

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying:
Family Court, Eighth Judicial Circuit, Seat 3

1. NAME: Mr. Robert Wallis Cone
BUSINESS ADDRESS: PO Box 1096
1118 Phoenix St.
Greenwood, SC 29648
TELEPHONE NUMBER: (office): 864-229-5258, ext. 114
2. Date and Place of Birth: 1971; Richmond, VA
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 on November 15, 2003, to Emily Willard Cone. Never divorced; one child.
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) USC, School of Law, August 1995-May 1998, JD;
 - (b) Furman University, September 1989 through May 1993, BA, Political Science.
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.

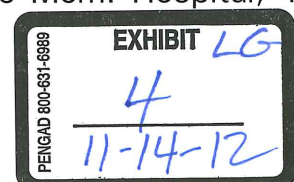
SC, 1998.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.

USC, School of Law:

 - (a) Palmetto Legal Society, member 1995-98;
 - (b) Christian Legal Society, member 1995-98;
 - (c) Intellectual Property Law Society, member 1996-98;
 - (d) Legal Writing Instructor, Professor Thomas Haggard, 1997-98.

Furman University

 - (a) Phi Mu Alpha fraternity, 1990-93, served as Social Chairman, Secretary, and Executive committee member;
 - (b) Furman Singers, 1990-93;
 - (c) Emergency room chaplain's assistant, Greenville Mem. Hospital, 1990-91;



- (d) Chaplain's Assistant, Easley Baptist Medical Center, 1991-92;
- (e) Youth Ministry Assistant, First Baptist Church, Greenwood, SC, 1992-93.
10. Describe your continuing legal or judicial education during the past five years.
- | <u>Conference/CLE Name</u> | <u>Date(s)</u> |
|---|----------------------|
| (a) Children's Issues in Family Court | 03/23/2007; |
| (b) 2007 Local Government | 12/07/2007 12/13/00; |
| (c) Guardian ad Litem Continuing Education | 10/03/2008; |
| (d) Municipal Attorneys Association | 03/16/2009; |
| (e) Judicial Ethics and Domestic Violence | 06/17/2010; |
| (f) A Tangled Web: Case Study on Fed. Rules of Evidence | 06/29/2010; |
| (g) Mini Summit on Justice for Children | 12/02/2010; |
| (h) Summary Court Judges Annual Convention | 09/12/2010; |
| (i) Richland County Bar Ethics | 06/30/2011; |
| (j) SCDSS Attorney Training | 12/09/2011; |
| (k) Child Protection Services Boot Camp | 01/20/2012; |
| (l) Summary Court Judges Hickory Knob School | 05/21/2012. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have taught the course on "Consumer Law and Debt Collection in SC" for the SC Bar's Law School for Nonlawyers at Piedmont Technical College in Greenwood, SC in 2007, 2008, and 2011;
- (b) I presented a seminar on "Mechanic's Liens and Collections in SC," Greenwood Home Builders Association. January 2002;
- (c) I presented a seminar on "The Church Under Fire, Youth Ministry and the Law," Greater Greenwood Youth Ministries (GYM), October 2003;
- (d) I presented a seminar on "Sexual Harassment and Schools," Ninety-Six Primary School Faculty, September 2005;
- (e) I taught a class on Business Law at Lander University during the Fall Semester of 2000.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- I have not published any articles or books at this time.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the State Courts of SC in 1998;
- (b) Also admitted to practice before the Federal District Court and Fourth Circuit Court of Appeals in 2000.
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.

While in law school, from 1995 to 1998 I clerked for the SC Administrative Law Court, conducting legal research and drafting orders and opinions on behalf of the six judges who served on the court.

After law school I was employed by the law firm of Burns, McDonald, Bradford, Patrick and Tinsley, in Greenwood, SC. I worked with this firm from May, 1998 until November, 2005. During those years, my practice was a general civil practice, with an emphasis on personal injury litigation. Our firm represented insurance companies such as State Farm, Allstate, and the SC Insurance Reserve Fund. I also provided other legal services, such as estate planning, business formation and government work. It was during this time that I also served as the town attorney for the town of McCormick, SC.

While working for Burns, McDonald, as the new attorney, it became my job to handle all of the court appointments for the other attorneys in the firm. As all the lawyers in the firm were on the list to be appointed on civil cases, I began to handle a large number of Family Court cases. In these cases, I generally represented parents in cases of child abuse or child neglect brought by the Department of Social Services. Due to the number of cases I was handling, I discovered I had an interest in family law, and began developing a practice handling private family law cases such as divorces, custody disputes and adoptions. Burns, McDonald had not previously been involved in family law and I worked to develop this practice from the ground up.

In November 2005, I made the decision to open my own law practice, and formed The Cone Law Firm, PC. I was the sole attorney and continued to develop my family law practice, although I continued to provide a wide range of non-criminal legal services to individual, business and government clients. In the early years of my solo practice, I continued to be appointed to represent parents in child abuse and child neglect cases brought by the Department of Social Services. Also, in 2008, I was appointed Municipal Judge of the Town of Ninety-Six, SC, which expanded my knowledge of criminal law and criminal procedure dealing with misdemeanor criminal and traffic offenses.

In 2008, I was asked by the attorney for the Greenwood County Department of Social Services, Scarlet Moore, to serve as her backup attorney, covering court when she was unavailable, or handling cases where she had a conflict of interest. In this capacity I began representing the Department of Social Services in its child abuse and neglect cases. In 2009, when Ms. Moore stopped handling cases for the Greenwood County Department of Social Services, I was asked to become the attorney for Greenwood County DSS. In 2010, I was retained to also serve as the attorney for Abbeville County DSS. In that capacity, I have prosecuted child abuse and neglect cases in the Family Court. In addition to representing Greenwood and Abbeville counties, I have represented other county offices of the Department of Social Services as a substitute attorney on a regular basis.

In the fall of 2011, I had discussions with the Department of Social Services about becoming a full-time employee attorney for the Department,

and on April 1, 2012, I was hired as the Managing Attorney for SCDSS for the Eighth Judicial Circuit.

Over the years, I have pursued a civil law practice, emphasizing litigation, particularly in the Family Court. While I have handled a wide variety of legal matters over my years of practice, including insurance defense, personal injury, debt collection, bankruptcy, construction litigation, estate planning and business formation, I find that the interest I developed more than 14 years ago in family law has grown and intensified over the years. For that reason, among others, I sought employment with the Department of Social Services, where I could focus my practice on Family Court matters.

- 14.(a) If you are a candidate for Family Court, please provide a brief written description of your experience within each of the following Family Court practice areas: divorce and equitable division of property, child custody, adoption, abuse and neglect, and juvenile justice. Include information about cases you have handled in each of these practice areas, or if you have not practiced in an area, describe how your background has prepared you to preside over such matters as a Family Court Judge.

In preparing my response to this question, I reviewed my case files going back to 1998. I found that since that time, I have handled more than 200 private Family Court cases, including cases where I represented husbands, wives, mothers, fathers, and grandparents in cases involving divorce, equitable division of property, and child custody/child support. I have served as a private Guardian ad litem in more than 40 cases, representing the interests of children in contested custody matters. I have also been fortunate to represent nearly 20 families in private adoption cases. I have also been appointed to represent juveniles in a number of Juvenile Justice cases.

These numbers reflect my Family Court experience as a private attorney, and cases I was either hired or appointed to represent individuals. Since I began working with the Department of Social Services, I would estimate that I handle more than 100 cases of child abuse, child neglect, and termination of parental rights each year.

I believe that my experience as a private attorney, Guardian ad litem, appointed attorney, and now full-time government attorney have given me substantial experience in Family Court matters. In addition, my service as a Municipal Court judge has given me a great deal of insight into the proper role a judge must play in legal proceedings.

15. What is your rating, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, etc.? If you are currently a member of the judiciary, list your last available rating, if any.

I am not currently rated by any legal rating organization.

16. What was the frequency of your court appearances during the past five years?
- (a) federal: 5%;
 - (b) state: 95%.

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?

- (a) civil: 15%;
- (b) criminal: 10%; (Service as Municipal Court Judge)
- (c) domestic: 75%.

18. What percentage of your practice in trial court during the past five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 10%;
- (b) non-jury: 90%.

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

I generally served as sole counsel.

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

- (a) Burton v. Molen, 2008-DR-01-35 (Abbeville County).

This is a case where I represented the biological father in a custody dispute. The child in question was three years old when the mother left SC without warning and took the child to Texas. Over a period of nearly 2 years, we engaged in a complex legal proceeding, with hearings in both SC and Texas to try and return the child to SC. While the case was on appeal, we were able to negotiate a settlement that resulted in joint custody for my client. This was one of the most challenging cases of my legal career, involving multiple hearings in more than one jurisdiction, and working with agencies such as the FBI, and the National Center for Missing and Exploited Children.

- (b) SCDSS vs, Sharpe, et al. 2012-DR-01-46 (Abbeville County)

This was a contested termination of parental rights action where the minor children had been victims of sexual abuse, and because of many procedural delays, the minor children had been in foster care for nearly 5 years without a resolution. After a lengthy trial, we were successful in having the parents' rights to the children terminated, making them free for adoption.

- (c) Carter v. Hayford, 2006-DR-24-583 (Greenwood County).

This was a case where I served as the Guardian ad litem for a young girl whose parents been divorced for several years. The mother had remarried, and was seeking to relocate with the child to the state of Kentucky. The father opposed the move and sought a change of custody. Ultimately, we were able to resolve the case on the eve of trial and established a visitation plan that allowed the child to move, but still gave father substantial visitation throughout the year. This case was significant to me because of the challenge involved in choosing between two good parents, both of whom were deeply involved in the child's life.

- (d) Meehan v. Meehan et al. 2005-CP-04-219; 2009-ES-04-854 (Anderson County)

These were a series of cases involving an inter-family dispute over real estate and personal property, as well as allegations of manipulation and undue influence between a woman and her adult children. I represented one of the siblings and his children in multiple legal proceedings, including the Circuit Court, Court of Appeals, and Probate Court of Anderson County. The case involved numerous, complex legal and financial issues. It was further complicated by deep emotional issues, as this was a dispute between brothers and sisters. After many trials and court proceedings, the matter was ultimately resolved through mediation. I found this case significant because it tested my legal and trial skills against very capable opposing counsel. It also taught me the importance of remaining objective and impartial in the face of deep emotional conflict.

- (e) Grand Remodeling v. Sorensen. 2007-CP-24-291 (Greenwood County).

While not a Family Court case, this is a significant case involving allegations of construction negligence and breach of contract regarding the construction of an addition to a home. I represented the defendant homeowners. The case was ultimately tried as a bench trial, and while the court found in favor of each side on certain claims, my clients were only required to pay a token amount to the plaintiff, and were not required to pay for the bulk of the defective work. This case is significant because it taught me a great deal about the importance of evidence, as this was a very document intensive case. It also involved the testimony of multiple expert witnesses, and I learned a great deal about the proper handling of expert testimony in trials.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).

- (a) Meehan v. Newton, 2011-UP-325, June 27, 2011 (Associate Counsel);
(b) Meehan v. Meehan, 2006-UP-088, February 10, 2006;
(c) Allegiant v. Emerald Inns, 2007-UP-325, June 15, 2007;
(d) Joubert v. SCDSS, 534 S.E.2d, 341 S.C. 176, (Ct. App. 2000), June 5, 2000;
(e) SCDSS v. Gary, 2006-UP-288, June 21, 2006.

21. List up to five criminal appeals that you have personally handled.

Not applicable.

22. Have you ever held judicial office?

I have served as Municipal Court Judge for the Town of Ninety-Six, SC, since October 2008 to the present. This is a part-time position. I was appointed by the Town Council and have been reappointed on an annual basis. The Municipal Court handles misdemeanor criminal and traffic offenses, as well

as violations of town ordinances. More than 95% of the cases tried in our court are tried without a jury. As municipal judge, I also set bonds for all criminal defendants arrested by the town Police Department for misdemeanors and felonies. I also conduct preliminary hearings on felony cases that originate in the town.

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

Municipal Courts are Summary Courts, and the only written orders we issue are custody or bond orders. Occasionally I will issue a form order committing someone to a diversion program, such as the Pre-Trial Intervention Program, but otherwise I do not issue written orders or opinions.

24. Have you ever held public office other than judicial office?

I served as the Town Attorney for the Town of McCormick, SC, from 1999-2008. I was appointed to that position by the town Council, and reappointed on an annual basis. I ended my service when I was appointed Municipal Court Judge for the Town of Ninety-Six, SC.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. None.

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

In 2010, I ran for the office of Probate Judge for Greenwood County. After a contested primary in June 2010, I was the Republican candidate for Probate Judge. I lost in the general election in November 2010.

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?

- (a) FIRST BAPTIST CHURCH OF GREENWOOD, Greenwood, SC, Interim Minister to Students, 1994-95

I was responsible for leading church-wide ministry program for students, age 11-18 and college students. I was also responsible for fundraising activities to support non-budgeted student activities and ministry projects.

- (b) YMCA BLUE RIDGE ASSEMBLY, Black Mountain, NC
Associate Director of Conference Services, 1993-94
Assistant Conference Services Director (Audio-Visual), Summer 1992
Assistant Program Director, Summers 1990, 1991

I worked in a variety of positions at a conference center operated by YMCA's of the Southeast. I supervised teams of up to 15 college age workers to prepare meeting and convention facilities for use by diverse groups, including community, corporate, and church organizations.

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 you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?
No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? 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? 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?
I became a full-time state employee in April 2012. My malpractice insurance from my private practice ended on December 31, 2011.
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."
I am not aware of any such charges or allegations against myself or any other candidate.
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."
I am not aware of any such charges or allegations against myself or any other candidate.

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.

\$2.70 in August 2012 for postage.

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. \$0

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? No.

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) SC Bar Association;

(b) Greenwood County Bar Association.

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) Greenwood County Library Board. I have served as Treasurer and am currently Chairman of the Board;

(b) Greenwood County Chamber of Commerce. I served as General Counsel and Executive Committee member from 2003-05.

50. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

Throughout my life, I have had a strong desire to serve and help people. I once considered a career in ministry and in medicine, but found that my skills and abilities were best suited for the practice of law. Over the years, I have seen the tremendous impact the court system can have on families. I think I was drawn to family law because you can have a real impact on the lives of families and individuals in the decisions you make in cases you pursue in family court. While family law has not been as financially rewarding as other areas of

law can be, it has given me great personal satisfaction to help individuals and families deal with some of the most tumultuous events of their lives.

My experience as both a lawyer and a judge has taught me that, as a judge, it is crucial that you listen carefully to the evidence presented to you, consider the facts and the law, and then make a decision as quickly as possible. After 14 years of law practice, I believe more than ever in the old axiom, "Justice delayed is justice denied." Particularly in family court cases, it is crucial that children and families know what the outcome of their cases will be as quickly as possible, as uncertainty or delay only exacerbates the stresses caused by domestic litigation.

I would hope that my experience would allow me to resolve cases quickly, fairly, and with wisdom and courtesy for all the parties and attorneys. That is how I have tried to conduct myself in my practice, and how I plan to continue as a judge.

51. References:

- (a) Tony Brookshire
Park Sterling Bank
109 Montague Ave.
Greenwood, SC
(864) 941-9020
- (b) James C. Johnson, Esq.
P.O. Box 673
Greenwood, SC 29648
(864)-229-0565
- (c) Scarlet Moore, Esq.
P.O. Box 17615
Greenville, SC 29606
(864) 214-5805
- (d) Douglas Bell, Esq.
P.O. Box 1547
Greenwood, SC 29648
(864) 229-2511
- (e) Dr. Willie Moseley
129 Rutledge Road
Greenwood, SC 29649,
(864)223-7268

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: Robert Cone

Date: August 28, 2012

November 1, 2012

Ms. Jane O. Shuler
Judicial Merit Selection Commission
PO Box 142
Columbia, SC 29202

Dear Ms. Shuler:

I would like to thank you for this opportunity to extend an explanation for what was reported to the Judicial Merit Selection Commission by the Judicial Qualifications Committee of the South Carolina Bar.

As you know, I have been screened by the Bar twice before and there have been no issue during either of these screenings about my character, my reputation or my ethics. These traits have never been called into question until now. The two prior races I offered myself for were for service on our Circuit Court. This race, as you know, is for the Family Court. Unfortunately, the Richland County Family Court Bar has a reputation as being a very contentious Bar and because this survey is anonymous, I do not have the ability to question those who took the polls, see who they are and what their connection to me would be. Therefore, I have no way of explaining how these conclusions were reached.

I do not understand why my reputation, my character or my ethics have now, within the last year, become an issue.

My reputation and the view others have of my character is of the utmost importance to me and my family as I imagine in the case for all professionals and people in general. I have spent most of my adult life and my entire legal career trying to live and act in a way that earns me a positive reputation. In an individual capacity, I have traveled the state and given my time and experience to people who need inspiration. I believe I am known to always be willing to give my fellow man the proverbial shirt off my back. I do not want to be happily forgotten, I want to be sorely missed.

I believe in public service and to serve my community. I served on my parish's school board for many years. In a judiciary capacity, as a Columbia Municipal Court Judge for four years, I was known as patient, fair and impartial. I wanted to emulate Judge (now Justice) Hearn who, starting when I clerked for her, told me that when she was a trial judge she always made sure that the people who appeared before her knew why she had to carry out justice and that, before they walked away, they understood why the law applied to them and it was necessary for her to follow the law even if she had to send them to jail. I always felt I could do more to help a person from the bench than I could as their counsel.

As an advocate, I have a duty to protect my clients and to be sure they receive the care and effort they deserve. Domestic law is often emotionally charged and contentious. Unfortunately, domestic practitioners, as a whole, have difficult issues to deal with and

many times the client's emotions become a part of the equation. In dealing with all these issues, strong advocacy can be confused with a lack of appropriate temperament. The job of a litigator is to satisfy the expectations of the client. However, I never confuse the other attorney with the client's issues even when the client wants to accuse opposing counsel of contributing to the client's wrongs. I always make it a point to reach out to opposing counsel to shake hands at the appropriate time and move forward.

I have been rated by other members of our profession and by many of my clients with Martindale-Hubbe. My peer ratings are 4.4 out of 5.0, and my client ratings are 5.0 out of 5.0. I have attached the pages for your review along with my clients' comments. (See attached exhibit A, Lawyers.com Client Review) I believe these comments reflect the care, temperament and fairness I bring to those who have worked with me closely. Also, please see the Citizens Committee review for this year, which shows I am viewed in the community as highly ethical. As for my character, they are very impressed by my character and integrity and they found that I am courageous, determined, and a dedicated family law attorney who has an outstanding character which is above reproach. Finally, the Citizens Committee reported that I enjoyed an outstanding reputation in the community and among my peers. These are the people I serve.

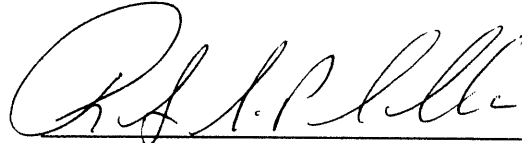
We all understand that if our ethics are ever questioned, our ethics will always be questioned. I served our Supreme Court for eight years as an attorney to assist in disciplinary matters. In that capacity, I policed and investigated other attorneys, many here in the Columbia area, for client complaints about the attorney ethical issues. I have never been sanctioned; I have always tried to treat everyone fairly and ethically and I continue to do so. However, as the Committee may be aware from my application, in 2005 I received a letter of caution. A client wrote a check for fees that were already earned and then they stopped payment on the check, breaking the law. Subsequently, my firm wrote a letter, under my direction, which mirrored the statutory language regarding bad checks. (See attached exhibit B, §34-1-70(A)(1)) This letter used the statutory language advising my client that, unless the check was made good, the firm could turn over the check to the solicitor or other appropriate officer for criminal prosecution. (See attached exhibit C, Letter) Sending this bad check letter to my former client was considered by the Office of Disciplinary Counsel as an attempt to gain an advantage in a civil matter by threatening criminal prosecution, thus violating Rule 4.5. Apparently, the Office of Disciplinary Counsel would have accepted my directly pursuing the statutory criminal remedy and simply have her arrested. As her recent counsel, I thought that giving my client a chance to avoid prosecution was the better course for the client. In any event, I accepted a letter of caution. A letter of caution is not considered a sanction by our Supreme Court.

I ask the Commission to consider all the evidence it has with regard to my reputation, character, and ethical behavior.

I ask the Commission to consider that I have been reviewed twice before and have not had any of these issues raised in a negative manner.

I also understand that the previous and most current polls indicated that my temperament, reputation, ethical fitness and character were all well respected when I was a judge for the City of Columbia. Certainly, these results show how I handle myself as a neutral third party judge which is the question at hand and I hope the Commission will view this as a substantial indicator of my qualifications to serve as a member of our Judiciary.

Thank you for your attention and consideration.

A handwritten signature in black ink, appearing to read "R. M. P. Masella", written over a horizontal line.

Robert M.P. Masella
Candidate for the Fifth Judicial Circuit
Resident Seat 2

EXHIBIT

A

**Overall Client Rating
in Criminal Law, Family Law and Real Estate**



5.0 out of 5.0

Communication Ability	5.0
Responsiveness	4.9
Quality of Service	5.0
Value for Money	5.0

- Data based on 8 reviews
- Recommended by 8 Clients
- Last reviewed on 10/25/11

Submit a Client Review

Posted by a Consumer on 10/25/11



4.8 out of 5.0

Bob gave me solid, moral advice and counsel during a troubling time in my life. His experience and personal attention to my case set my mind at ease because I knew he had my best interest at heart. His staff is extremely friendly and very helpful.

Report abuse

Posted by a Consumer on 10/23/11



5.0 out of 5.0

Bob is caring, truthful, sincere, and available. He makes sure you understand the legal jargon and is willing to spend as much time as you need to be comfortable with the situation. He can make you laugh, even when you want to cry. He makes even the toughest situations bearable. A very good man!

Report abuse

Posted by a Consumer on 10/10/11



5.0 out of 5.0

Mr. Masella's firm did an outstanding job with my complex family court case. He was responsive to the multiple issues, which were unaddressed by prior Council. At the conclusion of my case, all issues were professionally and fairly addressed. I would recommend him for any legal services needed!

Report abuse

Posted by a Consumer on 09/22/11



5.0 out of 5.0

Excellent advocate! Very easy to talk to, professional, great staff, knowledgeable, compassionate, responsive, and proactive.

Report abuse

Posted by a Consumer on 09/21/11



5.0 out of 5.0

Bob was very to the point. He allowed me to help myself which kept the cost down. He would give me ideas about where information could be found. He was well respected in the court room.

Report abuse

Posted by a Consumer on 09/20/11



5.0 out of 5.0

Mr. Masella provided quality assistance to me, and was nothing but professional throughout the duration of the time he was retained. While I was a student at the University of South Carolina, Mr. Masella recognized my situation, and worked with me accordingly. Mr. Masella was reasonably priced, and was very prompt in responding to my

communication and worked hard throughout the duration of the time he represented me. Thank you very much, my record, my conscious, and future is clear!


Report abuse 

Posted by a Consumer on 09/20/11



5.0 out of 5.0

Mr. Masella is an exceptionally personable and competent attorney. He handled several charges for me in which the outcome was always EXTREMELY satisfactory. Not only did Mr.Masella achieve the results I needed, he did it at a remarkably fair price that was hard to come by. He is an honest man who will personally dedicate himself to your case and serve you to the absolute best of his ability.

Report abuse 

Posted by a Consumer on 09/20/11



5.0 out of 5.0

While going through a difficult divorce, Robert Masella and his staff provided a great service for me. Their extensive knowledge regarding legal issues and their wonderful personalities made them very easy to work with. Divorce and other legal problems can be very stressful and difficult, but this team does a great job reducing complications. Their reasonable rates combined with efficient services made me feel comfortable. I was treated fair. I highly recommend this law firm!

Report abuse 

EXHIBIT

B

SECTION 34-11-70. Prima facie evidence of fraudulent intent in drawing check, draft or other written order, reasonable and probable cause for prosecution.

(a) When a check, a draft, or other written order is not paid by the drawee because the maker or drawer did not have an account with or sufficient funds on deposit with the bank or the person upon which it was drawn when presented or the draft, check, or other written order has an incorrect or insufficient signature on it, and the maker or drawer does not pay the amount due on it, together with a service charge of thirty dollars, within ten days after written notice has been sent by certified mail to the address printed on the check or given at the time it is tendered or provided on a check-cashing identification card stating that payment was refused upon the instrument, then it constitutes prima facie evidence of fraudulent intent against the maker. Service charges collected pursuant to this section must be paid to the payee of the instrument.

(1) For purposes of subsection (a), notice must be given by mailing the notice with postage prepaid addressed to the person at the address as printed or written on the instrument. The giving of notice by mail is complete upon the expiration of ten days after the deposit of the notice in the mail. A certificate by the payee that the notice has been sent as required by this section is presumptive proof that the requirements as to notice have been met, regardless of the fact that the notice actually might not have been received by the addressee. The form of notice must be substantially as follows:

"You are notified that a check or instrument, numbered ____, issued by you on ____ (date), drawn upon ____ (name of bank), and payable to ____, has been dishonored. Pursuant to South Carolina law, you have ten days from the date this notice was mailed to tender payment of the full amount of the check or instrument plus a service charge of thirty dollars, the total amount due being ____ dollars and ____ cents. Unless this amount is paid in full within the specified time above, the holder of the check or instrument may turn over the dishonored check or instrument and all other available information relating to this incident to the solicitor or other appropriate officer for criminal prosecution."

(2) When a person instituting prosecution gives notice in substantially similar form provided in item (1) to the person upon which the instrument was drawn and waits ten days from the date notice is mailed before instituting the criminal proceedings, there arises a presumption that the prosecution was instituted for reasonable and probable cause, and the person instituting prosecution is immune from civil liability for the giving of the notice.

(3) A service charge of not more than thirty dollars is payable by the drawer of a draft, a check, or other written order to the payee of the instrument when the draft, check, or other written order is presented for payment in whole or in part of a then existing debt including, but not limited to, consumer credit transactions, and is dishonored. This service charge is solely to compensate the payee of the instrument for incurred expenses in processing the dishonored instrument and is not related to a presumption of fraud so that it is not necessary to issue the notice to the person at the address as printed on the instrument set forth in items (1) and (2).

(b) Any court, including magistrate's, may dismiss a case under the provisions of this chapter for want of prosecution. When any prosecutions are initiated under this chapter, the party applying for the warrant is held liable for all reasonable administrative costs accruing not to exceed forty-one dollars if the case is dismissed for want of prosecution. Unless waived by the court, the party applying for the warrant shall notify, orally or otherwise, the court not less than twenty-four hours before the date and time set for trial that full restitution has been made in connection with the warrant, and the notification relieves that party of the responsibility of prosecution.

(c) Any court, including magistrates, may dismiss any prosecution initiated pursuant to the provisions of this chapter on satisfactory proof of restitution and payment by the defendant of all administrative costs accruing not to exceed forty-one dollars submitted before the date set for trial after the issuance of a warrant.

(d) For purposes of this chapter, subsequent persons receiving a check, draft, or other written order by endorsement from the original payee or a successor endorsee have the same rights that the original payee has against the maker of the instrument, if the maker of the instrument has the same defenses against subsequent persons as he may have had against the original payee. However, the remedies available under this chapter may be exercised only by one party in interest.

EXHIBIT

C

MASELLA LAW FIRM, P.A.

ROBERT M.P. MASELLA
REBECCA WEST

ALSO LICENSED IN GEORGIA

917 CALHOUN STREET
COLUMBIA, S C 29201
(803) 748-9990

1045 WEST OAKLAND AVENUE
ROCK HILL, S C 29732
(803) 980-4400

FACSIMILE
(803) 748-9948

September 29, 2004

DELIVERED VIA
CERTIFIED U.S. MAIL

RE: Your check # 1557

Dear [REDACTED]

This letter is to notify you that pursuant to South Carolina Law, S.C. Code Ann. §34-11-80, you are in violation of the law and may be prosecuted criminally for stopping payment on check number 1557, issued by you on August 11, 2004, drawn upon Wachovia Bank, N.A., and payable to Bob Masella. This check has been dishonored due to a stop payment order issued by you on August 12, 2004.

The pertinent statute controlling this case is §34-11-80. The statute states the following:

§34-11-80 Stopping payment on check, draft or order with intent to defraud.

It shall be unlawful for any person with intent to defraud to stop payment on any check, draft or other written order on any bank or depository for the payment of money or its equivalent when such check, draft or other written order was given to obtain money, credit, goods or services; provided, that such money, credit, goods or services were as represented at the time of the issuance of any check, draft or written order. Any person so convicted shall be punished by a fine or imprisonment as provided for in §34-11-90.

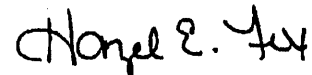
This section shall not apply to a postdated check nor to any check, draft or written order where the payee or holder thereof knows or has good and sufficient reason to believe that the drawer did not have sufficient funds on deposit to his credit with the drawee to insure payment thereof.

The punishment for S.C. Code Ann. §34-11-80 (2003), as stated above, is S.C. Code Ann. §34-11-90 (2003) which states that checks that are over one thousand dollars are handled in General Sessions court. The statute states that "Convictions in the court of general sessions or any other court having concurrent jurisdiction are punishable as follows: for a first conviction by a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for not more than two years, or both;"

Please note, you may be fined an amount up to \$1,000.00 or jailed for a period up to two years, or both for your actions. This check has been dishonored due to a stop payment order issued by you on August 12, 2004, even though you had sufficient funds in your bank account to cover the amount of this check which you indicated was deposited by you prior to writing this check to our firm. Therefore, you have ten days from the date of this notice to tender payment of the full amount of the check or instrument plus costs created by your fraudulent actions making the total amount due \$1,905 dollars and 52 cents.

If you do not make full payment within this time, The Masella Law Firm, as the holder of this check may turn the instrument over with all other available information relating to this incident to the solicitor or other appropriate officer for criminal prosecution.

Sincerely,



Hazel E. Fox, Office Manager
Masella Law Firm, PA

/hf