

JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:  
Circuit Court, At-Large, Seat 16

1. NAME: Mr. Eric K. Englebardt  
BUSINESS ADDRESS: 200 E. Broad Street, Ste. 250  
Greenville, SC 29601  
TELEPHONE NUMBER: (office): 864-552-4600
2. Date and Place of Birth: 1964; New York, NY
3. Are you a citizen of SC? Yes  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married, November 10, 1990, to Helen Elizabeth Burris; never divorced; three children
6. Have you served in the military? No
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.  
(a) University of NC, BA, 1986;  
(b) University of NC School of Law, JD, 1989.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam, but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
SC, 1989 and NC, 1990.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
College: Sigma Chi Fraternity (Rush Chairman), 1984-86;  
WXYC-FM Radio, 1982-86 (Sports Director 1983-86);  
Resident Assistant, 1984-86;  
Youth Coach, Chapel Hill Parks and Recreation, 1983-89;  
Umpire/Referee, 1982-86.  
Law School: Board of Governors, Student Bar Association, 1986-89;  
Member, Holderness Moot Court, 1988-89;  
Chairman, J. Braxton Craven Moot Court Competition, 1988-89;  
Phi Delta Phi, 1986-89; and Order of Banisters (honorary) 1989.



10. Describe your continuing legal or judicial education during the past five years.

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Uni-State Lawyers	3/3/2007;
(b) NBI The Art of Settlement	4/24/2007;
(c) SCDTAA Trial Academy	6/6/2007;
(d) NBI Mediation A Valuable Tool	7/24/2007;
(e) SCDTAA Annual Meeting	11/1/2007;
(f) Ounce of Prevention is Worth a Pound of Cure	2/27/2008;
(g) SCDTAA Joint Meeting	7/24/2008;
(h) SCDTAA Annual Meeting	11/13/2008;
(i) TPGL Mandatory Insurer Reporting to Medicare	3/21/2009;
(j) SCDTAA Trial Academy	6/3/2009;
(k) SCDTAA Annual Meeting	11/05/2009;
(l) SCDTAA Corporate Counsel Seminar	04/21/2010;
(m) SCDTAA Joint Meeting	07/22/2010;
(n) Ethical Dilemmas in Negotiation	01/01/2011;
(o) SCDTAA Trial Academy	07/06/2011;
(p) SCDTAA Annual Meeting	11/3/2011;
(q) Managing Ethical Issues In Your Day To Day Practice	12/06/2011;
(r) Lawyer Mentoring Pilot Program	12/16/2011;
(s) Primer On Depressive Illness	1/1/2012;
(t) Spring Diversity Lunch	03/08/2012;
(u) Trial Superstars	04/13/2012;
(v) Worker's Compensation Boot Camp	05/24/2012.

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

- (a) Opening and closing arguments, expert cross-examination as a group leader at the SCDTAA Trial Academy;
- (b) Instructor at NBI CLEs including "Mediation A Valuable Tool," "How to Litigate Your First Civil Trial" and "The Art of Settlement";
- (c) Judge at the 2009 SCDTAA Trial Academy, presiding over a civil case tried by young attorneys, and critiquing them during jury deliberations;
- (d) Speaker at the 2010 Greenville Bar year end CLE, on the topic of effective communication at mediation;
- (e) Speaker at the 2011 SCDTAA Joint Meeting, on the topic of effective communication at mediation; and
- (f) Instructor at Worker's Compensation Boot Camp on the proposed mediation rules and basic mediation techniques.

12. List all published books and articles you have written and give citations and the

dates of publication for each.

- (a) Author of course materials for NBI Seminars "What to Expect in Your First Civil Trial in SC," December 2004 and "How a Mediator Can Help You";
  - (b) Author of a chapter in course materials for NBI Course "Mediation, A Valuable Tool for Litigation", July 2007;
  - (c) Author of course materials for the February 2010, Greenville Bar CLE.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to SC Bar 1989;
  - (b) Admitted to North Carolina Bar 1990;
  - (c) Admitted to United States District Court for SC 1989;
  - (d) Admitted to the United States Fourth Circuit Court of Appeals 1990;
  - (e) Admitted to all three Federal Districts in North Carolina in 1990; and
  - (f) Admitted to the Federal District of Colorado in 2004.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- 14.(b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Since I graduated from law school my legal practice has been with three law firms. I began as an associate at Haynsworth, Marion, McKay & Guerard, LLP, where I had served as a law clerk between my second and third year of law school.

I started work in August 1989 and was admitted to the Bar in November of that year. I then was admitted to the North Carolina Bar after the February Bar Exam in 1990 and have been admitted to the United States District Court

in SC and all three districts in North Carolina, as well as the Fourth Circuit Court of Appeals.

As a result of having spent some time working in the defense of the asbestos cases I have practiced in all three federal districts in North Carolina as well as the district of SC on a variety of other cases as well. Additionally, I have tried cases in Superior Court of NC as well as many cases in SC.

In January of 1998 I became a shareholder at Haynsworth, Marion, McKay & Guerard, LLP, where I continued until January of 2001, shortly after the merger where that firm became known as Haynsworth Sinkler Boyd.

In January of 2001 I became a partner at Clarkson, Walsh, Rheney & Turner, P.A. I served as managing shareholder at that firm from July 1, 2004 through December 31, 2004. In September 2005 I became a shareholder at Turner, Padgett, Graham & Laney, P.A., where I still practice. My practice has focused generally on the areas of insurance defense litigation, though I have handled a variety of plaintiff's cases as well as a small number of criminal/domestic matters.

In 2000 I became certified as a mediator and have practiced as a mediator, mediating over 800 cases pending in both State and Federal Court.

I am proud to have been listed in "Best Lawyers in America" since 2007 for my ADR practice. Also, I have served several times as an arbitrator, requiring me to make rulings and decisions in a quasi-judicial capacity, and was recently appointed as a Special Referee by the Circuit Court of Oconee County in a property line dispute. I have also been honored by my selection as a SC "Super Lawyer" in the General Litigation category.

My experience in criminal matters is admittedly limited. I have appeared in traffic court on a couple of occasions in the past for clients, but have never fully handled a significant criminal matter. I have also participated in Youth Court, presiding over misdemeanor criminal matters arising in the schools. This has given me some additional exposure to the criminal process in terms of the procedures and penalties, as well as interaction with members of law enforcement and members of the Criminal Defense Bar who oversee the program.

Additionally, each time I have determined to run for a position on the Circuit Court Bench I have made it a priority to make time attending General Sessions Court as an observer, trying to get a feel for the ebb and flow of criminal procedure. I have also taken time to question attorneys and judges regarding the procedures used in that court.

Obviously, I will need to overcome my lack of experience in criminal matters were I to be elected as a circuit judge, however, I have always prided myself as being a quick learner and, despite not having had a true criminal

practice, I have always kept abreast of the case law involving criminal cases by reading the advanced sheets regularly. I regularly am exposed to areas of the law with which I am not familiar in my work as a mediatory or arbitrator, and believe my comfort with working through new areas will be an asset. Obviously, it will take some study as well as listening to become familiar with criminal procedure, however, I believe I have a good handle of the Rules of Evidence and would be able to overcome my lack of experience in criminal matters to be an effective Circuit Court judge.

Also, as a member of the SC Bar's Resolution of Fee Disputes Board, I regularly have to examine a set of facts, investigate and interview parties, and reach a resolution. In many ways this is similar to a non-jury trial or arbitration, with elements of mediation since we can try to work an agreement between the parties. I believe this experience will also be helpful to me if I am elected to the bench.

15. What is your rating in Martindale-Hubbell? If you are not listed in Martindale-Hubbell, state the reason why, if known. If you are currently a member of the judiciary, list your last available rating. BV.
16. What was the frequency of your court appearances during the past five years?
  - (a) Federal: 4-5 times, all in motions practice;
  - (b) State: I have had 7 or so jury trials and many court appearances in State Court in this time period. As the practice has shifted toward more mediation, fewer cases have gone to trial in the Upstate. I would estimate that I have tried 75 trials before a jury in my career.
17. What percentage of your practice involved civil, criminal, and domestic matters during the past five years?
  - (a) civil litigation: 56%;
  - (b) criminal: 2%;
  - (c) domestic: 2%;
  - (d) other: 40% Mediation or Arbitration as a Neutral.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?
  - (a) jury: 85%;
  - (b) non-jury: 15% - Motion Hearings. I have not had any non-jury trials in that time period.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel.

19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) South Carolina Distributors and Livingston v. Livingston, et.al. This was a multimillion dollar case involving a breach of contract and probate dispute over a family business tried in Cherokee County.
- (b) Davis v. King Chris d/b/a McDonalds. This was a lawsuit against McDonalds Corporation over an injury which occurred in one of its parking lots. This case received much media exposure as at issue was the safety of the McDonalds playlands for children outside many of their restaurants. The case involved many complicated engineering and design issues.
- (c) Martha Knecht v. Linda Long, Melvin Dennis Long, Sherlon Tench, Dennis Tench, Cynthia Masters and David Masters. This was a lawsuit involving 8 separate causes of action for malicious prosecution, civil and criminal assault allegations, abuse of process, conversion, breach of fiduciary duties, financial exploitation, etc. It lasted for more than 3 years, and involved several criminal hearings, motion hearings and eventually a 3-day jury trial resulting in dismissal of all causes of action against 5 of my clients prior to trial and defense verdicts for my remaining client.
- (d) Alex Kirakides, III v. Peter D. Bylenga and Norma P. Bylenga. This case involved a substantial property dispute, trespass and the unlawful cutting of trees between next door neighbors on Paris Mountain in Greenville County. There were a variety of complicated damages issues, and the result obtained was a positive one for my clients.
- (e) Halbert H. Brockman and Diedra Brockman v. Melissa Ballard and Travis Abercrombie. This was a highly contested case in which I defended a woman who pled guilty to racing her vehicle against another vehicle, running from police, losing control and hitting and injuring the Plaintiffs. The jury verdict did not include punitive damages, and was substantially less than the amount offered. This case involved many evidentiary issues, including issues involving admissibility of police video, criminal charges, etc.

20. List up to five civil appeals that you have personally handled.

- (a) Bear Enterprises v. County of Greenville, 319 SC 137, 459 S.E.2d 883 (Ct. App. 1995).
- (b) Camlin v. Bilo, 311 SC 197, 428 S.E. 2d 6(Ct. App. 1993).
- (c) Threatt Michael Construction Company v. C&G Electric, 305 SC 147, 406 S.E.2d 374 (Ct. App. 1991).
- (d) Preckler v. Owens- Corning, 60 F.3d 824, 1995 WL 417731 (4th Cir. 1995).
- (e) Lindsey v. Vann, 2004-UP-442 (Ct. App).21. List up to five criminal

appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. Please attach one copy of briefs filed by you in each matter. N/A.

22. Have you ever held judicial office? No.
23. If the answer to question 22 is yes, describe or attach five of your most significant orders or opinions and give the citations if they were reported. N/A
24. Have you ever held public office other than judicial office? No.
25. List all employment you have had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office.

I have served as an arbitrator in several cases, and as a judge in Mauldin, SC's Youth Court. I am currently serving as a Special Referee on referral from the Circuit Court in Oconee County.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

Thirteenth Judicial Circuit, Seat 4 in 2003. There were 7 candidates in that race, and I was found qualified and nominated by the Judicial Merit Screening Commission. I withdrew prior to the election in the General Assembly.

Thirteenth Judicial Circuit, Seat 3 in 2009, I was once again honored to have been found qualified and nominated, and withdrew prior to election. At Large, Seat 8 in 2009, I was once again honored to have been found qualified, however, I was not nominated.

Thirteenth Judicial Circuit, Seat 2 in 2010, I was once again honored to have been found qualified and nominated, but withdrew prior to election.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No.
28. Are you now an officer or director or involved in the management of any business enterprise? No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships that you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.

I would not hear any cases which were pending in my firm while I was still a member, nor would I preside over any case for which I served as a mediator.

31. Have you ever been arrested, charged, or held by federal, state, or other law

enforcement authorities for violation or for suspicion of violation of any federal law or regulation; state law or regulation; or county or municipal law, regulation, or ordinance? No.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No.
36. Have you ever been investigated by the Department of Social Services? If so, give details and the resolution. Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No.
37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? If so, please explain when you were covered by a tail policy. Also, if applicable, indicate your coverage and deductible for your current malpractice policy.

I have had malpractice coverage through every firm in which I have been a member. I have not had a tail policy. I currently have a malpractice policy with OneBeacon Insurance Company, policy limits are \$10,000,000 each claim and \$10,000,000 aggregate with a deductible of \$75,000.

38. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
39. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
40. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." None.
41. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." None.
42. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf, in furtherance of your candidacy for the position you seek. None.



43. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
44. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
45. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
46. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
47. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? Not to my knowledge.
48. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
  - (a) NC Bar;
  - (b) SC Bar;
  - (c) Greenville County Bar;
  - (d) SCDTAA (Executive Committee Member since 2000);
  - (e) North Carolina Bar Association;
  - (f) Upstate Mediation Network (Vice President 1999-2001);
  - (g) SC Bar Resolution of Fee Disputes Board (2008–present).
49. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
  - (a) The Family Effect (Board Member);
  - (b) Temple of Israel Board of Directors (2<sup>nd</sup> VP 2005-2007, 2<sup>nd</sup> VP 2011, 1<sup>st</sup> VP present);
  - (c) Greenville Little League (Coach);
  - (d) PTAs of Stone Academy, League, Academy and Greenville High School;
  - (e) Greenville High All-Star Booster Club;
  - (f) Educational Foundation of the University of North Carolina (Upcountry Chapter Development Committee);
  - (g) UNC and UNC School of Law Alumni Association;

- (h) Best Lawyer's in America (included from 2007-present);
  - (i) SC "Super Lawyers" for General Litigation (2010-11);
  - (j) National Academy of Distinguished Neutrals (2011-present); and
  - (k) Upstate Community Mediation Center (Board 2011-present)
50. Provide any other information which may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

When I ran for a Circuit Court seat in 2003, I wrote about watching my parents work as volunteers as drug counselors while I was a child and how their experiences affected my views on equal justice under the law. While I still have those feelings, obviously a great deal has happened in my life since that time.

In 2005, my wife, sons and I made the decision to add the 13 year old daughter of a family friend who had passed away to our family. This child had been adopted by her grandmother (the family friend who died) at a young age after her birth parents lost their parental rights. This forced me to quickly learn to have a great deal of patience and to be firm with my judgments in dealing with not only the normal issues of a larger family but also with raising a teenager (now two teenagers and a 20 year old).

Additionally, obviously there are some special issues that arise in raising someone who has been through what my daughter has been through. Not only did her birth parents lose custody of her and both eventually ended up in prison, but also she had to deal with losing the only parent she ever really knew to cancer. As a result I think I have had to develop a great deal of sensitivity and at the same time a toughness that I am not sure I had previously.

Moreover, I have been exposed to a different side of our legal system as I watched her birth parents work in and out of the criminal justice and prison systems. While I have only been an interested observer as to these machinations, I have found the actions of the solicitor's office, the appointed defense counsel, the parole officers, and even the sentencing judges to be quite educational, especially since that area of the law is the one I have had the least exposure to in my career. It also had a great deal to do with my decision to become involved with The Family Effect, on whose board I sit. This organization works to heal families affected by the trauma of drug and alcohol abuse, and as a result, every success we have tends to lessen the likelihood of adding to the ranks of those involved in the criminal side of our justice system.

As a result of all this, I believe I am better suited to sit on the circuit court bench in any of my previous runs (plus I also have even more gray hair, which certainly helps!). I also believe that the patience and friendships I have

made during my previous runs for a seat on the Circuit Judge bench will serve me well if elected.

51. References:

- (a) Jillian Mangum  
Mediation Coordinator  
Upstate Mediation Center  
27 Cleveland Street  
Ste 204  
Greenville, SC 29601  
864-370-9771
- (b) Adam Brickner  
Executive Director  
The Phoenix Center of Greenville  
P.O. Box 1948  
Greenville, SC 29602  
864-467-3910
- (c) Rabbi Jeremy Master  
Temple of Israel  
400 Spring Forest Road  
Greenville, SC 29615  
864-292-1782
- (d) Anthony L. Harbin (original being mailed, copy attached)  
Standeffe & Harbin  
P. O. Box 35  
Anderson, SC 29622  
864-964-0333
- (e) Shields Cochran  
SC Bank and Trust  
200 E. Broad Street, Ste 100  
Greenville, SC 29601  
864-250-1503

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

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

Signature: Eric K. Englehardt

Date: August 8, 2012

JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court Judge  
(New Candidate)

Full Name: Eric K. Englebardt  
Business Address: 200 E. Broad Street, Ste 250  
Greenville, South Carolina 29602  
Business Telephone: (864) 552-4600

1. Why do you want to serve as a Circuit Court Judge?

I have been practicing law as a trial litigator in South Carolina for nearly 23 years. I have tried approximately 75 cases to jury verdict, and believe strongly that while our system of jurisprudence is not perfect, there is not a better system we have developed as human beings for letting others resolve our disputes. It is my belief that this litigation experience, combined with an effective, firm but compassionate demeanor, are most important in being a strong member of the bench. I think I have these qualities.

At this point in my career I have worked to try and obtain a Circuit Court judicial position for almost a decade. Throughout, my desire to give back to our community through public service has always been paramount. But I have also always had a goal to have my vocation also be my avocation. As a mediator and an arbitrator, I have been blessed to see this be the case. I firmly believe that by combining the experience I have in helping parties resolve disputes, be it through settlement or through my arbitration rulings, with my litigation experience, I will be not only a good judge, but one who both loves his job as well as loves working hard at it.

2. Do you plan to serve your full term if elected? Yes.

3. Do you have any plans to return to private practice one day?

It is my expectation to serve as a judge as long as the State will have me.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I do not believe *ex parte* communications should be tolerated in litigation. There is nothing more infuriating as a litigant than even the thought that the other side has gained the ear of the Court without the opportunity to respond. The one or two times I have been involved in situations where a party received or attempted to receive a

temporary injunction against my client were some of the most frustrating times of my practice. While I certainly understand that limited *ex parte* communication is allowed in those infrequent occurrences, they are the only exceptions that come to mind.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I am firmly of the belief that someone elected to the Circuit Court Bench through the process we use in South Carolina is someone who would have the integrity and personal ethical responsibility to step out of a situation where there was any question as to whether or not they could be fair. I certainly know that this would be the "bright line test" I would want to use myself regarding recusal. However, I cannot imagine a situation where I feel my integrity could be compromised simply because a lawyer-legislator, former associate, law partner, or even close friend appeared before me. As a mediator and arbitrator, I am constantly placed in a situation where I have to be a neutral in cases involving friends and colleagues, and I do not find this to be difficult at all. Part of my rationale for running for Circuit Court Judge is my deep-seeded sense of justice which puts the litigants and their need for fairness in the system first and foremost. As a result, I believe I could look past the identity of the counsel involved in a matter and focus solely on the ends of justice.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

Judges have to be particularly careful with statements regarding litigation and their thoughts on issues as well as on litigants. I hope that if I am elected I will be able to avoid any such appearance. However, as stated in my answer to question 6 above, because of my strong feelings that justice is required for all litigants, I believe it is likely that I would have a difficult time granting a motion for recusal if I truly did not believe that my statement actually was evidence of impartiality. Regardless, I would have to take this on a matter-by-matter basis and if I felt that the statement I made was based on some preconceived notion that could affect my impartiality I would not hesitate to grant the motion. That said, parties need to have a judicial system that disposes of judicial matters promptly and efficiently, and unnecessary recusals in and of themselves cause a delay in justice.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

If a matter before me included the financial or social involvement of my spouse or a close relative, I believe it would be my

duty to recuse myself from such a matter, particularly if a reasonable mind would perceive an impropriety.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would follow the Code of Judicial Conduct's requirements regarding the acceptance of gifts or social hospitality. It is my belief that judges should be regular members of society outside of the courtroom and, obviously, able to accept social invitations as long as their integrity and honesty is not compromised. However, the acceptance of gifts would seem to go "over the line" in this regard and I would not accept them from anyone who would not be someone with whom I exchanged gifts prior to becoming a judge, unless they were someone who came into my life in a purely social or family way.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

If I became aware of misconduct of a lawyer or fellow judge I would be governed by Rule 8.3 of the Rules of Professional Conduct and would respond accordingly. Thankfully, I have not had to deal with this situation in my legal career to date and would hope I never had to deal with it as a judge.

11. Are you affiliated with any political parties, boards or commissions which, if you were elected, would need to be re-evaluated? No.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.
13. If elected, how would you handle the drafting of orders?

It would be my hope that I would be able to draft most orders myself with the help of my law clerk. Applying facts and analyzing the law is to me one of the most interesting and exciting parts of becoming a judge. However, having watched judges deal with full calendars during weeks of nonjury hearings, I understand that that might be impractical. In cases where I felt it necessary to have an attorney draft a proposed order for me, I would certainly follow the required practice of all attorneys in the case having an opportunity to review and comments upon proposed orders before their submission to me and allow comments from both sides before finalizing the order myself.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

As a practicing attorney deadlines are extremely important to me and my staff. As a judge this will have even greater importance because it is my belief that judges need to set an example for practicing attorneys, as well as the fact that the litigants themselves are awaiting the results and delays effect the public perception of the legal system. We are quite comfortable in my office with tickler

systems on the computer, to do lists, and calendaring. I would expect to use all of these while on the bench.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I am not at all in favor of judicial activism. It is my belief that statutory laws should be set up by the Legislature as representatives of the public, with the appellate courts the overseers of the Constitution and the protectors of current law. As a circuit court judge it would be my belief that it was my job to enforce the law, regardless of my personal feelings about it. While there are certainly occasions where appellate courts need to step in and say that an individual act is contrary to public policy, it is my belief that these circumstances are few and far between and that elective government is better suited to set public policy, with the checks and balances of appellate courts to make sure that such decisions follow the constitution.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

Throughout my career I have been involved in organizations and activities that have included improvements in the law, legal system and administration of justice as priorities. I would plan on continuing these activities as a judge where practicable and permissive. These include my position on the board of the Upstate Mediation Center, and organization which works for low cost Alternative Dispute Resolution for individuals who are challenged by the costs of litigation, mediation and arbitration. It is my belief that expanding these opportunities expands the administration of justice for all. I also believe that my experience as a mediator and in the development of the Alternative Dispute Resolution program here in Greenville would allow me to assist with the expansion of mandatory mediation to more parts of the state. Strong mediation programs speed up the dockets by removing cases and, accordingly, allowing all parties a speedier route to the courtroom and finality to their claims. Also, having been involved in the Youth Court program in Greenville, I would like to stay involved in that program and help expand it elsewhere. Finally, through my work with The Family Effect organization, I have really learned a great deal about the effects of drug and alcohol abuse on our society as a whole. I would welcome the opportunity to get involved with Drug Court and like programs from a judicial angle.

17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

All professions have their stressors, and the legal profession is no exception, regardless of which side of the bench a lawyer is on. I have watched my wife, who is a United States Bankruptcy Judge learn to deal with being treated differently by long-term colleagues who now appear in front of her, as well as the scrutiny of being in the public eye as a result of her job. As a result, I believe I have a good understanding regarding the strain of that part of the job, plus I have a life partner who would have an understanding of the stresses of the position, which would be a real asset. However, admittedly I have certainly never faced the pressure of presiding over a death penalty case for example, and I can imagine the stress from that must be unbelievable. I have always believed in exercise as a means of helping to relieve stress and I run and bicycle frequently to assist with this.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders: I believe in all cases of sentencing case-by-case analysis will be necessary. However, with regard to repeat offenders I would probably err on the side of harsher penalties as part of my philosophy with criminal sentencing is hoping that being caught and sentenced once would be a deterrent to future criminal acts. Once someone has become a repeat offender it would be my belief that harsher sentence would be necessary because they are less likely to reform and the need to protect society from them would be greater.

b. Juveniles (that have been waived to the circuit court): Again this would need to be dealt with on a case-by-case basis, particularly looking at the circumstances and charges involved. However, I would probably err on the side of more lenient sentences for nonviolent juveniles in the hopes that they would have a better opportunity to reform.

c. White collar criminals: I do not believe I would view white collar crime and sentencing very differently than any other kind of crime. Again, I hesitate to give any kind of concrete answer to this question as I hope I would view each case individually instead of painting with a broad brush as to how we would handle each of these kinds of cases. Note that my "philosophy" would probably lead me toward lesser sentences for nonviolent crimes as opposed to violent crimes with other factors being considered.

d. Defendants with a socially and/or economically disadvantaged background: My answer to 18(d) is very similar to my answer to 18(c). The backgrounds of the Defendants would not nearly be as important to me as the type of crime they committed and somewhat circuitously whether they are repeat offenders. Obviously if there was some alternative programming such as the Drug Courts,



which I felt could help someone, if I had the latitude to do so I would be willing to consider that.

e. Elderly defendants or those with some infirmity: It is my belief that the penal system should take care of inmates with infirmities or age problems. However, I am a firm believer that criminals should be treated as criminals despite their age or experience. Again, and I know I am repeating myself, more important to me than the makeup of the individual would be the crime they have been convicted of committing.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

I would follow the Canons of the Code of Judicial Conduct as a guideline for handling a situation with *de minimis* financial interest, such that it would not disqualify me by definition. However, I would be careful to ensure that the interest was truly *de minimis*, since this is an area in which what is not really a conflict can look like one.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

It is my belief that a judge's demeanor is almost as important as his knowledge of the law. As the person in charge of the courtroom, it is the judge that sets the tone and is the conduit between the general public, whether they be jurors or litigants, and the judicial system. Judges need to listen with patience and respect to the arguments of counsel, stay concerned with the comfort of the jury, be willing to work hard and, perhaps most important, be fair to all sides. Additionally, a judge must hold himself out to be respected by not taking actions that would portray him in a bad light. I believe this is very important as judges are the symbols of our judicial system to the general public and confidence in the caliber of the judge leads to confidence in the system. In actuality, I try to keep most of these things in mind as a mediator, and believe that my demeanor in that setting closely mirrors that of what I would be like on the bench, though in a more formal setting.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

While I believe judges certainly have a right to have a normal life outside the courtroom, it is my belief that a judge is always a

representative of the court and, as a result, his judicial demeanor should be constant in and out of the courtroom. The demeanor of a judge should be his true demeanor, not an act he puts on in the courtroom.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

I believe controlling anger may be one of the hardest things a judge can do. I can think of many examples of cases, especially in the criminal context, where the actions of the criminal were so egregious that losing one's temper would be a natural act. However, as discussed in the above response regarding judicial demeanor, I do not believe anger is appropriate coming from the bench. Much as I try to hold my temper when dealing with my children, it would be my goal to hold my temper with members of the public and criminal defendants as well. In regard to the second part of this question, I do not think anger per se is ever truly appropriate. However, that is not to say that a judge expressing unhappiness with the actions of a litigant or an attorney is inappropriate. There are cases where contempt is warranted and in those situations an oral rebuke may be necessary. But, again, much as when disciplining your children it is better when not coming at it from anger, it would be my hope that I could approach difficult situations from the bench in the same way.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

I have not spent any money.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A.
28. Have you sought or received the pledge of any legislator prior to this date? No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

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

Eric K Englebardt

Sworn to before me this 8 day of August, 2012.

\_\_\_\_\_  
Notary Public for S.C.

My Commission Expires: 01/12/19\_\_\_\_\_