
13   on this that I wasn't on the Commission in 2009 when  
14   Judge Matthews came out for screening then, but as  
15   we've learned this afternoon going back, you were,  
16   and maybe one other -- Representative Mack was --  
17   that the same issues with respect to Judge Matthews  
18   was raised regarding her, quote, work ethic from the  
19   standpoint of whether she is at the office, available  
20   in the Administrative Law Court, and all the  
21   discussion that we had this afternoon surrounding  
22   that. And it's disappointing to me as a member of  
23   this Commission that that's being brought up again.

24                  I don't think there's any question that  
25   Judge Matthews is qualified. And I'm not going to --

1 I'm certainly going to support the motion that is  
2 pending. But I do believe that we need to express  
3 for the record the legitimate concerns that have been  
4 raised, not in any kind of hyperbole type way, but  
5 just to, just to speak to that because we spent so  
6 much time on it.

7 My thought is, those of us that serve in  
8 the Legislature have got a responsibility to ensure  
9 that the message is communicated to, not just Judge  
10 Matthews or any other person like this who is coming  
11 up for reelection or reappointment. But these folks  
12 have to understand that there's a job and an  
13 expectation when you run for these jobs that we  
14 expect you to fulfill the responsibilities to the  
15 fullest. I don't think that's the case here.

16 But, nevertheless, I do think that under  
17 the circumstances, she is qualified. And I do  
18 believe that we, we need to consider -- and that's --  
19 the unique thing about the Administrative Law Court  
20 is, number one, they don't sit in panels over there,  
21 so they don't have to work together.

22 Number two, it's under the Executive  
23 Branch, as opposed to under the Judicial Branch,  
24 where the Chief Justice is the head of the Unified  
25 Court System. And I know because the Chief Justice

1 has called in a magistrate when there was an issue  
2 that needed to be addressed, and it got dealt with.  
3 She has no -- or he has no jurisdiction over an  
4 Administrative Law Court judge. So therein, I think,  
5 lies, maybe, part of the problem, and we might be  
6 part of the reason that this has come out the way it  
7 has.

8           That said, I just think we need to express  
9 in a very professional way the concern that has been  
10 raised and acknowledge that for what it is with the  
11 hope that, going forward, we don't hear about this  
12 again. But in the meantime, we need to, we need to,  
13 we need to maybe take some steps both between us,  
14 have some dialogue between us, and, and discuss how  
15 we can go about better ensuring cooperation over  
16 there with the Administrative Law Court and that the  
17 buck's going to stop with somebody, not have five or  
18 six different judges operating on different  
19 wavelengths and, and, and never communicating about  
20 their schedules and that type of thing and how much  
21 time they put in the office. That's just normal  
22 expectation of professional folks. And these are  
23 professional folks, paid a professional amount of  
24 money, and we, we have an expectation that they be  
25 professional by how they do their jobs.

1           REPRESENTATIVE CLEMMONS: Senator Martin,  
2 would you hold that motion so that we can vote on  
3 whether or not these candidates will be found  
4 qualified and nominated? Then let's deal with that  
5 motion.

6           SENATOR MARTIN: Okay.

7           SENATOR MALLOY: Mr. Chair, I'd like to --  
8 since it's been motioned --

9           REPRESENTATIVE CLEMMONS: Senator Malloy.

10          SENATOR MALLOY: -- and seconded, I would  
11 like to, at the time when we're here for discussion,  
12 I would like to join with the Senator from Pickens as  
13 it relates to the court. I am very disturbed at what  
14 appears to be discontent amongst the court, the lack  
15 of a uniform system over there with the court, the  
16 fact that we don't have anything that we can compare  
17 as it relates to oranges and oranges. The, the, the,  
18 the documentation that was sent to us, it could not  
19 be fully authenticated as to case by case. I thought  
20 that was problematic.

21          I also wanted to make certain that, one, as  
22 I vote in favor of the qualifications and nominations  
23 of both these candidates, as it relates to Judge  
24 Matthews, I will say that, one, she does have a self-  
25 imposed 30-day rule. It does not appear that this is

1 required. It's something she did on her own  
2 volition.

3           Obviously, the thing that comes to my  
4 attention is that there's been no complaints amongst  
5 the litigants in the courts over there. I don't know  
6 that they have provided a forum for litigants to  
7 complain. And I think the Legislature would be well  
8 served, in general, just to end up getting some  
9 regulations or something that could end up having  
10 something to operate with them.

11           I will say further that after 16 years of  
12 service, the scores that we see on the tests, the  
13 fact that I didn't get a dispute really as to the  
14 number of cases that were being put out, whether they  
15 are complex or dismissed or however, that, that, that  
16 she didn't leave them three out of four years. And I  
17 wanted to end up making that a part of the record as  
18 well.

19           REPRESENTATIVE CLEMMONS: Thank you. While  
20 we're putting things on the record, I will voice my  
21 concern over the candidate's admission that she takes  
22 most Fridays off. I, I think that does not serve the  
23 court well, and it does not serve the state well.  
24 However, I believe it is also not disqualifying, and  
25 I will be voting in favor of finding she, along with

1 the other candidate, qualified and nominated.

2 Any other comments, general comments for  
3 the record?

4 DEAN WILCOX: Mr. Chair, I concur. I have  
5 found nothing that would cause me to believe --

6 REPRESENTATIVE CLEMMONS: Dean Wilcox.

7 DEAN WILCOX: -- that either one of these  
8 candidates is not qualified. I appreciate Senator  
9 Martin's comments because I think he is on point as  
10 to the overriding concerns. And one of the things  
11 that, that really struck me over there was the system  
12 of allocating cases. It, it just -- it's not a good  
13 system. It could be -- it lends itself to a lot of  
14 problems, some of which I think we heard today, of  
15 if, in fact, you were to believe the testimony that  
16 cases are allocated on the basis of how hard somebody  
17 works, then it's almost a reverse reward system, if  
18 you believe that testimony. And I think it also came  
19 out that it seems like certain judges get certain  
20 case all the time, and I think that's a bad system  
21 that most courts don't operate under anymore.

22 And so I think, looking at reforms, there  
23 are a number of them there that the testimony has  
24 suggested will be well worth looking into. But it  
25 strikes me that I've heard nothing that was

1 definitive that went to the issue of disqualifying  
2 Judge Matthews in this case. And so I intend to vote  
3 positively on both her and on Judge Funderburk.

4 And that was Rob Wilcox, by the way, for  
5 the record.

6 REPRESENTATIVE CLEMMONS: Thank you, Dean  
7 Wilcox. Are there any other general comments before  
8 we go into --

9 SENATOR MALLOY: And lastly, lastly --

10 REPRESENTATIVE CLEMMONS: Senator Malloy.

11 SENATOR MALLOY: -- Mr. Chairman, I want to  
12 end up thanking my good friend and great, able  
13 counselor Jane Shuler for this hard work. I called  
14 her on the day after Thanksgiving, and she was  
15 working, I think, still here, over the weekend, so  
16 it's obvious you put a lot of work in this to make  
17 sure certain that we could have a full and fair  
18 hearing.

19 REPRESENTATIVE CLEMMONS: Hear, hear. And  
20 I will tell you, it was difficult for Ms. Shuler to  
21 have Thanksgiving because of all she was engaged in.

22 That being said, we have a motion and a  
23 second to find both candidates qualified and  
24 nominated. Those in favor, please say "aye" -- or  
25 let's have a raise of hands. Those in favor?



1 MS. SHULER: Eight votes, but I believe we  
2 have two proxies.

3 REPRESENTATIVE CLEMMONS: We do. I'm  
4 raising two hands. I'm voting proxy. This is  
5 Chairman Clemmons. I'm voting proxy for  
6 Representative Bannister to find both candidates  
7 qualified and nominated.

8 MS. SHULER: And Senator Martin, you have  
9 --

10 SENATOR MARTIN: Likewise, I have the  
11 Senator from Charleston, Senator Campsen's proxy, who  
12 will also vote aye, qualified and nominated.

13 MS. SHULER: So by a vote of ten to zero  
14 --

15 REPRESENTATIVE CLEMMONS: Your microphone,  
16 please.

17 MS. SHULER: By a vote of ten to zero,  
18 counting the two proxies, both candidates, Judge  
19 Funderburk and Judge Matthews, were found qualified  
20 and nominated.

21 REPRESENTATIVE CLEMMONS: This body, having  
22 reached its -- oh, excuse me. We have a motion,  
23 then, from Senator Martin to include language such as  
24 has been addressed. I would propose, Senator Martin,  
25 that we afford staff the opportunity to craft some

1 language to respond to our concerns and circulate a  
2 draft of that language to give us an opportunity to  
3 edit or approve.

4 SENATOR MARTIN: Of course.

5 REPRESENTATIVE CLEMMONS: Will you adopt  
6 that as a part of your --

7 SENATOR MARTIN: I would amend the motion  
8 in that regard and hope the Commission would agree  
9 that some concerns along those lines with proper  
10 wordsmi thing could be included.

11 REPRESENTATIVE CLEMMONS: Senator Malloy,  
12 will you accept that -- the amendment? We have a  
13 motion and a second. Those in favor, say "aye."

14 (Members respond.)

15 REPRESENTATIVE CLEMMONS: Aye. Those  
16 opposed? The ayes have it.

17 SENATOR MALLOY: Mr. Chair?

18 REPRESENTATIVE CLEMMONS: Senator Malloy.

19 SENATOR MALLOY: What do you, what do you  
20 want us to do with these notebooks, with the -- it  
21 looks like these are public record. Do we just leave  
22 those here?

23 MS. SHULER: The staff will gather them,  
24 and we'll have ones that will go -- that we've  
25 offered as exhibits, that will go with the testimony

1 that will be transcribed by the court reporter.

2 SENATOR MALLOY: You want us to pass our  
3 vote sheets --

4 MS. SHULER: I do.

5 SENATOR MALLOY: -- over to you.

6 REPRESENTATIVE CLEMMONS: Make sure your  
7 vote sheets are signed.

8 MALE SPEAKER: I haven't even done that.

9 REPRESENTATIVE CLEMMONS: Is there anything  
10 further good for the cause of the Judicial Merit  
11 Selection Commission this evening?

12 MALE SPEAKER: I move that we adjourn.

13 REPRESENTATIVE CLEMMONS: Hearing nothing,  
14 we have a motion to adjourn. Those in favor say  
15 "aye."

16 (Members respond.)

17 REPRESENTATIVE CLEMMONS: Aye. This  
18 meeting is adjourned. Thank you.

19 MS. SHULER: For this --

20 03:42

21 END OF AUDIO FILE

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23

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25

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## 1 CERTIFICATE OF REPORTER

2 I, Deborah L. Dusseljee, Registered Professional  
3 Reporter and Notary Public for the State of South  
4 Carolina at Large, do hereby certify:

5 That the foregoing transcription was transcribed  
6 under my direction by Kim von Keller; that the  
7 foregoing transcription as typed is a true, accurate  
8 and complete record of the transcript the media file  
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10 ability.

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

14 Witness my hand, I have hereunto affixed my  
15 official seal this 9th day of December, 2014, at  
16 Columbia, Richland County, South Carolina.

17

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19

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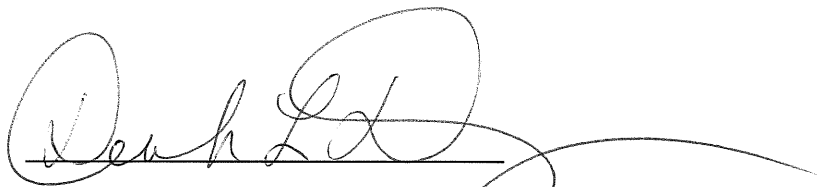
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A handwritten signature in cursive script, appearing to read "Deborah L. Dusseljee", is written over a horizontal line. The signature is fluid and extends to the right with a long, sweeping tail.

Deborah L. Dusseljee, RPR

Notary Public

State of South Carolina at Large

My Commission expires:

June 4, 2017