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JUDICIAL MERIT SELECTION COMMISSION

PUBLIC HEARINGS

Wednesday, November 14, 2012

9:05 a.m.

1101 Pendleton Street
Blatt Building, Room 110
Columbia, South Carolina

REPORTED BY: LISA GARSON
COURT REPORTER



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1 MEMBERS IN ATTENDANCE:
2 REPRESENTATIVE F.G. DELLENEY, JR
3 SENATOR LARRY A. MARTIN, VICE-CHAIRMAN
4 REPRESENTATIVE DAVID J. MACK, III
5 H. DONALD SELLERS, ESQUIRE
6 PROFESSOR JOHN P. FREEMAN
7 SENATOR FLOYD NICHOLSON
8 JOHN DAVIS HARRELL, ESQUIRE
9 SENATOR GEORGE "CHIP" E. CAMPSEN
10 REPRESENTATIVE ALAN D. CLEMMONS
11 AMY JOHNSON McLESTER
12 ERIN B. CRAWFORD, ESQUIRE
13 COUNSEL:
14 JANE SHULER, CHIEF COUNSEL
15 PATRICK G. DENNIS
16 J.J. GENTRY
17 BONNIE ANZELMO
18 EMMA DEAN
19 JAMEY GOLDIN
20 ANDY FIFFICK
21 KATHERINE WELLS
22 BRAD WRIGHT
23 PAULA BENSON
24 LYN ODOM
25 STEVE DAVIDSON

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(INDEX AT REAR OF TRANSCRIPT)

1 REPRESENTATIVE DELLENEY: Okay. We'll
2 call the new Merit Selection Commission to order,
3 and Counsel advises me we need a short executive
4 section before we get started.

5 Do I hear a motion for executive session?

6 PROFESSOR FREEMAN: I make a motion.

7 REPRESENTATIVE CLEMMONS: Second.

8 REPRESENTATIVE DELLENEY: All in favor
9 say, "Aye".

10 (Multiple speakers respond, "Aye.")

11 REPRESENTATIVE DELLENEY: All right.

12 We're now in executive session.

13 (The Committee went into executive session
14 from 9:05 a.m. to 9:29 a.m.)

15 REPRESENTATIVE DELLENEY: The veil is
16 lifted. All right. The first person is Judge
17 Hurley.

18 REPRESENTATIVE DELLENEY: Good morning,
19 Judge Hurley.

20 JUDGE HURLEY: Good morning.

21 REPRESENTATIVE DELLENEY: We have before
22 us this morning the Honorable Michelle Hurley, who
23 seeks a position for the Family Court, 5th Circuit,
24 Seat number 2.

25 If you would, please, raise your right

1 hand to be sworn.

2 (Judge Michelle Hurley, was duly sworn,
3 after which testimony commenced at 9:30 a.m.)

4 REPRESENTATIVE DELLENEY: Thank you,
5 ma'am. Did you have someone that you need to
6 introduce us to?

7 JUDGE HURLEY: I do. This is my husband,
8 George Johnson. He's here for support and to make
9 me nervous.

10 REPRESENTATIVE DELLENEY: Glad to have you
11 with us this morning.

12 The Judicial Merit Selection Commission
13 has thoroughly investigated your qualifications for
14 service on the bench. Our inquiry has primarily
15 focused on nine evaluative criteria, which include a
16 survey of the bench and the bar, a thorough study of
17 your application materials, verification of your
18 compliance with state ethics laws, a search of any
19 newspaper articles in which your name may have
20 appeared, a study of previous screenings, and a
21 check for economic conflicts of interest.

22 We did have one complainant who filed a
23 complaint against you. We dismissed that complaint,
24 so there are no witnesses here to testify.

25 Do you have a brief opening statement that

1 you'd like to make?

2 JUDGE HURLEY: Yes, sir.

3 I would like to thank Ms. Wells and Ms.
4 Shuler and Ms. Traywick for their courtesy.

5 This was my first time running, so I
6 didn't know quite what to expect, but they made it
7 very seamless and a very pleasing experience, and I
8 thank each one of you for your service here today.

9 REPRESENTATIVE DELLENEY: Thank you,
10 ma'am. Answer any questions that our able counsel
11 may have for you.

12 MS. WELLS: Thank you.

13 Judge Hurley, you have before you the
14 Personal Data Questionnaire you submitted as part of
15 your application.

16 Are there any amendments that you would
17 like to make at this time to your PDQ?

18 JUDGE HURLEY: No, ma'am.

19 MS. WELLS: Mr. Chairman, I would like to
20 ask at this time that Judge Hurley's Personal Data
21 Questionnaire be entered as an exhibit into the
22 hearing record.

23 REPRESENTATIVE DELLENEY: It will be done
24 at this point in the transcript without objection.

25 (EXH. 1, Personal Data Questionnaire of

1 Judge Michelle Hurley, marked for identification.)

2 MS. WELLS: And also, Judge Hurley, you
3 also have before you your sworn statement you
4 provided with detailed answers to over 30 questions
5 regarding judicial conduct, statutory
6 qualifications, office administration, and
7 temperament.

8 Are there any amendments that you would
9 like to make to this document?

10 JUDGE HURLEY: No.

11 MS. WELLS: Mr. Chairman, I would ask that
12 Judge Hurley's sworn statement be admitted as an
13 exhibit into the hearing record.

14 REPRESENTATIVE DELLENEY: It will be
15 entered into the record at this point without
16 objection.

17 (EXH. 1A, Sworn Statement of Judge
18 Michelle Hurley, marked for identification.)

19 MS. WELLS: As a final procedural matter,
20 I note for the record that based on the testimony
21 contained in the candidate's PDQ, Judge Michelle
22 Hurley meets the statutory requirements of this
23 position regarding age residence and years of
24 practice.

25 And since you are a Family Court candidate

1 for the 5th Circuit, Judge Hurley, would you please
2 state the city and the circuit in which you reside.

3 JUDGE HURLEY: Yes, ma'am. I live in
4 Columbia, South Carolina, 5th Circuit.

5 MS. WELLS: Thank you.

6 Judge Hurley, you are currently a
7 part-time municipal judge for the City of Columbia.
8 Could you please tell the Commission why you now
9 want to serve as a Family Court Judge.

10 JUDGE HURLEY: Yes, ma'am. Very briefly.
11 I grew up in a family that serves the public. My
12 mother is a retired School District One school
13 social worker, and my father is a funeral director
14 here in the city.

15 I grew up next door to the funeral home,
16 and ever since I was five or six years old, I worked
17 in the funeral home. I worked with families. Both
18 my parents worked with families at their lowest
19 times in their life.

20 So I've always been involved and been
21 around my parents. I've watched them work with
22 families when they needed it most. When I went to
23 law school, I actually thought I wanted to work in
24 trust and estate. And a clerkship kind of fell into
25 my lap with the Department of Social Services, and

1 so basically my first week at the Department of
2 Social Services, all kinds of light bulbs went off,
3 and I felt like I was home and this was what I was
4 meant to do. And I kind of threw trusts and estates
5 out the window.

6 And my father thought I would go off to
7 law school and do trusts and estates and come home
8 and open up an office in the funeral home because
9 everyone who comes to a funeral home needs a will.
10 So I went back to my father, and said, Guess what?
11 I don't think that's what I'm going to do. I want
12 to do Family Court.

13 And all the stories my mother told me
14 about growing up and going before the judges and
15 just the experience I had really led me in this
16 direction. So I've dedicated my entire career to
17 issues in family law.

18 MS. WELLS: Judge Hurley, with your legal
19 and professional service, would you explain to the
20 Commission how you feel those experiences would
21 assist you in being an effective Family Court Judge.

22 JUDGE HURLEY: Yes, ma'am. When I
23 graduated from law school, I clerked in the circuit
24 court for almost two years, and it gave me a
25 valuable experience in just learning how the court

1 system worked.

2 And when I left there, I went to the
3 Department of Social Services, and I clerked there
4 during law school, and I was hired back as a civil
5 rights attorney because there was a huge backlog of
6 termination of parental rights cases.

7 So I was hired to come back to clear it
8 up, and within about a month or two of my coming
9 there almost all the attorneys quit. So I inherited
10 not only a huge docket of termination of parental
11 rights cases but also abuse and neglect cases.

12 Back then when I started at DSS, there
13 wasn't training for new attorneys. Basically they
14 just gave you a docket, and said, Here, go to court.
15 Luckily since I clerked there, I kind of knew what I
16 was doing, so it was almost like trial by fire.

17 I didn't have time to read policy and
18 federal law and regulations that drive issues in
19 Family Court. And I did that for several years, and
20 then I started having children, and I was very lucky
21 that another position became available, and I was
22 recruited to go to the University of South Carolina
23 to train attorneys -- DSS attorneys and caseworkers
24 in the legal aspects of child protection.

25 So all of a sudden, now I had time to sit

1 down and really read the laws and federal
2 regulations pertaining to cases and state laws and
3 policies and DSS policies.

4 And having experience as a litigator was
5 wonderful, but now I had to take what I knew and
6 rearrange it and apply it. I had to teach it. So
7 it was more than me knowing the law and going to
8 court. I had to learn how to convey it to others so
9 that they would understand because caseworkers do
10 their work and they know they're supposed to do A,
11 B, and C, but they didn't know why.

12 So I had to connect -- you have to do A,
13 B, and C, because you have the foster connection.
14 It says you need to contact the relatives. And
15 that's why you're contacting relatives to get
16 children placed. You hear about best interest.
17 Well, this is what best interest means, and this is
18 where it comes from -- the Adoption and Safe
19 Families Act.

20 So I had to learn it in a different way so
21 that I could teach it. It's been a valuable
22 experience, and I did it for about seven years, and
23 now I'm in the Office of Administrative Hearings and
24 Civil Rights and Individual Rights at the Department
25 of Social Services. So we deal with the

1 administrative hearing process with Foster care
2 removals, adoption cases, adoption subsidies.

3 So it's broadened my experience and it's
4 just a different area. Although I've always been on
5 the front lines, and I've always been in court, I've
6 been training people to go to court. And I think my
7 experience -- I have a fundamental understanding of
8 the cases and what's driving these cases. And I
9 believe my experience will be invaluable to the
10 Family Court.

11 MS. WELLS: Thank you, Judge Hurley.

12 Are there any areas, including subjective
13 areas of the law, that you think you would need to
14 additionally prepare for in order to serve as a
15 Family Court Judge?

16 And if so, how would you go about handling
17 that additional preparation?

18 JUDGE HURLEY: Absolutely. Several years
19 ago when I realized that one day I wanted to run for
20 Family Court, I realized that I was deficient in the
21 area of divorces. And so I started -- and from
22 being at the Children's Law Center, one of my jobs
23 was to do case law updates. So for the last seven
24 or eight years, I've read pretty much every case
25 that's come out of the Court of Appeals or the

1 Supreme Court that deal with family law.

2 And I also -- because I realized that I
3 hadn't done any divorce cases, I started to mass a
4 lot of material on divorces and equitable
5 distribution and all the issues in family law. I've
6 kept up with it, and I do realize that that will be
7 an area that I will need to study more. And
8 possibly, you know, a lot of divorce cases are
9 uncontested, but in the event that I had a case that
10 was difficult, I have no issues with going to other
11 judges and asking for their guidance.

12 But one of my faults, and my husband will
13 probably tell you and also DSS will probably tell
14 you, is that I have a terrible habit of just
15 studying and researching an issue until it's dead in
16 the water. So I think I have an aptitude to fill in
17 the gaps, and I would do so.

18 MS. WELLS: Thank you. You address this
19 in your sworn affidavit but will you explain to the
20 Members of the Commission what you think is the
21 appropriate demeanor for a Family Court Judge.

22 JUDGE HURLEY: Absolutely. Growing up in
23 a family that is involved in public service and
24 dealing with people from all walks of life, who come
25 from all different backgrounds, who are all

1 different races, colors, nationalities, and then in
2 all stages of life, I realize that everyone deserves
3 respect for their situation that they're in that
4 brought them there that day.

5 And that I believe that it's the judge's
6 job to be courteous to everyone, to be respectful
7 and to listen to what they have to say, because
8 although a judge is on the bench every day and all
9 day long, this maybe this person's only time in
10 court. So they deserve respect and deserve to have
11 the judge's full attention.

12 And I believe everyone should be
13 respectful of that and the judge should be courteous
14 and fair and to be able to be courteous and fair and
15 decisive at the same time.

16 MS. WELLS: Is there any family court
17 judge currently on the bench that you would like to
18 model yourself after who particularly exemplifies
19 the characteristics you believe a family court judge
20 should have?

21 JUDGE HURLEY: Yes, ma'am. The judge who
22 retired and whose seat I'm running for, Judge
23 Riddle, has been one of my mentors for a very long
24 time. When I was in court with her, she was so
25 passionate about what she did. Any time she was in

1 court, we always knew, okay, you have Judge Riddle.
2 You'll be there for a few more minutes because she's
3 going to tell you what she really feels about a case
4 and she really cares about the family and children.

5 Judge Jacobs, now deceased, that I enjoyed
6 and would talk to quite often. And he was always
7 very nice and swift in his decisions. So he would
8 sit there and talk and say, Yes, ma'am, and I
9 understand where you're coming from but this is the
10 situation.

11 So I kind of modeled myself when I went on
12 the bench from Judge Jacobs and Judge Riddle.

13 MS. WELLS: What suggestion would you make
14 for improving the backlog of cases in the Family
15 Court system?

16 JUDGE HURLEY: Well, one thing, hopefully
17 with the new judges that being a new judge in the
18 5th Circuit would help with the backlog of cases --
19 one thing that I realize, there is always a backlog
20 and termination of parental rights cases, and I
21 would have blitz weeks to schedule as many
22 uncontested termination of rights cases as possible,
23 uncontested divorces as possible, so we can get the
24 uncontested cases out of the way possibly on
25 chamber's weeks when the judge has time to devote to

1 all these cases, and put all judges on the bench so
2 that we can have all these cases done very quickly.

3 And hopefully, I know some judges --
4 because you have the private cases in competition
5 with the government cases -- to really devote time
6 and have certain judges only hear divorce days on
7 the certain days and have the other judges only hear
8 government cases on certain days. Hopefully that
9 will push these cases through, and hopefully have
10 time to devote to the cases that are contested.

11 MS. WELLS: If you were to be elected to
12 the Family Court bench, when you left that bench
13 what would you like your legacy to be as a judge
14 there?

15 JUDGE HURLEY: Certainly I want people to
16 remember me being a fair judge, someone who actually
17 cared about her cases, who was always fair, who was
18 always courteous, who never made an injudicious
19 decision, who considered the facts of the case and
20 gave everyone their moment in court. And that
21 everyone would leave my courtroom feeling that
22 although she ruled against me, I understand why.

23 MS. WELLS: Judge Hurley, although you
24 work now with the Department of Social Services,
25 which is covered under the State Tort Claims

1 provisions, did you ever carry malpractice
2 insurance?

3 JUDGE HURLEY: No, ma'am.

4 MS. WELLS: You stated in your Personal
5 Data Questionnaire that you attained several caucus
6 meetings during the 2012 session. Would you please
7 explain to the Commission how that came about and
8 who attended?

9 JUDGE HURLEY: Yes, ma'am. Actually I
10 attended several caucus meetings before I filed as a
11 candidate. I went to the majority caucus meeting
12 and the minority caucus meeting just to introduce
13 myself.

14 I was introduced by several of the
15 legislators, who just stood up, and said, This is
16 Michelle Hurley. She is a future candidate for
17 Family Court. There were several other potential
18 candidates there as well who also were introduced.
19 I went to the Black Caucus meeting one day. They
20 allowed us to stand up and introduce ourselves, and
21 I just said, I'm Michelle Hurley, and I'm a
22 candidate for Family Court, and there were four
23 other candidates there as well who were all allowed
24 to introduce themselves, and we just left after
25 that.

1 MS. WELLS: Thank you.

2 I have a few housekeeping issues. Have
3 you sought or received the pledge of any legislator
4 prior to this day?

5 JUDGE HURLEY: No, ma'am.

6 MS. WELLS: Have you been offered a
7 conditional pledge of support of any legislator
8 pending the outcome of your screening?

9 JUDGE HURLEY: No, ma'am.

10 MS. WELLS: Have you asked any third
11 parties to contact Members of the General Assembly
12 on your behalf?

13 JUDGE HURLEY: No, ma'am.

14 MS. WELLS: Are you aware of anyone
15 attempting to intervene in the process on your
16 behalf?

17 JUDGE HURLEY: No, ma'am.

18 MS. WELLS: Have you contacted any members
19 of this Commission?

20 JUDGE HURLEY: I have not.

21 MS. WELLS: Do you understand that you are
22 prohibited from seeking a pledge or commitment until
23 48-hours after the formal release of the
24 Commission's report?

25 JUDGE HURLEY: I do.

1 MS. WELLS: Have you reviewed the
2 Commission's guidelines on pledging?

3 JUDGE HURLEY: Yes, I have.

4 MS. WELLS: Are you aware the penalties
5 for violating the pledging rules are misdemeanor
6 and upon conviction, the violator must be fined not
7 more than \$1,000 or imprisoned not more than 90
8 days?

9 JUDGE HURLEY: Yes.

10 MS. WELLS: I would note for the
11 Commission that there were 78 ballot box surveys
12 received on Judge Hurley with eight additional
13 comments.

14 Nothing negative was received. They were
15 only positive comments received. I would also note
16 that the Midlands Judicial Citizens Committee found
17 Judge Hurley qualified on the criteria of
18 constitutional qualifications, physical health, and
19 mental stability. And they found her well-qualified
20 in the criteria of ethical fitness, professional and
21 academic ability, character, reputation, experience,
22 and judicial temperature.

23 I would note that any concerns raised
24 during the investigation regarding the candidate
25 were incorporated into the questioning of Judge

1 Hurley today.

2 Mr. Chairman, I have no further questions.

3 REPRESENTATIVE DELLENEY: Thank you,
4 ma'am.

5 Does any member of the Commission have any
6 questions of Judge Hurley today?

7 PROFESSOR FREEMAN: First of all I want to
8 compliment you on a very good presentation, and also
9 on zero negative comments on the ballot box survey,
10 which is not common, and it speaks very well for
11 you.

12 One thing that I heard that concerns me
13 is, although, again, you made a very good
14 presentation. The comment was studying things to
15 death because you have a luxury maybe at this stage
16 in your life where you can really dig into things
17 and work and work and work and look for the perfect
18 answer.

19 But in Family Court, you have to get the
20 orders out. And I think you know what I mean.
21 Emotions are high. People are hurting and they
22 don't want to wait eight or nine months for their
23 orders. And I just wanted to let you know that I
24 was thinking about that.

25 I'm going to support you. I don't have

1 any trouble saying that right now because you're
2 obviously an outstanding candidate. But please
3 exercise that. Temperament is the number one
4 problem, but lack of diligence by our judges is
5 something that can get you in trouble, and you
6 should never go that way.

7 JUDGE HURLEY: I absolutely agree. When I
8 made that comment, I made it because I do tend to
9 research a lot of law, but I'm fully aware that an
10 order should be issued within 30 days.

11 Where I am now, the Office of
12 Administrative Hearings, I run the docket, and I
13 supervise the hearing officers. And I insure that
14 all of our orders are out in a timely manner.

15 So I'm very aware of timeliness, unless
16 there is some exceptional circumstance, that an
17 order should be issued within 30 days. And I prefer
18 that orders be issued sooner than that.

19 PROFESSOR FREEMAN: Right. I don't mean
20 to say don't be diligent, because I want that. We
21 all want that. We're communicating. So I
22 understand you and you understand what I just said.
23 Thank you.

24 JUDGE HURLEY: Yes, sir. Thank you.

25 REPRESENTATIVE DELLENEY: Does any other

1 Member of the Commission have any questions for
2 Judge Hurley?

3 There being no further questions, Judge
4 Hurley, we thank you today for appearing before us
5 and for your willingness to serve. This concludes
6 this portion of your screening process; however, the
7 record is open until the report is published and
8 until it becomes a final report of the Commission,
9 and 48-hours after that you can seek pledges, but
10 prior to the time that it becomes a report of the
11 Commission, we could re-open your public hearing and
12 bring you back and ask you questions. That's very
13 unlikely but I want to remind you of the 48-hour
14 rule.

15 Thank you for your service, and thank you
16 for offering, and I hope you and your husband have a
17 good rest of the day.

18 JUDGE HURLEY: Thank you for hearing me.
19 Have a good day.

20 REPRESENTATIVE DELLENEY: Good morning,
21 Mr. Kienker. We have today Mr. Daniel Deeds Kienker
22 seeking a position on the Family Court, 5th Judicial
23 Circuit, seat number 2. If you would, please raise
24 your right hand.

25 (Mr. Kienker, was duly sworn, after which

1 testimony commenced at 9:50 a.m.)

2 REPRESENTATIVE DELLENEY: Mr. Kienker,
3 have you had an opportunity to review your Personal
4 Data Questionnaire?

5 MR. KIENKER: I have.

6 REPRESENTATIVE DELLENEY: Is it correct?

7 MR. KIENKER: It is.

8 REPRESENTATIVE DELLENEY: So are there any
9 changes that need to be made?

10 MR. KIENKER: No.

11 REPRESENTATIVE DELLENEY: Do you object to
12 our making that summary part of the record of your
13 sworn testimony?

14 MR. KIENKER: I do not.

15 REPRESENTATIVE DELLENEY: It will be made
16 as part of the record of your sworn testimony.

17 (EXH. 2, Personal Data Questionnaire of
18 Daniel Kienker, marked for identification.)

19 REPRESENTATIVE DELLENEY: Thank you, sir.

20 The Judicial Merit Selection Commission
21 has thoroughly investigated your qualifications for
22 service on the bench. Our inquiry has primarily
23 focused on nine evaluative criteria, which include a
24 survey of the bench and the bar, a thorough study of
25 your application materials, verification of your

1 compliance with state ethics laws, a search of any
2 newspaper articles in which your name may have
3 appeared, a study of previous screenings, and a
4 check for economic conflicts of interest.

5 There are no affidavits filed in
6 opposition to your election. There are no witnesses
7 here to testify. Do you have a brief opening
8 statement that you would like to make?

9 MR. KIENKER: No, I don't. I just
10 appreciate very much the opportunity to be here, and
11 I thank the State of South Carolina, through this
12 Committee, for the opportunity and privilege to run
13 for elective office and seek a Judgeship.

14 REPRESENTATIVE DELLENEY: Thank you, sir.
15 If you would answer any questions that our able
16 Counsel may have for you.

17 MS. BENSON: Mr. Kienker, you also have
18 before you your sworn statement that you provided
19 with detailed answers to over 30 questions regarding
20 judicial conduct, statutory qualifications, office
21 administration, and temperament. Are there any
22 amendments that you would like to make to this
23 document?

24 MR. KIENKER: No. None at this time.

25 MS. BENSON: Thank you.

1 Mr. Chairman, at this time I would ask
2 that Mr. Kienker's sworn statement be entered into
3 the exhibit for the hearing record.

4 REPRESENTATIVE DELLENEY: It will be done
5 at this point in the transcript without objection.

6 (EXH. 2A, Sworn Statement of Daniel
7 Kienker, marked for identification.)

8 MS. BENSON: One final procedural matter.
9 I note for the record that Mr. Kienker meets the
10 statutory requirements for this position regarding
11 age, residence, and years of practice.

12 Mr. Kienker, because you're offering for a
13 Family Court position, would you please state the
14 city and circuit in which you reside.

15 MR. KIENKER: I reside in Blythewood,
16 South Carolina, which is in Richland County, South
17 Carolina, and I seek to serve and fill the position
18 of the 5th Judicial Circuit Family Court.

19 MS. BENSON: Mr. Kienker, why do you want
20 to be a Family Court Judge?

21 MR. KIENKER: I enjoy practicing family
22 law as an attorney, and I've done family law now for
23 about six-and-a-half-years. I've had some
24 experience before that as a criminal defense
25 attorney and prosecutor.

1 What I like about family law is the fact
2 that you deal with real people with problems right
3 now. And as I stated in my statement, I can't take
4 away the pain. I can't take away the hurt and all
5 the emotion that is involved, but I can hopefully in
6 some small way bring closure to a difficult time in
7 somebody's life, and I appreciate that opportunity
8 very much.

9 My grandfather was a medical doctor, and I
10 used to hear him say all the time that he was
11 serving his God by serving his people as a surgeon
12 and helping people get better and get well. So I've
13 taken that to heart ever since I was a child and I
14 feel that as an attorney, I can help people resolve
15 problems, because after all, attorneys are solvers
16 of people's problems. And I think that as a family
17 law practitioner, I can take that a step further as
18 a Family Court Judge.

19 MS. BENSON: Mr. Kienker, could you tell
20 the Commission about your legal and professional
21 experience and how you think that might contribute
22 to you serving as a Family Court Judge.

23 MR. KIENKER: I was privileged to serve as
24 a commissioned officer in U.S. Air Force for 26
25 years, from second lieutenant right out of college

1 to full Colonel when I retired from Langley Air
2 Force base in Virginia, and I had many worldwide
3 assignments to include being selected to command
4 three combat ready squadrons, each consisting of men
5 and women and multimillion-dollar operating budgets
6 and multimillion-dollar equipment accounts, so I
7 learned a great deal about leadership from all walks
8 of life and how to get along and accomplish mission
9 and get things done.

10 So I think to any job that I bring as an
11 attorney or as a judge, I bring a focus on the task
12 at hand and outstanding work ethic. I don't leave
13 the office early today. I will stay as long as it
14 takes to get the job done. So I think I bring those
15 attributes of a professional military officer to the
16 practice of law and I will as a judge.

17 MS. BENSON: Mr. Kienker, are there any
18 substantive or procedural areas in the law that you
19 feel that you might need additional experience or
20 additional study that would assist you in being a
21 Family Court Judge?

22 MR. KIENKER: One of the comments -- one
23 of the feedbacks that I received from the members of
24 the bar when I met with them several weeks ago, is
25 that I don't have a lot of experience in dealing

1 with clients that have a great deal of assets when
2 it comes to property division, and that's a true
3 statement. I don't. The clients that I've dealt
4 with are folks that are good salt of the earth folks
5 without those assets. And so working with
6 retirement accounts, 401Ks, real property all over
7 the place -- I don't have a lot of experience in
8 that, but I recognize that's a shortfall in an area
9 that I need to bone up on and will bone up on
10 through self-study and CLEs, so I recognize that's a
11 shortfall.

12 MS. BENSON: Mr. Kienker although you've
13 addressed this in your sworn affidavit, would you
14 please explain to the commission what you think is
15 the appropriate demeanor of a Judge?

16 MR. KIENKER: Well, I think the
17 appropriate demeanor of a Judge at all times --
18 well, it's a serious business. When you walk into
19 the courtroom, I look at it like walking into a
20 church. There's a certain amount of solemnity that
21 has to be observed by all parties. It's serious
22 business.

23 People are bringing to the bench their
24 problems, and they need help to resolve those
25 problems, so it's time for serious business. And I

1 think the Judge should act that way. I don't think
2 a Judge should ever, ever berate anybody --
3 certainly attorneys in front of their clients. That
4 doesn't mean a Judge doesn't have responsibility to
5 maintain order and exercise his or her power to do
6 that. I think a Judge needs to be above the fray
7 and be serious and treat people with respect and
8 dignity and make sure people respect the judicial
9 proceedings.

10 MS. BENSON: Thank you. Mr. Kienker, do
11 you currently carry malpractice insurance in your
12 law practice, and, if so, how long have you carried
13 malpractice insurance?

14 MR. KIENKER: I do carry it, and I've
15 carried it ever since I opened my law practice well
16 over a year-and-a-half ago.

17 MS. BENSON: Thank you.

18 Mr. Kienker, you disclosed for the
19 commission that you had received a private and
20 confidential letter of caution from the Commission
21 on Lawyer Conduct, that found no misconduct.

22 Would you please explain the circumstances
23 of that letter and what you've learned from the
24 letter.

25 MR. KIENKER: Thank you. I'll be glad to.

1 Shortly after I started working for the Law Firm
2 Williams, Hendrix, Steigner & Brink
3 six-and-a-half-years ago practicing family law, I
4 had a client that retained me, and his spouse
5 represented herself -- didn't have an attorney. And
6 she was constantly on my back, you know, calling me,
7 wanting to know why I hadn't responded to this and
8 why I wasn't answering this question and when was
9 the Judge going to sign this order and so on and so
10 forth. And finally one day she sent me an e-mail
11 and asked me why something hadn't been done, and I
12 said, Lady, it'll get done when it gets done. Get
13 off my back.

14 So she reported that to the office of the
15 disciplinary counsel, and I received a letter of
16 caution on that. In defense of myself, I had just
17 come to the practice of family law from being a
18 prosecutor in Union County where I ran the court up
19 there all by myself. I had to schedule the docket.
20 I had to deal with criminal defendants. I had to
21 call role. I had to maintain order in the
22 courtroom. Sometimes I had to shout to be heard.
23 Sometimes I came across as maybe a little demanding,
24 but that was the nature of being a prosecutor and
25 running court and keeping the docket moving and

1 keeping the court quiet with defendants who
2 sometimes were not inclined to be that way.

3 So I think I was kind of making that
4 transition from being a prosecutor to being a family
5 law attorney and trying to become more empathetic
6 and sympathetic and understanding. I got a letter
7 of caution. I got it and there's not been an
8 incident ever since. I learned my lesson. I took
9 it to heart and there's been no problem since.

10 MS. BENSON: Mr. Kienker, you also have
11 had your job record since you've begun in your legal
12 jobs, you've spent a short amount of time at each of
13 the jobs that you've had.

14 Could you tell the Commission a little bit
15 about how you've changed jobs?

16 MR. KIENKER: Well, I think, you know, I
17 was finding my niche. I clerked for Judge Jimmy
18 Williams for about six months. He knew I wanted to
19 be a prosecutor so when the folks at the 5th Circuit
20 asked him to release me early from my commitment, he
21 granted that and I had a great time working as a
22 prosecutor.

23 I learned a lot going before a judge and
24 jury and opening statements. I had great time. And
25 I was given the opportunity to go in with a law

1 firm -- a friend of mine from law school -- and that
2 law firm didn't make it since shortly after I left,
3 it dissolved. So I went back into the prosecution
4 business for a while in Union, South Carolina.

5 I was commuting from Blythewood to Union,
6 and I did that for two-and-a-half-years, and finally
7 I said, I need to find something closer to home for
8 the gas and wear and tear on my car. So the
9 opportunity with Williams, Hendrix, Steigner & Brink
10 came up, and I jumped on it and got that job. I had
11 done some work for them as a law clerk so that was a
12 good fit.

13 But I found my niche as a family law
14 attorney and I very much enjoy it.

15 MS. BENSON: Mr. Kienker, your credit
16 report indicated that there were some student loans
17 that had been deferred. Could you also explain
18 about that.

19 MR. KIENKER: Those are student loans from
20 my children in college. One graduate from Clemson,
21 I have another in Clemson and one trying to get into
22 Clemson as we speak. So those are student loans
23 from them that have been deferred until after
24 they've graduated.

25 MS. BENSON: And you're currently paying

1 on student loans?

2 MR. KIENKER: Yes. I am.

3 MS. BENSON: Mr. Kienker, the Commission
4 received 66 ballot box surveys, nine with additional
5 comments. Three of those comments indicated
6 concerns about your intelligence, judgment, and
7 intellect. If you would respond to those please.

8 MR. KIENKER: Let me start out by saying,
9 first of all, that what I'm about to say I say with
10 complete humility. I'm not trying to boast or brag.

11 Honestly, you don't get to where I am
12 right now by being some intellectual empty suit or
13 light weight. I had a chance to serve my country
14 for 26 years prior to becoming an attorney.

15 I think most commissioned officers in any
16 branch of the service aspire to command at least
17 some time in their career at some level, but few are
18 ever selected. I was selected three times by three
19 general officers, multimillion-dollar operating
20 account to go out in harm's way, if called upon, and
21 accomplish the mission.

22 I can assure this Committee that if any of
23 those general officers ever had any questions about
24 my intelligence or ability to make snap decisions
25 and exercise good judgment, I never would be

1 selected to command. Few are selected for it, and
2 it's a very competitive process. I would
3 respectfully say, I respect anybody's right to say
4 what they want to about me, but I don't think that
5 person knows me very well that made that comment.

6 I can assure the Committee that I'm more
7 than capable and intelligent to handle the duties of
8 being a Family Court Judge, recognizing that I have
9 deficiencies that I need to work on.

10 MS. BENSON: Mr. Kienker, let me also
11 point out that the South Carolina Bar Judicial
12 Qualifications Committee also noted at the end of
13 their evaluation that concerns were raised as to the
14 candidate's experience as well as professional and
15 academic ability. Is there anything else that you
16 would add?

17 MR. KIENKER: No. Again, I've got a total
18 of 12 years experience as an attorney.
19 Six-and-a-half as a family law attorney, and I've
20 been able to participate in the entire spectrum of
21 being an Family Court attorney, whether it's
22 divorce, property division, child custody -- I've
23 worked several DSS cases -- many of those -- rule to
24 show cause. You name it. Adoptions in state and
25 out of state.

1 So I've had the breadth of experience for
2 six-and-a-half-years as a family court attorney.
3 Again, recognizing that it's a learning process
4 always. I think that I'm well qualified to serve as
5 a Judge.

6 MS. BENSON: Mr. Kienker, a newspaper
7 search revealed that you have written and published
8 in the past, five letters to the editor, which have
9 been published from 2001 to 2009.

10 And they dealt with topics such as the
11 Patient Protection and Affordability Act, a
12 congressional letter about a community concert band
13 and its inclusiveness, a letter about the Democratic
14 party and elections of 2002, where you identified
15 yourself as a Democrat but congratulated
16 Republicans, and note about a television series on
17 child molestation.

18 The final letter was about the use of
19 military in Congressman Wilson's campaign television
20 advertisements. I know that you're aware of the
21 cannons and judicial conduct.

22 As a Judge, what would your practice be
23 concerning letters to the editor?

24 As a follow-up question, if a litigant came
25 before you having read one of the past letters and

1 asked you to recuse yourself, how would you respond?

2 MR. KIENKER: First of all, yes. I did
3 write those letters. Secondly, I get it as a Judge.
4 A Judge has the responsibility to not even give the
5 appearance of taking a position for either a
6 candidate or a political party or a certain issue.

7 I understand that if nominated and elected
8 as a Family Court Judge, I would certainly uphold
9 that. You know, I do that now really as a criminal
10 defense attorney. I may find a client's alleged
11 crime odious, reprehensible, something that I
12 personally don't like, but I realize that I have a
13 duty as an attorney to overlook that and to set
14 aside whatever personal feelings I may have.

15 So I really do that now as a lawyer, and I
16 certainly would do that as a Judge. I would never
17 speak out against anything or violate the canons of
18 judicial ethics. If someone came to me and had a
19 concern about that, I would certainly say, I'm out
20 of here. I'm recusing myself because I would never
21 want to give the appearance of being unfair or not
22 giving someone a fair hearing.

23 MS. BENSON: Thank you, Mr. Kienker. I
24 have a few housekeeping issues.

25 Have you sought or received the pledge of

1 any legislator prior to this day?

2 MR. KIENKER: No. I have not.

3 MS. BENSON: Have you been offered a
4 conditional pledge of support of any legislator
5 pending the outcome of your screening?

6 MR. KIENKER: No. I have not.

7 MS. BENSON: Have you asked any third
8 parties to contact Members of the General Assembly
9 on your behalf?

10 MR. KIENKER: No. I have not.

11 MS. BENSON: Are you aware of anyone
12 attempting to intervene in the process on your
13 behalf?

14 MR. KIENKER: No. I am not.

15 MS. BENSON: Have you contacted any
16 members of this Commission?

17 MR. KIENKER: I have not.

18 MS. BENSON: Do you understand that you
19 are prohibited from seeking a pledge or commitment
20 until 48-hours after the formal release of the
21 Commission's report?

22 MR. KIENKER: I do.

23 MS. BENSON: Have you reviewed the
24 Commission's guidelines on pledging?

25 MR. KIENKER: Yes. I have.

1 MS. BENSON: Are you aware the penalties
2 for violating the pledging rules are misdemeanor
3 and upon conviction, the violator must be fined not
4 more than \$1,000 or imprisoned not more than 90
5 days?

6 MR. KIENKER: Absolutely.

7 MS. BENSON: I would note that the
8 Midlands Citizens Committee found Mr. Kienker either
9 qualified or well qualified in all of the evaluative
10 criteria. In summary the committee stated, "Enjoyed
11 our time with Mr. Kienker. He's a retired colonel
12 and honorably served our country for 25-years in the
13 Air Force. He is mature and sincere, and he possess
14 a great amount of common sense. We are certain he
15 would make an excellent Judge and find him well
16 qualified to serve on the Family Court".

17 I would also note that any concerns raised
18 during my investigation have been incorporated into
19 the questions today, and Mr. Chairman, I have no
20 further questions.

21 REPRESENTATIVE DELLENEY: Does any member
22 of the Commission have any questions for Mr.
23 Kienker?

24 PROFESSOR FREEMAN: I do.

25 Suppose a litigant appeared before you,

1 and says, I read your letter to the editor where you
2 explain you're a Democrat. I'm a Tea Party
3 Republican. I don't think you can be fair to me,
4 and I ask that you recuse yourself.

5 What do you do?

6 MR. KIENKER: First of all, I think I
7 would have to take that under advisement and think
8 about it as I'm doing now. But I think on the side
9 of caution -- I would err on the side of caution and
10 probably recuse myself if it was a big issue with
11 that person, and he didn't feel like I could preside
12 unbiasedly.

13 PROFESSOR FREEMAN: Let me suggest this.
14 There's a judicial advisory opinion writing group
15 for judges. Before you adopt any view that you're
16 going to automatically recuse yourself, you really
17 should get an opinion from that group to find out
18 it's necessary.

19 MR. KIENKER: That's good advice. Thank
20 you, Professor Freeman.

21 REPRESENTATIVE DELLENEY: Does any other
22 member of the Commission have any questions for Mr.
23 Kienker?

24 REPRESENTATIVE CLEMMONS: I just want to
25 thank you for your service to our country and your

1 patriotism and your willingness to serve our state.

2 I appreciate that.

3 MR. KIENKER: Thank you very much.

4 REPRESENTATIVE DELLENEY: This concludes
5 this portion of your screening process; however, the
6 record is open until the report is published and
7 until it becomes a final report of the Commission,
8 and 48-hours after that you can seek pledges, but
9 prior to the time that it becomes a report of the
10 Commission, we could re-open your public hearing and
11 bring you back and ask you questions. That's very
12 unlikely but I want to remind you of the 48-hour
13 rule.

14 Thank you for your service, and thank you
15 for offering.

16 MR. KIENKER: Thank you very much.

17 REPRESENTATIVE DELLENEY: All right. We
18 have before us this morning Mr. Robert Masella who
19 seeks a position on the Family Court, 5th Circuit,
20 Seat number 2.

21 Mr. Masella, is there anybody here that
22 you need to introduce us to?

23 MR. MASELLA: I'd like to introduce my
24 wife, Leah, and these other folks are here too.

25 REPRESENTATIVE DELLENEY: Okay. Thank

1 you, sir. If you would please raise your right hand
2 to be sworn.

3 (Mr. Robert Masella, was duly sworn, after
4 which testimony commenced at 10:20 a.m.)

5 REPRESENTATIVE DELLENEY: Mr. Masella,
6 have you had an opportunity to review your Personal
7 Data Questionnaire?

8 MR. MASELLA: I have.

9 REPRESENTATIVE DELLENEY: Is it correct?

10 MR. MASELLA: It is.

11 REPRESENTATIVE DELLENEY: Are there any
12 changes?

13 MR. MASELLA: No.

14 REPRESENTATIVE DELLENEY: Do you object to
15 our making that summary part of the record of your
16 sworn testimony?

17 MR. MASELLA: I do not.

18 REPRESENTATIVE DELLENEY: It will be made
19 part of your sworn testimony as part of the record.

20 (EXH. 3, Personal Data Questionnaire of
21 Robert Masella, marked for identification.)

22 REPRESENTATIVE DELLENEY: Thank you, sir.

23 The Judicial Merit Selection Commission
24 has thoroughly investigated your qualifications for
25 service on the bench. Our inquiry has primarily

1 focused on nine evaluative criteria, which include a
2 survey of the bench and the bar, a thorough study of
3 your application materials, verification of your
4 compliance with state ethics laws, a search of any
5 newspaper articles in which your name may have
6 appeared, a study of previous screenings, and a
7 check for economic conflicts of interest.

8 There are no affidavits filed in
9 opposition to your election. There are no witnesses
10 here to testify. Do you have a brief opening
11 statement that you would like to make?

12 MR. MASELLA: Yes, sir. Thank you for
13 hearing me today. I'd like to answer any questions
14 that the Committee has.

15 REPRESENTATIVE DELLENEY: Thank you, sir.
16 If you would answer any questions our able Counsel
17 may have for you.

18 MS. SHULER: Good morning, Mr. Masella.
19 You have before you your sworn statement. Are there
20 any amendments that you would like to make at this
21 time?

22 MR. MASELLA: No, ma'am.

23 MS. SHULER: Mr. Chairman, I would like to
24 offer that the sworn statement be entered into the
25 record as an exhibit.

1 REPRESENTATIVE DELLENEY: Without
2 objection it will be done at this point in the
3 transcript.

4 (EXH. 3A, Sworn Statement of Robert
5 Masella, marked for identification.)

6 MS. SHULER: Mr. Masella, would you state
7 the city and circuit in which you reside?

8 MR. MASELLA: I am in Columbia, South
9 Carolina, 5th Judicial Circuit.

10 MS. SHULER: Thank you. Mr. Masella,
11 you've been an licensed attorney with the South
12 Carolina Bar since 1995. Why do you now want to
13 serve as a Family Court Judge?

14 MR. MASELLA: I want to help families
15 grow, as mine did. I was born to a single mother
16 and was adopted by a family. I want to help the
17 unfortunate like my brother Frank who had cerebral
18 palsy and provide security that the Family Court can
19 do in certain circumstances.

20 I want to help people with their losses.
21 I want to help young men and young folks who are
22 alone, and I want to help them to understand that
23 they can be more than just somebody who is a
24 juvenile delinquent. That's something that Family
25 Court can do.

1 Unquestionably I've learned a lot from my
2 life experiences, and I want to share this with the
3 litigants who come before me. I think a Family
4 Court Judge should have experiences like I've had,
5 and I want to help our community and help the court
6 and administration of justice in South Carolina.

7 MS. SHULER: Mr. Masella, as a follow-up,
8 you previously filed for the circuit court seat in
9 the fall of 2011. How has the nature of your law
10 practice changed since that filing?

11 MR. MASELLA: My practice hasn't changed
12 over the last 17 years. I've handled all kinds of
13 cases. After my clerkship on the Court of Appeals
14 and my time with the 5th Circuit Solicitor's Office,
15 I opened up my own practice in 1998.

16 I have approximately 25-percent of my
17 practice is criminal. A lot of that transfers into
18 family law as well. Twenty-five percent is civil
19 law, which includes personal injury. I do some
20 probate work. Forty-five to 50-percent of my
21 practice involves family law. I do everything from
22 divorce, custody, property division, abuse and
23 neglect cases, DSS.

24 I've done juvenile prosecutions as well as
25 defended juveniles in Family Court. So my practice

1 being heavily weighted towards family, is fine. I
2 understand the law of the Family Court, as I do the
3 law of the Circuit Court. It really hasn't changed
4 but there's a five percent difference from when I
5 was here the last time but that's because the
6 attorneys who were with me.

7 MS. SHULER: Is there anything
8 additionally that you would like to add regarding
9 the change, or you ran for Circuit Court before and
10 now you're running for Family Court. You're
11 basically testifying that your law practice has not
12 substantively changed other than maybe five percent;
13 is that correct?

14 MR. MASELLA: Yes.

15 MS. SHULER: Are there any areas of law
16 that you would need to prepare for on the Family
17 Court bench, and, if so, how would you undergo that
18 preparation?

19 MR. MASELLA: Well, Family Court involves
20 DJJ and how to determine sentencing and
21 rehabilitation of juveniles. That's something that
22 I would need to work on. I would, of course, talk
23 to other Judges, read the statutes, talk to
24 counselors on both sides, talk to DJJ case workers
25 and figure out how the system works.

1 MS. SHULER: Mr. Masella, would you
2 explain to the Commission what you believe to be the
3 appropriate demeanor for a Judge?

4 MR. MASELLA: Certainly. A Judge needs to
5 be engaged in the proceedings, should reflect
6 preparedness and interest. A Judge should always
7 remain calm, unassuming, and open to interpretation,
8 be firm in their decisions and have control in the
9 courtroom.

10 A Judge should engender an atmosphere
11 where respect and dignity is presented, and that way
12 the court will receive the same from litigants.

13 MS. SHULER: As a follow-up, is anger ever
14 appropriate for a Judge?

15 MR. MASELLA: No. A Judge doesn't have
16 any part of the case. The Judge is a neutral third
17 party who is there to apply the law to the facts.
18 Anger has no place in the courtroom, and I don't --
19 I understand that there are a lot of emotions in
20 Family Court, but there's no reason for a Judge to
21 get caught up in the emotional part. He's just
22 applying facts of each case to the law.

23 MS. SHULER: Thank you. Is there any
24 Family Court Judge currently on the bench that you
25 believe exemplifies what you've explained a Judge

1 should have for demeanor?

2 MR. MASELLA: Yes, ma'am. I originally
3 thought B Brown was one of the best jurists in the
4 state, and we lost him. Now we have Donny Jones.
5 Donny Jones is always prepared. She knows how to
6 practice law because she's had a practice. She
7 understands how to handle clients, she understand
8 the law, and she can see through the mud. She knows
9 what's going on and she can issue a fair and
10 reasoned opinion that's fair to both parties. She's
11 not biased and she's easy to get along with and is
12 inquisitive and will find out all she needs to know
13 before making her decision.

14 MS. SHULER: Thank you. If you're
15 selected to the Family Court bench, what would you
16 like your legacy to be known as?

17 MR. MASELLA: I'd like to be remembered as
18 fair and knowledgeable. I'd like to be known as a
19 person who cared about the results of my decisions.
20 I'd like to be known as somebody who treats
21 litigants fairly and evenhandedly and because I
22 followed the law that my decisions were predicable
23 and fair.

24 MS. SHULER: What suggestions would you
25 offer for improving the backlog on the Family Court

1 docket?

2 MR. MASELLA: There's a lot of downtime on
3 Fridays, and I think that can be used in a number of
4 ways. Judge Morris had this thing in Richland
5 County called rocket docket. If you had a case that
6 was settled, you brought it in on Fridays and get
7 that off the backlog. Then we can handle a lot of
8 pro se cases. I understand there are a lot more pro
9 se cases.

10 The Supreme Court is promoting pro se
11 litigants to handle their own cases. The following
12 week I would have a backup docket and try to get the
13 attorneys for both primary and backup cases on the
14 phone, come in to meet, see what issues we could
15 resolve on Friday, so we'd have less to deal with
16 the following week and then be able to make the
17 trial shorter and get more through the court the
18 following week.

19 MS. SHULER: Thank you. Do you currently
20 carry malpractice insurance, and, if so, how long
21 have you carried it?

22 MR. MASELLA: I've had it since 1998. I
23 currently carry it and always carried it and it has
24 a tail policy on it.

25 MS. SHULER: Mr. Masella, the Commission

1 received 164 ballot box surveys regarding you with
2 19 written comments of which eight comments
3 expressed concerns. Several of the written comments
4 noted concerns regarding your temperament, and I
5 would like to note that with respect to temperament,
6 138 people filled out the ballot box survey and 61
7 said you were well qualified, 38 said you were
8 qualified, 39 said you were unqualified, and 26 said
9 no opinion.

10 Several of the written comments indicated
11 concerns regarding your temperament, specifically
12 they allege that you lack patience and respect for
13 opposing counsel as well as can be hotheaded in
14 representation of clients.

15 What response would you offer to these
16 concerns regarding your temperament?

17 MR. MASELLA: I would ask the Commission
18 to first look at 11 positive notes that are not
19 listed. There are 19 notes and 11 are positive.
20 They say I'm an excellent attorney, I would be a
21 wonderful addition to the bench. They give me
22 wholehearted support that I'm experienced, vigorous
23 advocate, ethical. And someone was kind enough to
24 say that I'm a very kind man.

25 So with that in mind, I don't know what a

1 particular attorney who say I lacked patience or
2 said I was hotheaded. I don't know who they are.
3 What we're dealing with in Family Court is the most
4 important thing in people's lives. We're dealing
5 with children, their spouses, or disappointment in
6 their spouses, we're dealing with people who don't
7 know if they can financially support themselves, and
8 they fear the eventual outcome.

9 With temperament we're talking about two
10 different jobs. We have an attorney who is an
11 advocate for their client and we have a Judge who,
12 as I say, is an unbiased neutral third party. You
13 asked me if I think a Judge should be involved in
14 the emotions of the case. And as I stated, no.
15 There's no place or reason for that. Family Court
16 can be acrimonious. It is not for the faint of
17 heart.

18 I've always tried to resolve a case
19 through mediation or any other available way to
20 handle the case. If we're not able to resolve it,
21 then we have to bring it before the Judge and let
22 the Judge decide. My clients hire me to be an
23 advocate. They don't hire me to be rude to the
24 other attorney or do anything that would cause
25 concern to any party. And I don't allow my clients

1 to point fingers at other attorneys because there's
2 no place for that. What we have to be concerned
3 with is I have to represent my clients. I need to
4 present facts to the Court, and allow them to decide
5 what the laws is and apply it. I respect the
6 judicial system. I strive to be respectful,
7 patient -- I strive to have a patient temperament.
8 I strive to be ethical and I strive to be civil. I
9 think I have these qualities.

10 My two previous screenings say I do. This
11 is the only time this has become an issue. I was
12 screened within the last year, and I don't know how
13 this has changed over the last year. I'm here to
14 tell you that I am not rude. I'm collegial. I
15 would never accuse another attorney of impropriety.

16 As you can see from my colleagues here in
17 the room, they're here to vouch for my ethics, my
18 character, my reputation, and my judicial
19 qualifications. And I thank them all for being
20 here. It's been a tough couple weeks for me and my
21 family. It seems there's been a concerted effort to
22 influence my candidacy this time around and, as you
23 know, I've been through this twice. The results now
24 are starkly different than what they were the two
25 previous times I was before this Commission. What I

1 can tell you is the last time I was before the
2 Commission, you all found me qualified. I've
3 learned time and time again that there are things in
4 your life that you have no control over. I don't
5 know what happened. I can't explain what an honest
6 attorney is saying about me. I can't tell you why
7 I'm unqualified, but I can tell you why I am
8 qualified.

9 The challenges that I've faced in my life,
10 have shaped me into the husband, lawyer, citizen,
11 father, and the person that I am. I would ask you
12 to look at the PDQ 50. You'll see the personal
13 experiences that I've endured and you'll also see
14 the professional things that I've had to deal with.
15 I've been -- I have the discipline. I've been -- I
16 went to Valley Forge Military School in
17 Pennsylvania, which gave me the opportunity to be
18 disciplined and have the structure necessary to
19 handle the work that a Family Court Judge needs to
20 handle. And I'm able to handle controversy. I
21 follow through with commitment, work long hours, and
22 get the job done.

23 We're in an open hearing, and as Chairman
24 Delleney said, there are no affidavits before me or
25 witnesses against me. This was all done in an

1 anonymous setting and I'm here and my colleagues are
2 here. There are even police officers here who have
3 appeared before me to let you know that I am an
4 ethical person. I have the character necessary. I
5 do have a good reputation. I'm qualified to serve
6 on our judiciary. I can't tell you why the reports
7 say what they say. There are places and procedures
8 that deal with complaints and this is one of them.
9 You're giving them an opportunity to be heard, and I
10 have the opportunity to answer what they say that
11 I've done.

12 Again, this is totally different than what
13 happened a year ago, but these people have chosen to
14 cloak themselves in the anonymity of what the poles
15 are taken. And I don't have the chance to answer
16 any specific allegation. I'm willing to accept
17 service of any direct complainant brought against me
18 and I'll answer that to you. I just want you to
19 understand that I don't understand.

20 Frankly, that's what I try to live my life
21 to be a good, honest, upstanding person. I try to
22 care for the people around me. I try to do what is
23 necessary to be a good person, and, you know, I
24 believe in public service. I am a person who is
25 involved with his church. I've been involved with

1 the School Board. A couple attorneys here have also
2 been on the School Board, and one of the attorneys
3 said that was most acrimonious situation, people
4 always arguing, but I was always the person that
5 tried to calm people down and come to a resolution,
6 and I think that's what a Judge does. Somebody who
7 gets people in line to get what needs to be done.

8 I've even been the subject of ETVS
9 documentary, which highlighted my life as an
10 inspiration to others, so I'm not somebody that is
11 unethical or does things that these reports are
12 saying that I am. I don't know why they're saying
13 it. I give myself freely, and I believe I'm
14 qualified to become a Family Court Judge.

15 MS. SHULER: Thank you, Mr. Masella.

16 I do know that the ballot box is an
17 anonymous electronic survey. We had 164 attorneys
18 who completed the survey. You did note there were
19 some good drop down written comments, but there were
20 also some concerns raised.

21 Another concern was that you were heavy
22 handed when you deal with defendants and served as
23 City Judge. How would you be serving as a Family
24 Court Judge for juveniles that have come before you?

25 MR. MASELLA: My philosophy is that good

1 people make bad decisions. We all make mistakes.
2 When I was the City Judge, it was usually just me,
3 the officer, and the defendant, and I didn't
4 generally have attorneys before me.

5 Now, when somebody came before me, I
6 believe that they deserve an opportunity to prove
7 themselves. They made a mistake. But if they came
8 back before me for the same thing, I was less likely
9 to be lenient. Maybe the person that reported me as
10 heavy handed saw me with a person that came back a
11 second time for the same crime.

12 So as far as juveniles, as I told you
13 earlier, I would be going to DJJ to find out how it
14 works, because I believe for juveniles that the time
15 that they spend at DJJ is for rehabilitation. We're
16 not trying to put them away. We're trying to
17 rehabilitate them so when they become adults, when
18 they're 21 and are released, they're ready to be
19 back in society.

20 So I see somebody saying heavy handed is
21 probably something that I didn't do much. I was
22 lenient to start with, kept coming back in front of
23 me. I wanted to make sure you heard what I had to
24 say.

25 MS. SHULER: Mr. Masella, an additional

1 ballot box comment expressed concern that you had
2 sued a former client over legal fees. Could you
3 explain that situation?

4 MR. MASELLA: Sure. Our profession is
5 guided by rules of ethical conducts. We're
6 obligated to serve clients and we represent them as
7 best we can. But what we do feeds our family and
8 people who work for us -- their families.

9 What we have to sell is our time and our
10 experience. And at the beginning of every case that
11 I have, I sit down with the client, go through a
12 retainer agreement, and explain what I'm going to
13 do, and what their obligations for that are in
14 return.

15 Now, a lot of times, everybody takes care
16 of it. In domestic cases there are times when there
17 is not anything left over. Divorce is expensive.
18 Not only for attorneys but in general. So when
19 can't repossess our time. We can't cancel like an
20 insurance company can. We can't put a lien on them.

21 So the only remedy that we have is either
22 we write off the debt, or if the client just looks
23 at me, and says -- for some reason they think at the
24 end of the case, that they don't need you anymore
25 and don't need to pay you for the work you've done.

1 And they look at you, and they say, I'm not
2 going to pay you. They have assets and the only
3 remedy we have is to go to court and sue them. So
4 it's not something that I want to do. It's not
5 something that we do often, but when this is all you
6 have, this is what you're selling to them. You
7 can't get a pizza and not pay for it. But we do a
8 lot of work for a lot of people. There are some
9 cases, that I understand. I have a lady paying me
10 for five years, \$50 a month. That's fine. As long
11 as they hold up their end and I do my job, I think
12 it's fair.

13 MS. SHULER: Was there than an instance
14 where you did sue?

15 MR. MASELLA: There was. And it was --
16 yes. There was a lady who was abused by her
17 husband, and I got involved to help this lady. She
18 brought me \$1,000 in 2004, and I went through some
19 30 some odd thousand dollars in fees to help this
20 woman. Her husband burned my office down, so I put
21 a lot of myself in that case.

22 A lot of times I help a lot of abused
23 people. A lot of those people never pay me a dime,
24 but when they have money at the end of the day and
25 they look at you, and say, I'm not going to pay you.

1 And my family was terrified. This man was after me.
2 He had a gun. He was going to kill me. He burned
3 down my office. Well, you know, I think the woman
4 should have at least offered to pay something but
5 she told me she wasn't going to pay anything. So I
6 sued her, and she had more than enough assets to pay
7 my firm.

8 MS. SHULER: The South Carolina Bar
9 Judicial Qualification Committee found you to be
10 overall unqualified, and unqualified for evaluative
11 criteria for ethical fitness, character, reputation,
12 and temperament.

13 What response would you offer to the
14 Judicial Qualification Committee for a finding of
15 unqualified four of the evaluative criteria? And I
16 would note for the record that Mr. Masella provided
17 a letter to the Commission Members, dated November
18 1st, 2012, included in your notebooks today.

19 MR. MASELLA: As I say, I can't explain.
20 I don't know what happened. I can't look at
21 somebody and understand why they're saying that I am
22 unethical, bad character, bad demeanor, bad
23 reputation. That's not something that I've ever
24 had. I've always been the attorney that people
25 trust. I have attorneys tell me that. I sometimes

1 have to send letters to other attorneys after a case
2 but with you, I don't have to do that. Because I am
3 a man of my word. If I give you my word, it's my
4 bond. You've heard that but it's true.

5 So I can't explain it. I don't know what
6 happened. All I can say is that there is some sort
7 of concerted effort to effect this candidacy. By
8 saying I have bad character or unethical behavior --
9 who would elect or nominate someone to the
10 legislature?

11 All I can say is that these people are
12 here to show support, and these people are some of
13 the top attorneys, top people, in our profession,
14 and I'm so proud that they've come here to support
15 me. I can tell you that I asked another attorney to
16 come, and she wrote me a note, and if I can read the
17 note that she wrote.

18 She said, she couldn't come, explained
19 why. She said, "With that being said, I want you to
20 know that I have never had an experience with you
21 personally or professionally that has caused me any
22 concern about your personal or professional fitness,
23 integrity or intelligence. On the contrary, my
24 dealing with you has been positive and entirely
25 professional. You have responded to every request I

1 have ever made for information, and have been
2 amenable to considering whatever suggestions and/or
3 recommendation I have made. I regret my inability
4 to appear at the hearing tomorrow". This is what my
5 reputation is.

6 MS. SHULER: Mr. Masella, as a brief
7 follow-up, I understand that the JQC committee was
8 made up of Family Court practitioners, and they made
9 at least 30 calls to Family Court practitioners in
10 your practice area and that knew you.

11 Is there anything further that you can
12 state with respect to that?

13 MR. MASELLA: I just don't know who they
14 talked to. They're anonymous. They're people -- I
15 mean, this is the chance -- I just have no
16 explanation.

17 MS. SHULER: Thank you.
18 I have a few housekeeping issues. Have you sought
19 or received the pledge of any legislator prior to
20 this day?

21 MR. MASELLA: No, ma'am.

22 MS. SHULER: Have you sought or have you
23 been offered a conditional pledge of support of any
24 legislator pending the outcome of your screening?

25 MR. MASELLA: No, ma'am.

1 MS. SHULER: Have you asked any third
2 parties to contact Members of the General Assembly
3 on your behalf?

4 MR. MASELLA: No, ma'am.

5 MS. SHULER: Are you aware of anyone
6 attempting to intervene in the process on your
7 behalf?

8 MR. MASELLA: No, ma'am.

9 MS. SHULER: Have you contacted any
10 members of this Commission?

11 MR. MASELLA: No, ma'am.

12 MS. SHULER: Do you understand that you
13 are prohibited from seeking a pledge or commitment
14 until 48-hours after the formal release of the
15 Commission's report?

16 MR. MASELLA: Yes, ma'am.

17 MS. SHULER: Have you reviewed the
18 Commission's guidelines on pledging?

19 MR. MASELLA: Yes. I have.

20 MS. SHULER: Are you aware of the
21 penalties for violating the pledging rules are
22 misdemeanor and upon conviction, the violator must
23 be fined not more than \$1,000 or imprisoned not more
24 than 90 days?

25 MR. MASELLA: I am.

1 MS. SHULER: The Midlands Judicial
2 Citizens Committee found Mr. Masella qualified on
3 the criteria of constitutional qualifications,
4 physical health, and mental stability, and they
5 found him well-qualified on the criteria of ethical
6 fitness, professional and academic ability,
7 character, reputation, experience, and judicial
8 temperature.

9 I would note that any concerns raised
10 during the investigation regarding the candidate,
11 were incorporated into the questioning of Mr.
12 Masella today.

13 Mr. Chairman, I have no further questions.

14 REPRESENTATIVE DELLENEY: Do any members
15 of the Commission have questions for Mr. Masella?

16 There being none, I thank you,
17 Mr. Masella, for availing yourself of the process
18 and seeking the position of Family Court Judge.

19 As you know this concludes this portion of
20 your screening; however, up to the time the draft
21 report becomes the report of the Commission, we
22 could reconvene and bring you back down here.
23 That's not likely but that's a possibility.

24 Again I'll remind you about the 48-hour
25 rule in regard to seeking commitments, and again,

1 thank you for offering to serve and have a good rest
2 of the day.

3 MR. MASELLA: Thank you, Mr. Chairman.

4 (A recess transpired.)

5 REPRESENTATIVE DELLENEY: Good morning,
6 Judge Cone. We have before us the Honorable Walter
7 Wallis Cone who just came out hospital to be with us
8 this morning, and he seeks the position on the
9 Family Court, 8th Circuit, Seat number 3.

10 If you would please raise your right hand
11 to be sworn.

12 (Judge Robert Cone, was duly sworn, after
13 which testimony commenced at 11:05 a.m.)

14 REPRESENTATIVE DELLENEY: Have you had an
15 opportunity to review your Personal Data
16 Questionnaire?

17 JUDGE CONE: Yes. I have.

18 REPRESENTATIVE DELLENEY: Is it correct?

19 JUDGE CONE: Yes. It is.

20 REPRESENTATIVE DELLENEY: So I assume
21 there are no changes that need to be made.

22 JUDGE CONE: The only thing that I will
23 mention, there was a question regarding health
24 issues. I have very recently -- in the last 48
25 hours, I did experience seizures on Monday and was

1 hospitalized.

2 I'm still undergoing some testing related
3 to that, but they've ruled out most of the more
4 problematic causes, so I'm hopeful that it is
5 something simple that can be treated with
6 medication.

7 REPRESENTATIVE DELLENEY: Thank you, sir.
8 Do you object to our making your Personal Data
9 Questionnaire part of the record of your sworn
10 testimony?

11 JUDGE CONE: Not at all.

12 REPRESENTATIVE DELLENEY: It will be done
13 at this point in the transcript.

14 (EXH. 4, Personal Data Questionnaire of
15 Judge Cone, marked for identification.)

16 REPRESENTATIVE DELLENEY: The Judicial
17 Merit Selection Commission has thoroughly
18 investigated your qualifications for service on the
19 bench. Our inquiry has primarily focused on nine
20 evaluative criteria which include a survey of the
21 bench and the bar, a thorough study of your
22 application materials, verification of your
23 compliance with state ethics laws, a search of any
24 newspaper articles in which your name may have
25 appeared, a study of previous screenings, and a

1 check for economic conflicts of interest.

2 There are no affidavits filed in
3 opposition to your election. There are no witnesses
4 here to testify. Do you have a brief opening
5 statement that you would like to make?

6 JUDGE CONE: Mr. Chairman and members of
7 the Commission, I'm grateful to be able to appear
8 before you today. It's a great honor, and I
9 appreciate your time and attention this morning.

10 REPRESENTATIVE DELLENEY: Thank you, sir.
11 If you would answer any questions that our able
12 counsel may have.

13 MR. GENTRY: Judge Cone, you also have
14 before you a sworn statement you provided with
15 detailed answers to over 30 questions regarding
16 judicial conduct, statutory qualifications, office
17 administration, and temperament. Are there any
18 amendments you would like to make at this time to
19 your sworn statement?

20 JUDGE CONE: No, sir.

21 MR. GENTRY: At this time, Mr. Chairman, I
22 would ask that Judge Cone's sworn statement be
23 entered as an exhibit into the hearing record.

24 REPRESENTATIVE DELLENEY: Without
25 objection it will be done at this point in the

1 transcript.

2 (EXH. 4A, Sworn Statement of Judge Cone,
3 marked for identification.)

4 MR. GENTRY: One final procedural matter.
5 I note for the record that based on the testimony
6 contained in the candidate's PDQ, which has been
7 included in the record with the candidate's consent,
8 Judge Cone meets the statutory requirements for this
9 position regarding age, residence, and years of
10 practice.

11 Judge Cone, please state the city and
12 circuit in which you reside.

13 JUDGE CONE: I reside in Greenwood in the
14 8th Judicial Circuit.

15 MR. GENTRY: Please explain to the
16 Commission why you want to serve as a Family Court
17 Judge.

18 JUDGE CONE: I've been practicing law
19 since 1988, when I graduated from the University of
20 South Carolina and beginning in law school. And
21 from the very beginning of my legal practice, I had
22 a great interest in family law.

23 In the firm that I first worked with I
24 began their first family law practice and opened
25 that as an area that I wanted to work in. And later

1 went off on my own and continued to expand into the
2 area of family law. I worked extensively over many
3 years with the Department of Social Services, first
4 defending people against the department and more
5 recently representing the department in their child
6 abuse and neglect proceedings, and earlier this year
7 I ended up taking a position with them on a
8 full-time basis to do that work full-time.

9 I just have a great passion for Family
10 Court. I've done personal injury law. I've done
11 commercial law, bankruptcy law -- practiced in
12 various areas, but family law is my passion. And I
13 feel that's an area where lawyers and judges have
14 the ability to make life changing and far reaching
15 decisions, and you need good people on the bench
16 making those decisions because there are no easy
17 calls in Family Court.

18 And I just believe that I bring to the
19 table the skills and experience that are necessary
20 to provide the kind of judicial leadership that you
21 need on the Family Court bench.

22 MR. GENTRY: Are there any areas that you
23 would need to additionally prepare for in order to
24 serve as a Family Court Judge, and, if so, how would
25 you go about that preparation?

1 JUDGE CONE: The one area that I feel I
2 need some additional preparation -- I've not had a
3 great deal of experience in the juvenile justice
4 proceedings. I have represented some defendants
5 there, and I've participated in hearings in my work
6 with the Department of Social Services.

7 I've been observing some of our ongoing
8 juvenile proceedings in Family Court up in my
9 circuit to get a feel for how the hearings go and
10 talking to the members of the Department of Juvenile
11 Justice to try to understand how their process works
12 and what options they have for dealing with troubled
13 youth because there's a great deal of overlap
14 between what DSS does as far as abused and neglected
15 children versus a couple of years later when the
16 children are getting in trouble and in the care of
17 the Department of Juvenile Justice.

18 So it's my hope that I'd like to see if we
19 can create more synergy between both agencies to see
20 if we can't prevent kids from falling through the
21 cracks.

22 MR. GENTRY: Please explain to the members
23 of the Commission what you think is the appropriate
24 demeanor for a Family Court Judge.

25 JUDGE CONE: A Family Court Judge needs to

1 have a very calm, nonconfrontational demeanor.
2 Nobody who comes into Family Court is having a good
3 day, except for the families who are completing an
4 adoption. For the most part, people in Family Court
5 are highly emotional, extremely frustrated, going
6 through the worst experience of their lives.

7 And dissolution of a marriage or
8 relationship, fighting over custody of the children
9 -- these all strike at the very core of what people
10 are. And when they come into court, the last thing
11 they need is for a judge to have, by their demeanor
12 or actions or conduct, to do anything to try and
13 fuel that fire.

14 I think a judge needs to try and get
15 people back home, focusing on the issue at hand, and
16 try to bank the fire instead of throwing more wood
17 on it.

18 MR. GENTRY: Is there any Family Court
19 Judge currently on the bench that you'd like to
20 model yourself after or particularly exemplifies the
21 characteristics a Family Court Judge should have?

22 JUDGE CONE: It's my been my great
23 privilege to work with Judge Joe McGowan up in
24 Laurens. He and I are very similar and if I'm
25 elected to the bench, I would be closest to him.

1 We're both relatively laid back, calm
2 people. He rarely loses his temper, he's always
3 deeply respectful to litigants, and I would like to
4 think that I would be like him. That's who I would
5 model myself after.

6 MR. GENTRY: When you leave the bench,
7 what would you like your legacy to be as a Family
8 Court Judge?

9 JUDGE CONE: When I leave the bench, I
10 would want people to say I was a good judge, that I
11 worked hard, that I was uniformly fair to everyone,
12 that I worked very hard to try and solve problems
13 rather than make new problems for families, and that
14 I did my best to try and encourage and promote the
15 growth of the family unit either before, during, or
16 after divorces.

17 MR. GENTRY: What suggestions would you
18 offer for improving the backlog of cases on the
19 docket in Family Court?

20 JUDGE CONE: The easy answer is we need
21 more judges and more courtrooms but that's a funding
22 issue. I think the existing judiciary needs to be
23 more aggressive in managing their dockets,
24 particularly in our circuit. We don't do very much
25 scheduling multiple cases during the same week,

1 having an A case, a B case, or a C case on any given
2 day.

3 We have not seen as much of that in the
4 8th Judicial Circuit. I think that's a weakness
5 because there are too many times where a currently
6 scheduled case gets settled, and the court sits
7 around with nothing to do for an afternoon at a
8 time, when we have months and months of cases that
9 need to be addressed.

10 I would like to see us adopt a more
11 aggressive docket as they do in larger counties
12 where you have more than one case scheduled on any
13 given day. If the first one settles, then you try
14 the second one. If the second one settles, then you
15 try the third one.

16 MR. GENTRY: In 2007, you were named as a
17 defendant in a lawsuit. Please share the nature and
18 status of this lawsuit.

19 JUDGE CONE: Yes. That was -- I had been
20 asked to and appointed to serve as Guardian Ad Litem
21 for some unknown relatives in a case of a property
22 partition action where they were trying to divide a
23 piece of real estate, and there were unknown or
24 potentially unknown family members. I was named as
25 a John Doe defendants, and I was named as their

1 Guardian Ad Litem. And when they did some amended
2 pleadings, I was named as defendant for that
3 purpose.

4 MR. GENTRY: The Commission received 80
5 ballot box survey responses regarding your candidacy
6 with four additional comments. Of those surveys one
7 indicated a concern about your organizational skills
8 and ability to process paperwork in a timely
9 fashion.

10 What response would you offer to this
11 concern?

12 JUDGE CONE: I would have to say, in all
13 honesty, there's a little truth to that. I do serve
14 part-time as a City Court Judge for the Town of
15 Ninety Six. It's part-time. I hold court one
16 afternoon a month, and I conduct bond hearings in
17 the morning during the week and at least one weekend
18 a month, and I have a couple associate judges that
19 help cover the other weekends. It's an important
20 job, it doesn't pay very well, and I have no staff.

21 So there are times where getting my
22 paperwork from the municipal court proceedings over
23 to the general sessions docket -- there's been a
24 couple of times when I have been late and didn't
25 need to be. And I've been working with the clerk's

1 office, and we came up with -- I sat down with them
2 after the most recent time. We worked out a better
3 system.

4 I don't think we're having those problems
5 anymore, but I have to say, if they were talking
6 about five or six months ago, that was true. But we
7 just got behind and that's where I had to be more
8 aggressive by making sure I was getting papers from
9 point A to point B.

10 MR. GENTRY: Have you sought or received
11 the pledge of any legislator prior to this date?

12 JUDGE CONE: No. I have not.

13 MR. GENTRY: Have you sought or have you
14 been offered a conditional pledge of support of any
15 legislator pending the outcome of your screening?

16 JUDGE CONE: No. I have not.

17 MR. GENTRY: Have you asked any third
18 parties to contact members of the General Assembly
19 on your behalf?

20 JUDGE CONE: No. I have not.

21 MR. GENTRY: Are you aware of anyone
22 attempting to intervene in any part of the process
23 on your behalf?

24 JUDGE CONE: No. I am not.

25 MR. GENTRY: Have you contacted any

1 members of this Commission?

2 JUDGE CONE: No. I have not.

3 MR. GENTRY: Do you understand that you
4 are prohibited from seeking a pledge or commitment
5 until 48-hours after the formal release of the
6 Commission's report?

7 JUDGE CONE: Yes, sir. I do.

8 MR. GENTRY: Have you reviewed the
9 Commission's guidelines on pledging?

10 JUDGE CONE: Yes. I have.

11 MR. GENTRY: As a follow-up, are you aware
12 that the penalties for violating the pledging rules
13 are misdemeanor and upon conviction, the violator
14 must be fined not more than \$1,000 or imprisoned not
15 more than 90 days?

16 JUDGE CONE: Yes.

17 MR. GENTRY: I would note that the
18 Piedmont Citizens' Committee found Judge Cone
19 qualified in the evaluative criteria of
20 constitutional qualifications, physical health, and
21 mental stability. The committee found Judge Cone
22 well qualified in evaluative criteria of ethical
23 fitness, professional and academic ability,
24 character, reputation, experience, and judicial
25 temperament.

1 I just note for the record that any
2 concerns raised during the investigation regarding
3 the candidate were incorporated into the questioning
4 today. Mr. Chairman, I have no further questions.

5 REPRESENTATIVE DELLENEY: Mr. Cone, I
6 didn't see that you had somebody with you when you
7 came in. Do you have someone you'd like to
8 introduce us to?

9 JUDGE CONE: I would be happy to. This is
10 my father, Dr. George Cone, who was kind enough to
11 offer me a ride today. I'm not allowed to drive
12 right now because of my medical condition.

13 REPRESENTATIVE DELLENEY: Well, we're glad
14 to have you with us. Does any member of the
15 Commission have any questions of Judge Cone?

16 There being none, thank you Judge Cone for
17 your willingness to participate in the process and
18 to serve. This concludes this portion of your
19 screening; however, the record is open until the
20 report is published and until it becomes a final
21 report of the Commission, and 48-hours after that
22 you can seek pledges, but prior to the time that it
23 becomes a report of the Commission, we could re-open
24 your public hearing and bring you back to testify
25 and ask you questions. That's very unlikely but I

1 want to remind you of the 48-hour rule.

2 Thank you for your service, and thank you
3 for offering, and I hope you're feeling better, and
4 have a good rest of the day.

5 JUDGE CONE: Thank you, sir.

6 REPRESENTATIVE DELLENEY: Good morning,
7 Knott.

8 MR. KNOTT: Good morning.

9 REPRESENTATIVE DELLENEY: We have before
10 us today Mr. Bradley Knott who seeks a position on
11 the Family Court, 8th Circuit, Seat number 3.

12 If you would please raise your right hand
13 to be sworn.

14 (Bradley Knott, was duly sworn, after
15 which testimony commenced at 11:23 a.m.)

16 REPRESENTATIVE DELLENEY: Thank you, sir.
17 Have you had an opportunity to review your Personal
18 Data Questionnaire?

19 MR. KNOTT: Yes, sir.

20 REPRESENTATIVE DELLENEY: Is it correct?

21 MR. KNOTT: Yes, sir.

22 REPRESENTATIVE DELLENEY: I assume there
23 needs to be no change?

24 MR. KNOTT: No, sir.

25 REPRESENTATIVE DELLENEY: And do you

1 object to our making that part of the record of your
2 sworn testimony?

3 MR. KNOTT: No, sir.

4 REPRESENTATIVE DELLENEY: It will be done
5 at this point in the transcript.

6 (EXH. 5, Personal Data Questionnaire of
7 Bradley Knott, marked for identification.)

8 REPRESENTATIVE DELLENEY: The Judicial
9 Merit Selection Commission has thoroughly
10 investigated your qualifications for service on the
11 bench. Our inquiry has primarily focused on nine
12 evaluative criteria which include a survey of the
13 bench and the bar, a thorough study of your
14 application materials, verification of your
15 compliance with state ethics laws, a search of any
16 newspaper articles in which your name may have
17 appeared, a study of previous screenings, and a
18 check for economic conflicts of interest.

19 There are no affidavits filed in
20 opposition to your election. There are no witnesses
21 here to testify. Do you have a brief opening
22 statement that you would like to make?

23 MR. KNOTT: Very brief. My name is
24 Bradley Knott. I'm 47 years old. Twenty-one years
25 ago, I left for Greenwood, South Carolina, got

1 married, joined a law firm, and 27-years later I'm
2 with the same law firm and with that same wife.

3 REPRESENTATIVE DELLENEY: Thank you, sir.
4 If you would answer any questions our able counsel,
5 Mr. Maldonato may have for you.

6 MR. MALDONATO: Thank you.

7 Mr. Knott, you did submit to the
8 Commission a letter amending your expenses in the
9 amount of \$222.67.

10 MR. KNOTT: That's correct.

11 MR. MALDONATO: And were there any other
12 additions that you have?

13 MR. KNOTT: No. That's been the total
14 sum.

15 MR. MALDONATO: What was that for?

16 MR. KNOTT: Let's see -- envelopes,
17 labels, address labels. I ordered candidacy cards
18 that were more expensive than I thought they'd be,
19 and name badges for myself and my wife in the event
20 I'm nominated in January.

21 MR. MALDONATO: Mr. Chairman, we'd ask to
22 add the amendment to part of the record.

23 REPRESENTATIVE DELLENEY: It will be done
24 without objection.

25 MR. MALDONATO: Mr. Knott, you have before

1 you the sworn statement where you provided detailed
2 answers to more than 30 questions regarding judicial
3 conduct, statutory qualifications, office
4 administration, and temperament.

5 Were there any additional amendments you
6 would like to make today?

7 MR. KNOTT: No.

8 MR. MALDONATO: Mr. Chairman, I'd like to
9 ask that Mr. Knott's sworn statement be entered into
10 the record as an exhibit.

11 REPRESENTATIVE DELLENEY: Without
12 objection it will be done at this point in the
13 transcript.

14 (EXH. 5A, Sworn Statement of Bradley
15 Knott, marked for identification.)

16 MR. MALDONATO: One final procedural
17 matter. I note for the record that based on the
18 testimony contained in the candidate's PDQ, which
19 has been included in the record with the candidate's
20 consent, Bradley Knott meets the statutory
21 requirements for the position regarding age,
22 residence, and years of practice.

23 Mr. Knott, could you please state for the
24 record the city and circuit in which you reside.

25 MR. KNOTT: I reside in Greenwood, South

1 Carolina. That's the 8th Judicial Circuit.

2 MR. MALDONATO: Mr. Knott, why would you
3 want to serve in the Family Court?

4 MR. KNOTT: Like I said before, I'm a
5 Family Court lawyer. I was one of those rare few
6 who came out of law school wanting to practice
7 domestic law. That made the partners I ended up
8 joining very happy.

9 Since that time I've done all facets of
10 family law. I've obviously been an advocate for
11 clients involved in divorces, child custody matters,
12 adoptions, and the like. Likewise I've done a great
13 deal of Guardian Ad Litem work representing the best
14 interest of children.

15 More recently have become a Certified
16 Family Court Mediator. What I learned was while
17 you're there to be an advocate for your client, you
18 start doing family law work to see the big picture,
19 and when you see the big picture you sometimes see
20 what your client wants is not necessarily what's
21 best for the family unit.

22 That's what I enjoy about the mediation
23 aspect of my practice, and that's what I would like
24 to do now as a Family Court Judge is do what's best
25 for the family, not necessarily what's best for one

1 litigant.

2 MR. MALDONATO: Can you please explain to
3 the Commission how you feel your legal and
4 professional experience will assist you in being a
5 judge.

6 MR. KNOTT: Well, I feel, largely, like I
7 say, from being an advocate for clients and as a
8 Guardian Ad Litem -- my partners refer to me as
9 steady. And that's probably a good way to describe
10 me, which is sometimes boring. But when we see good
11 people at their worst, which is what you see in the
12 Family Court arena, that's what you need to be.

13 You have to be levelheaded. That's what I
14 feel like I can bring to the position. I have that
15 kind of demeanor, and I try to see the bigger
16 picture.

17 MR. MALDONATO: Mr. Knott, are there any
18 other areas, including subjective areas of the law,
19 that you would need to additionally prepare for in
20 order to serve as a judge and how would you handle
21 that?

22 MR. KNOTT: The one area that I do think I
23 need further indoctrination in and I've already
24 started working on that, is in the area of
25 juveniles. My practice really hasn't lent itself to

1 that very much and I referenced that in my
2 application. I've begun sitting in on Juvenile Day
3 in Greenwood and surrounding areas. I sat in with
4 Judge McGowan last week. I had a local Family Court
5 attorney, who, because of a change in the
6 solicitor's office, has the contract to do the
7 prosecution of juveniles, and so I've been following
8 him around to understand how that works behind the
9 scenes.

10 MR. MALDONATO: Could you please explain
11 to the members of the Commission what you think is
12 the appropriate demeanor for a Family Court Judge.

13 MR. KNOTT: Well, like I said before, I
14 think it's important to be, number one, polite;
15 number two, thoughtful. When I say thoughtful, I
16 mean well considered in terms of listening to
17 different points of view. And thirdly, being a good
18 listener. And I'm not sure if this was in my
19 application or not but one of the things that have
20 bothered me and that I've seen occasionally from the
21 bench, is I have seen judges who rush litigants
22 through a hearing.

23 And I understand when you have a schedule
24 of keep but when you consider how important those
25 matters are to the people involved, they deserve

1 their time. They don't deserve to be rushed through
2 it and not even quite understand what's going on.
3 They're nervous enough, so I think patience and
4 listening are paramount.

5 MR. MALDONATO: On the opposite side of
6 that, what would your suggestion be to improve the
7 backlog?

8 MR. KNOTT: We're fortunate in our
9 circuit. I meet judges all the time from different
10 circuits who tell me they look forward to coming to
11 Greenwood because, number one, our bar gets along
12 pretty well; and number two, and our docket is in
13 pretty good shape.

14 Even though we're not a mandatory
15 mediation circuit, I'm a big fan of mediation. I've
16 just seen it work time and time again and greatly
17 clear up dockets. The other thing I'm a big fan of
18 is the pretrial hearing. And to be honest, while we
19 do them, they've gotten lax in how they're
20 conducted.

21 Why I think they're so important, and some
22 of you folks on the Commission know this, we have
23 attorneys who, in order to get a case in front of
24 the court as quickly as possible will low ball the
25 amount of time they'll need for the case to be

1 heard. And the process for that pretrial hearing to
2 talk about how many witness do you have, what are
3 the contested issues, what does the guardian still
4 have to do -- all of that ends up culminating in how
5 much time do you need to try this case. A judge can
6 sniff out real quick when an attorney says half-a --
7 day, and you know it's going to take at least a day
8 or day-and-a-half.

9 MR. MALDONATO: Have you sought or
10 received the pledge of any legislator prior to this
11 date?

12 MR. KNOTT: No.

13 MR. MALDONATO: Have you sought or been
14 offered a conditional pledge of support of any
15 legislator pending the outcome of your screening?

16 MR. KNOTT: No. I have not.

17 MR. MALDONATO: Have you asked any third
18 parties to contact Members of the General Assembly
19 on your behalf?

20 MR. KNOTT: No.

21 MR. MALDONATO: Are you aware of anyone
22 attempting to intervene in the process on your
23 behalf?

24 MR. KNOTT: No. I am not.

25 MR. MALDONATO: Have you contacted any

1 members of this Commission?

2 MR. KNOTT: I have not.

3 MR. MALDONATO: Do you understand that you
4 are prohibited from seeking a pledge or commitment
5 until 48-hours after the formal release of the
6 Commission's report?

7 MR. KNOTT: I do.

8 MR. MALDONATO: Have you reviewed the
9 Commission's guidelines on pledging?

10 MR. KNOTT: I have.

11 MR. MALDONATO: Are you aware of the
12 penalties for violating the pledging rules are
13 misdemeanor and upon conviction, the violator must
14 be fined not more than \$1,000 or imprisoned not more
15 than 90 days?

16 MR. KNOTT: I am.

17 MR. MALDONATO: I would note that the
18 Piedmont Citizen's Committee found Mr. Knott
19 qualified in the evaluative criteria of
20 constitutional qualifications, physical health, and
21 mental stability.

22 The committee found Mr. Knott to be
23 well-qualified in the remaining criteria of ethical
24 fitness, professional and academic ability,
25 character, reputation, experience, and judicial

1 temperature. The committee noted that while finding
2 all three of the candidates well qualified, they
3 found Mr. Knotts better suited than the other three.

4 Any concerns raised during the
5 investigation regarding the candidate were
6 incorporated into the questioning of Mr. Knott
7 today.

8 Mr. Chairman, I have no further questions.

9 REPRESENTATIVE DELLENEY: Thank you, sir.
10 Does any member of the Commission have any questions
11 for Mr. Knott? There being none, I thank you,
12 Mr. Knott, for offering to serve and for availing
13 yourself to the process.

14 This concludes this portion of your
15 screening process; however, the record is open until
16 the report is published and until it becomes a final
17 report of the Commission. And 48-hours after that,
18 you can seek pledges, but prior to the time that it
19 becomes a report of the Commission, we could re-open
20 your public hearing and bring you back and ask you
21 questions. That's very unlikely but I want to
22 remind you of the 48-hour rule.

23 Thank you for offering and I hope you have
24 a safe trip home.

25 MR. KNOTT: I really want to thank you

1 because I saw the schedule. It's unbelievable. I
2 guess this is unprecedented as far as how many
3 candidates there are. I looked at yesterday's
4 schedule -- I assume you were probably here until
5 seven o'clock and it will be the same for you today.
6 My hat's off to you. We appreciate your part in
7 this process. Thank you.

8 REPRESENTATIVE DELLENEY: We have before
9 us Mr. Joseph Smithdeal who seeks a position on the
10 Family Court, 8th Circuit, Seat number 3.

11 Please raise your right hand to be sworn.

12 (Mr. Smithdeal, was duly sworn, after
13 which testimony commenced at 11:35 a.m.)

14 REPRESENTATIVE DELLENEY: Thank you, sir.

15 Have you had an opportunity to review your
16 Personal Data Questionnaire?

17 MR. SMITHDEAL: Yes, sir.

18 REPRESENTATIVE DELLENEY: Is it correct?

19 MR. SMITHDEAL: Yes, sir.

20 REPRESENTATIVE DELLENEY: So I assume
21 nothing needs to be changed.

22 MR. SMITHDEAL: No, sir.

23 REPRESENTATIVE DELLENEY: Do you have any
24 objection to making that part of the record of your
25 sworn testimony?

1 MR. SMITHDEAL: That will be fine, sir.

2 REPRESENTATIVE DELLENEY: It will be done
3 at this point in the transcript.

4 ((EXH. 6, Personal Data Questionnaire of
5 Joseph Smithdeal, marked for identification.)

6 REPRESENTATIVE DELLENEY: The Judicial
7 Merit Selection Commission has thoroughly
8 investigated your qualifications for service on the
9 bench. Our inquiry has primarily focused on nine
10 evaluative criteria which include a survey of the
11 bench and the bar, a thorough study of your
12 application materials, verification of your
13 compliance with state ethics laws, a search of any
14 newspaper articles in which your name may have
15 appeared, a study of previous screenings, and a
16 check for economic conflicts of interest.

17 There are no affidavits filed in
18 opposition to your election. There are no witnesses
19 here to testify. Do you have someone that you need
20 to introduce us to?

21 MR. SMITHDEAL: Yes, sir. My wife has
22 kindly agreed to accompany me. This is my wife,
23 Libby Smithdeal. She's an attorney as well.

24 REPRESENTATIVE DELLENEY: Do you have a
25 brief opening statement that you would like to make?

1 MR. SMITHDEAL: No, sir.

2 REPRESENTATIVE DELLENEY: Please answer
3 any questions that our able counsel, Mr. Maldonato
4 may have for you.

5 MR. MALDONATO: Thank you, Mr. Chairman.
6 Mr. Smithdeal, you have before you the sworn
7 statement regarding detailed questions -- 30
8 questions in which you provided answers regarding
9 judicial conduct, statutory qualifications, office
10 administration, and temperament.

11 Are there any amendments that you would
12 like to make to at this time to your sworn
13 statement?

14 MR. SMITHDEAL: No, sir.

15 MR. MALDONATO: At this time, Mr.
16 Chairman, I would ask that Mr. Smithdeal's sworn
17 statement be entered as an exhibit into the hearing
18 record.

19 REPRESENTATIVE DELLENEY: It will be done
20 at this point in the transcript without objection.

21 (EXH. 6A, Sworn Statement of Joseph
22 Smithdeal, marked for identification.)

23 MR. MALDONATO: One final procedural
24 matter. I noted for the record that based on the
25 testimony in the candidate's PDQ, which has been

1 included in the record with the candidate's consent,
2 Mr. Smithdeal meets the statutory requirements of
3 this position regarding age, residence, and years of
4 practice.

5 Mr. Smithdeal, please state for the record
6 the city and judicial circuit in which you reside.

7 MR. SMITHDEAL: Greenwood.

8 MR. MALDONATO: Mr. Smithdeal, why do you
9 want to serve as a Family Court Judge?

10 MR. SMITHDEAL: First and foremost I
11 believe that I would be a really good Family Court
12 Judge. I have a great deal of experience in Family
13 Court. I cut my teeth in Family Court. I've
14 handled hundreds of cases over the years in divorce,
15 custody, equitable distribution. I've represented
16 the Department of Social Services for several years
17 doing abuse and neglect cases. I've represented
18 clients in DJJ cases.

19 I know Family Court law. I think, though,
20 maybe as important, however, is what I could bring
21 to the bench apart from my experience in the
22 courtroom. I teach children in Sunday school.
23 Kids -- 8th graders. I've coached kids on the
24 baseball field. I've coached kids on the softball
25 field. I've led the youth group for a number of

1 years. I've advocated for children as a board
2 member of Healthy Learners which is an organization
3 of the Sisters of Charity based here in Columbia.

4 We raised children. We have five of our
5 own, and I have a real passion for families, and the
6 kids that are brought up in those families. I've
7 done, you know, lots of no-children no-custody
8 divorces, but I think the important cases the focus
9 of Family Court is or should be cases involving
10 children. The custody, the child support, the DSS
11 and DJJ cases, and I have a real passion for the
12 kids -- for the next generation.

13 MR. MALDONATO: Thank you. Mr. Smithdeal,
14 can you explain to the Commission your professional
15 experience, and how you feel it will assist you in
16 becoming a judge.

17 MR. SMITHDEAL: Well, like I stated, I
18 basically grew up as a lawyer in Family Court. My
19 first cases were in Family Court. I had a great
20 number of cases over the years in all areas of
21 Family Court.

22 The only area that I haven't done in
23 Family Court is prosecuting juveniles, which is
24 something that my wife did for ten years. She was a
25 solicitor for ten years and handled four counties

1 alone. So prosecution of juveniles is something
2 that I have not done, but I have represented DSS
3 between 2008 and 2011. I handled DJJ cases, of
4 course lots of divorces, custody, child support,
5 name changes, adoptions, so my experience in the
6 Family Court is extensive.

7 But more than that, my experience in other
8 courts as well. The Circuit Court, General Sessions
9 Court, Common Pleas Court, Workers' Compensation
10 Commission. I have a broad background, being from a
11 small town and a small firm. I've handled a great
12 number of cases, and I think I can bring a wide
13 range of experience to the bench.

14 MR. MALDONATO: Are there any areas,
15 including subjective areas of the law, that you
16 would need to additionally prepare for, and how
17 would you handle that additional preparation?

18 MR. SMITHDEAL: Well, sure. I would never
19 say, there's no area of law or Family Court law that
20 I know intimately or every area of family law that I
21 know intimately. But I would also say that I'm the
22 first one to say, I'll find out or I can find out.

23 I've never handled a waiver hearing,
24 although I was successful last year in having a
25 child removed or taken down from General Sessions

1 into the Family Court and then handled his case as a
2 DJJ matter last year. So waiver hearings, I don't
3 have a lot of experience with, although I'm familiar
4 with the statute. So I have studied up on the
5 waiver statutes.

6 We don't have a lot of call in Greenwood
7 -- I didn't have a lot of call over the years for
8 military retirements. We just don't have a large
9 military population in Greenwood. I've handled
10 several of those but if a military retirement issue
11 came before me on the bench, I would be thoroughly
12 versed in division of military benefits.

13 So, yeah, I think there are areas that I
14 didn't handle on a regular basis and don't handle on
15 a regular basis, but I've never been afraid to ask
16 or find out or say I don't know.

17 MR. MALDONATO: Thank you, Mr. Smithdeal.
18 Can you please explain to the members of the
19 Commission what you think is the appropriate
20 demeanor to be a Family Court Judge?

21 MR. SMITHDEAL: Well, I think that the
22 proper demeanor for a Family Court Judge is embodied
23 in the term or the word respect. I think that a
24 judge must respect the litigant's time. I think the
25 judge must respect the litigant's intelligence,

1 their money, which is often times divided, their
2 life savings, which is often times being divided.

3 I think that respect for a person -- his
4 humanity is the most important aspect for a Family
5 Court Judge because if you respect the person that's
6 coming in front of you, including the court
7 personnel -- their time -- if you respect the people
8 that are in front of you just because they're human
9 beings, not because of where they come from or what
10 their name is or what their status in life is. If
11 you respect the person because he's -- it may be
12 cliché, but God's child, I think that you'll do okay
13 as a Family Court Judge. You'll rule fairly, rule
14 wisely -- you'll be doing what you're supposed to be
15 doing when you're supposed to be doing it.

16 MR. MALDONATO: Thank you. What
17 suggestions would you offer to improve the backlog
18 of cases?

19 MR. SMITHDEAL: I like the ADR process. I
20 like mediation. I think mediation could be expanded
21 to other counties throughout the state. Greenwood
22 doesn't have ADR requirements. I have mediated a
23 lot of cases in a lot of contexts across the board,
24 and I think it can help move cases. I think the
25 public defender's office could have more resources.

1 They need to assign a litigator solely to
2 DJJ cases. Our PD's office has a litigator that
3 splits her time between General Session and DJJ and
4 holds the court up because the child's attorney
5 doesn't have a chance to meet with the child before
6 five minutes before court starts. And I think that
7 backs things up. I think I would suggest to
8 attorneys that they sign a joint pretrial brief
9 telling me that they've tried to work things out.
10 Pretrial briefs are required by some judges, not
11 required by others.

12 I think a joint pretrial brief signed by
13 both parties indicating that they've made good
14 efforts. There's no point in having court time over
15 pots and pans and television sets and that happens
16 unfortunately. So those are a couple things that I
17 think might help.

18 MR. MALDONATO: You mentioned in question
19 11 of your sworn statement that you were affiliated
20 with a political party, board, commission that if
21 you were elected would need to be evaluated.

22 Can you explain that to the Commission and
23 how you plan on dealing with it.

24 MR. SMITHDEAL: Oh, I think basically that
25 was the Chamber of Commerce. I've been general

1 counsel for Chamber of Commerce for about six years
2 and my term is up. It's really not an issue.

3 MR. MALDONATO: Just finishing up with
4 some housekeeping issues. Have you sought or
5 received the pledge of any legislator prior to this
6 date?

7 MR. SMITHDEAL: No, sir.

8 MR. MALDONATO: Have you sought or been
9 offered a conditional pledge of support of any
10 legislator pending the outcome of your screening?

11 MR. SMITHDEAL: No, sir.

12 MR. MALDONATO: Have you asked any third
13 parties to contact Members of the General Assembly
14 on your behalf?

15 MR. SMITHDEAL: No, sir.

16 MR. MALDONATO: Are you aware of anyone
17 attempting to intervene in the process on your
18 behalf?

19 MR. SMITHDEAL: No, sir.

20 MR. MALDONATO: Have you contacted any
21 members of this Commission?

22 MR. SMITHDEAL: No, sir.

23 MR. MALDONATO: Do you understand that you
24 are prohibited from seeking a pledge or commitment
25 until 48-hours after the formal release of the

1 Commission's report?

2 MR. SMITHDEAL: Yes, sir.

3 MR. MALDONATO: Have you reviewed the
4 Commission's guidelines on pledging?

5 MR. SMITHDEAL: Yes, sir.

6 MR. MALDONATO: Are you aware that the
7 penalties for violating the pledging rules are
8 misdemeanor and upon conviction, the violator must
9 be fined not more than \$1,000 or imprisoned not more
10 than 90 days?

11 MR. SMITHDEAL: Yes.

12 MR. MALDONATO: I would note that the
13 Piedmont Citizen's Committee found Mr. Smithdeal
14 qualified in the evaluative criteria of
15 constitutional qualifications, physical health, and
16 mental stability.

17 The committee found Mr. Smithdeal to be
18 well-qualified in the remaining evaluative criteria
19 of ethical fitness, professional and academic
20 ability, character, reputation, experience, and
21 judicial temperature.

22 Any concerns raised during the
23 investigation regarding the candidate were
24 incorporated into the questioning of Mr. Smithdeal
25 today.

1 Mr. Chairman, I have no further questions.

2 REPRESENTATIVE DELLENEY: Thank you, sir.

3 Does any member of the Commission have any
4 questions for Mr. Smithdeal?

5 PROFESSOR FREEMAN: Mr. Chairman, I have
6 one question.

7 Mr. Smithdeal, would you briefly explain
8 to the Committee what a Summerall Guard is. I see
9 you were a Summerall Guard at the Citadel. It's an
10 elite group. I know it but I'm not sure anyone else
11 does.

12 MR. SMITHDEAL: Summerall Guard is a group
13 of 61 seniors that are tested and vetted during
14 their junior year through a series of several months
15 of physical torture. And basically Summerall Guards
16 perform rifle drill for the Citadel family during
17 halftimes.

18 We performed at the inauguration -- I
19 believe it was President Bush -- the first President
20 Bush. We went to Washington and marched in the
21 inaugural parade. We went to Disney World and
22 performed in Florida. So it's kind of a club.

23 PROFESSOR FREEMAN: It's a precision drill
24 team.

25 MR. SMITHDEAL: Yes, sir.

1 PROFESSOR FREEMAN: That takes a lot of
2 work to get in it.

3 MR. SMITHDEAL: They make you shave your
4 head your junior year. So it's tougher to get into,
5 and I'm proud to have been a member.

6 PROFESSOR FREEMAN: Thank you.

7 REPRESENTATIVE DELLENEY: This concludes
8 this portion of your screening process; however, the
9 record is open until the report is published and
10 until it becomes a final report of the Commission.
11 And 48-hours after that, you can seek pledges, but
12 prior to the time that it becomes a report of the
13 Commission, we could re-open your public hearing and
14 bring you back and ask you questions. That's very
15 unlikely but I want to remind you of the 48-hour
16 rule.

17 Thank you for offering and I hope you and
18 your wife have a safe trip home.

19 MR. SMITHDEAL: I would like to thank the
20 members of this Commission and also the staff and
21 attorneys, especially Mr. Maldonato, for his
22 kindness and helping me through this process.

23 REPRESENTATIVE DELLENEY: Good morning,
24 Mr. Stanford.

25 MR. STANFORD: Good morning.

1 REPRESENTATIVE DELLENEY: We are pleased
2 to have before us Mr. Tommy Stanford, who seeks a
3 position on the Family Court, 8th Judicial Circuit,
4 Seat number 3. Before we get started, do you have
5 anybody to introduce us to?

6 MR. STANFORD: Yes, I do. Thank you, Mr.
7 Chairman and members of the Committee. With me is
8 my wife Barbara, my older son Brandon, and my
9 younger son Brent. Mr. Chairman, Brent is in school
10 in Charlotte and didn't expected to see him so you
11 may want to question him to see how he did.

12 REPRESENTATIVE DELLENEY: Well, we're glad
13 to have your family with us. If you would please
14 raise your right hand to be sworn.

15 (Tommy Stanford, was duly sworn, after
16 which testimony commenced at 11:52 a.m.)

17 REPRESENTATIVE DELLENEY: Thank you, sir.

18 Have you had an opportunity to review your
19 Personal Data Questionnaire?

20 MR. STANFORD: I have.

21 REPRESENTATIVE DELLENEY: Is it correct?

22 MR. STANFORD: Yes, sir.

23 REPRESENTATIVE DELLENEY: So I assume
24 there doesn't need to be any change?

25 MR. STANFORD: No, sir.

1 REPRESENTATIVE DELLENEY: Do you have any
2 objection to making it part of the record of your
3 sworn testimony?

4 MR. STANFORD: No, sir.

5 REPRESENTATIVE DELLENEY: It will be done
6 at this point in the transcript.

7 (EXH. 7, Personal Data Questionnaire of
8 Tommy Stanford, marked for identification.)

9 REPRESENTATIVE DELLENEY: The Judicial
10 Merit Selection Commission has thoroughly
11 investigated your qualifications for service on the
12 bench. Our inquiry has primarily focused on nine
13 evaluative criteria which include a survey of the
14 bench and the bar, a thorough study of your
15 application materials, verification of your
16 compliance with state ethics laws, a search of any
17 newspaper articles in which your name may have
18 appeared, a study of previous screenings, and a
19 check for economic conflicts of interest.

20 There are no affidavits filed in
21 opposition to your election. There are no witnesses
22 here to testify. Do you have a brief opening
23 statement that you would like to make?

24 MR. STANFORD: Thank you for allowing me
25 to come today and allowing my family to appear. I

1 just want to thank you for this opportunity. It's
2 my desire and goal to be good judge if nominated and
3 if offered the opportunity to serve.

4 I believe I'm a really good public
5 servant. I have pastored and worked in the
6 Greenwood community since coming to Greenwood in
7 1983, and I just look forward to continuing to work
8 in the community.

9 REPRESENTATIVE DELLENEY: Thank you, sir.
10 If you would answer any questions our able counsel
11 may have for you.

12 MS. ANZELMO: Mr. Chairman and members of
13 the Commission, I have a few procedural matters
14 first.

15 Mr. Stanford, you have before you your
16 sworn statement that you provided with detailed
17 answers to 30 questions regarding judicial conduct,
18 statutory qualification, office administration, and
19 temperament. Are there any amendments you would
20 like to make at this time to your sworn statement?

21 MR. STANFORD: No.

22 MS. ANZELMO: At this time I would ask
23 that Mr. Stanford's sworn statement be entered into
24 the record as an exhibit.

25 REPRESENTATIVE DELLENEY: Without

1 objection it will be made part of the record.

2 (EXH. 7A, Sworn Statement of Tommy
3 Stanford, marked for identification.)

4 MS. ANZELMO: I also note for the record
5 that based upon the testimony contained in the
6 candidate's PDQ, which has been included in the
7 record with his consent, Mr. Tommy Stanford meets
8 the statutory requirements for this position
9 regarding age, residence, and years of practice.

10 Mr. Stanford, please state the city and
11 circuit in which you reside.

12 MR. STANFORD: Greenwood, South Carolina
13 8th Circuit, Seat 3.

14 MS. ANZELMO: Thank you. Mr. Stanford,
15 why do you want to serve as a Family Court Judge?

16 MR. STANFORD: I want to serve because I
17 think it gives me an opportunity to give back to the
18 community, to the state, from the standpoint that I
19 have always worked doing public service work. I
20 worked as a lawyer over 25 years, and I think it's
21 just a good time to move up after the untimely death
22 of Judge Thompson and after praying a little bit. I
23 felt it would be a good opportunity to offer more
24 service to state as well as to be a model to young
25 boys and girls to allow them to know that if they

1 work hard and dedicate themselves, you can move up
2 to even more goals to help serve this community.

3 MS. ANZELMO: Can you explain to the
4 Commission how you feel your legal and professional
5 experience will assist you to be an effective judge?

6 MR. STANFORD: Yes, ma'am. My legal and
7 professional experience -- I've been working in the
8 field of law since 1983. I have worked in the
9 Family Court arena doing adoptions, TPR, divorces.
10 I work with kids and children inside and outside the
11 courtroom, and I think I bring a vast knowledge of
12 over 25 years experience to the bench from the legal
13 profession. So I think that I will do well in
14 bringing all that knowledge to the bench.

15 MS. ANZELMO: Are there any areas of the
16 law for which you would need additional preparation
17 to become a Family Court Judge, and, if so, how
18 would you handle that additional preparation?

19 MR. STANFORD: I think that I am always
20 open to constantly train and I make it a point to go
21 to CLEs, and talk to judges, and seek out
22 information and advice. I think even on the Family
23 Court bench where I have a lot of experience -- have
24 not done a lot of juvenile work. I've done juvenile
25 work and I do know the DJJ people in Greenwood, and

1 I talk to people around the state, but I think I
2 would have to continue to work in that area and even
3 do more training to make sure that I stay up on the
4 law.

5 MS. ANZELMO: Although you address this in
6 your sworn affidavit, could you please explain to
7 the members of the Commission what you think is the
8 appropriate demeanor for a judge.

9 MR. STANFORD: I think that a judge should
10 be fair, open, and honest. I think that a judge
11 should treat anybody, whether on the bench or off
12 the bench, with respect and with dignity.

13 I think that a judge should always carry
14 himself in a manner that's reflected on the seat
15 that he holds -- the seat that he will preside over.

16 MS. ANZELMO: Is there any Family Court
17 Judge currently on the bench that you would like to
18 model yourself after or that you believe exemplifies
19 the characteristics that a Family Court Judge should
20 have?

21 MR. STANFORD: Yes, ma'am. There are two
22 or three Family Court Judges that I do admire. Of
23 course I like Judge Kenlog. I have worked with him
24 and I would seek advice from him. Judge Rooka, one
25 of the local Family Court judges, and Judge McGowan,

1 I really respect how they handle the bench and the
2 way they work with litigants and lawyers.

3 I have really learned from them and
4 briefly, even from Circuit Court, I met Judge
5 Francis Nicholson prior to his retirement. So I've
6 learned quite a bit from those judges.

7 MS. ANZELMO: Thank you. If you were
8 elected as a Family Court Judge, what would you like
9 your legacy to be as a judge?

10 MR. STANFORD: I would like for it to be
11 that I was fair, honest, and treated people with
12 dignity and respect, and that when they come into
13 the courtroom they felt that their issues fairly
14 litigated. Whether they're happy or not with the
15 decision, they leave knowing they had their day in
16 court.

17 MS. ANZELMO: What suggestions would you
18 offer for improving the backlog of cases on the
19 docket in Family Court?

20 MR. STANFORD: Well, across the state --
21 in Greenwood, for example, I just did mediation. In
22 Greenwood it's not mandatory medication but I think
23 it goes a long way towards clearing the docket. I
24 think lawyers being able to talk to each other goes
25 a long ways towards clearing the docket.

1 What I mean by talking to each other is
2 that lawyers looking at issues that come before the
3 court and talking to their clients see whether or
4 not there are issues that can be worked out and you
5 end up doing consent agreements and consent orders
6 which would help relieve some of that backlog as
7 well.

8 MS. ANZELMO: Mr. Stanford, do you
9 currently carry malpractice insurance in your law
10 practice, and, if so, how long have you carried
11 malpractice insurance?

12 MR. STANFORD: Yes, ma'am. I do carry
13 malpractice insurance. I started my own practice in
14 1993 and have been carrying it since then.

15 MS. ANZELMO: Thank you, Mr. Stanford.
16 Your SLED report shows that you have an employer
17 withholding tax lien filed against your office in
18 2012 for the September 2011 tax quarter. Can you
19 please explain to the Commission the circumstances
20 surrounding the lien and the current status of it.

21 MR. STANFORD: Yes, ma'am. The
22 circumstances surrounding that lien -- the current
23 status is paid and I looked again last night. It
24 has been withdrawn -- satisfied.

25 What happened was my bookkeeper, Mr.

1 William Lee, was going through health problems, and
2 he would give information to me and somewhere
3 between his health issues and getting information to
4 me, we didn't realize that a lien had been filed,
5 but once I found out I immediately got in touch with
6 the Department of Revenue.

7 The money had actually been paid timely,
8 but one of the forms, I think it's 1605 or 1606 had
9 not been filed. So when I filed that form, I got in
10 touch with them and we talked about it. I had a \$45
11 or \$48 penalty for not filing the form correctly.
12 It had actually been filed on time.

13 MS. ANZELMO: Thank you. Your SLED report
14 also showed a 1999 lawsuit in which you were a
15 defendant regarding credit card debt. Can you
16 explain to the Commission the circumstances
17 surrounding that case and how it was resolved.

18 MR. STANFORD: Yes, ma'am. I had a
19 Discovery card and Discovery and I had a conflict or
20 dispute over how much money I owed. There was
21 things on the card which my wife and I were pretty
22 sure we did not order. So we were trying to work
23 through it and Discover filed a lawsuit.

24 We settled the case. I think the total
25 amount owed was around \$3,500, and actually when we

1 settled it, I looked a week or so ago, the case was
2 settled -- I think the balance we ended up paying
3 was probably around \$2,500 or \$2,800.

4 MS. ANZELMO: Thank you. As you're aware
5 the South Carolina Bar Judicial Qualification
6 Committee found you qualified in the areas of
7 constitutional qualification, mental stability,
8 ethical fitness, character, reputation, experience,
9 and judicial temperament.

10 However, the Committee found you
11 unqualified in the area of profession academic
12 ability. How would you respond to the Committee
13 finding you unqualified in that area?

14 MR. STANFORD: I was a little surprised
15 and shocked to find that I was unqualified in that
16 area because I work hard at going to CLEs, I work
17 hard at studying material and reading. I would say
18 to the Committee that I work hard and diligent all
19 the time. I have all type of books that I read.
20 Valuation of assets, for example, The Lay Person
21 Guide to the Bench and Bar.

22 I was shocked but I do work hard. I study
23 hard. I do talk to clients who refer people to me
24 on a regular basis. I have talked to other lawyers
25 and I spoke to some lawyers and judges who also

1 submitted, I think, a report to this Committee that
2 will attest to the fact that when I go to court, I
3 make sure that I prepare myself, I read the law, I
4 understand the issues, I understand the cases that's
5 before me, and I work diligently to represent the
6 best interest of my client.

7 And to that end, I do have clients who
8 come back to me and refer other people to me. So I
9 think that's a testament from the standpoint that I
10 have people in the community that refer other
11 clients to me. I don't think I have advertised my
12 law practice in the past eight to ten years. It's
13 just based on word of mouth and referrals.

14 MS. ANZELMO: Thank you. And I'll just
15 note for the Commission that Mr. Stanford's written
16 response is included in your notebook materials and
17 is in the record as an exhibit. Just some final
18 housekeeping issues. Have you sought or received
19 the pledge of any legislator prior to this date?

20 MR. STANFORD: No, ma'am.

21 MS. ANZELMO: Have you sought or have you
22 been offered a conditional pledge of support of any
23 legislator pending the outcome of your screening?

24 MR. STANFORD: No, ma'am.

25 MS. ANZELMO: Have you asked any third

1 parties to contact Members of the General Assembly
2 on your behalf?

3 MR. STANFORD: No, ma'am.

4 MS. ANZELMO: Are you aware of anyone
5 attempting to intervene in the process on your
6 behalf?

7 MR. STANFORD: No, ma'am.

8 MS. ANZELMO: Have you contacted any
9 members of this Commission?

10 MR. STANFORD: I have not.

11 MS. ANZELMO: Do you understand that you
12 are prohibited from seeking a pledge or commitment
13 until 48-hours after the formal release of the
14 Commission's report?

15 MR. STANFORD: Yes, ma'am.

16 MS. ANZELMO: Have you reviewed the
17 Commission's guidelines on pledging?

18 MR. STANFORD: I have.

19 MS. ANZELMO: As a follow-up are you aware
20 that the penalties for violating the pledging rules
21 are misdemeanor and upon conviction, the violator
22 must be fined not more than \$1,000 or imprisoned not
23 more than 90 days?

24 MR. STANFORD: I understand this.

25 MS. ANZELMO: I would note that the

1 Piedmont Citizen's Committee found Mr. Tommy
2 Stanford qualified in the areas of constitutional
3 qualifications, physical health, and mental
4 stability and experience. And they found him
5 well-qualified in the areas of ethical fitness,
6 professional and academic ability, character,
7 reputation, and judicial temperament.

8 I would also note that the Commission
9 received 39 ballot box surveys regarding Mr.
10 Stanford's candidacy for this seat with four
11 additional comments. None of those comments set
12 forth any negative concerns.

13 Finally I would note for the record that
14 any concerns raised during the investigation
15 regarding the candidate were incorporated into the
16 questioning of him today.

17 Mr. Chairman, I have no further questions.
18 tell del.

19 REPRESENTATIVE DELLENEY: Do any members
20 of the Commission have any questions for
21 Mr. Stanford?

22 There being none, Mr. Stanford, thank you
23 for appearing here before us today and for
24 subjecting yourself to the process and seeking a
25 position with the Circuit Court. This concludes

1 this portion of the screening process.

2 We'll issue a draft report which will
3 eventually turn into the report of the Commission.
4 Up until that time, we could reconvene the public
5 hearing and bring you back if there were issues that
6 we needed to have further information. It's not
7 very likely, but it has happened.

8 There again I'll remind you about the 48
9 hour rule. Thank you for offering and I hope you
10 all have safe trip home.

11 MR. STANFORD: Thank you Mr. Chairman and
12 members of the Commission.

13 REPRESENTATIVE DELLENEY: Staff has
14 advised me that we need to meet in executive
15 session. Do I have a motion to go into executive
16 session?

17 REPRESENTATIVE MACK: I make a motion.

18 SENATOR CAMPSSEN: Second.

19 REPRESENTATIVE DELLENEY: All right.
20 We're now in executive session.

21 (The Committee went into executive session
22 from 12:15 p.m. to 12:35 p.m.)

23 REPRESENTATIVE DELLENEY: All right. The
24 veil is lifted. We are prepared to vote on circuit
25 court at large seat number 16. You can only vote

1 for three candidates, and the candidates with the
2 most votes wins, and they need at least six votes.

3 REPRESENTATIVE CLEMMONS: Mr. Chairman, I
4 move that they all be qualified.

5 REPRESENTATIVE DELLENEY: Does everybody
6 agree that they're all qualified? Say "Aye".

7 All say, "Aye".

8 MS. SHULER: There are two proxies.

9 REPRESENTATIVE DELLENEY: All right.
10 We'll take them one at a time. All in favor of
11 finding Deborah Barbier qualified and nominated
12 raise your hand.

13 MS. SHULER: Four.

14 REPRESENTATIVE DELLENEY: All in favor of
15 finding the Honorable Tracey Lynn Carroll qualified
16 and nominated raise your hand.

17 MS. SHULER: Zero.

18 REPRESENTATIVE DELLENEY: All in favor of
19 finding Eric Englebardt qualified and nominated
20 raise your hand.

21 MS. SHULER: Two.

22 REPRESENTATIVE DELLENEY: All in favor of
23 finding Joey Randall Floyd nominated and qualified
24 raise your hand.

25 MS. SHULER: Three.

1 REPRESENTATIVE DELLENEY: All in favor of
2 finding Daniel DeWitt Hall nominated and qualified
3 raise your hand.

4 MS. SHULER: Five.

5 REPRESENTATIVE DELLENEY: All in favor of
6 finding the Honorable Donald Bruce Hocker nominated
7 and qualified raise your hand.

8 MS. SHULER: Nine.

9 REPRESENTATIVE DELLENEY: All in favor of
10 finding the Honorable Alex Kinlaw, Jr. nominated and
11 qualified raise your hand.

12 MS. SHULER: Four.

13 REPRESENTATIVE DELLENEY: All in favor of
14 finding the Honorable John Reeves McLeod qualified
15 and nominated raise your hand.

16 MS. SHULER: Zero.

17 REPRESENTATIVE DELLENEY: All in favor of
18 finding William Vickery Meetze qualified and
19 nominated raise your hand.

20 MS. SHULER: Zero.

21 REPRESENTATIVE DELLENEY: All in favor of
22 finding Jocelyn Newman nominated and qualified raise
23 your hand.

24 MS. SHULER: One.

25 REPRESENTATIVE DELLENEY: All in favor of

1 finding Grady Patterson, III, nominated and
2 qualified raise your hand.

3 MS. SHULER: Three.

4 REPRESENTATIVE DELLENEY: All in favor of
5 finding Robert Reibold nominated and qualified raise
6 your hand.

7 MS. SHULER: Zero.

8 REPRESENTATIVE DELLENEY: All in favor of
9 finding Gregory Kenneth Boyd qualified and nominated
10 raise your hand.

11 MS. SHULER: Zero.

12 Judge Bruce Hocker has nine votes. We
13 usually strike out people with zero votes, so we
14 have two votes for two people left.

15 And we have taken out the people with zero
16 votes: Judge Carroll, Judge McLeod, William Meetze,
17 Robert Reibold, and Gregory Boyd.

18 So that leaves Deborah Barbier, Eric
19 Englebardt, Joey Floyd, Daniel Hall, Judge Kinlaw,
20 Jocelyn Newman, and Grady Patterson, III.

21 REPRESENTATIVE DELLENEY: All in favor of
22 finding Deborah Barbier qualified and nominated
23 raise your hand.

24 MS. SHULER: Six.

25 REPRESENTATIVE DELLENEY: All in favor of

1 finding Eric Englebardt qualified and nominated
2 raise your hand.

3 MS. SHULER: Two.

4 REPRESENTATIVE DELLENEY: All in favor of
5 finding Joey Randall Floyd qualified and nominated
6 raise your hand.

7 MS. SHULER: Two.

8 REPRESENTATIVE DELLENEY: All in favor of
9 finding Daniel Hall qualified and nominated raise
10 your hand.

11 MS. SHULER: Five.

12 REPRESENTATIVE DELLENEY: All in favor of
13 finding Alex Kinlaw qualified and nominated raise
14 your hand.

15 MS. SHULER: Three.

16 REPRESENTATIVE DELLENEY: All in favor of
17 finding Jocelyn Newman qualified and nominated raise
18 your hand.

19 MS. SHULER: One.

20 REPRESENTATIVE DELLENEY: All in favor of
21 finding Grady Patterson, III, qualified and
22 nominated raise your hand.

23 MS. SHULER: Two. So Debra Barbier had
24 six votes, so she's the second one. So we have one
25 left. So we have Eric Englebardt, Joey Floyd, Dan

1 Hall, Judge Kinlaw, Jocelyn Newman, and Grady
2 Patterson. One vote each.

3 REPRESENTATIVE DELLENEY: All right.
4 Everybody prepared to vote? All in favor of finding
5 Eric Englebardt qualified and nominated raise your
6 hand.

7 MS. SHULER: Zero.

8 REPRESENTATIVE DELLENEY: All in favor of
9 finding Joey Randall Floyd qualified and nominated
10 raise your hand.

11 MS. SHULER: Zero.

12 REPRESENTATIVE DELLENEY: All in favor of
13 finding Daniel Hall qualified and nominated raise
14 your hand.

15 MS. SHULER: Ten. Dan Hall is the third
16 person. So we have Deborah Barbier, Judge Hocker,
17 and Dan Hall as the three found qualified and
18 nominated.

19 All right. Fifth Circuit, Seat 2, Family
20 Court.

21 REPRESENTATIVE DELLENEY: Okay. We only
22 have three candidates. Is everybody going to vote
23 to find them qualified and nominated? Raise your
24 hand.

25 MS. SHULER: Ten.

1 REPRESENTATIVE DELLENEY: And the last is
2 Family Court, Eighth Circuit, Seat 3. There are
3 four candidates running.

4 SENATOR MARTIN: Since there are more than
5 three, I move to find all four qualified.

6 REPRESENTATIVE DELLENEY: Everybody in
7 favor of finding all four qualified raise your hand.

8 MS. SHULER: Ten.

9 REPRESENTATIVE DELLENEY: You have three
10 votes. All right. The first is the Honorable
11 Robert Wallis Cone. All in favor of finding the
12 Honorable Robert Wallis Cone qualified and nominated
13 raise your hand.

14 MS. SHULER: Three.

15 REPRESENTATIVE DELLENEY: Next is Bradley
16 Knott. All in favor of finding Bradley Knott
17 qualified and nominated raise your hand.

18 MS. SHULER: Ten.

19 REPRESENTATIVE DELLENEY: All in favor of
20 finding Joseph Collins Smithdeal qualified and
21 nominated raise your hand.

22 MS. SHULER: Ten.

23 REPRESENTATIVE DELLENEY: All in favor of
24 Tommy L. Stanford being qualified and nominated
25 raise your hand.

1 MS. SHULER: Seven.

2 Bradley Knott, Joseph Smithdeal, and Tommy
3 Stanford were found qualified and nominated.

4 REPRESENTATIVE DELLENEY: Okay. We're
5 taking a ten minute break.

6 (A recess transpired.)

7 REPRESENTATIVE DELLENEY: We're going to
8 revote because the vote total came out to have more
9 votes than were actual people present here on the
10 Commission, with 21 rather than 20 votes for the
11 second race. So the first race where the Honorable
12 Donald Bruce Hocker was elected, that race was not
13 effected. It's only the second race. So we'll vote
14 for the second and the third race.

15 So we start off with two votes. People in
16 the race are Deborah Barbier, Eric Englebardt, Joey
17 Randall Floyd, Daniel Hall, Judge Alex Kinlaw,
18 Jocelyn Newman, and Grady Patterson.

19 They all received votes in the first race
20 in which Judge Hocker won, and the people that were
21 struck did not receive any votes. So the ones we're
22 voting on did receive at least one vote in the
23 second race. So everyone -- you only get two votes.
24 So everybody in favor of Deborah Barbier to be
25 qualified and nominated.

1 MS. SHULER: Seven.

2 REPRESENTATIVE DELLENEY: All in favor of
3 Eric Englebardt to be qualified and nominated race
4 your hand.

5 MS. SHULER: Zero.

6 REPRESENTATIVE DELLENEY: All in favor of
7 finding Joey Randall Floyd qualified and nominated
8 race your hand.

9 MS. SHULER: One.

10 REPRESENTATIVE DELLENEY: All in favor of
11 finding Daniel Hall qualified and nominated race
12 your hand.

13 MS. SHULER: Eight.

14 REPRESENTATIVE DELLENEY: All in favor of
15 finding the Honorable Alex Kinlaw, Jr. nominated and
16 qualified raise your hand.

17 MS. SHULER: Two.

18 REPRESENTATIVE DELLENEY: All in favor of
19 finding Jocelyn Newman qualified and nominated raise
20 your hand.

21 MS. SHULER: Zero.

22 REPRESENTATIVE DELLENEY: All in favor of
23 finding Grady Patterson qualified and nominated
24 raise your hand.

25 MS. SHULER: Two. So we have two people

1 elected. Daniel Dewitt Hall received eight votes,
2 and Deborah Barbier received seven. So it's the
3 same result.

4 REPRESENTATIVE DELLENEY: We have before
5 us this afternoon Ms. Rosalyn Woodson Frierson, who
6 seeks a position with the Family Court At-Large,
7 Seat number 1. Before we get started, do you have
8 anybody to introduce us to?

9 MS. FRIERSON: My fiance, Leroy Smith.

10 REPRESENTATIVE DELLENEY: Glad to have you
11 with us, sir.

12 If you would, Ms. Frierson, please raise
13 your right hand to be sworn.

14 (Rosalyn Frierson, was duly sworn, after
15 which testimony commenced at 1:00 p.m.)

16 REPRESENTATIVE DELLENEY: Ms. Frierson,
17 have you had an opportunity to review your Personal
18 Data Questionnaire?

19 MS. FRIERSON: I have.

20 REPRESENTATIVE DELLENEY: Is it correct?

21 MS. FRIERSON: Yes.

22 REPRESENTATIVE DELLENEY: So are there any
23 changes that need to be made?

24 MS. FRIERSON: No.

25 REPRESENTATIVE DELLENEY: Do you object to

1 our making that summary part of the record of your
2 sworn testimony?

3 MS. FRIERSON: I do not.

4 REPRESENTATIVE DELLENEY: It will be made
5 as part of the record of your sworn testimony.

6 (EXH. 8, Personal Data Questionnaire of
7 Rosalyn Frierson, marked for identification.)

8 REPRESENTATIVE DELLENEY: The Judicial
9 Merit Selection Commission has thoroughly
10 investigated your qualifications for service on the
11 bench. Our inquiry has primarily focused on nine
12 evaluative criteria, which include a survey of the
13 bench and the bar, a thorough study of your
14 application materials, verification of your
15 compliance with state ethics laws, a search of any
16 newspaper articles in which your name may have
17 appeared, a study of previous screenings, and a
18 check for economic conflicts of interest.

19 There are no affidavits filed in
20 opposition to your election. There are no witnesses
21 here to testify. Do you have a brief opening
22 statement that you would like to make?

23 MS. FRIERSON: Yes, I do. Well, I have a
24 statement, but if I can delay it and give it a
25 little bit later.

1 REPRESENTATIVE DELLENEY: Whatever you
2 would like to do.

3 MS. FRIERSON: Yes. I would like to do it
4 as a response.

5 REPRESENTATIVE DELLENEY: Would you answer
6 any questions Mr. Dennis may have.

7 MR. DENNIS: Thank you, Mr. Chairman.
8 Good afternoon, Ms. Frierson. How are
9 you?

10 MS. FRIERSON: Fine. Thank you.

11 MR. DENNIS: You have in front of you your
12 sworn statement that has a myriad of relevant
13 questions. Do you have any changes to make to that
14 statement at this time?

15 MS. FRIERSON: No. I don't.

16 MR. DENNIS: Mr. Chairman, I would ask, if
17 there is no objection, that that be made part of the
18 record at this point.

19 REPRESENTATIVE DELLENEY: Without
20 objection it will be done at this point in the
21 transcript.

22 (EXH. 8A, Sworn Statement of Rosalyn
23 Woodson Frierson, marked for identification.)

24 MR. DENNIS: Mr. Chairman, I would note
25 for the record that based on the testimony contained

1 in Ms. Frierson's PDQ, which has been included in
2 the record with the candidate's consent,
3 Ms. Frierson meets the statutory requirements for
4 this position regarding age, residence, and years in
5 practice. Ms. Frierson, will you please state for
6 the record the city, circuit, and county in which
7 you reside.

8 MS. FRIERSON: I reside in Columbia, the
9 5th Circuit, Richland County.

10 MR. DENNIS: Thank you, ma'am. Ms.
11 Frierson, can you tell the Commission why you'd like
12 to be a Family Court Judge.

13 MS. FRIERSON: Well, I'm a native of South
14 Carolina and have always lived in Columbia, and
15 public service is what is appealing to me.
16 Everything that I've done for the most part of my
17 adult career has been related to public service.

18 I understand what is required of a judge,
19 and I believe that I have unique personal traits and
20 skills and an understanding that would be beneficial
21 to the court and to the people of the state. My
22 overriding personality is to be fair and open
23 minded, to listen to individuals, to seek justice,
24 and I just feel that I would be a good person to
25 serve on the Family Court bench.

1 MR. DENNIS: Ms. Frierson, are there any
2 areas of law including substantive areas that you
3 feel you would need additional preparation for
4 before taking the bench and how would you get this
5 preparation?

6 MS. FRIERSON: In particular as relates to
7 divorce -- contested divorce action -- I believe
8 that I could use additional training, additional
9 information, and I propose to do that through study
10 and also observing Family Court judges which I would
11 have the opportunity to do over the next few months.

12 I believe that through study and I've
13 always maintained current on issues as relates to
14 Family Court, so I see it as a refresher and making
15 sure that I'm up to speed on the current state as it
16 relates to family law.

17 MR. DENNIS: Ms. Frierson, you touched on
18 this in your sworn statement, but would you explain
19 to the Commission what you feel is the appropriate
20 demeanor for a Family Court Judge.

21 MS. FRIERSON: I believe the appropriate
22 demeanor is a person who is willing to listen to
23 both sides, treats people with respect, gives
24 everybody an opportunity to be heard. Basically a
25 person that treats others as they would want to be

1 treated without showing favoritism or a bias.

2 MR. DENNIS: Thank you, ma'am. Is there
3 currently a Family Court Judge on the bench that you
4 would like to model yourself after?

5 MS. FRIERSON: There have been a few but
6 Judge Morehead comes to mind. I respect him a great
7 deal and I know he's well respected by other judges.
8 That would be the first person that comes to my
9 mind.

10 MR. DENNIS: Ms. Frierson, do you have
11 suggestions for improving the backlog on the docket
12 for Family Court?

13 MS. FRIERSON: I do. I'm in the process
14 of working on administrative orders to deal with the
15 backlog. Those haven't been approved by the Supreme
16 Court yet, but we're working on ways to improve the
17 docket and to increase or require A, B, C docket.
18 Some counties are more efficient than other counties
19 but we're looking for ways use those best practices
20 and spread it around the state so there are back up
21 cases.

22 Part of the problem is the court breaks
23 down early in the week, so there's a lot that
24 doesn't get done on days that are available. So
25 we're looking at ways to make sure there are case to

1 move forward when other cases settle.

2 MR. DENNIS: Thank you, ma'am. Bear with
3 me for this question. I'm going to lay the
4 groundwork.

5 As you well know, South Carolina Bar
6 Association indicated they found you unqualified in
7 the area of experience. In addition the Commission
8 solicited ballot box surveys. You received 173
9 total responses on the electronic aspect. Of those
10 32 individuals felt you were unqualified to be a
11 Family Court Judge. Also included were 14 specific
12 written comments that went above and beyond
13 qualified, unqualified, no opinion. Included in
14 those were 11 negative comments that cited your lack
15 of experience and concerns about you being a Family
16 Court Judge.

17 Taken all of that information, would you
18 please respond to the Commission about your level of
19 experience and if you feel it is adequate experience
20 for you to serve as a Family Court Judge in South
21 Carolina.

22 MS. FRIERSON: I can appreciate there may
23 be questions related to my trial experience. My
24 entire legal career is related to the courts. My
25 primary role has not been to serve as an advocate

1 for one side but to view the court system from all
2 sides. And through this exposure, I have gained a
3 360-degree view of the entire court system.

4 As it relates to responses from the Bar
5 from a limited representation of Bar membership,
6 coupled with the fact that most attorneys are not
7 familiar with what I do on a daily basis and how it
8 has prepared me to serve as a Family Court Judge, I
9 would respond that my experience is unique and at a
10 high level.

11 During my six years as a Supreme Court
12 staff attorney and law clerk, I provided advice and
13 recommendations to justices on complex legal issues
14 including Family Court cases. As state court
15 administrator for 14 years, I've had the benefit of
16 a 360-degree view of the entire court system. Less
17 than half a dozen individuals have had the same
18 opportunity to interact with the court at all
19 levels, so I can understand if attorneys are not
20 aware of how my experiences have prepared me to
21 serve as a Family Court Judge.

22 As a court administrator, I interact on a
23 daily basis with judges at all levels of the
24 judicial system. I routinely interact with all
25 participants. I work with the Family Court Judges

1 and supervise their performance. I am involved in
2 developing the training and education programs
3 provided to Family Court Judges.

4 Throughout my legal career, I've had the
5 opportunity to observe and understand the decisions
6 judges are required to make from child custody,
7 division of property, alimony, divorce, child
8 support, TPR, abuse and neglect, and juvenile
9 delinquency.

10 I'm involved in policy making decisions
11 regarding court practices and procedures, and I make
12 recommendations to the Supreme Court on rules and
13 policy changes needed to improve the operations of
14 the courts. I'm required to make decisions and
15 exercise judgment that impact all participants in
16 court. I view the courts through the lenses of all
17 participants as I work to implement legislative
18 changes that impact litigants, judges, clerks of
19 court, and attorneys.

20 This includes the development and
21 implementation of forms, policies, and procedures to
22 be used by all. An example is the proposed
23 parenting plan form as required by the recent joint
24 custody legislation. I understand the challenges
25 facing attorneys with a backlog of cases and delays

1 in having cases heard. I know that's going on, but
2 I feel it's important that I share with you what I
3 do because I know there's only one state court
4 administrator and a whole lot of attorneys, and
5 they're used to what attorneys do and not what I do,
6 so if I may beg your indulgence to go on or if I'm
7 going too far let me know.

8 MR. DENNIS: Go right ahead and respond
9 however you want to respond.

10 MS. FRIERSON: I practice law on a daily
11 basis in what may be viewed as a nontraditional way.
12 I prepare court orders, administrative orders,
13 provide legal guidance, research practices and
14 procedures. I'm in day-to-day contact with the nuts
15 and bolts practice of all trials including Family
16 Court. I've assisted in the development of Family
17 Court administrative orders issued by the Supreme
18 Court related to the management of the Family Court
19 docket.

20 Such orders include procedures to monitor
21 cases older than 365 days, revisions to the order of
22 protection from domestic abuse, and development of a
23 court coordination protocol to improve management of
24 child abuse and neglect cases. I've also worked
25 with the Department of Social Services, Child

1 Services Enforcement and in periodic review of child
2 support guidelines. I gained the respect of my
3 peers on a national level as evidenced by my
4 election to serve as president of the conference of
5 state court administrators and vice chair for
6 national center for state courts.

7 I've been involved on the national level
8 in various areas as you see from my questionnaire.
9 And in sum, I believe that a candidate should be
10 considered -- the whole candidate as opposed to
11 considering one element as an overall factor in
12 determining a candidate's qualifications to serve as
13 a judge. I would urge a broad consideration be
14 given to my entire body of knowledge, experience,
15 and personal traits. Thank you.

16 MR. DENNIS: Thank you, Ms. Frierson. Mr.
17 Chairman, I would note Ms. Frierson has responded to
18 these questions in writing and that should have been
19 provided to all the Commission Members in your
20 notebook.

21 And at this point I don't have any more
22 public questions, but I would ask a brief executive
23 session to cover a matter.

24 REPRESENTATIVE DELLENEY: Do I have a
25 motion to go into executive session?

1 REPRESENTATIVE CLEMMONS: I make a motion.

2 SENATOR CAMPSSEN: Second.

3 REPRESENTATIVE DELLENEY: All in favor.

4 Okay. We're in executive session.

5 (The Committee went into executive session
6 from 1:44 p.m. to 1:50 p.m.)

7 REPRESENTATIVE DELLENEY: The veil is
8 lifted. All right. We're back on the record in
9 public session.

10 MR. DENNIS: All right. Ms. Frierson,
11 just a litany of a few more simple questions.

12 Have you sought or received the pledge of
13 any legislator prior to this date?

14 MS. FRIERSON: No. I have not.

15 MR. DENNIS: Have you sought or been
16 offered a conditional pledge of support of any
17 legislator pending the outcome of your screening?

18 MS. FRIERSON: No. I have not.

19 MR. DENNIS: Have you asked any third
20 parties to contact Members of the General Assembly
21 on your behalf?

22 MS. FRIERSON: No. I have not.

23 MR. DENNIS: Are you aware of anyone
24 attempting to intervene in any part of the process
25 on your behalf?

1 MS. FRIERSON: No. I am not.

2 MR. DENNIS: Have you contacted any
3 members of this Commission?

4 MS. FRIERSON: No. I'm not sure. I may
5 have sent Senator Campsen an e-mail.

6 MR. DENNIS: You do understand that you
7 are prohibited from seeking a pledge or commitment
8 until 48-hours after the formal release of the
9 Commission's report?

10 MS. FRIERSON: Yes. I do.

11 MR. DENNIS: Have you reviewed the
12 Commission's guidelines on pledging?

13 MS. FRIERSON: Yes.

14 MR. DENNIS: Are you aware that the
15 penalties for violating the pledging rules or that
16 it is a misdemeanor and upon conviction, the
17 violator must be fined not more than \$1,000 or
18 imprisoned not more than 90 days?

19 MS. FRIERSON: Yes.

20 MR. DENNIS: Mr. Chairman, I would note
21 that the Midlands Citizens Committee found Ms.
22 Frierson well qualified as to each of the criteria
23 for which that designation is available, except as
24 to the experience for which they assigned a
25 qualified designation, and specifically questioned

1 her experience in Family Court.

2 The Citizens Committee concluded by saying
3 they believe Ms. Frierson is qualified to serve on
4 Family Court.

5 I would note just for the record that any
6 concerns raised during the investigation regarding
7 this candidate were included in my questioning of
8 her today, and I don't have any further question.

9 REPRESENTATIVE DELLENEY: Any other member
10 have any questions?

11 PROFESSOR FREEMAN: Yes, ma'am. Just so
12 I'm clear, have you ever, on behalf of a client,
13 represented a client in a Family Court proceeding?

14 MS. FRIERSON: No. I have not because
15 I've been prevented working by the court system from
16 doing that. I was at one time appointed to
17 represent an individual, but I was not able to
18 because of serving for the court.

19 So that has precluded me from doing that.

20 PROFESSOR FREEMAN: Okay. Because of the
21 lack of experience, you realize that's what's
22 probably behind the Bars vote. What steps do you
23 intend to take to win over the confidence of Family
24 Court practitioners who appear before you and are
25 maybe a little nervous as to how they're going to be

1 treated by someone who lacks this experience?

2 MS. FRIERSON: Well, I think that I would
3 be prepared. I believe that as cases are or as I'm
4 given a docket, that I would adequately prepare
5 beforehand, anticipate what kind of issues and
6 motions may come before me and be ready to respond.

7 I would always maintain the fairness. I
8 would not hold any grudges or hold any kind of
9 favoritism or not favoritism against anyone. I
10 believe I would treat everybody fairly, but I would
11 prepare myself before anything comes before me, so I
12 would be able to be in a position to rule in a fair
13 manner.

14 I would hope that all judges take the time
15 to really review the file and understand what the
16 issues are, what the facts are, what will likely be
17 presented, what types of motions or rulings may be
18 expected, so that I would be able to deal with
19 those.

20 PROFESSOR FREEMAN: And I would encourage
21 you too to use the other judges as resources.

22 MS. FRIERSON: I would say that judges
23 have been very, very accommodating. They've reached
24 out and they've offered and I've taken advantage of
25 some of the offers to sit in and observe and to talk

1 about -- well, I'm able to do it because I'm
2 considered part of the court system so they're not
3 telling me something that I should not hear, but as
4 an educational tool they've been open and willing to
5 work with me and allow me to observe them and
6 understand how they reach decisions and what they
7 look for. So I have many tutors.

8 REPRESENTATIVE DELLENEY: Senator Campsen.

9 SENATOR CAMPSSEN: Ms. Frierson, you
10 clerked for the Supreme Court for six years; is that
11 correct?

12 MS. FRIERSON: Well, I clerked as a staff
13 attorney initially and then I became clerk to one
14 judge and he became chief justice. As much as I
15 tried to leave, I kept getting pulled back. I
16 stayed there for six years and then the court
17 administrator died. He had cancer and he passed away.

18 The court decided that I should move into
19 that position because of my background, having a
20 business degree, and my understanding of the budget
21 process. So that was, sort of, not necessarily the
22 path that I planned to take, but it worked for me at
23 the time. But I did stay there as a staff attorney
24 and then law clerk.

25 SENATOR CAMPSSEN: Ms. Frierson, I just

1 want you to know that I think that's invaluable
2 experience to be a Family Court Judge, to be a
3 Circuit Court Judge, at the appellate level. As a
4 staff attorney, you're dealing with -- you probably
5 understand the law better than most other
6 candidates. You may not have trial experience, but
7 you're dealing with Supreme Court precedent and the
8 way the was developing and evolving.

9 So I just want you to know that I think
10 you're personally -- that your experience is
11 different but it's sufficient and exceptional in
12 some ways and a little lacking in others, but I
13 don't think you deserve the unqualified report you
14 got from the Bar committee.

15 MS. FRIERSON: Thank you. I appreciate
16 that.

17 REPRESENTATIVE DELLENEY: Any other
18 members of the Commission have questions for
19 Ms. Frierson?

20 MS. FRIERSON: Can I add one thing? One
21 thing that I didn't say, because of my involvement
22 on the national level, as state court
23 administrators, when we get together we're looking
24 at how we can improve and share practices across the
25 state, across the country.

1 And we have -- our education programs are
2 geared on how we can bring things back and help
3 judges make sure that they're showing good demeanor
4 and how to treat litigants so there aren't as many
5 issues about whether there's unfair treatment. So I
6 feel like I've had the benefit that an attorney
7 would not have because of the extra training and
8 exposure to educational programs that relate to
9 making judges better.

10 REPRESENTATIVE DELLENEY: Thank you,
11 ma'am. There being no other questions for
12 Ms. Frierson, I want to thank you very much for
13 appearing before us today.

14 This concludes this portion of your
15 screening process review; however, the record is
16 open until the report is published and until it
17 becomes a final report of the Commission, and
18 48-hours after that, you can seek pledges, but prior
19 to the time that it becomes a report of the
20 Commission, we could re-open your public hearing and
21 bring you back and ask you questions if there are
22 other issues. That's very unlikely but I want to
23 remind you of the 48-hour rule.

24 Thank you for offering, and I hope you
25 have a good rest of the day.

1 MS. FRIERSON: Thank you all.

2 REPRESENTATIVE DELLENEY: Okay. We have
3 with us this afternoon Ms. Mary Jane Goodwin, and
4 she seeks a position on the Family Court, At-Large,
5 Seat number 1.

6 Please raise your right hand to be sworn.

7 (Mary Jane Goodwin, was duly sworn, after
8 which testimony commenced at 2:08 p.m.)

9 REPRESENTATIVE DELLENEY: Ms. Goodwin,
10 have you had an opportunity to review your Personal
11 Data Questionnaire?

12 MS. GOODWIN: I have.

13 REPRESENTATIVE DELLENEY: Is it correct?

14 MS. GOODWIN: It is.

15 REPRESENTATIVE DELLENEY: So I assume
16 there are no changes that need to be made.

17 MS. GOODWIN: No.

18 REPRESENTATIVE DELLENEY: Do you object to
19 our making that summary part of the record of your
20 sworn testimony?

21 MS. GOODWIN: I do not.

22 REPRESENTATIVE DELLENEY: It will be made
23 part of the record of your sworn testimony at this
24 time.

25 (EXH. 9, Personal Data Questionnaire of

1 Mary Jane Goodwin, marked for identification.)

2 REPRESENTATIVE DELLENEY: The Judicial
3 Merit Selection Commission has thoroughly
4 investigated your qualifications for service on the
5 bench. Our inquiry has primarily focused on nine
6 evaluative criteria, which include a survey of the
7 bench and the bar, a thorough study of your
8 application materials, verification of your
9 compliance with state ethics laws, a search of any
10 newspaper articles in which your name may have
11 appeared, a study of any previous screenings, and a
12 check for economic conflicts of interest.

13 We have no affidavits filed in opposition
14 to your election. There are no witnesses here to
15 testify. Do you have a brief opening statement that
16 you would like to make?

17 MS. GOODWIN: I would just say that my
18 desire to be a Family Court Judge is a long held
19 aspiration. I think that the family is the bedrock
20 of our society, and that Family Court is a very
21 important court. I think that the decisions made
22 there effect not only the litigants in front of the
23 court but are more far reaching.

24 I have 21 years experience in Family Court
25 and would just be honored to serve.

1 REPRESENTATIVE DELLENEY: Thank you. At
2 this time please answer any questions our able
3 counsel, Ms. Dean, may have.

4 MS. DEAN: Ms. Goodwin, you have before
5 you now the sworn statement you provided with
6 detailed answers to over 30 questions regarding
7 judicial conduct, statutory qualifications, office
8 administration, and temperament. You also submitted
9 an additional written response and we wanted to make
10 sure there aren't any additional statements that you
11 would like to make to this document.

12 MS. GOODWIN: No. I don't.

13 MS. DEAN: At this time, Mr. Chairman, I
14 would like to add Mrs. Goodwin's sworn statement and
15 her additional written response to be entered as an
16 exhibit into the hearing record.

17 REPRESENTATIVE DELLENEY: Without
18 objection it will be entered into the record.

19 (EXH. 9A, Sworn Statement of Mary Jane
20 Goodwin, marked for identification.)

21 MS. DEAN: I note for the record that
22 based on the testimony contained in the candidate's
23 PDQ, which has been included in the record with the
24 candidate's consent, Ms. Goodwin meets the statutory
25 requirements for this position regarding age,

1 residence, and years of practice.

2 Ms. Goodwin, please state for the record
3 the city, county, and circuit in which you reside.

4 MS. GOODWIN: I reside in the county of
5 Anderson. I don't live in the city limits. My law
6 firm is in the city limits. That is in Anderson
7 County, City of Anderson, Tenth Judicial Circuit.

8 MS. DEAN: Ms. Goodwin, why do you now
9 want to serve as Family Court Judge?

10 MS. GOODWIN: It's a long held aspiration.
11 I think it would be an honor to do so. From early
12 on in my career, it's something that I wanted to do.
13 I think I'm well suited to it. I've sat in every
14 chair in that courtroom other than the court
15 reporter, of course, and I would like to serve. It
16 would be an honor.

17 MS. DEAN: Could you please elaborate on
18 how your professional and legal experience so far
19 would assist you in being an effective judge?

20 MS. GOODWIN: Well, I started my career in
21 1991, at 10th Circuit Solicitor's office. At that
22 time I was one of two young lawyers that came on
23 board and I was assigned to Family Court.

24 Quite honestly I was disappointed because
25 I wanted to be in general sessions because I thought

1 general sessions was the important court. Once I
2 got into Family Court -- this was at the time when
3 the solicitor still handled both juvenile
4 prosecutions and the DSS cases. And I got an eye
5 opening experience in how important it is and came
6 to enjoy my work there, so three years later when I
7 opened my own firm, I had developed a number of good
8 relationships in the Family Court system with
9 attorneys that practice there, with the judges who
10 sat there, and the natural evolution of my practice
11 was towards in Family Court.

12 I was given a tremendous amount of
13 guardian work, and that gave me a unique opportunity
14 to watch a wide variety of cases. I love trying
15 cases. I got to see a lot of people, and I got to
16 represent a lot of clients in a lot of
17 circumstances. To begin with my clients tended to
18 be people that were from lower socioeconomic
19 statuses. I still take in some referrals from Legal
20 Services. So I represented everything from paupers
21 to millionaires.

22 At the same time, I have done guardian
23 work, which allows you a different glimpse of Family
24 Court from the child's side. I've done work
25 defending juveniles in -- criminal charges against

1 juveniles. I've worked as a contract attorney for
2 DSS and still do that. I've handled adoptions.
3 I've handled -- even been called by court to handle
4 the minor seeking abortions without parental
5 consent.

6 I can't think of a kind of Family Court
7 hearing that occurs that I have not been part of,
8 and I think that makes me qualified to serve.

9 MS. DEAN: Thank you. Are there any areas
10 of the law that you would need to additionally
11 prepare for in order to serve as a judge, and how
12 would you handle this additional preparation.

13 MS. GOODWIN: Well, I guess I would do it
14 if a new area came to my attention, I would study,
15 review it, and I think talking with colleagues is
16 very valuable. There are a number of lawyers that
17 put thoughts out on the internet regarding different
18 case decisions, new statutes, and how people handle
19 it.

20 At this particular in time, I feel very
21 comfortable with family law. Any issue that comes
22 up, if I don't know the immediate answer, I know how
23 to get it. We're all dealing with the new parenting
24 plan statute that came out. Each one that we do, we
25 learn a little bit more.

1 MS. DEAN: Ms. Goodwin, although you
2 address this in your sworn affidavit, could you
3 please explain to the members of the Commission what
4 you think is the appropriate demeanor of judge.

5 MS. GOODWIN: I think the appropriate
6 demeanor for a judge is to be firm and fair. A
7 judge needs to be open minded. No litigant should
8 ever come into court knowing their case has been
9 decided. They should know that the judge is going
10 to hear the evidence and make a fair and impartial
11 ruling, applying the law to the facts and evidence
12 presented.

13 I don't think a judge should let anyone
14 else run the courtroom. You can be stern without
15 appearing angry. I guess the sound bite would be
16 firm but fair.

17 MS. DEAN: Is there any Family Court Judge
18 on the bench that you would like to model yourself
19 after, or one that you feel exemplifies the
20 characteristics a Family Court Judge should have?

21 MS. GOODWIN: Well, I have had the honor
22 of practicing in front of Tommy Edwards for 20
23 years. He started his Family Court judgeship around
24 the time I went to Anderson. I think he does a good
25 job of rendering his rulings primarily from the

1 bench. I think those are good things to do. I
2 think people need to hear from the judge, not there
3 lawyer reading it off a piece of paper later on.

4 I hate to use the terms winning and losing
5 parties because there's really not any winner and
6 loser. They're all losing in Family Court. But the
7 one that gets the less favorable ruling, walks away
8 with some measure of dignity left. The ruling is
9 rendered in such a way that it's fully explained --
10 for example, recently a determination where Judge
11 Collins determined that this lady is nuts. This
12 lady had done some of her treatment but not all of
13 it. And the little boy had a reactive detachment
14 disorder, which is a failure to bond because you've
15 been bounced around so much.

16 And she just looked that lady in the eye,
17 and, of course, the lady is crying, screaming. She
18 said, Ma'am, your little boy just can't wait
19 anymore. It breaks my heart to do this, but he
20 needs permanence. I thought that was a fair, clear,
21 concise ruling. And she told the lady, he just
22 can't wait. But please don't quit with your drug
23 treatment because you still have a life.

24 MS. DEAN: Thank you. When you leave the
25 bench, what would you like your legacy to be?

1 MS. GOODWIN: That people thought that I
2 was fair and helpful and made rulings that made a
3 difference particularly in the lives children.

4 MS. DEAN: What suggestions would you
5 offer to improve the backlog of cases on the docket
6 for Family Court?

7 MS. GOODWIN: Now, that is a problem that
8 we wrestle with in Anderson County. If you have a
9 truly contested case that's going to take more than
10 a day, you're looking at a three to four-year wait.
11 That is tremendously burdensome to the people
12 involved. Mediations we started doing in 2002
13 helped that somewhat but not nearly enough. You
14 know, more court time is always what's thrown out
15 there, but I don't know that anybody will get more
16 court time. Possibly more effective court time.
17 Maybe settlement conferences like they do in Circuit
18 Court I think could be useful in Family Court.

19 And we're starting to experiment with that
20 in Anderson. We've had one roster call so far of
21 all the cases more than four-years old, and
22 everybody was told, Bring your calendar. You're not
23 leaving until these cases are at least scheduled.
24 And I think that's one good thing.

25 MS. DEAN: Thank you. And do you

1 currently carry malpractice insurance in your law
2 practice, and, if so, how long have you carried
3 malpractice insurance?

4 MS. GOODWIN: I have carried it since the
5 day I opened in 1994. It is with ALPS, that is the
6 Attorney Liability Protection Society, which is the
7 group that the Bar endorsed around the time I came
8 out.

9 MS. DEAN: Ms. Goodwin, does your law
10 practice currently sell legal forms through a
11 virtually office? Please explain how this process
12 works.

13 MS. GOODWIN: Okay. We started a virtual
14 law firm about two-years ago now. It's not really
15 the sale of legal forms. I got interested in this
16 when I attended a CLE online about virtual law
17 practice, and it was a South Carolina Bar CLE.

18 And my thought was -- this was around the
19 time that the self-represented litigant packets were
20 put on the Bar web site for people to try and do
21 their own divorce. There's a big gap between
22 somebody getting the papers from the Bar and
23 somebody having professionally done paperwork. So
24 this portion of my firm was designed to try and
25 bridge this deficit between the two things.

1 What happens a lot of times with the self-
2 represented litigant, they get up there and they
3 don't have their paperwork right, so the judge says,
4 You need to get a lawyer or your paperwork is not
5 right. Come back in six months. Well, then they're
6 six months down the road before they can get back in
7 court. So we take them as virtual clients. They
8 are clients of the law firm. They have
9 representation agreements, there's e-mail back and
10 forth, and they tell us about their situation, and
11 we only do this for uncontested things. They're not
12 appropriate for traditional representation. But if
13 they meet certain criteria, we fix the paperwork for
14 them -- my partner and I. We take turns as they
15 come in.

16 One came in last week, and I took it. But
17 it's not done nearly as well as I hoped it would do.
18 We have done maybe two dozen of these since it's
19 been up and running, but it is not a form-generated
20 website. You can't go on my website and print out a
21 complaint. You have to retain our firm's services,
22 and we do the paperwork. The client goes and files
23 the paperwork and goes to the hearing with a
24 professionally prepared decree.

25 MS. DEAN: Do you physically meet with

1 these clients?

2 MS. GOODWIN: We communicate primarily via
3 phone or e-mail. If we need to see them face to
4 face, we have done that. Most people doing this are
5 pretty internet savvy. If you get a client that
6 can't make their way to the clerk of court's office
7 to file it, this isn't for them.

8 MS. DEAN: I believe you already addressed
9 this, but does staff advise these clients or do the
10 attorneys in your office advise them?

11 MS. GOODWIN: The attorneys.

12 MS. DEAN: As part of this process, we
13 received ballot box surveys, and we received a total
14 of 108, with 14 written comments. One expressed
15 concern over this virtual law office. The concern
16 was the selling of forms that are available through
17 other sources for free.

18 Would you like to specifically address
19 that concern?

20 MS. GOODWIN: I'm not aware of where my
21 documents generated by my law office are available
22 anywhere for free. That's just not accurate. The
23 self represented forms are available for free on the
24 Bar website. That's not what we're using. We're
25 using documents customized for each client.

1 MS. DEAN: Thank you. Ms. Goodwin, the
2 South Carolina Bar's report found you qualified in
3 all categories except one in which they found you
4 well qualified.

5 The citizen's committee found you
6 qualified in all categories but the Bar reported
7 concerns over your work ethic, such as scheduling
8 meetings. The Citizens report summarized the
9 community interviews and investigations conducted by
10 the committee, questions were raised regarding work
11 ethic, scheduling, and timely paperwork. Questions
12 were raised and some of your answers conflicted with
13 the community interviews.

14 I know you've responded to this in your
15 additional written statement, but would you like to
16 address those statements?

17 MS. GOODWIN: I would. I was baffled when
18 it was first brought to my attention and continue to
19 be baffled. As an anonymous allegation with no
20 specifics offered, it's difficult to defend against.
21 That's why anonymous allegations are not typically
22 allowed in the courtroom. To me a work ethic means
23 getting a job done in a timely, professional manner,
24 with the best result for the client.

25 During my 21-year career, I've done that.

1 I don't know of a specific incident or complaint
2 where anyone said they can't reach me, or anyone
3 said the paperwork is not done in a timely fashion,
4 or anyone has said they can't schedule a meeting
5 with me. I don't know how this perception, if it
6 truly exists, came to be.

7 On an average week, I work 60 hours. I'm
8 typically in the office before eight o'clock, and I
9 seldom leave before five. As I said, I've pondered
10 it extensively. I don't know where it came from,
11 and any speculation on my part would be about as
12 credible as the allegation is.

13 What I can do is document my career. My
14 21-year career has been marked by being very
15 successful. I've never had a client file a
16 grievance ever. Most of my clients are extremely
17 happy. I handle the contract three days a month for
18 the prosecuting attorney in the City of Anderson. I
19 do jury trials on DUIs, criminal domestic violence,
20 shoplifting, municipal level crimes. I've handled
21 that since 1996. So I've been repeatedly renewed in
22 that job. If I didn't have good work ethic, they
23 would fire me. I was awarded a contract to work
24 with Department of Social Services in 2009, when Ed
25 Long left that contract to become a Family Court

1 Judge. They renewed my contract three times. We're
2 the best in the state right now. So if you look at
3 the objective evidence -- I don't know where it came
4 from, and I continue to be stunned by it. I work at
5 home. I work at my office. I'm available by phone,
6 in person, e-mail, text. I'm available. The world
7 can reach me. I've never had a client file a
8 grievance and I requested some people be interviewed
9 about that and I don't think that was done, but I'm
10 confident anybody with regular contact would say
11 categorically that's not true.

12 MS. DEAN: Ms. Goodwin, as part of that
13 questions, we've received four ballot box written
14 comments. This is four out of the total responses.
15 I believe it was a 108 with 14 written comments
16 expressing concern, work ethic, and the specific
17 was willingness to work on Fridays. I don't know if
18 you want to address that issue.

19 MS. GOODWIN: That came up in the Citizens
20 Committee as well and I don't know where that comes
21 from because we do uncontested divorces in Anderson
22 on Friday. Certainly, as anyone does, I
23 occasionally take Friday afternoon off, but I
24 haven't in recent history. I don't know where that
25 comes from. It's completely speculation on my part

1 but my partner tells me a former employee, a
2 secretary used to say, Oh, she doesn't work on
3 Friday. I don't know if that somehow morphed into
4 that. The job is done whether I do it on Monday,
5 Tuesday, Wednesday, Thursday, Friday, Saturday, or
6 Sunday. Whether I'm working at 10 o'clock at night,
7 the job is getting done.

8 MS. DEAN: And I note for the record,
9 Ms. Goodwin did supply staff with names of ten
10 attorneys who she's worked with and staff contacted
11 these attorneys. The response from these attorneys
12 was that Ms. Goodwin has a strong work ethic and
13 they have not encountered problems with her
14 timeliness or schedule.

15 Ms. Goodwin, we received additional ballot
16 box survey with concerns about given your part-time
17 work with DSS and under contract having the ability
18 to remain unbiased or willingness to use that
19 position with DSS for advantage in a different case.

20 If you could just speak to how you would
21 handle DSS cases as a judge on the bench.

22 MS. GOODWIN: I'm not sure I understand
23 that. I mixed the two?

24 MS. DEAN: Certainly. With doing some
25 work for DSS and not having an advantage given your

1 closeness with DSS or having a bias for DSS once
2 you're on the bench.

3 MS. GOODWIN: Oh, okay. No. No. I don't
4 think I have any bias towards DSS. The way we
5 handle it now is if I'm involved representing a
6 client and DSS is called on that client, obviously
7 the client already has a relationship me, so I'm
8 insulated from that case with DSS.

9 There are three other lawyers at DSS, and
10 they handle that, and I don't do anything with that.
11 Obviously if somebody calls our office, and says, I
12 have a DSS case, I don't take it, and my partner
13 doesn't take it. But, no, I don't think I would
14 give any unfair advantage to DSS. To the contrary,
15 I know where they make mistakes, and I might be more
16 prone to look for those, but I don't think I would
17 do that.

18 MS. DEAN: And I will note also that the
19 ballot box received comments saying that you were
20 fair and have a wealth of experience.

21 Ms. Goodwin, three more comments were
22 received and they had questions about judicial
23 temperament, such as, allowing personal feelings to
24 come into a case.

25 Can you just discuss the demeanor that you

1 would have on the bench as a judge?

2 MS. GOODWIN: Again, I think I have a
3 pretty good demeanor. I'm not aware of any possible
4 relationships with even some of the most difficult
5 attorneys in the Tenth Circuit. I believe in
6 treating everybody with respect and being fair and
7 following the law.

8 MS. DEAN: Thank you. And we did receive
9 comments that you have a great reputation among your
10 peers and the demeanor and temperament to be an
11 exemplary judge.

12 Ms. Goodwin, you've written multiple
13 article for the Anderson Observer regarding the
14 legal profession on legal topics, such as, living
15 wills, adoption, and civic duty.

16 First of all, thank you for providing
17 those to staff. If you were elected, what is your
18 position on continuing to write such articles?

19 MS. GOODWIN: I wouldn't do that anymore.

20 MS. DEAN: Mr. Chairman, I would ask for a
21 brief executive session.

22 REPRESENTATIVE DELLENEY: All right. Do I
23 have a motion to go into executive session?

24 REPRESENTATIVE CLEMMONS: I make a motion.

25 SENATOR MARTIN: Second.

1 REPRESENTATIVE DELLENEY: All in favor?

2 (Multiple speakers respond, "Aye.")

3 REPRESENTATIVE DELLENEY: All right.

4 We're now in executive session.

5 (The Committee went into executive session
6 from 2:29 p.m. to 2:34 p.m.)

7 REPRESENTATIVE DELLENEY: The veil is
8 lifted. We are now back in public session.

9 MS. DEAN: Thank you, Ms. Goodwin. We
10 just have a few housekeeping issues at this time.

11 Have you sought or received the pledge of
12 any legislator prior to this date?

13 MS. GOODWIN: No, ma'am.

14 MS. DEAN: Have you sought or have you
15 been offered a conditional pledge of support of any
16 legislator pending the outcome of your screening?

17 MS. GOODWIN: No. I have not.

18 MS. DEAN: Have you asked any third
19 parties to contact Members of the General Assembly
20 on your behalf?

21 MS. GOODWIN: No, ma'am.

22 MS. DEAN: Are you aware of anyone
23 attempting to intervene in any part of the process
24 on your behalf?

25 MS. GOODWIN: No.

1 MS. DEAN: Have you contacted any members
2 of this Commission?

3 MS. GOODWIN: I have not.

4 MS. DEAN: Do you understand that you are
5 prohibited from seeking a pledge or commitment until
6 48-hours after the formal release of the
7 Commission's report?

8 MS. GOODWIN: Yes, ma'am.

9 MS. DEAN: Have you reviewed the
10 Commission's guidelines on pledging?

11 MS. GOODWIN: Yes. I have.

12 MS. DEAN: Are you aware of the penalties
13 for violating the pledging rules, that is, it is a
14 misdemeanor and upon conviction, the violator must
15 be fined not more than \$1,000 or imprisoned not more
16 than 90 days?

17 MS. GOODWIN: Yes, ma'am.

18 MS. DEAN: I would note for the record
19 that the Upstate's Citizens Committee found Ms.
20 Goodwin qualified under all categories and the
21 Citizens Committee included a summary statement
22 already discussed.

23 I would just note for the record that any
24 concerns raised during the investigation regarding
25 the candidate were incorporated into this phase of

1 the questioning.

2 Mr. Chairman, I have no further questions.

3 REPRESENTATIVE DELLENEY: Does any member
4 of the Commission have any questions?

5 REPRESENTATIVE CLEMMONS: Mr. Chairman,
6 it's really not a question, but I compliment you.
7 You're a talented writer. I've read through a lot
8 of your articles, and I concur and highly recommend
9 to the members here the materials that you got. The
10 article, guns and domestic violence, a loaded issue.

11 Thank you.

12 MS. GOODWIN: Thank you.

13 REPRESENTATIVE DELLENEY: There being no
14 further questions, Ms. Goodwin, we thank you for
15 appearing before us today.

16 This concludes this portion of your
17 screening process; however, the record is open until
18 the report is published and until it becomes a final
19 report of the Commission, and 48-hours after that
20 you can seek pledges, but prior to the time that it
21 becomes a report of the Commission, we could re-open
22 your public hearing and bring you back and ask you
23 questions. We have done that on rare occasions but
24 that's very unlikely but I want to remind you of the
25 48-hour rule.

1 Thank you for your service, and thank you
2 for offering, and I hope you have a safe trip home.

3 MS. GOODWIN: Thank you.

4 REPRESENTATIVE DELLENEY: We have before
5 us Ms. Kelly Pope. Ms. Pope, before we get started,
6 do you have someone to introduce us to?

7 MS. POPE: Jody Black.

8 REPRESENTATIVE DELLENEY: Glad to have you
9 with us. We have Ms. Kelly Pope, who seeks a
10 position for the Family Court, At-Large, Seat number
11 1. If you would please raise your right hand to be
12 sworn.

13 (Kelly Pope, was duly sworn, after which
14 testimony commenced at 2:39 p.m.)

15 REPRESENTATIVE DELLENEY: Ms. Pope, have
16 you had an opportunity to review your Personal Data
17 Questionnaire?

18 MS. POPE: Yes, sir. I have.

19 REPRESENTATIVE DELLENEY: Is it correct?

20 MS. POPE: Yes, sir.

21 REPRESENTATIVE DELLENEY: So I assume
22 there are no changes that need to be made.

23 MS. POPE: No.

24 REPRESENTATIVE DELLENEY: Do you object to
25 our making that summary part of the record of your

1 sworn testimony?

2 MS. POPE: No, sir. I do not.

3 REPRESENTATIVE DELLENEY: It will be made
4 part of the record of your sworn testimony at this
5 time.

6 (EXH. 10, Personal Data Questionnaire of
7 Kelly Pope, marked for identification.)

8 REPRESENTATIVE DELLENEY: The Judicial
9 Merit Selection Commission has thoroughly
10 investigated your qualifications for service on the
11 bench. Our inquiry has primarily focused on nine
12 evaluative criteria, which include a survey of the
13 bench and the bar, a thorough study of your
14 application materials, verification of your
15 compliance with state ethics laws, a search of any
16 newspaper articles in which your name may have
17 appeared, a study of any previous screenings, and a
18 check for economic conflicts of interest.

19 We have no affidavits filed in opposition
20 to your election. There are no witnesses here to
21 testify. Do you have a brief opening statement that
22 you would like to make?

23 MS. POPE: First I would like to thank you
24 for the opportunity to be here. You have a lot of
25 candidates to interview and a lot of time spent

1 here. I do thank you for the opportunity and I look
2 forward to the process.

3 REPRESENTATIVE DELLENEY: Thank you,
4 ma'am. Answer any questions our able counsel may
5 have for you.

6 MS. WELLS: Ms. Pope, you have before you
7 your sworn statement to which you have no amendment.
8 Do you have any amendments at this time?

9 MS. POPE: No, ma'am.

10 MS. WELLS: Mr. Chairman, I would ask that
11 it be entered into the record.

12 REPRESENTATIVE DELLENEY: Without
13 objection it will be made part of the record at this
14 point in the transcript.

15 (EXH. 10A, Sworn Statement of Kelly Pope,
16 marked for identification.)

17 MS. WELLS: I also note for the record,
18 that based on the testimony contained in the
19 candidate's PDQ, which has been included in the
20 record with the candidate's consent, Ms. Hope meets
21 the statutory requirements for this position
22 regarding age, residence, and years of practice.

23 Ms. Pope, could you please state the city
24 and the circuit in which you reside.

25 MS. POPE: I live in Lyman, South

1 Carolina, which is the 13th Circuit.

2 MS. WELLS: Could you explain to the
3 Commission why you now want to serve as a Family
4 Court Judge.

5 MS. POPE: I have been practicing for 11
6 years, but prior to practicing law I actually --
7 when I left Presbyterian College, I worked for Safe
8 Harbor, which is a domestic abuse shelter, and
9 mainly focused -- I work with abused and neglected
10 children.

11 After serving the community in that area
12 and in that need, I went to law school. And it was
13 never a matter of whether I wanted to be a Family
14 Court Judge. It was a matter of when I wanted to
15 make that move. I've always wanted to do that and a
16 lot of that stems from the work I did with abused
17 children before I went to law school.

18 MS. WELLS: Thank you. Is there anything
19 else in your legal professional experience that you
20 believe would assist you in becoming an effective
21 Family Court Judge?

22 MS. POPE: I have experience in different
23 areas of litigation. Not only in family court but
24 in the 11-years that I've been practicing, I also
25 have experience in the civil courtroom. I have lots

1 of courtroom experience, a lot of litigation
2 experience, but specifically, I have spent a lot of
3 time in Family Court handling those matters.

4 MS. WELLS: Ms. Hope, you did address this
5 in your PDQ, but are there any areas, including
6 subjective areas of law, that you would need to
7 additionally prepare for in order to become a Family
8 Court Judge, and how would you expect to handle that
9 additional preparation?

10 MS. POPE: I readily admit that I do not
11 have the experience in the juvenile area of Family
12 Court. I've been doing some studying on that, that
13 deals with that matter. However, I think the best
14 way to gain experience is to sit and observe. I
15 would like to be part of those proceedings, sit with
16 a judge, and get that hands-on learning. I think
17 that would be the best way to fill that particular
18 area that I don't have experience in.

19 MS. WELLS: Would you please explain to
20 the members of the Commission what you think is the
21 proper demeanor of a Family Court Judge.

22 MS. POPE: I think that a judge should be
23 patient and understanding, but I think a judge
24 should have control of the courtroom and the
25 proceedings and know when it's time to be stern but

1 do so in a manner that is respectful of those in the
2 courtroom.

3 In Family Court, you deal a lot with pro
4 se litigants. So I think you have to be extremely
5 patient and understanding and make sure they
6 understand the proceeding and they understand what
7 is going on in the courtroom. So I think the
8 biggest thing is to be respectful but be stern when
9 you need to be and to be patient.

10 MS. WELLS: Thank you. Is there a Family
11 Court Judge currently on the bench that you would
12 like to model yourself after or you believe
13 particularly exemplifies the characteristics of a
14 Family Court Judge?

15 MS. POPE: There is actually more than
16 one. We are very blessed to have very good Family
17 Court judges in this state. I do a lot of my
18 practice in the Upstate, so I see a lot of judges in
19 the Greenville and Spartanburg area and we're
20 blessed.

21 So it really wouldn't be one particular
22 judge. I think there are characteristics of several
23 judges that I would like to be able to combine those
24 and be able to use if I were sitting on the bench.
25 For instance, Judge Sinclair in Spartanburg is very

1 patient and understanding. I have seen him be
2 extremely patient at times when I've been in there
3 for a long time. And I'm wondering when is he --
4 his patience -- when is it going to run out, but it
5 doesn't. And then you have other judges, Rachel
6 Konis. She is very understanding. She's a very big
7 advocate of children, she takes control of her
8 courtroom, but she does it in a respectful manner.
9 So it's a combination. There's not just one judge.

10 MS. WELLS: Thank you. What suggestions
11 would you offer for improving the backlog of Family
12 Court cases in the Upstate?

13 MS. POPE: Unfortunately that is a reality
14 that our court systems have. I think one thing that
15 needs to happen is that attorneys need to be held
16 accountable. That you need -- when it's time for
17 your case to be called, when it's time for your
18 hearing to be held that they're ready.

19 If you're not then you need to be held
20 accountable for that. Cases don't move along if you
21 don't work on them. I think judges should hold
22 attorneys accountable and they should be prepared
23 and be ready to move on.

24 MS. WELLS: Thank you. If you were
25 elected to the bench, what would you like your

1 legacy to be as a judge on the Family Court?

2 MS. POPE: I would like to be remembered
3 as a judge who was fair, was honest, but was an
4 advocate for children, and that made sure that they
5 were protected.

6 MS. WELLS: Do you currently carry
7 malpractice insurance in your law firm, and, if so,
8 how long have you carried it?

9 MS. POPE: Yes. We do. And we've had --
10 in 2007, I joined the firm that I'm at now, but I've
11 always had malpractice insurance.

12 MS. WELLS: In your PDQ you note several
13 federal and state tax liens that were filed against
14 you which were satisfied as of May 2012.

15 Could you please explain to the Commission
16 why these tax liens occurred.

17 MS. POPE: Those were tax liens that were
18 incurred during my marriage. I went through a
19 divorce in 2010 and 2011. In 2011, I assumed
20 responsibility in the final divorce degree. And as
21 soon as that was done, I started to make
22 arrangements for those to be paid and taken care of.

23 MS. WELLS: And those have been satisfied.

24 MS. POPE: Yes. They have.

25 MS. WELLS: The Commission received 56

1 ballot box surveys on you, only four of those had
2 written comments which indicated some concerns.
3 Those concerns focused primarily on what was
4 considered your lack of experience in Family Court.

5 How do you respond to those concerns?

6 MS. POPE: I think some of those -- as I
7 mentioned before, I do a lot of civil work in common
8 pleas. I think a lot of those may have been from
9 people that I do work civil cases on. I'd say about
10 50-percent of my practice involves civil cases in
11 common pleas throughout the state.

12 So I have cases in Charleston, Myrtle
13 Beach -- some of those attorneys that I have cases
14 with may not know that I do Family Court work
15 because that has been exclusively in the Upstate.

16 I'm assuming that that may be what some of
17 those responses were.

18 MS. WELLS: Thank you. Just a few
19 housekeeping issues.

20 Have you sought or received the pledge of
21 any legislator prior to this date?

22 MS. POPE: No. I have not.

23 MS. WELLS: Have you sought or been
24 offered a conditional pledge of support of any
25 legislator pending the outcome of your screening?

1 MS. POPE: No. I have not.

2 MS. WELLS: Have you asked any third
3 parties to contact Members of the General Assembly
4 on your behalf?

5 MS. POPE: No. I have not.

6 MS. WELLS: Are you aware of anyone
7 attempting to intervene in any part of the process
8 on your behalf?

9 MS. POPE: No. I am not.

10 MS. WELLS: Have you contacted any members
11 of this Commission?

12 MS. POPE: No.

13 MS. WELLS: Do you understand that you are
14 prohibited from seeking a pledge or commitment until
15 48-hours after the formal release of the
16 Commission's report?

17 MS. POPE: Yes. I do.

18 MS. WELLS: Have you reviewed the
19 Commission's guidelines on pledging?

20 MS. POPE: Yes.

21 MS. WELLS: Are you aware of the penalties
22 for violating the pledging rules or that it is a
23 misdemeanor and upon conviction, the violator must
24 be fined not more than \$1,000 or imprisoned not more
25 than 90 days?

1 MS. POPE: Yes.

2 MS. WELLS: Mr. Chairman, I would note for
3 the record that the Upstate Citizens Committee
4 reported that Ms. Pope was qualified in all the
5 criteria and any concerns raised during the
6 investigation regarding the candidate were
7 incorporated into the questioning today.

8 I have no further questions.

9 REPRESENTATIVE DELLENEY: Does any member
10 of the Commission have any further questions of
11 Ms. Pope?

12 There being none, thank you, Ms. Pope for
13 appearing before us today. And this concludes this
14 portion of your screening. We'll issue a report.
15 First it will be a draft report and then after a
16 certain period of time it will become the final
17 report of the Commission. Before it reaches that
18 point, we could, if we so choose, we can reconvene
19 and take a vote and bring you back and ask you more
20 questions.

21 Once the report becomes the report of the
22 Commission, the screening process is over. But
23 again we remind you about the 48-hour rule and those
24 time periods before you can seek commitments.

25 Again, thank you for offering and I hope

1 you have a safe trip home.

2 MS. POPE: Thank you. Thank you for your
3 time.

4 REPRESENTATIVE DELLENEY: I would like to
5 put on the record that we're taking up Family Court,
6 At-Large, Seat number 2, and because of a presumed
7 conflict, Mr. Harold, with candidate Anthony Philip
8 LaMantia. Mr. Harold is recusing himself from the
9 screening for the Family Court, At-Large, Seat 2.

10 We have before us today Mr. Tony Miller
11 Jones, who seeks a position on the Family Court,
12 At-Large, Seat number 2.

13 If you would, Mr. Jones, please raise your
14 right hand to be sworn.

15 (Tony Miller Jones, was duly
16 sworn, after which testimony commenced at 2:52 p.m.)

17 REPRESENTATIVE DELLENEY: Mr. Jones, have
18 you had an opportunity to review your Personal Data
19 Questionnaire?

20 MR. JONES: I have.

21 REPRESENTATIVE DELLENEY: Is it correct?

22 MR. JONES: It is.

23 REPRESENTATIVE DELLENEY: So are there any
24 changes that need to be made?

25 MR. JONES: No.

1 REPRESENTATIVE DELLENEY: Do you object to
2 our making that summary part of the record of your
3 sworn testimony?

4 MR. JONES: I do not.

5 REPRESENTATIVE DELLENEY: It will be made
6 as part of the record of your sworn testimony.

7 (EXH. 11, Personal Data Questionnaire of
8 Tony Miller Jones, marked for identification.)

9 REPRESENTATIVE DELLENEY: The Judicial
10 Merit Selection Commission has thoroughly
11 investigated your qualifications for service on the
12 bench. Our inquiry has focused primarily on nine
13 evaluative criteria, which include a survey of the
14 bench and the bar, a thorough study of your
15 application materials, verification of your
16 compliance with state ethics laws, a search of any
17 newspaper articles in which your name may have
18 appeared, a study of previous screenings, and a
19 check for economic conflicts of interest.

20 We have no affidavits filed in opposition
21 to your election. There are no witnesses here to
22 testify. Do you have a brief opening statement that
23 you would like to make?

24 MR. JONES: I do.

25 REPRESENTATIVE DELLENEY: All right.

1 MR. JONES: My name is Tony Jones, and I'm
2 from York County. I have practiced law almost 30
3 years, almost exclusively in the Family Courts.
4 I've handled thousands of cases, ranging from abuse
5 and neglect in DSS matters, all the way to
6 complicated, complex, domestic litigation. I know
7 the law. I know the system. I can do the job. I
8 also know the players around the state because I've
9 worked with them.

10 Now, you may want to ask why do I want to
11 become a judge? Well, that's a good question. It's
12 not because I'm looking for an increase in pay
13 because my pay would be cut by well more than half.
14 I'm not trying to get into the retirement because I
15 don't have one hour in the system. If I'm elected
16 I'll be 55 years of age. I'm doing it for the very
17 reason that you are sitting here today. It's called
18 public service. It's called giving something back,
19 and I believe I can best fulfill my public service
20 by being a Family Court Judge because I think I can
21 improve the system.

22 There's a lot of things that you can say
23 about me, but I don't think you're going to find on
24 any of those interviews or questionnaires that I'm
25 lazy. I'm a hard worker and I know that I will do

1 the job.

2 I know this is an At-Large seat, and I
3 know that it will be traveling, but I also know that
4 docket considerations will play some role in where a
5 judge is assigned. Ladies and gentlemen, there is
6 no greater need that exists in this state than York
7 County. We are the second fastest growing county in
8 the state. We have one judge. Other big areas have
9 four, five, and six. We have one. York County is
10 exploding. We're the gateway to South Carolina.
11 Most people that come to this state have to go
12 through York County to get here.

13 We've got good schools and we've got
14 roads, but our judicial infrastructure has not kept
15 pace and York County needs a seat. I can do the
16 job. If the General Assemble of this state seeks to
17 elect me, I will not let them down. Thank you.

18 REPRESENTATIVE DELLENEY: Answer any
19 questions our able counsel may have for you.

20 MR. GOLDIN: I have a few procedural
21 matters to take care of. Mr. Jones, you have before
22 you a sworn statement you provided with detailed
23 answers to over 30 questions regarding judicial
24 conduct, statutory qualifications, office
25 administration, and temperament.

1 Are there any additional amendments you
2 would like to make at this time to your sworn
3 statement?

4 MR. JONES: No, sir.

5 MR. GOLDIN: At this time, Mr. Chairman, I
6 would like to ask that Tony Jones' sworn statement
7 be entered as an exhibit into the hearing record.

8 REPRESENTATIVE DELLENEY: It will be made
9 part of the sworn testimony at this point.

10 (EXH. 11A, Sworn Statement of Tony Miller
11 Jones, marked for identification.)

12 MR. GOLDIN: One final procedural matter.
13 I note for the record that based on the testimony
14 contained in the candidate's Personal Data
15 Questionnaire, which has been included in the record
16 with the candidate's consent, Mr. Jones meets the
17 statutory requirements for this position regarding
18 age, residence, and years of practice.

19 For the record, Mr. Jones, please state
20 the city and circuit in which you reside.

21 MR. JONES: Rock Hill, York County, 16th
22 Judicial Circuit.

23 MR. GOLDIN: Mr. Jones, why do you now
24 want to serve as a Family Court Judge?

25 MR. JONES: I've been practicing law for

1 30 years and the practice has been very good to me.
2 As I said in my opening statement, I think public
3 service is a duty. I genuinely believe that. I
4 could stay in my practice and ride it out and have a
5 much more lucrative end to my career, but that's not
6 what this is about.

7 When you're in the Family Court and this
8 system, you see how the lives of people are
9 effected, how they're impacted. You see children
10 come into Family Court under the DSS abuse and
11 neglect area that have been beaten, scared, burned.
12 And it can be very emotional because you see what
13 little kids have to do. So you want to do something
14 to help protect those children. And as a Family
15 Court Judge you can do that. That's not to say our
16 current Family Court Judges are not, but that's
17 something that you can do. And if I'm a Judge, I
18 would be very firm in that regard -- protecting our
19 children.

20 MR. GOLDIN: Thank you. Mr. Jones, any
21 there any areas, including subjective areas of law,
22 that you would need to additionally prepare for in
23 order to serve as a judge and how would you go about
24 such preparation?

25 MR. JONES: Well, I probably would need to

1 bone up on the adoption law. I'm familiar with the
2 statutes and I've handled some adoptions. Up in our
3 area of the state, we have one lawyer who pretty
4 much handles all adoptions. I'd probably need to
5 bone up on that. Study a little more.

6 MR. GOLDIN: Mr. Jones, although you've
7 addressed this in your sworn affidavit, could you
8 please explain to the members of the Commission what
9 you think is the appropriate demeanor for a Family
10 Court Judge.

11 MR. JONES: A Family Court Judge needs to
12 be a calm, firm, deliberate individual who brings
13 dignity to the courtroom and to the process itself.
14 We have some judges in this state -- Judge Morehead,
15 Judge Jenkins -- when you go into their courtrooms,
16 it's a very dignified proceeding. They are resolute
17 and firm, but they give everybody their day in
18 court.

19 I do know because this was said to me that
20 there was a couple questions raised about my
21 temperament. It depends on what hat you're wearing.
22 If I'm representing a client and I'm an advocate --
23 if I'm an advocate, then I'm going to wear a
24 different hat because I'm aggressive. I represent
25 my clients zealously. That's how I have a good

1 business. I don't advertise.

2 But on the other hand, I'm also a
3 mediator, and a mediator wears a different hat. A
4 mediator tries to bring the sides together to work
5 toward resolution. I'm chosen a lot by the lawyers
6 in my area to serve as a mediator, and I resolve
7 more than 90-percent of the cases brought before me
8 in mediation. But I'm wearing a different hat.

9 It's a calm, deliberate manner which is
10 designed to bring the sides together, and that is
11 what I'd bring to the bench.

12 MR. GOLDIN: Thank you. You touched on it
13 a little bit, but other than the judges that you
14 just mentioned, are there any other judges sitting
15 in Family Court that you think exemplifies the
16 characteristics that a Family Court Judge should
17 have?

18 MR. JONES: Yes, sir. Judge Tommy
19 Edwards. He's an outstanding judge. Judge David
20 Giddon. Now, I ran against him last time and I
21 lost. But I'm going to tell you, the legislature
22 didn't do itself any harm by electing him. Brian
23 Gibbons out of Chester. The man will rule. Lawyers
24 like that. They like for at the end of the case to
25 get a ruling from a judge, as opposed to waiting

1 three months. They want their clients to hear it
2 from the judge. Judge Jenkins -- like I said I can
3 go on. We have some good Family Court judges here.

4 MR. GOLDIN: When you leave the bench,
5 what would you like your legacy as a judge on the
6 Family Court bench to be?

7 MR. JONES: He was fair and you had better
8 been prepared.

9 MR. GOLDIN: What suggestions would you
10 offer for improving the backlog of cases on the
11 docket in Family Court?

12 MR. JONES: Well, we don't have enough
13 time for me to get into all of them, but one thing
14 we could do in the state. We need a uniform system
15 of pretrial hearings. You can't just up in York
16 County or Greenville, adopt a little rule and say
17 this is the way we're going to do pretrials because
18 that's a local rule. We need a uniform system
19 across this state. When you go to a pretrial a lot
20 times the judge, says, Okay, what do we need to do
21 to get this thing ready for trial. Well, really?
22 How much time do you think you're going to take? Is
23 there anything that I can help you with? No.

24 When you come to a pretrial hearing, your
25 case ought to be ready to try. You ought to know

1 who your witnesses are going to be, how long it's
2 going to take to examine them. You need to have a
3 marital assets addendum completed. You need to have
4 all the property itemized, identified, valued, and
5 identify where the differences are because the court
6 is only supposed to try issues in contest.

7 If we agree on those values, we can take
8 that off the table. Just isolate where we disagree
9 and then exchange settlement offers 24 hours prior
10 to the pretrial conference in a sealed envelope.
11 You know, you're about ready to go. The Judge will
12 know how much time to set. We won't set a day for
13 trial, when the Judge can look at the pretrial
14 hearing, and say, Look, you can do it in half a day.
15 And then you have those sealed envelopes that
16 contain the settlement offers that the Judge takes
17 up after the merits hearing because one of the
18 things in this state is to look at is beneficial
19 results entitled.

20 So when you have the settlement proposals
21 and then you hear the merits of the case, that means
22 you better be careful and not cavalier when you
23 exchange settlement proposals because it could come
24 back to bite you later on. We could do that to
25 reduce the backlog. And I'll be quick with one

1 other thing.

2 At a temporary hearing the judge issues --
3 resolves the temporary issues -- temporary custody,
4 temporary possession of property, alimony, child
5 support, and the like. And then we have temporary
6 order and then we just fall into this abyss. We
7 need a scheduling order. We need at the temporary
8 hearing, for the judge to say, All right, folks.
9 discovery is going to be complete in 60 days. We'll
10 name a mediator right now. If you can't agree upon
11 one, I'll name one for you. You'll have mediation
12 scheduled within this length of time. You're going
13 to have this done within this length of time.

14 You're holding people's feet to the fire.
15 The only way to get things moving along is to drag
16 them along. You don't have to be ugly about it, but
17 you have to hold people to a schedule. And there
18 has to be consequences if you're not willing to meet
19 that schedule. And then -- that's called if you
20 can't make them see the light, you make them feel
21 the heat. And then we bring them through the
22 process, get them through the system, and it's a
23 more orderly, efficient administration of the case.
24 It will speed things up and clean up our dockets.

25 MR. GOLDIN: Thank you. Mr. Jones, do you

1 currently care malpractice insurance in your law
2 practice?

3 MR. JONES: I do.

4 MR. GOLDIN: If so, how long?

5 MR. JONES: Thirty years I suppose.

6 MR. GOLDIN: Mr. Jones, you touched on it
7 earlier about judicial temperament. There were 74
8 ballot box surveys regarding you with eight
9 additional comments. Three of those surveys did
10 indicate concern regarding judicial temperament.

11 Other than what you've already addressed,
12 is there anything else that you would like to add?

13 MR. JONES: No. This is a rather
14 exhaustive process and I think I've covered
15 everything that I think I should have.

16 MR. GOLDIN: Thank you. Just a few
17 housekeeping issues. Have you sought or received
18 the pledge of any legislator prior to this date?

19 MR. JONES: No. I have not.

20 MR. GOLDIN: Have you sought or been
21 offered a conditional pledge of support of any
22 legislator pending the outcome of your screening?

23 MR. JONES: No, sir.

24 MR. GOLDIN: Have you asked any third
25 parties to contact Members of the General Assembly

1 on your behalf?

2 MR. JONES: No.

3 MR. GOLDIN: Are you aware of anyone
4 attempting to intervene in any part of the process
5 on your behalf?

6 MR. JONES: No.

7 MR. GOLDIN: Have you contacted any
8 members of this Commission?

9 MR. JONES: No.

10 MR. GOLDIN: Do you understand that you
11 are prohibited from seeking a pledge or commitment
12 until 48-hours after the formal release of the
13 Commission's report?

14 MR. JONES: Yes.

15 MR. GOLDIN: Have you reviewed the
16 Commission's guidelines on pledging?

17 MR. JONES: Yes.

18 MR. GOLDIN: Are you aware that the
19 penalties for violating the pledging rules or that
20 it is a misdemeanor and upon conviction, the
21 violator must be fined not more than \$1,000 or
22 imprisoned not more than 90 days?

23 MR. JONES: Yes.

24 MR. GOLDIN: I would note that the
25 Piedmont Citizens Committee found Mr. Jones to be

1 well qualified for ethical fitness, professional and
2 academic ability, character, reputation, experience,
3 and judicial temperament.

4 The committee did not assess Mr. Jones'
5 for the criteria of constitutional qualifications,
6 physical and mental stability. In summary, the
7 committee stated that all committee members rated
8 Mr. Jones as well qualified.

9 I would also not for the record that any
10 concerns raised during this investigation regarding
11 the candidate were incorporated in the questioning
12 of the candidate today. Mr. Chairman, I don't have
13 any further questions.

14 REPRESENTATIVE DELLENEY: Does anybody on
15 the Commission have any questions for Mr. Jones?

16 There being none, thank you Mr. Jones for
17 appearing before us today, and this concludes this
18 portion of your screening process.

19 Of course you're aware that we issue a
20 report published as a draft and then later it turns
21 into a report of the Commission. And prior to that
22 time, we could call you back and ask you questions
23 if we so desire.

24 MR. JONES: Sure.

25 REPRESENTATIVE DELLENEY: And you

1 understand the 48 hour rule. Thank you for
2 offering. I hope you have a safe trip back to Rock
3 Hill.

4 MR. JONES: Thank you. You all have a
5 nice day.

6 REPRESENTATIVE DELLENEY: Good afternoon,
7 Mr. Keefer.

8 MR. KEEFER: Good afternoon.

9 REPRESENTATIVE DELLENEY: We have before
10 us today Mr. Sean F. Keefer who seeks a position on
11 the Family Court, At-Large, Seat 2.

12 Please raise your right hand to be sworn.

13 (Sean Keefer, was duly sworn, after which
14 testimony commenced at 3:10 p.m.)

15 REPRESENTATIVE DELLENEY: Mr. Keefer, have
16 you had an opportunity to review your Personal Data
17 Questionnaire?

18 MR. KEEFER: I have.

19 REPRESENTATIVE DELLENEY: Is it correct?

20 MR. KEEFER: Yes.

21 REPRESENTATIVE DELLENEY: So are there any
22 changes that need to be made?

23 MR. KEEFER: No.

24 REPRESENTATIVE DELLENEY: Do you object to
25 our making that summary part of the record of your

1 sworn testimony?

2 MR. KEEFER: I do not.

3 REPRESENTATIVE DELLENEY: It will be made
4 as part of the record of your sworn testimony.

5 (EXH. 12, Personal Data Questionnaire of
6 Sean Keefer, marked for identification.)

7 REPRESENTATIVE DELLENEY: The Judicial
8 Merit Selection Commission has thoroughly
9 investigated your qualifications for service on the
10 bench. Our inquiry has primarily focused on nine
11 evaluative criteria, which include a survey of the
12 bench and the bar, a thorough study of your
13 application materials, verification of your
14 compliance with state ethics laws, a search of any
15 newspaper articles in which your name may have
16 appeared, a study of previous screenings, and a
17 check for economic conflicts of interest.

18 There are no affidavits filed in
19 opposition to your election. There are no witnesses
20 here to testify. Do you have a brief opening
21 statement that you would like to make?

22 MR. KEEFER: Briefly I would like to thank
23 everybody for having me today. It's a privilege and
24 honor to be here. I thank everybody for their
25 service, not only members of the Commission but each

1 one personally. I know it's taken a lot time. It's
2 been a process not just for this seat but for a
3 variety of other seats.

4 While it's a small token, just to thank
5 everybody involved.

6 REPRESENTATIVE DELLENEY: Thank you, sir.
7 If you would answer any questions our able counsel
8 may have.

9 MS. ANZELMO: Mr. Chairman, I have a few
10 procedural matters to take care of first.

11 Mr. Keefer, you have before you your sworn
12 statement that you provided with details. These are
13 answers to over 30 questions regarding judicial
14 conduct, statutory qualifications, office
15 administration, and temperament.

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

18 MR. KEEFER: There are none.

19 MS. ANZELMO: Mr. Chairman, I would ask
20 that Mr. Keefer's sworn statement be entered as an
21 exhibit in the hearing record.

22 REPRESENTATIVE DELLENEY: It will be done
23 at this point in the transcript without objection.

24 (EXH. 12A, Sworn Statement of Sean Keefer,
25 marked for identification.)

1 MS. ANZELMO: I note for the record that
2 based on the testimony contained in the candidate's
3 PDQ, which has been included in the record with his
4 consent, Mr. Sean Keefer meets the statutory
5 requirements for this position regarding age,
6 residence, and years of practice.

7 Mr. Keefer, please state the city and
8 circuit in which you reside.

9 MR. KEEFER: I reside in Charleston, South
10 Carolina, 9th Judicial Circuit.

11 MS. ANZELMO: Mr. Keefer, why do you want
12 to serve as a Family Court Judge?

13 MR. KEEFER: During the entirety of my
14 time as an attorney in the State of South Carolina,
15 my focus has been in Family Court. I have a lot of
16 experience in handling a lot of cases in a variety
17 of areas. I've been exposed to a great number of
18 other practitioners, judges, variety of fact
19 patterns.

20 Part of my time over the years has been
21 serving as a mediator helping folks resolve cases
22 without going to court. Incumbent in that, has
23 been the process where from time to time I'm asked
24 to give my thoughts as to what may happen if things
25 were to proceed to trial.

1 As a result of that, I started to realize
2 that I had a number of skills that I felt I could
3 bring to the bench, that I could provide in the
4 public service, draw on my years of experience, my
5 ability to apply the law to facts that were there,
6 the demeanor I have, my ability to work with and
7 listen to people and make decisions.

8 As a result of that, I felt that I had the
9 requisite experience and knowledge and that now is
10 the time to apply and be a Family Court Judge, and
11 that's why I'm here today.

12 MS. ANZELMO: Are there any areas of the
13 law that you would need additional preparation as a
14 judge, and if so, how would you handle that
15 additional preparation?

16 MR. KEEFER: As I mentioned a few moments
17 ago, I've handled many varied cases as an attorney
18 practicing in Family Court. Through this process,
19 even with me reflecting from the outset, the
20 juvenile matters are an area that -- while I
21 understand the process, I'm familiar with the
22 process, it does not rise to the level of experience
23 that I've had in other areas.

24 The way that I would handle that -- and,
25 in fact, I've already started doing that -- is

1 taking some of my time and in as innocuous fashion
2 as possible, sit in the back of the courtroom and
3 watch the proceedings. So I've gone down and
4 watched the detention hearings, disposition
5 hearings. I've taken my time to talk to public
6 defenders, defense attorneys, the Family Court
7 Solicitors, taking advantage of some of the judges
8 in our circuit. I told them I was there to ask
9 questions that I had.

10 So I've already started doing that. And
11 in the event that I end up on the bench, I'll
12 continue to do that until such time as I would take
13 the bench. And I believe that that would further
14 refine my ability were something to come up and draw
15 on my other legal skills to be able to handle any
16 matter that would come before me.

17 MS. ANZELMO: Although you address this in
18 your sworn affidavit, could you please explain to
19 the members of the Commission what you think is the
20 appropriate demeanor for a judge.

21 MR. KEEFER: I believe the appropriate
22 demeanor for a judge is to expect that when
23 litigants come for any Family Court proceeding, be
24 it an approval for agreement, be it a contested
25 final trial, whatever, I believe that you should

1 look at that. While the attorneys prepare them,
2 largely that is going to be an alien forum for them.

3 As a result of that, I believe the
4 demeanor of a judge should be courteous, attentive,
5 they should not do anything that would in any way,
6 form, or fashion, by comment, by facial expression,
7 by even the way that they handle the parties or the
8 attorneys to do anything that would yield the
9 impression that this judge was biased, had made a
10 decision before the evidence was heard, or was going
11 to do anything other than provide a fair and
12 impartial forum.

13 MS. ANZELMO: Is there any Family Court
14 Judge currently on the bench that you would like to
15 model yourself after or that you believe
16 particularly exemplifies the characteristics that a
17 Family Court Judge should have?

18 MR. KEEFER: The attorney in me -- well,
19 let me back up. The attorney that is going to be
20 potentially appearing in front of these Family Court
21 Judges will answer this question in this fashion.

22 I believe that every judge that I've
23 appeared before, I have drawn something from that is
24 an admirable quality in that judge. There are other
25 judges that I feel are more approachable. I

1 practice primarily in the 9th Circuit, so there are
2 six judges down there, who, when I walk into the
3 courtroom, I like to think they that know me and the
4 caliber of my work and I'm very comfortable in front
5 of them.

6 I've been practicing law 15 years and
7 regularly get judges down in Charleston that are
8 new, and the phone lines are being burned up to find
9 out what we can about this judge. But my models of
10 the judges that sit down in Charleston County -- I
11 think the world of them. If I could rise to the
12 level of the bench of any of those judges down there
13 now, I would consider my time as a Family Court
14 Judge successful.

15 MS. ANZELMO: What suggestions would you
16 offer for improving the backlog of cases on the
17 docket in Family Court?

18 MR. KEEFER: I'm going to answer that
19 question maybe a bit presumptive on my part. If I
20 were a Family Court Judge what would I do, and it
21 reminds me of something that my mother would say
22 every time I came to her with a problem, she would
23 look at me and smile, and say, Well, Sean, change
24 starts at home.

25 So I think the first thing that you do in

1 controlling the backlog as a Family Court Judge, is
2 say, you as a judge, what can you control. Orders
3 need to be done in a timely fashion. Decisions need
4 to be done in a timely fashion. Hearings need to be
5 conducted as scheduled. You need to do everything
6 in your control to move and keep the docket going
7 forward. Continuances are going to be granted, but
8 I certainly would not think you would need to have a
9 judge whose reputation is all you have to do is ask,
10 and a continuance is going to be granted.

11 I believe from there you step out and you
12 look at the attorneys that are going to be
13 practicing before you -- making sure they're getting
14 their order done in time, making sure they're not
15 delaying the process, being proactive as you work
16 through to make sure mediations are being done. If
17 cases can be resolved in some way other than using
18 the court's time. If you have a hearing set for
19 four hours or three hours, get it done in four hours
20 or three hours as allotted, so we don't have to
21 continue it to some point down the road. Use
22 standbys. Ultimately if I get on the bench, I hope
23 that I would have the opportunity, and I would be
24 proactive in this to work with other judges and find
25 out what works so ultimately you could take and

1 apply it across the board.

2 Finally, I believe from the standpoint of
3 the position which I'm seeking, the At-Large seat,
4 that is going to provide a pressure relief, that,
5 for instance, your first question was where do you
6 live and where is your circuit? Well, I live in
7 Charleston and I intend to continue living in
8 Charlestown, as I'm told by my wife.

9 If I'm an At-Large judge from Charleston,
10 South Carolina, I fully intend that I would be
11 familiar with jumping on Yahoo maps to find out
12 where the courthouse is in any of the other counties
13 in the State of South Carolina. I believe the
14 At-Large position has created a unique opportunity
15 to be able to have additional help in those counties
16 where they are backlogged, be it Greenville,
17 Lexington, Rock Hill, be it Horry, be it wherever.
18 This would be a position that you could take the
19 show on the road and use the resources where you
20 need it.

21 MS. ANZELMO: Thank you. Do you currently
22 carry malpractice insurance in your practice and how
23 long have you carried malpractice insurance?

24 MR. KEEFER: I have had malpractice
25 insurance in my practice since I opened in 2006.

1 I've been covered continuously on a policy since I
2 entered practice in 1997.

3 MS. ANZELMO: Mr. Keefer, the Commission
4 received 154 ballot box surveys with 29 additional
5 comments in response to your candidacy. Two of the
6 comments raise concerns. The first comment stated
7 that you might be too inexperienced to be a Family
8 Court Judge. How would you respond to that concern?

9 MR. KEEFER: I've been practicing law 15
10 years. My experience is in the Family Courts. I
11 routinely mediate cases for attorneys in Charleston
12 County, Dorchester, and Berkeley County. The first
13 way I would handle it would be this. I don't think
14 that I could continue and maintain a mediation
15 practice were there not a large group of attorneys
16 out there who did not feel comfortable with my
17 experience level to have me assist in mediating and
18 resolving cases.

19 I also look at it from the standpoint
20 where I'm a sole practitioner. I practice with my
21 wife, but she's not a Family Court practitioner. If
22 I have something that comes up, I'm not so brazen
23 to think that I just brush it aside. I know where
24 to go look. I know where to find the answers. I
25 have a network of attorneys that I work with that I

1 know through practice that I could find the answer
2 if need be. I don't have to do that a lot.

3 I don't want that answer to sound like I'm
4 so arrogant that I just know the answer as it comes
5 to me. But I believe when you say one out 154 -- I
6 acknowledge that is a concern. I don't believe that
7 is a concern that would cause problems with me being
8 on the bench. But if somebody has said that, I wish
9 I had the opportunity to sit down and find out
10 exactly what it was, so I could use that to better
11 myself.

12 Hopefully if there was next time around
13 and they were asked again, they wouldn't say that
14 was a problem.

15 MS. ANZELMO: Thank you. The second
16 comment questioned your work ethic. How would you
17 respond to that?

18 MR. KEEFER: My wife chuckled when I told
19 her that one. Not to minimize but I've routinely
20 heard her say, Sean, you've scheduled a mediation on
21 Labor Day. Sean, you scheduled a mediation on
22 Veteran's Day. I have work that I have to do. It
23 gets done. I have something that needs to be
24 finished, it's done beforehand. I'm not a last
25 minute, get it together, kind of guy.

1 You asked me what would we do to shore up
2 in the areas of deficiencies. My work ethic --
3 maybe take my time that I have now and go down to
4 the Family Courts to sit, to watch, to learn.
5 Whether or not I end up being a Family Court Judge,
6 I feel like I've bettered myself by getting a little
7 bit different understanding.

8 So if someone calls me to say, I have this
9 juvenile criminal matter, I'm going to be able to
10 provide them better service, even if it's directing
11 them to the person that I know needs to be handling
12 it rather than me.

13 MS. ANZELMO: Thank you, Mr. Keefer. Have
14 you sought or received the pledge of any legislator
15 prior to this date?

16 MR. KEEFER: No.

17 MS. ANZELMO: Have you sought or have you
18 been offered a conditional pledge of support of any
19 legislator pending the outcome of your screening?

20 MR. KEEFER: No.

21 MS. ANZELMO: Have you asked any third
22 parties to contact Members of the General Assembly
23 on your behalf?

24 MR. KEEFER: No.

25 MS. ANZELMO: Are you aware of anyone

1 attempting to intervene in any part of the process
2 on your behalf?

3 MR. KEEFER: No.

4 MS. ANZELMO: Have you contacted any
5 members of this Commission?

6 MR. KEEFER: Not a single one.

7 MS. ANZELMO: Do you understand that you
8 are prohibited from seeking a pledge or commitment
9 until 48-hours after the formal release of the
10 Commission's report?

11 MR. KEEFER: Yes.

12 MS. ANZELMO: Have you reviewed the
13 Commission's guidelines on pledging?

14 MR. KEEFER: Yes.

15 MS. ANZELMO: Are you aware that it is a
16 violation of the pledging rules, that it is a
17 misdemeanor, and upon conviction, the violator must
18 be fined not more than \$1,000 or imprisoned not more
19 than 90 days?

20 MR. KEEFER: Yes.

21 MS. ANZELMO: I would note the Low Country
22 Citizens Committee found Mr. Keefer qualified in the
23 areas of constitutional qualification, physical
24 health, mental stability, reputation, and
25 experience. The committee found him well qualified

1 in the areas of ethical fitness, professional and
2 academic ability, character, and judicial
3 temperament.

4 The Citizens Committee also had concerns
5 with Mr. Keefer's lack of experience in handling
6 juvenile delinquent cases. Mr. Keefer, other than
7 what you've already provided to the Commission in
8 response to what you've done thus far to learn more,
9 how would you respond to the Citizens Committee's
10 concerns?

11 MR. KEEFER: Without being redundant, I
12 would simply reference my earlier testimony with
13 what I've done and what I will continue to do.

14 MS. ANZELMO: Finally I would note for the
15 record that any concerns raised during the
16 investigation regarding the candidate were
17 incorporated into the questioning of him today.

18 Mr. Chairman, I have no further questions.

19 REPRESENTATIVE DELLENEY: Does any member
20 of the Commission have any questions of Mr. Keefer?

21 There being no further questions, Mr.
22 Keefer, I would like to thank you very much for
23 appearing before us today.

24 This concludes this portion of your
25 screening process review; however, the record is

1 open until the report is published and until it
2 becomes a final report of the Commission, and
3 48-hours after that, you can seek pledges, but prior
4 to the time that it becomes a report of the
5 Commission, we could re-open your public hearing and
6 bring you back and ask you questions if there are
7 other issues. That's very unlikely but I want to
8 remind you of the 48-hour rule.

9 Thank you for offering, and I hope you
10 have a good rest of the day.

11 MR. KEEFER: I thank you for your time.

12 REPRESENTATIVE DELLENEY: We have
13 Mr. LaMantia, who seeks a position in the Family
14 Court, At-Large, Seat 2.

15 Mr. LaMantia, if you would please your
16 right hand to be sworn.

17 (Anthony LaMantia, was duly sworn, after
18 which testimony commenced at 3:28 p.m.)

19 REPRESENTATIVE DELLENEY: Mr. LaMantia,
20 have you had an opportunity to review your Personal
21 Data Questionnaire?

22 MR. LAMANTIA: I have.

23 REPRESENTATIVE DELLENEY: Is it correct?

24 MR. LAMANTIA: Yes.

25 REPRESENTATIVE DELLENEY: Are there any

1 changes that need to be made?

2 MR. LAMANTIA: No.

3 REPRESENTATIVE DELLENEY: Do you object to
4 our making that summary part of the record of your
5 sworn testimony?

6 MR. LAMANTIA: I do not.

7 REPRESENTATIVE DELLENEY: It will be made
8 as part of the record of your sworn testimony.

9 (EXH. 13, Personal Data Questionnaire of
10 Anthony LaMantia, marked for identification.)

11 REPRESENTATIVE DELLENEY: The Judicial
12 Merit Selection Commission has thoroughly
13 investigated your qualifications for service on the
14 bench. Our inquiry has primarily focused on nine
15 evaluative criteria, which include a survey of the
16 bench and the bar, a thorough study of your
17 application materials, verification of your
18 compliance with state ethics laws, a search of any
19 newspaper articles in which your name may have
20 appeared, a study of previous screenings, and a
21 check for economic conflicts of interest.

22 There are no affidavits filed in
23 opposition to your election and there are no
24 witnesses here to testify. Do you have a brief
25 opening statement that you would like to make?

1 MR. LAMANTIA: I'd be happy to. I wanted
2 to be a judge for many, many years, and I'm one of
3 those people that I am what you see, and what I am
4 is who I am. And I would just like to serve my
5 community, serve the people in my state with
6 humility, and follow the laws of the legislature,
7 and do the absolute best I can.

8 I clerked for a Family Court Judge for an
9 entire year when I finished law school, so I've seen
10 how the process works from the inside, as well as, a
11 practicing attorney for the last 15 years, and I
12 know the role of the court. I know how it's done
13 from the inside. I know how much work it is to be a
14 Family Court Judge, and I look forward to the
15 opportunity, if it's presented, to serve my
16 community and serve my state on the Family Court
17 bench.

18 REPRESENTATIVE DELLENEY: Thank you.
19 Answer any questions our counsel, Ms. Shuler, may
20 have for you.

21 MS. SHULER: Good afternoon, Mr. LaMantia.
22 You have before you your sworn statement. Are there
23 any additional amendments you'd like to make today?

24 MR. LAMANTIA: Not at this time. No.

25 MS. SHULER: I would ask, Mr. Chairman,

1 that that be made part of the record as an exhibit.

2 REPRESENTATIVE DELLENEY: It will be done
3 without objection at this point in the transcript.

4 (EXH. 13A, Sworn Statement of Anthony
5 LaMantia, marked for identification.)

6 MS. SHULER: Mr. LaMantia, would you
7 please state the city and the circuit in which you
8 reside.

9 MR. LAMANTIA: I live in Charleston, South
10 Carolina, and that's the 9th Circuit.

11 MS. SHULER: I would note for the record
12 that you are a former associate for Harrell Law Firm
13 from August 2005 to January 2006. Mr. Harrell has
14 recused himself from any voting on any candidate in
15 Family Court, At-Large, Seat 2 race.

16 After practicing law since 1997, why do
17 you now want to serve as a Family Court Judge?

18 MR. LAMANTIA: Well, that's what I've
19 always wanted to do. It's always been my desire to
20 become a judge. When I got out of law school and
21 began my job clerking for the judge that I worked
22 for for an entire year, I just fell in love with
23 family law, and I really blossomed under the
24 auspices of working for him.

25 And his approach was that being a judge

1 was a calling, serving your community, and that's
2 why I put in my answer that I really find it's the
3 highest calling that a lawyer can have, is serving
4 his community by acting as a judge.

5 And that's something that I've always
6 aspired to do. So -- well, really that's why.

7 MS. SHULER: Thank you. You have
8 practiced law in New Jersey and also in Charleston,
9 South Carolina. Can you explain to the Commission
10 how you feel your legal professional experience thus
11 far will assist you to become an effective judge.

12 MR. LAMANTIA: Well, again, I clerked for
13 a Family Court Judge for an entire year, and I
14 practiced domestic work in New Jersey for seven
15 years prior to taking the Bar and moving to South
16 Carolina. I've been here seven years also, and I've
17 actually found that professionally instead of
18 looking at it as phase one of my career and phase
19 two, they've been quite complimentary.

20 Honestly the laws are not terribly
21 different in most ways between the two states, and
22 what makes a good attorney is the experience in
23 representing clients to bring them to a correct and
24 just resolution, as opposed to -- well, New Jersey
25 does it this way and South Carolina does it this

1 way.

2 It's really not that way. It's the
3 experience of providing good ethical representation
4 to your client. I guess what I'm suggesting is
5 instead of looking at it as part A of your career
6 and part B, it's really better to look at it as a
7 whole.

8 MS. SHULER: Thank you. Are there any
9 areas of the law that you would need to additionally
10 prepare for if selected to the Family Court bench,
11 and how would you undergo that preparation?

12 MR. LAMANTIA: Honestly, the only part of
13 the law that I have not had the benefit of
14 practicing recently -- and what I mean is the last
15 18-months. I don't believe I've had any juvenile
16 cases in the last year, maybe closer to 18 months.

17 I know the law has changed some on that
18 recently. I would certainly study and make sure
19 that I was fully prepared, but otherwise, honestly,
20 I practice every other aspect of domestic work from
21 adoptions to custody to equitable distribution. So
22 I feel that I'm really pretty well rounded other
23 than that one and that's because I haven't been in
24 court representing any juveniles the last
25 year-and-a-half approximately.

1 MS. SHULER: Thank you. Please explain to
2 the Commission what you think is the appropriate
3 demeanor for a judge, and as a follow-up, could you
4 cite an example of a judge that you think has that
5 demeanor.

6 MR. LAMANTIA: Certainly. Like attorneys
7 and the litigants before the judge, the judge is a
8 human being. They have good days and bad days. As
9 the saying goes, they put their pants on one leg at
10 a time.

11 As a judge -- I think what the good
12 judges, beside follow the law and study the law
13 because they're there to help interpret the law, is
14 to be there and be humble with their work that they
15 do in the administration of justice. They're not
16 there to play favorites with attorneys or because
17 they like the look of this client versus the other
18 litigant in the courtroom. They're there to look at
19 the facts, make a fair decision, and keep in mind
20 the best interest of the children when children are
21 involved in the case.

22 So I think that's the most important thing
23 is so to be humble. They're there to serve the
24 public and just do their best day in and day out, to
25 be fair to everyone that appears in front of them.

1 You know, it's no surprise from my papers,
2 but I think Judge Creech in Berkeley County is the
3 epitome of that philosophy. He can be stern and he
4 certainly makes rulings that litigants may or may
5 not agree with all the time, but nobody can accuse
6 him of being rude, or anything but humble, in his
7 service to the citizens of Berkeley county or the
8 9th Circuit.

9 I can't say anything if I were elected and
10 I was half the judge that Judge Creech is, I could
11 look myself in the mirror and be proud of myself.
12 He's just wonderful that way.

13 MS. SHULER: Are there any suggestions
14 that you would offer for improving backlog in the
15 Family Court?

16 MR. LAMANTIA: One of the things that has
17 been successful is what they call rocket docket,
18 where they do this in Dorchester County as well as
19 in Dorchester County, where they call cases and
20 saying to the attorneys these cases are all going to
21 be tried this week. Your cases are going to be
22 tried this week and be prepared, get your clients in
23 town, because unless it settled they're going to go.
24 And it's been successful from what I've seen. I
25 have to say maybe 95-percent of the cases settled

1 right then and there.

2 It's tough on the attorneys I have to
3 admit, especially if your clients are from out of
4 town or out of state. But it's incredibly effective
5 in clearing up the old cases on dockets. I had two
6 in Dorchester, and they both settled.

7 MS. SHULER: Thank you. Do you currently
8 carry malpractice insurance in your law practice,
9 and, if so, how long have you carried it?

10 MR. LAMANTIA: Yes, I do. And I've never
11 been without malpractice insurance since entering
12 private practice in 1998. So I've had my own office
13 for over six years, so, I mean, I've personally had
14 it but I've never been without malpractice insurance
15 ever.

16 MS. SHULER: You had a lawsuit filed
17 against you in Magistrate Court for Charleston
18 County in the spring of 2012. Explain briefly the
19 nature and disposition.

20 MR. LAMANTIA: It was a client who had
21 hired me to help him negotiate a settlement
22 agreement. As I'm sure all of us have had the
23 experience, sometimes our clients are sharp people
24 who understand what they're doing and understand
25 what they're getting into. And then there are

1 people that are just more difficult and don't have a
2 grasp of everything going on in their lives.

3 So I was working for him. He and I could
4 not agree on how best to proceed on his behalf, and
5 we agreed to separate, and that was done amicably.
6 In fact, I gave him a refund of his money -- more
7 than what I believe I owed. And apparently he felt
8 he was owed more. He sued me for the balance and
9 sued me for damages that was beyond. That case was
10 tried in front of the magistrate and found in my
11 favor.

12 MS. SHULER: The Commission received 66
13 ballot box surveys regarding you with 16 written
14 comments, nine of which indicated concern.

15 I want to share with the Commission the
16 seven positive comments indicated that you are
17 brilliant, possess necessary skills to be a judge,
18 sharp litigator, seasoned negotiator, I think he's
19 smart, kind. Of all the candidates for Family Court
20 At-Large, he has the best combination of intellect
21 and temperament.

22 However, there were nine that indicated
23 concerns. The concerns were in four areas. Several
24 comments indicated that you have a reputation for
25 questionable ethics but did not offer any specifics.

1 What response would you offer to those
2 concerns? And keeping in mind, these are anonymous.

3 MR. LAMANTIA: I understand. I couldn't
4 tell you. I've never been found to be unethical by
5 any state Bar. I'm a member of three Bars. Why
6 somebody would say I was unethical, I'm clueless.
7 As I stated before, I'm what you see is what you
8 get. I realize everybody appearing before the
9 Committee is on their best behavior, but I advocate
10 for my clients but I would never act unethically. I
11 don't know.

12 MS. SHULER: One comment cited a specific
13 instance where you failed to properly inform a
14 client of her obligation to attend court, failed to
15 submit any affidavits on her behalf, and then bound
16 her financially to a debt she could not afford. I
17 think that you knew this case and what the comment
18 was referring to. Would you explain that?

19 MR. LAMANTIA: Sure I had a client -- and
20 this was earlier this year actually, she was
21 graduating from Medical University in Charleston.
22 Her husband, who was an attorney, filed a motion for
23 temporary relief in front of the court. It was
24 strictly financial issues between the two of them.
25 There were no children involved and really not much

1 in the line of equitable distribution either.

2 I informed her of the court hearing. She
3 said, That's graduation week. She was from out of
4 state. She said, My family is here. I can't go to
5 court. See what you can do to get us out of going
6 to court.

7 I spoke to the other attorney, who I'm
8 very friend with. I said, It's graduation week.
9 The husband agreed to continue the hearing or can we
10 work it out. The response is, Well, no she's got a
11 history of dragging her feet and making this longer
12 and more difficult, and we don't agree to continue.

13 I called my client, and said, They're not
14 going to agree. Her response is, Well, I can't
15 handle this. You do whatever you have to do, but I
16 can't go. My family is in town. I won't go. Make
17 the best of it that you can. I wouldn't say it was
18 quite that polite. That was just the long and short
19 of it.

20 Obviously I'm required to go to court for
21 her, even though she wasn't helping or assisting in
22 any way, wasn't understanding. And so I went to
23 court and said all I could say without any
24 cooperation from my client, and that was that. And
25 I guess the new counsel who -- shortly after that,

1 she let me go and picked up new counsel, and new
2 counsel takes issue with that.

3 But, again, that's hearing one side of the
4 story and making a judgment.

5 MS. SHULER: Thank you. Several written
6 comments indicated that you were rude or difficult
7 to deal with and are an unresponsive attorney.

8 What response would you offer this concern
9 regarding your temperament.

10 MR. LAMANTIA: Again, I'm one of those
11 people that what you see is what you get. I try to
12 be polite and treat others like I would be
13 treated -- the Golden rule.

14 One of the other candidates for a seat
15 here -- he and I drove up together. We're good
16 friends. I'm very -- I try to be very kind and
17 polite to everybody, so I don't know why anybody
18 would think I was rude. What was the other one?

19 MS. SHULER: You were unresponsive. Do
20 you promptly return phone calls?

21 MR. LAMANTIA: I try. It's not always
22 possible but I have in my retainer that I will get
23 back to you as soon as I can. I have that promise
24 in my retainer. And I tell clients or other counsel
25 that I do just about everything that I can to

1 respond within 24 hours or less. So I'm not sure
2 why that would be.

3 MS. SHULER: The last comment indicated
4 that you were too inexperienced to sit on the bench.
5 What response would you offer to that comment?

6 MR. LAMANTIA: Again, I've been practicing
7 domestic work since graduation from law school more
8 than 15 years ago. I clerked for a Family Court
9 Judge for an entire year. I've been doing domestic
10 work since ending that clerkship. So I'm not sure
11 why someone would say I'm too inexperienced. I've
12 been doing it almost exclusively for close to 16
13 years now.

14 So I don't believe that's the case. And
15 the only thing that I can identify, and that's only
16 because it's been about a year-and-a-half is the
17 juvenile work that I mentioned earlier. Otherwise,
18 I feel that I'm seasoned, and I don't mean to -- I
19 say that with humility, but I believe I'm
20 appropriately experienced.

21 MS. SHULER: Thank you.

22 Mr. Chairman, I would like to request that
23 we now go into executive section. 43.

24 PROFESSOR FREEMAN: So move.

25 SENATOR MARTIN: Second.

1 REPRESENTATIVE DELLENEY: All in favor.

2 (Multiple speakers respond, "Aye".)

3 (The Committee went into executive session
4 from 3:55 p.m. to 4:01 p.m.)

5 REPRESENTATIVE DELLENEY: All right. The
6 veil is now lifted. We're back in public session.

7 MS. SHULER: Mr. LaMantia, just some
8 housekeeping questions to cover quickly with you.

9 Have you sought or received the pledge of
10 any legislator prior to this date?

11 MR. LAMANTIA: No.

12 MS. SHULER: Have you sought or been
13 offered a conditional pledge of support of any
14 legislator pending the outcome of your screening?

15 MR. LAMANTIA: No.

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

19 MR. LAMANTIA: No.

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

23 MR. LAMANTIA: No.

24 MS. SHULER: Have you contacted any
25 members of this Commission?

1 MR. LAMANTIA: No.

2 MS. SHULER: You do understand that you
3 are prohibited from seeking a pledge or commitment
4 until 48-hours after the formal release of the
5 Commission's report?

6 MR. LAMANTIA: I am.

7 MS. SHULER: Have you reviewed the
8 Commission's guidelines on pledging?

9 MR. LAMANTIA: Yes.

10 MS. SHULER: Are you aware of the
11 penalties for violating the pledging rules or that
12 it is a misdemeanor and upon conviction, the
13 violator must be fined not more than \$1,000 or
14 imprisoned not more than 90 days?

15 MR. LAMANTIA: I am aware.

16 MS. SHULER: I would note that the Low
17 Country Citizens Committee found Mr. LaMantia
18 qualified in the evaluative criteria constitutional
19 qualification, physical health and mental stability.
20 The committee found him well qualified in evaluative
21 criteria of ethical fitness, professional and
22 academic ability, character, reputation, experience,
23 and judicial temperament.

24 And I would just note for the record that
25 any concerns raised during my investigation were

1 incorporated in my questioning of the candidate
2 today.

3 Mr. Chairman, I have nothing further.

4 REPRESENTATIVE DELLENEY: Does any member
5 of the Commission have any questions for
6 Mr. LaMantia?

7 There being no further questions, Mr.
8 LaMantia, we appreciate you being here, appreciate
9 your being willing to subject yourself to the
10 process. This concludes this portion of your
11 screening. We'll issue a draft report which will
12 turn into the permanent report of the screening
13 commission for this screening.

14 Up until that time, we could call you back
15 and reconvene the public hearing and ask you more
16 questions if something came to our attention. It
17 has happened from time to time but it's a very rare
18 thing. I don't expect it to happen in your case.

19 In any event, you have been described the
20 48-hour rule, and, of course, those time periods
21 will be on the front of the report and will
22 designate the time in which you can seek
23 commitments.

24 With that, again, I thank you for offering
25 and hope you have a safe trip home.

1 MR. LAMANTIA: Thank you, sir.

2 REPRESENTATIVE DELLENEY: Good afternoon,
3 Mr. Price.

4 MR. PRICE: Yes, sir.

5 REPRESENTATIVE DELLENEY: Before us is
6 Samuel McGowan Price, who seeks a position with the
7 Family Court, At-Large, Seat 2.

8 If you would, Mr. Price, please raise your
9 right hand to be sworn.

10 (Samuel Price, was duly sworn, after which
11 testimony commenced at 4:20 p.m.)

12 REPRESENTATIVE DELLENEY: Before we get
13 further along, do you have anybody that you'd like
14 to introduce us to?

15 MR. PRICE: Yes. I have with me today my
16 wife, Ann Renwick Price. She's sitting there in the
17 red sweater.

18 REPRESENTATIVE DELLENEY: We appreciate
19 you being here, Mrs. Price.

20 Mr. Price, have you had an opportunity to
21 review your Personal Data Questionnaire?

22 MR. PRICE: I have.

23 REPRESENTATIVE DELLENEY: Is it correct?

24 MR. PRICE: Yes.

25 REPRESENTATIVE DELLENEY: Are there any

1 changes that need to be made?

2 MR. PRICE: There are a couple of changes
3 that I need to note. Question number 34 which
4 relates to "Have I ever been sued either personally
5 or professionally".

6 At the time that I filled this out, I did
7 not recall this, but a number of years ago I was
8 appointed to represent a person by the name of Benny
9 Wicker, Junior, in a post-conviction relief. His
10 post-conviction relief was in April 1988.

11 The order denying and dismissing his post
12 conviction relief was April 1989. At some point --
13 I don't remember the date, but I received in the
14 mail an order of dismissal in a Federal District
15 Court against me claiming that I had not properly
16 represented him in that case. And, of course, it's
17 always wonderful to find out that you've been sued
18 by an order of dismissal. And that was sort of the
19 end of that.

20 REPRESENTATIVE DELLENEY: Well, at least
21 you didn't have to pay the deductible.

22 MR. PRICE: That's correct. The only
23 other thing that I would mention is on the
24 confidential financial statement. Basically what I
25 did is I -- on the attachments that related to real

1 estate --

2 REPRESENTATIVE DELLENEY: I think we'll
3 take that up in executive session.

4 With those exceptions, which I think our
5 able counsel has taken care and taken note of, do
6 you object to our making that summary with those
7 exceptions part of your sworn testimony?

8 MR. PRICE: I have no objection.

9 REPRESENTATIVE DELLENEY: It will be made
10 as part of the record of your sworn testimony.

11 (EXH. 14, Personal Data Questionnaire of
12 Samuel McGowan Price, marked for identification.)

13 REPRESENTATIVE DELLENEY: The Judicial
14 Merit Selection Commission has thoroughly
15 investigated your qualifications for service on the
16 bench. Our inquiry has primarily focused on nine
17 evaluative criteria, which include a survey of the
18 bench and the bar, a thorough study of your
19 application materials, verification of your
20 compliance with state ethics laws, a search of any
21 newspaper articles in which your name may have
22 appeared, a study of previous screenings, and a
23 check for economic conflicts of interest.

24 There are no affidavits filed in
25 opposition to your election. There are no witnesses

1 here to testify. Do you have a brief opening
2 statement that you would like to make?

3 MR. PRICE: First of all I would just like
4 to thank this Commission because I know it's been a
5 long day and I appreciate your efforts.

6 Otherwise, you know, I've practice law for
7 37 years. My practice is that of a sole
8 practitioner in Newberry. I do a number of
9 different types of law, but I have a pretty
10 extensive background in domestic law simply because
11 one day you may represent someone in a closing and
12 the next day you may represent them in an automobile
13 wreck case and then down the line they have child
14 having nasty problems.

15 The purpose for my application here is I
16 had a number of years -- I think I know the law, of
17 course, it changes as we go through times, but I
18 have a good ability to read people and apply the law
19 and I would be a good asset to the court system.

20 REPRESENTATIVE DELLENEY: Thank you, Mr.
21 Price. Please answer any questions our able counsel
22 may have for you.

23 MS. DEAN: Thank you, Mr. Chairman.

24 Mr. Price, you also submitted an amendment
25 to your Personal Data Questionnaire. You should

1 have that before you, if you could see if you have
2 any changes to that document.

3 MR. PRICE: No.

4 MS. DEAN: Mr. Price, you have before you
5 the sworn statement you provided with detailed
6 answers to over 30 questions regarding judicial
7 conduct, statutory qualifications, office
8 administration, and temperament. Are there any
9 amendments that you would like to make to your sworn
10 statement?

11 MR. PRICE: Yes. As to question 24. When
12 we were asking about -- I think that was the number
13 of cases that I handled, and my statement was that
14 it would be difficult to break down a percentage of
15 those subtopics.

16 As I indicated earlier, I've been doing
17 this a number of years. If I had to guess, and it
18 would be on the low side, I would imagine I have
19 handled no less than 300 divorces, probably about
20 50-percent of those have been contested; equitable
21 division type issues in about 95-percent of those
22 cases. Child custody would be about 95 percent of
23 the cases. And abuse and neglect, I probably
24 handled 35 to 45 of those cases mostly as an
25 appointed attorney. Juvenile cases probably between

1 50 and 70. Many of those had been appointed cases.

2 MS. DEAN: Thank you, Mr. Price.

3 At this time Mr. Chairman, I would like to
4 ask that Mr. Price's sworn statement along with the
5 oral amendments he just made be entered as an
6 exhibit into the hearing record.

7 REPRESENTATIVE DELLENEY: It will be done
8 at this point in the transcript.

9 (EXH. 14A, Sworn Statement of Samuel
10 McGowan Price, marked for identification.)

11 MS. DEAN: One final procedural matter.

12 I note for the record that based on the
13 testimony contained in the candidate's PDQ, which
14 has been included in the record with the candidate's
15 consent, Mr. Price met the statutory requirements
16 for this position regarding age, residence, and
17 years in practice.

18 Mr. Price, would you state for the record
19 the city, county, and circuit in which you reside.

20 MR. PRICE: The city would be Newberry.
21 The county would be Newberry and it would be the 8th
22 Judicial Circuit.

23 MS. DEAN: Mr. Price, why do you now want
24 to serve as a Family Court Judge?

25 MR. PRICE: As I had indicated in my

1 earlier statement, I have the pleasure of having a
2 college professor by the name, Lewis Jones, who was
3 a history professor at Wofford College, and he gave
4 us term, noblesse oblige, which is a term that means
5 the obligation of the nobility.

6 Sort of the thing that we would hear often
7 times from the pulpit in our churches that to whom
8 is given much, much is expected. And I have
9 benefited from the practice of law. In a small
10 town, the practice of law -- it's almost like we are
11 princes or princesses.

12 We have great responsibility. People
13 depend on us for lots of things. And part of what I
14 have done is, you know, I have been a negotiator, I
15 have been a lawyer, I have been a comforter. And I
16 think maybe it is time for me to move on to become
17 someone that can be a decision maker and to help
18 solve problems that people face every day in the
19 domestic world they live in.

20 MS. DEAN: Thank you. Can you briefly
21 explain to the Commission how you feel your legal
22 and professional experience will assist you to be an
23 effective judge?

24 MR. PRICE: Well, as I said earlier, I do
25 know the law. I try to stay current by reading

1 advance sheets and statutes coming out. And just
2 the fact that I have experience in other aspects of
3 the law, whether it be criminal law, real estate, or
4 probate, I think that gives me insight to apply law
5 in domestic situations in a fair and equitable
6 manner.

7 MS. DEAN: Mr. Price, are there any areas,
8 including subjective areas of the law, that you
9 would need to additionally prepare for in order to
10 serve as a judge, and how would you handle that
11 additional preparation?

12 MR. PRICE: Well, of course, none of us
13 know the law totally. There is room for improvement
14 with all of us. I would certainly try to stay on
15 top of reading the advance sheets, and often times
16 trends in the law are not just within South Carolina
17 but they're national trends. And I would try, by
18 reading journals, going to conferences, I would try
19 to stay alert and abreast.

20 MS. DEAN: Thank you. Although you
21 address this in your sworn affidavit, could you
22 please explain to the members of the Commission what
23 you think the appropriate demeanor of a judge is?

24 MR. PRICE: Yes. Most people who come
25 into court are very well uncomfortable. Often times

1 they come to court and have big issues before them
2 that can be life changing, particularly when you're
3 talking about a long term marriage in which property
4 has been accumulated, where there are children,
5 whether these children are going to have educational
6 expenses paid, and because of that, I think that it
7 is necessary and appropriate to treat people with
8 dignity, treat them politely, and make sure that
9 they believe when they leave court that you have
10 listened to what they have to say.

11 Often times because we're trying to meet
12 schedules, you know, in Family Court one of the
13 great things is that they do have a schedule. It's
14 not like common pleas or general sessions where you
15 just go in there and you wait for your case to come
16 up. You may be alerted for a week. But because of
17 that also sometimes we get more concerned about the
18 schedule than people, and it's important to make
19 people feel like when they come to Family Court
20 hearing in this state, they got a fair hearing.

21 MS. DEAN: Thank you. Is there any judge
22 currently sitting on the Family Court bench that you
23 would like to model yourself after or particularly
24 exemplifies the characteristics of a Family Court
25 Judge?

1 MR. PRICE: I have been blessed to appear
2 before many good Family Court judges. You know, our
3 local judge is Judge Rucker and Judge McGowan --
4 great judges. But probably the two judges that
5 impressed me the most, and these were circuit court
6 judges, were Jim Moore, who was formally on the
7 Supreme Court, and also Francis Nicholson, who died
8 a number of years ago -- but that's because they
9 treated people so well.

10 And at that time, they would always tell
11 the young lawyer what a great job they did as they
12 ruled against the young lawyer. And that was very
13 helpful when we were trying to explain why we lost
14 the case to our client.

15 MS. DEAN: Thank you, Mr. Price. What
16 suggestions would you offer for improving the
17 backlog of cases on the docket in Family Court?

18 MR. PRICE: The county or the circuit that
19 I'm in does not require mandatory mediation but
20 mediation works. Pretrial conferences also help
21 move the docket along.

22 Several years ago I had one case in
23 Lexington County, and Judge Allen would have Friday
24 afternoon docket meetings every two weeks at
25 2:00 o'clock on Friday afternoon. And it was

1 mandatory that you appear if you had a case.

2 Well, I can tell you it worked. It was
3 very painful for the lawyers involved. It just has
4 to do with what may work in your circuit, but I have
5 some idea and that would include mediation,
6 scheduling of A B cases -- two cases at one time, so
7 you have a two-day case that folds, you don't waste
8 two days of court. And as a last resort, Friday
9 afternoon roster meetings. They work.

10 MS. DEAN: Yes, sir. Mr. Price, do you
11 currently carry malpractice insurance in your law
12 practice, and, if so, how long have you carried
13 malpractice insurance?

14 MR. PRICE: I have always carried
15 malpractice insurance and I carry it presently. I
16 opened my office in June of 1976, and I've had it
17 since that time.

18 MS. DEAN: Now, Mr. Price, as part of this
19 process, you know we received ballot box surveys.
20 For you we received 54 of these surveys, which
21 include three written comments. These comments were
22 generally very positive. One comment expressed
23 concern over your legal ability. Could you please
24 respond to that.

25 MR. PRICE: Sure. I work very hard in

1 terms of trying to study the law and know what the
2 law is. As a sole practitioner, you know, I have
3 West Law, and I try to research current cases and
4 old cases and make sure that I'm up to date.

5 But I would have to admit that I don't
6 always -- I haven't always gone to court and known
7 every case that was out there. And if that's what
8 that relates to, I would say that's probably true.
9 But I don't like to think of myself as someone who
10 does not know the law.

11 MS. DEAN: Thank you, Mr. Price. And that
12 was just one anonymous statement and no specifics
13 were given. Another comment just had concern over
14 some of the facts -- you practice in a small area
15 for so long that it might be difficult to be
16 objective as a judge. Could you please respond to
17 that?

18 MR. PRICE: Well, in terms of a small
19 area, I don't know if it's geographic or an area of
20 practice. But, you know, I've had a number of
21 different type cases over the years. We had a
22 period where we sued Louis Rich, which is part of
23 Kraft, for wrongful termination a number of times.
24 We've been very successful with that. We've had
25 title disputes. We've had -- aside from, you know,

1 Family Court matters.

2 But I don't know that that would be a
3 problem. You know, I've gone to different circuits
4 for various cases, so I don't know if they're
5 talking about a geographic area, but the law should
6 be adequately applied throughout the state.

7 MS. DEAN: Thank you, Mr. Price. And I
8 know there were comments stating that you were
9 honest and complimented you on your temperament.

10 In your amendment, the written one you
11 submitted, you mentioned that you inadvertently
12 contacted Commission Members. Would you like to
13 address that issue?

14 MR. PRICE: Right. What I did as I
15 started doing this, I prepared a little short resume
16 with a picture of my family, sent it more in the
17 form of an announcement. I focused on members of
18 the general assembly and those members who were part
19 of this Commission would have received that. I just
20 wanted to make sure that was known.

21 MS. DEAN: Thank you. As member of the
22 Newberry Election Commission, you filed statements
23 of economic interest yearly and you reported it in
24 your PDQ that you were fined one year for late
25 filing. Would you like to address that?

1 MR. PRICE: Right. Well, for those of us
2 who have grown fond of filing income tax returns, we
3 always file the income tax returns for the year that
4 has passed. With the ethics commission they were
5 filed that year. Like as we go into the year
6 2012 -- we filed in 2012 when we go into 2013. In
7 one year I looked on-line and I filed for that year
8 on the last year, so I thought I was set. But that
9 was just my misinterpretation of when it was to be
10 filed. I wasn't trying to hide anything.

11 MS. DEAN: Thank you. And you addressed
12 in your earlier comments, the 1985 lawsuit with
13 Benny Wicker. Would you like any more explanation
14 or you've certainly explained it to us so you don't
15 need to.

16 MR. PRICE: No. Nothing needs to be said
17 about that unless there are questions.

18 MS. DEAN: At this time, Mr. Chairman, I
19 would ask for executive session.

20 REPRESENTATIVE DELLENEY: Do I hear a
21 motion for executive session?

22 SENATOR CAMPSER: I make a motion.

23 REPRESENTATIVE MACK: Second.

24 REPRESENTATIVE DELLENEY: All in favor
25 say, "Aye".

1 (Multiple speakers respond, "Aye.")

2 REPRESENTATIVE DELLENEY: All right.

3 We're now in executive session.

4 (The Committee went into executive session
5 from 4:34 p.m. to 4:37 p.m.)

6 REPRESENTATIVE DELLENEY: The veil is
7 lifted.

8 MS. DEAN: Thank you. Mr. Price, I have a
9 few housekeeping questions at this time.

10 Have you sought or received the pledge of
11 any legislator prior to this date?

12 MR. PRICE: I have not.

13 MS. DEAN: Have you sought or have you
14 been offered a conditional pledge or support of any
15 legislator pending the outcome of your screening
16 today?

17 MR. PRICE: I have not.

18 MS. DEAN: Have you asked any third
19 parties to contact members of the general assembly
20 on your behalf?

21 MR. PRICE: No.

22 MS. DEAN: Are you aware of anyone
23 attempting to intervene in any part of the process
24 on your behalf?

25 MR. PRICE: No.

1 MS. DEAN: Have you contacted any members
2 of the commission other than the letter you
3 inadvertently sent that we discussed earlier in this
4 hearing?

5 MR. PRICE: I have not.

6 MS. DEAN: Do you understand that you are
7 prohibited from seeking a pledge or commitment until
8 48 hours after the formal release of the
9 Commission's report?

10 MR. PRICE: Yes. I do understand that.

11 MS. DEAN: Have you reviewed the
12 Commission's guidelines on pledging?

13 MR. PRICE: Yes.

14 MS. DEAN: As follow-up to that question,
15 are you aware of the penalties for violating
16 pledging rules, that it is a misdemeanor and upon
17 conviction the violator must be fined not more than
18 \$1,000 or imprisoned not more than 90 days?

19 MR. PRICE: Yes, I am.

20 MS. DEAN: I would note that the Piedmont
21 Citizens Committee found Mr. Price to be qualified
22 for constitutional qualifications, mental health,
23 physical fitness. That is the highest qualification
24 available for those three categories.

25 The Committee found him well qualified for

1 the remaining six categories. The Committee
2 included the comment that all Committee members
3 rated Mr. Price well qualified. I would just note
4 for the record that any concerns raised during the
5 investigation regarding the candidate were
6 incorporated into the questioning of the candidate
7 today.

8 Mr. Chairman, I have no further questions.

9 REPRESENTATIVE DELLENEY: Does any member
10 of the Commission have any further questions for Mr.
11 Price?

12 There being none, I thank you, Mr. Price.
13 This concludes this portion of your screening. As
14 you know, we will issue a draft report which will,
15 in time, turn into the final report of the
16 Commission. Up until the time it becomes the final
17 report of the Commission, we could recall the public
18 hearing and bring you back and ask you questions if
19 something -- there were members of the Commission
20 who wanted more information about your candidacy.

21 That's a very rare occurrence, although it
22 has occurred. I don't suspect that will occur in
23 your case. And you have described the 48 hour rule,
24 and I'll just remind you of that. With that, thank
25 you for offering, and I hope you and your wife have

1 a safe trip home.

2 MR. PRICE: Thank you so much.

3 REPRESENTATIVE DELLENEY: We have before
4 us Mr. William Gregory Seigler who seeks a position
5 on the Family Court, At-Large, Seat number 2.

6 If you would please raise your right hand
7 to be sworn.

8 (William Gregory Seigler, was duly sworn,
9 after which testimony commenced at 4:43 p.m.)

10 REPRESENTATIVE DELLENEY: Mr. Seigler,
11 have you had an opportunity to review your Personal
12 Data Questionnaire?

13 MR. SEIGLER: I have.

14 REPRESENTATIVE DELLENEY: Is it correct?

15 MR. SEIGLER: Yes.

16 REPRESENTATIVE DELLENEY: So are there any
17 changes that need to be made?

18 MR. SEIGLER: No.

19 REPRESENTATIVE DELLENEY: Do you object to
20 our making that summary part of the record of your
21 sworn testimony?

22 MR. SEIGLER: I do not.

23 REPRESENTATIVE DELLENEY: It will be made
24 as part of the record of your sworn testimony.

25 (EXH. 15, Personal Data Questionnaire of

1 William Gregory Seigler, marked for identification.)
2 REPRESENTATIVE DELLENEY: The Judicial
3 Merit Selection Commission has thoroughly
4 investigated your qualifications for service on the
5 bench. Our inquiry has primarily focused on nine
6 evaluative criteria, which include a survey of the
7 bench and the bar, a thorough study of your
8 application materials, verification of your
9 compliance with state ethics laws, a search of any
10 newspaper articles in which your name may have
11 appeared, a study of previous screenings, and a
12 check for economic conflicts of interest.

13 There are no affidavits filed in
14 opposition to your election. There are no witnesses
15 here to testify. Do you have a brief opening
16 statement that you would like to make?

17 MR. SEIGLER: Briefly, Mr. Chairman, I'd
18 like to thank each of you for allowing me the
19 opportunity to speak today. I'm very humbled to be
20 here.

21 I know you're busy and inundated with
22 candidates this time, but I'd like to thank you for
23 your time, and I'd like to thank Ms. Shuler and Ms.
24 Traywick and Ms. Benson for making this process as
25 pleasant as possible.

1 REPRESENTATIVE DELLENEY: Thank you, sir.
2 If you would answer any questions our able counsel
3 has for you.

4 MS. BENSON: Mr. Seigler, you have before
5 you a sworn statement that you provided with
6 detailed answers to over 30 questions regarding
7 judicial conduct, statutory qualifications, office
8 administration, and temperament. Are there any
9 additional amendments that you have at this time?

10 MR. SEIGLER: No, ma'am.

11 MS. BENSON: At this time, Mr. Chairman,
12 I'd ask that Mr. Seigler's sworn statement be made
13 part of the record.

14 REPRESENTATIVE DELLENEY: It will be done
15 at this point in the record.

16 (EXH. 15A, Sworn Statement of William
17 Gregory Seigler, marked for identification.)

18 MS. BENSON: Also, Mr. Chairman, I would
19 point out that Mr. Seigler meets the statutory
20 requirements for this position regarding age,
21 residence, and years of practice.

22 Mr. Seigler, just for the record, would
23 you please state the city, county, and the circuit
24 in which you reside.

25 MR. SEIGLER: Yes, ma'am. I'm from

1 McCormick County, and that is in the 11th Judicial
2 Circuit.

3 MS. BENSON: And the city also.

4 MR. SEIGLER: Yes, ma'am. That's
5 McCormick as well.

6 MS. BENSON: Mr. McCormick, why do you
7 want to serve as a Family Court Judge?

8 MR. SEIGLER: Well, quite frankly, I've
9 always wanted to serve as a Family Court Judge since
10 I graduated from law school and began my practice.

11 I practiced with a premier domestic firm
12 in Greenwood County for about a year and then opened
13 my own firm in McCormick County. I specialized, or
14 tried to as much as I could, in a small town on
15 domestic cases, and so forth, and I have enjoyed
16 public service as the guardian ad litem's attorney.
17 I've also been a Municipal Judge in Abbeville
18 County, which allowed me to be part of public
19 service. I've also been public defender, so I want
20 to continue my service as a Family Court Judge.

21 MS. BENSON: Thank you. Mr. Seigler, do
22 you feel that there are any substantive or
23 procedural areas that you might need to have further
24 information about to better serve as a Family Court
25 Judge?

1 MR. SEIGLER: Well, there's one area of
2 international adoptions. That's not a common
3 practice in our area, or I'm not sure in any area.
4 But other than that, I've done everything possible
5 to prepare myself in regards to private practice.

6 In addition I've obtained additional
7 experience in the juvenile field as public defender.
8 I've represented over a thousand juveniles. So I
9 think that I'm prepared, with the exception of
10 international adoption, but if I needed learn more
11 about it, I don't think it would be difficult
12 because I've handled hundreds of adoptions. Just
13 not international adoptions.

14 MS. BENSON: Thank you. I know you've
15 addressed this in your sworn affidavit, but could
16 you tell the Commission what you feel is the proper
17 demeanor a judge should have.?

18 MR. SEIGLER: Well, I was a chief
19 municipal judge in Abbeville County, and I
20 personally believe that you need to treat each
21 litigant as if this is going to be the only time
22 they're going to appear, because, quite frankly, you
23 may be the only judge that they see.

24 So you need to be humble, polite, and
25 firm, and I believe that any demeanor that you apply

1 whether it's appropriated or not, you need to have a
2 hard and strong work ethic. You can have all the
3 appropriate demeanor, but if you don't apply it and
4 implement a hard work ethic, I don't think you're
5 utilizing your demeanor.

6 MS. BENSON: Thank you. Mr. Seigler, for
7 your time in private practice, have you carried
8 malpractice insurance, and, if so, how long have you
9 carried it?

10 MR. SEIGLER: I carried it from day one
11 and after the circuit-wide public defender system
12 was implemented, they carried it for the last two
13 years.

14 MS. BENSON: Thank you, Mr. Seigler. Mr.
15 Seigler, in your interview with staff, you brought
16 to our attention that you had a letter of caution.
17 And then as we did our research, the Commission on
18 Lawyer Conduct sent us a second letter of caution,
19 which you said you had not seen until I handed it to
20 you.

21 MR. SEIGLER: Yes, ma'am.

22 MS. BENSON: Could you tell the Commission
23 a little bit about the two letters of caution and
24 what you have learned.

25 MR. SEIGLER: In 2002, a gentleman came to

1 my office unannounced and wanted to talk to me about
2 a foreclosure action. I was in court that day. He
3 didn't make an appointment, asked my staff for me to
4 return his call, I told them to set up an
5 appointment for him to come in and meet with me.

6 They can't quote fees or even decide if
7 I'm going to take the case. They called him back
8 and told him that, and he showed up some time later
9 with a letter that he had addressed to the
10 disciplinary counsel. That was the only time I saw
11 him.

12 MS. BENSON: And the second letter that
13 you found about during this investigation.

14 MR. SEIGLER: A second letter was in
15 regards to a case where I did a closing. It was a
16 contract. The contract indicated that the buyers
17 were going to buy the whole piece of property. They
18 ended up not, believing that they intended to sell
19 it, so they complained and said I did wrong closing
20 it. Everybody involved thought that was what was
21 going to happen.

22 MS. BENSON: Now, Mr. Seigler, on that
23 second letter that we received, it was not addressed
24 to you, was it?

25 MR. SEIGLER: No, ma'am. It was send to

1 Mike Gwinn, who assisted me in the matter.

2 MS. BENSON: Thank you, Mr. Seigler.

3 SENATOR CAMPSSEN: Mr. Chairman, is it
4 appropriate to ask questions on this subject matter
5 now?

6 REPRESENTATIVE DELLENEY: Sure.

7 SENATOR CAMPSSEN: The first letter of
8 caution -- I missed your explanation on that. Will
9 you go over that again?

10 MR. SEIGLER: Yes, sir.

11 Senator Campsen, what happened was in
12 2002, Mr. Davis came to my office. He wanted to set
13 up an appointment and talk to me about a case, and
14 my staff told him that I was in court.

15 SENATOR CAMPSSEN: I got the facts, I
16 think, but when he came back the second time, what
17 happened?

18 MR. SEIGLER: What happened was he came
19 back in the office and wanted to drop off his
20 paperwork, and my staff said, we don't accept cases
21 or files for Mr. Seigler. You need to meet with him
22 first and see if he's going to agree to take your
23 case and what the fee will be and if you're
24 agreeable to the fee.

25 Well, the next time I saw him, he showed

1 up at my office with an appointment that time, and
2 threw a letter on my desk, saying, I'm sending this
3 to the disciplinary counsel. I said, well, Mr.
4 Davis, this is the first time I've ever spoken to
5 you.

6 SENATOR CAMPSSEN: What did he allege?

7 MR. SEIGLER: He claimed that he had been
8 trying to get in contact with me, and that I
9 wouldn't call him back, but he never retained me. I
10 never agreed to do anything.

11 SENATOR CAMPSSEN: He never retained you.

12 MR. SEIGLER: Senator Campsen, I never
13 even talked to him.

14 SENATOR CAMPSSEN: Okay. I understand
15 that. And the second one is about the property
16 description in a deed? There was an agreement over
17 the actual property description in a real estate
18 closing that you handled?

19 MR. SEIGLER: Yes, sir. What happened --
20 there was 2.46 acres, I think it was, that the Lowes
21 and, I think, the Sides agreed to buy and purchase.
22 The Lowes were the sellers and the Sides were the
23 purchasers.

24 They brought in a contract. The Sides had
25 to borrow money so there was a broker, there was a

1 lender, and a buyer and seller involved. There was
2 an agreement and a contract and everybody was aware
3 that that was what they were selling -- the whole
4 piece of property with the home on it.

5 After the closing, sometime later, the
6 Lowes claimed that they only intended on selling a
7 portion of the property. I wasn't aware of it.
8 Nobody was aware of it. And they filed a complaint
9 on me saying that I did something unethical.

10 Mr. Glenn assisted me in that matter. He
11 called me, and said, The case has been dismissed.
12 That was the last I heard of it, wrote in my file
13 that the case was dismissed, and Ms. Benson brought
14 it to my attention that it had not been dismissed.
15 I received a letter of caution and an unsigned copy
16 at that.

17 I called the Bar, and they said, We have
18 no explanation as to why we never sent you a copy.
19 And I called Mr. Glenn, he said -- he gave me no
20 explanation as to why I never received a copy. In
21 no way am I trying to shift the blame, but to this
22 day I don't know what I did, other than close a real
23 estate agreement pursuant to the property.

24 SENATOR CAMPSSEN: Was the description of
25 the property consistent with the description in the

1 sales contract?

2 MR. SEIGLER: Yes.

3 PROFESSOR FREEMAN: How long ago was the
4 letter of caution?

5 MR. SEIGLER: The closing occurred in
6 2005. I don't think they issued it until 2008.

7 PROFESSOR FREEMAN: Okay. Back then there
8 was two types of letter of caution. One was a
9 finding of no misconduct but they would say
10 something like, in the future we suggest that you
11 play close attention to the rules. The other was
12 actually a finding of misconduct, but it would be
13 called minor misconduct, and it would have in it
14 some statement that there's no injury and no
15 suffering and that kind of thing.

16 Which of the two types of letter of
17 caution was it?

18 MR. SEIGLER: I believe Ms. Benson has it.
19 It said little or no harm, I believe, and like I
20 said, I didn't see it until Ms. Benson showed it to
21 me.

22 MS. BENSON: Mr. Chairman, I apologize. I
23 need to get a copy of that letter, and I'll be glad
24 to do so.

25 Mr. Seigler, I'd like to ask you some

1 questions about your ballot box survey. I received
2 46 ballot box surveys that were regarding you with
3 seven additional comments. Two indicated concerns
4 as follows: The first one was about a situation in
5 which a plea bargain was arrived in which a second
6 victim was not notified of the plea bargain. It
7 identified you as an assistant solicitor.

8 As I understand, you've never served as
9 assistant solicitor, you've only served as a public
10 defender. So how would you explain that?

11 MR. SEIGLER: That's just simply not me.
12 I've never applied to work for a solicitor's office.
13 I have no idea what they're talking about. I don't
14 know if that's an intentional sabotage, or they
15 thought I was somebody else, but I've never worked
16 in any capacity as a prosecutor.

17 MS. BENSON: Thank you. The second was
18 about your ability to consistently reflect the
19 proper judicial demeanor. How would you respond to
20 that?

21 MR. SEIGLER: With all humility, I'm not
22 sure who would have said that. I'm as cordial as I
23 can be, not only as a judge but as a lawyer through
24 my practice. This is an adversarial process and
25 I've worked hard for my clients over the years, but

1 I've never intentionally been rude or ugly to
2 anybody.

3 MS. BENSON: Thank you, Mr. Seigler. I'd
4 like to ask you some questions about you've been a
5 party in several lawsuits and several that you
6 listed on your PDQ. One also that came back in the
7 SLED report. Would you please tell the Commission
8 about those lawsuits.

9 MR. SEIGLER: Well, there's one -- Stephen
10 Lewis Barns I represented in a trial. He was
11 incarcerated in Edgefield County for the alleged
12 murder of a 16-year-old boy. While incarcerated in
13 Edgefield, he was accused of throwing bodily fluids
14 on a correction officer. It ended up on a hung --
15 well, not completely hung jury.

16 We had three come back that wouldn't
17 decide, then two, then one. Ultimately they found
18 him guilty of throwing bodily fluids. The death
19 penalty trial, which I was not involved in due to my
20 conflict representing him in the throwing bodily
21 fluids case, took place several years later. They
22 convicted him. He was placed on South Carolina's
23 death row. He sued me for claiming that there was
24 some type of phantom rule five discovery that I did
25 not provide him. And he also sued the Edgefield

1 County Sheriff's Department, and I was dismissed as
2 a party with prejudice.

3 MS. BENSON: Thank you. And the two cases
4 that you listed.

5 MR. SEIGLER: Yes, ma'am. One was a
6 friend of mine on the lake in McCormick County. He
7 was an older gentleman out of Chicago, and he died
8 and named me personal representative. He didn't
9 have the funds to pay his reverse mortgage. They
10 foreclosed on him. I was named as a party as
11 personal representative. The case has been
12 foreclosed on and they didn't ask for a deficiency
13 judgment on my part as personal representative.

14 The other case, I believe, in 2002, in
15 regards to a real estate matter for a corporate out
16 of Virginia, which indicated they were in compliance
17 with all HUD regulations and they were at the time,
18 after which they became in compliant. The lender
19 claimed that I should have verified that. I sued
20 them for declaratory judgment and they counter sued.
21 The case was dismissed. So all three were
22 dismissed.

23 MS. BENSON: Thank you. Mr. Seigler, I
24 have a few housekeeping issues to ask you. Have you
25 sought or received the pledge any legislator?

1 MR. SEIGLER: No. I have not.

2 MS. BENSON: Have you sought or been
3 offered a conditional pledge of support of any
4 legislator pending the outcome of your screening?

5 MR. SEIGLER: No.

6 MS. BENSON: Have you asked any third
7 parties to contact the Members of the General
8 Assembly on your behalf?

9 MR. SEIGLER: No, ma'am.

10 MS. BENSON: Are you aware of anyone
11 attempting to intervene in any part of the process
12 on your behalf?

13 MR. SEIGLER: No, ma'am.

14 MS. BENSON: Have you contacted any
15 members of this Commission?

16 MR. SEIGLER: No.

17 MS. BENSON: You do understand that you
18 are prohibited from seeking a pledge or commitment
19 until 48-hours after the formal release of the
20 Commission's report?

21 MR. SEIGLER: Yes. I am.

22 MS. BENSON: Have you reviewed the
23 Commission's guidelines on pledging?

24 MR. SEIGLER: Yes.

25 MS. BENSON: Are you aware of the

1 penalties for violating the pledging rules, that it
2 is a misdemeanor and upon conviction, the violator
3 must be fined not more than \$1,000 or imprisoned not
4 more than 90 days?

5 MR. SEIGLER: Yes, ma'am.

6 MS. BENSON: Thank you. Mr. Chairman, I
7 would note that the Midlands Citizens Committee
8 found Mr. Seigler well qualified in the evaluative
9 criteria of ethical fitness, experience,
10 professional and academic ability, character,
11 reputation, and judicial temperament. The committee
12 found Mr. Seigler qualified in the evaluative
13 criteria of constitutional qualifications, physical
14 health, and mental stability.

15 In summary the committee stated that it
16 was honored to interview Mr. Seigler. He is one of
17 the most experienced and well-rounded candidates
18 that we have interviewed, and we strongly believe
19 Mr. Seigler is most imminently qualified to serve on
20 the Family Court, and we are confident that he would
21 serve our state in an outstanding and exemplary
22 manner.

23 I would note for the record that any
24 concerns raised during the investigation have been
25 incorporated into the questioning of the candidate

1 today. And Mr. Chairman, those were the only
2 questions that I had.

3 REPRESENTATIVE DELLENEY: All right. Does
4 any member of the Commission have any questions for
5 Mr. Seigler?

6 SENATOR CAMPSSEN: I do.

7 REPRESENTATIVE DELLENEY: Yes, sir.

8 SENATOR CAMPSSEN: Mr. Seigler, did you
9 know that -- you're probably surprised, but I
10 actually know where Troy, South Carolina is. I see
11 that you were you the municipal attorney for Troy;
12 is that correct?

13 MR. SEIGLER: That's correct.

14 REPRESENTATIVE DELLENEY: Does any member
15 have any questions?

16 PROFESSOR FREEMAN: Yes. I've looked at
17 the two letters of caution. Back then we called it
18 LC2, finding of minor misconduct. But they do not
19 qualify as discipline for purposes of a disciplinary
20 record. They do not count as discipline for
21 purposes of you ever having to disclose them. They
22 would be considered as dismissals, and, frankly,
23 there's nothing that you can do to stop that. You
24 can't get up there and argue against it. That's
25 something that they do on their own and you've just

1 got to take it. It amounts to a victory but both of
2 these are mentioning minor misconduct.

3 MR. SEIGLER: Can I ask you a question?

4 PROFESSOR FREEMAN: Sure.

5 MR. SEIGLER: I didn't report those
6 initially because I didn't think I was obligated
7 to -- well, I didn't know about one of them because
8 I was informed that anything short of a private
9 reprimand was not disciplinary action. So I thought
10 it was dismissed as well.

11 PROFESSOR FREEMAN: Yeah. And I
12 understand that. I understand the confusion. It's
13 always better to disclose it and explain it, as
14 opposed to having it tossed in your face.

15 MR. SEIGLER: I put in my statement that I
16 should have asked Ms. Traywick or Ms. Shuler,
17 they've been advising me all along. I'm fully
18 responsible.

19 PROFESSOR FREEMAN: But neither is any
20 form of discipline on your part.

21 MR. SEIGLER: Thank you.

22 REPRESENTATIVE DELLENEY: Any further
23 questions for Mr. Seigler?

24 There being no further questions, we
25 appreciate you appearing before us today.

1 This ends this portion of your screening
2 process review; however, the record is open until
3 the report is published and until it becomes a final
4 report of the Commission, and 48-hours after that,
5 you can seek pledges, but prior to the time that it
6 becomes a report of the Commission, we could re-open
7 your public hearing and bring you back and ask you
8 questions if there are other issues. That's very
9 unlikely but I want to remind you of the 48-hour
10 rule.

11 Thank you for offering, and I hope you
12 have a good rest of the day.

13 MR. SEIGLER: Thank you.

14 REPRESENTATIVE DELLENEY: Okay. We're
15 going to take a break.

16 (A recess transpired.)

17 REPRESENTATIVE DELLENEY: We have before
18 us James G. McGee, III. He seeks a judicial
19 position on the Family Court, At- Large, Seat number
20 3.

21 If you would please raise your right hand
22 to be sworn.

23 (Xames G. McGee, III, was duly sworn,
24 after which testimony commenced at 5:22 p.m.)

25 REPRESENTATIVE DELLENEY: Mr. McGee, have

1 you had an opportunity to review your Personal Data
2 Questionnaire?

3 MR. MCGEE: I have.

4 REPRESENTATIVE DELLENEY: Is it correct?

5 MR. MCGEE: Yes.

6 REPRESENTATIVE DELLENEY: So are there any
7 changes that need to be made?

8 MR. MCGEE: No.

9 REPRESENTATIVE DELLENEY: Do you object to
10 our making that summary part of the record of your
11 sworn testimony?

12 MR. MCGEE: I do not.

13 REPRESENTATIVE DELLENEY: It will be made
14 as part of the record of your sworn testimony.

15 (EXH. 17, Personal Data Questionnaire of
16 James McGee, marked for identification.)

17 REPRESENTATIVE DELLENEY: The Judicial
18 Merit Selection Commission has thoroughly
19 investigated your qualifications for service on the
20 bench. Our inquiry has primarily focused on nine
21 evaluative criteria, which include a survey of the
22 bench and the bar, a thorough study of your
23 application materials, verification of your
24 compliance with state ethics laws, a search of any
25 newspaper articles in which your name may have

1 appeared, a study of previous screenings, and a
2 check for economic conflicts of interest.

3 There are no affidavits filed in
4 opposition to your election. There are no witnesses
5 here to testify. Do you have a brief opening
6 statement that you would like to make?

7 MR. MCGEE: No, sir. I have no opening
8 statement.

9 REPRESENTATIVE DELLENEY: With that,
10 please answer any questions that our able counsel
11 may have for you.

12 MR. GENTRY: Mr. McGee, you also have
13 before you the sworn statement you provided
14 regarding judicial conduct, statutory
15 qualifications, office administration, and
16 temperament. Are there any amendments that you
17 would like to make at this time to your sworn
18 statement?

19 MR. MCGEE: No, sir.

20 MR. GENTRY: At this time, Mr. Chairman, I
21 would like to ask that Mr. McGee's sworn statement
22 be entered as an exhibit into the hearing record.

23 REPRESENTATIVE DELLENEY: It will be done
24 without objection at this point in the transcript.

25 (EXH. 17A, Sworn Statement of James McGee,

1 III, marked for identification.)

2 MR. GENTRY: One final procedural matter.
3 I note for the record that based on the candidate's
4 PDQ, which has been included in the record with the
5 candidate's consent, Mr. McGee meets the statutory
6 requirements for this position regarding age,
7 residence, and years of practice.

8 Mr. McGee, please state the city and
9 circuit in which you reside.

10 MR. MCGEE: I live in Florence, South
11 Carolina, 12th Judicial, Circuit.

12 MR. GENTRY: Please explain to the
13 Commission why do you want to serve as a Family
14 Court Judge?

15 MR. MCGEE: Sometimes I have to ask myself
16 that question. You know, it's a hard job. I'm
17 around it all the time. I have no other good answer
18 other than I feel compelled to do and I feel I can
19 do it. It's a form of service. I want to do it.
20 It's hard but this is something that I feel like I
21 need and want to do.

22 MR. GENTRY: Please explain to the
23 Commission how you feel your legal and professional
24 experience thus far will assist you to become an
25 effective Family Court Judge.

1 MR. MCGEE: I have worked in Family Court
2 since I graduated from the University of South
3 Carolina, School of Law, in 1995, comprising the
4 vast majority of my practice.

5 During that time I've been an attorney for
6 the Guardian Ad Litem program in the 12th Circuit,
7 which is DSS neglect and abuse cases. So I've been
8 exposed to a lot of that, which is a huge portion of
9 what a Family Court Judge does. What I liked about
10 family law was that you get to help people, and you
11 could do it pretty immediately and have an impact.
12 So that is my experience. I had relatively limited
13 experience in any other court.

14 MR. GENTRY: Are there any areas,
15 including subjective areas of the law, that you
16 would need to additionally prepare for in order to
17 serve as a Family Court Judge, and, if so, how would
18 you go about that preparation?

19 MR. MCGEE: I've done some juvenile
20 justice cases. I feel like that's what I've the
21 least of, however, within the realm of Family Court,
22 so I would like to brush up on that. I go to
23 hearings, talk to judges -- waiver hearings -- to
24 brush up on that, go over the statutes, which I've
25 done, and that's the area that I want to concentrate

1 on and try to become more confident in.

2 MR. GENTRY: Please explain to the
3 Commission what you think is the appropriate
4 demeanor for a Family Court Judge.

5 MR. MCGEE: I think patience, civility,
6 temperance, you have to be a good listener, don't
7 talk so much, listen to both sides. A lot of times,
8 first blush of what you might think is not really
9 what's going on in the case until all the facts are
10 flushed out, and be courteous to people. Don't lose
11 your cool on the bench, you know, you're there doing
12 a service, and it should be done in a respectful
13 manner.

14 MR. GENTRY: Is there any Family Court
15 Judge currently on the bench that you would model
16 yourself after, or you think exemplifies a Family
17 Court Judge?

18 MR. MCGEE: In my circuit I've been
19 privileged to appear for before many good judges.
20 Vincent is one of our judges who I really like a lot
21 -- helps solves cases, very courteous, right
22 demeanor. I like him a lot. Roger Henderson in the
23 Fourth Circuit. All of them I've appeared before
24 have been very good. Those two stand out in my
25 mind.

1 MR. GENTRY: When you leave the bench,
2 what would you like your legacy to be a judge on the
3 Family Court?

4 MR. MCGEE: Just to have done my job in
5 the appropriate way, help families -- these are
6 families with children going through the court, that
7 their lives were better because of decisions made
8 from the bench.

9 MR. GENTRY: What suggestions would you
10 offer for improving the backlog of the cases on the
11 docket in Family Court?

12 MR. MCGEE: I think you need to know the
13 docket very well, what kind of cases there are
14 coming up before you, trying to foresee the problems
15 that may come up in the docket so you can get the
16 lawyers in and discuss that. You don't want
17 somebody scheduling a two-day hearing and it's
18 something that could be settled and wasting court
19 time. I think knowing the docket is important.

20 MR. GENTRY: Do you currently carry
21 malpractice insurance, and, if so, how long have you
22 carried that insurance?

23 MR. MCGEE: We do carry malpractice
24 insurance. I carried it ever since I've been in the
25 law firm, which was 1995, when I was licensed.

1 MR. GENTRY: You indicated in your PDQ
2 that in 1993, you were charged with a criminal
3 offense. Can you please explain to the Committee
4 the nature of the offense and the outcome.

5 MR. MCGEE: Right. I've included that on
6 that on there because it asks traffic violation.
7 I'm not sure if it was a traffic violation or not.
8 I had an open container in the vehicle, and I was
9 stopped. I didn't know if the fine was over \$25 or
10 not, so I included that just to make sure .

11 MR. GENTRY: You also indicated in your
12 PDQ that you were fined once while serving as an
13 Member of the South Carolina House of
14 Representatives. Please explain to the Committee
15 the nature of that fine and the outcome.

16 MR. MCGEE: I think it was campaign
17 disclosure form. It was not during a contested
18 campaign. It was fault. At the office they had
19 prepared it. They thought I was going to carry it
20 up to the office. I thought they were going to mail
21 it, and it was a couple of days before we found out
22 that neither was done.

23 But it was my responsibility to make sure
24 it was done, so I took it up and paid the fine out
25 of my money not the campaign.

1 MR. GENTRY: Have you sought or received
2 the pledge of any legislator prior to this date?

3 MR. MCGEE: No, sir.

4 MR. GENTRY: Have you sought or been
5 offered a conditional pledge of support of any
6 legislator pending the outcome of your screening?

7 MR. MCGEE: No, sir.

8 MR. GENTRY: Have you asked any third
9 parties to contact Members of the General Assembly
10 on your behalf?

11 MR. MCGEE: No, sir.

12 MR. GENTRY: Are you aware of anyone
13 attempting to intervene in any part of the process
14 on your behalf?

15 MR. MCGEE: No, sir.

16 MR. GENTRY: Have you contacted any
17 members of this Commission?

18 MR. MCGEE: No, sir.

19 MR. GENTRY: Do you understand that you
20 are prohibited from seeking a pledge or commitment
21 until 48-hours after the formal release of the
22 Commission's report?

23 MR. MCGEE: Yes.

24 MR. GENTRY: Have you reviewed the
25 Commission's guidelines on pledging?

1 MR. MCGEE: Yes, sir.

2 MR. GENTRY: Are you aware that the
3 penalties for violating the pledging rules or that
4 it is a misdemeanor and upon conviction, the
5 violator must be fined not more than \$1,000 or
6 imprisoned not more than 90 days?

7 MR. MCGEE: Yes, sir.

8 MR. GENTRY: I would note that the Pee Dee
9 Citizens Committee found Mr. McGee qualified in the
10 evaluative criteria of constitutional
11 qualifications, physical health, and mental
12 stability. The Committee found him well qualified
13 in the evaluative criteria of ethical fitness,
14 professional and academic ability, character,
15 reputation, experience, and judicial temperament.

16 In summary the Committee reported
17 Mr. McGee exemplifies what we believe a Family Court
18 Judge should be. Compassionate, highly intelligent,
19 and trustworthy. I just note for the record that
20 any concerns raised during the investigation
21 regarding the candidate were incorporated into the
22 questioning today.

23 Mr. Chairman, I have no further questions.

24 REPRESENTATIVE DELLENEY: Does any member
25 of the Commission have further questions?

1 There being none, this concludes this
2 portion of your screening; however, the record is
3 open until the report is published and until it
4 becomes a final report of the Commission, and
5 48-hours after that, you can seek pledges, but prior
6 to the time that it becomes a report of the
7 Commission, we could re-open your public hearing and
8 bring you back and ask you questions. That's very
9 unlikely but I want to remind you of the 48-hour
10 rule.

11 Thank you for offering, and I hope you
12 have a safe trip back home.

13 MR. MCGEE: Yes, sir. Thank you very
14 much.

15 REPRESENTATIVE DELLENEY: Good evening,
16 Judge Brigman. We have before us this evening the
17 Honorable Cely Anne Baker Brigman, who seeks a
18 judicial position with Family Court, At-Large, Seat
19 number 4. If you would please raise your right hand
20 to be sworn.

21 (Judge Cely Anne Baker Brigman, was duly
22 sworn, after which testimony commenced at 5:45 p.m.)

23 REPRESENTATIVE DELLENEY: Do you have
24 anybody that you'd like to introduce us to before we
25 start?

1 JUDGE BRIGMAN: I do. I have my husband
2 Gregg.

3 REPRESENTATIVE DELLENEY: Good evening,
4 sir.

5 Have you had an opportunity to review your
6 Personal Data Questionnaire?

7 JUDGE BRIGMAN: Yes, sir.

8 REPRESENTATIVE DELLENEY: Is it correct?

9 JUDGE BRIGMAN: There was one change I
10 think. It might be the transcript -- one of my
11 children's jobs changed since I filled this out.
12 She was a part-time employee of the IGA. She
13 graduated from college and got a job with the
14 Department of Social Services, so that's the only
15 change I have.

16 REPRESENTATIVE DELLENEY: With that one
17 change, do you object to our making that part of the
18 record of your sworn testimony?

19 JUDGE BRIGMAN: I do not.

20 REPRESENTATIVE DELLENEY: It will be done
21 at this point in the transcript.

22 (EXH. 18, Personal Data Questionnaire of
23 Judge Brigman, marked for identification.)

24 REPRESENTATIVE DELLENEY: The Judicial
25 Merit Selection Commission has thoroughly

1 investigated your qualifications for service on the
2 bench. Our inquiry has primarily focused on nine
3 evaluative criteria, which include a survey of the
4 bench and the bar, a thorough study of your
5 application materials, verification of your
6 compliance with state ethics laws, a search of any
7 newspaper articles in which your name may have
8 appeared, a study of previous screenings, and a
9 check for economic conflicts of interest.

10 There are no affidavits filed in
11 opposition to your election. There are no witnesses
12 here to testify. Do you have a brief opening
13 statement that you would like to make?

14 JUDGE BRIGMAN: Yes, sir. I appreciate so
15 much the opportunity to appear before you today. I
16 know that you're slammed with all these hearings and
17 applications. What you do is important. The staff
18 here has been great. They've been very helpful and
19 very nice, and I appreciate all your hard work to
20 get new judges appointed.

21 REPRESENTATIVE DELLENEY: Thank you,
22 ma'am. If you would answer any questions that our
23 able counsel has for you.

24 MR. ODOM: Good evening, Judge Brigman.

25 JUDGE BRIGMAN: Good evening.

1 MR. ODOM: Judge Brigman, you have before
2 you the sworn statement that you provided with
3 detailed answers to over 30 questions regarding
4 judicial conduct, statutory qualifications, office
5 administration, and temperament.

6 Are there any additional amendments that
7 you would like to make at this time to your sworn
8 statement?

9 JUDGE BRIGMAN: No.

10 MR. ODOM: Mr. Chairman, I would like to
11 ask that Ms. Brigman's sworn statement be entered as
12 an exhibit to the hearing record.

13 REPRESENTATIVE DELLENEY: Without
14 objection it will be done at this point in the
15 record.

16 (EXH. 18A, Sworn Statement of Judge
17 Brigman, marked for identification.)

18 MR. ODOM: Mr. Chairman, I note for the
19 record that based on the testimony contained in
20 Judge Brigman's PDQ, which has been included in the
21 record with her consent, Judge Brigman meets the
22 statutory requirements regarding age, residence, and
23 years of practice.

24 Judge Brigman, would you please state the
25 city and circuit in which you reside.

1 JUDGE BRIGMAN: I reside in Darlington
2 which is in the Fourth Judicial Circuit.

3 MR. ODOM: Judge Brigman, why do you now
4 want to serve as a Family Court Judge?

5 JUDGE BRIGMAN: Serving as a Family Court
6 Judge has been a career goal of mine for quite some
7 time. I've been practicing law now for about 25
8 years, the last ten of which have been in the Family
9 Court arena. I'm at a point in my life -- my
10 children are both out of school. Well, the youngest
11 is a senior at PC, but I'm an empty nester and it's
12 a good time for me to go on the bench. It's
13 something that I've wanted to do. I've been a
14 magistrate and I think I'll be a good Family Court
15 Judge.

16 MR. ODOM: Can you explain to the
17 Commission how you feel your legal and professional
18 experience thus far will assist you in being an
19 effective judge.

20 JUDGE BRIGMAN: Sure. As I stated I've
21 been practicing for 25 years, the last ten or so in
22 Family Court. I have tried a wide spectrum of
23 cases. I've been down in the trenches representing
24 clients. I feel that experience will bode me well
25 on the bench. I've been the Chief Magistrate for

1 Darlington County now for about the last eight
2 years. I learned how to run a docket, I've learned
3 how to deal with pro se litigants and attorneys in
4 the courtroom, and I've managed a staff at that
5 office.

6 So I feel like those things combined will
7 transfer over and make a smooth transition from the
8 job as a magistrate to the Family Court bench.

9 MR. ODOM: Judge Brigman, are there any
10 areas of the law, including substantive areas, that
11 you feel you would need additional preparation in
12 order to serve as a Family Court Judge, and, if so,
13 how would you answer handle that additional
14 preparation?

15 JUDGE BRIGMAN: The only area that I would
16 need some bringing up to speed would be handling
17 juveniles in Family Court, and I think that could be
18 easily remedied by observing some of those hearings
19 before I actually take the bench.

20 MR. ODOM: Although you address this in
21 your sworn affidavit, could you please explain what
22 you think the appropriate demeanor for a Judge
23 should be.

24 JUDGE BRIGMAN: I think the appropriate
25 demeanor is that of patience and somebody that can

1 listen. Family Court is not a place where generally
2 good things happen, and a Family Court Judge has a
3 good deal of power of how they can affect people's
4 lives. A lot of times people want somebody who will
5 listen. They just want somebody that will hear
6 their story. I've had the good fortune to appear in
7 front of judges who are very patient, and I've
8 appeared before judges who are not that patient.
9 From the standpoint of having done this in the
10 Magistrate's Court, people just need to be heard.
11 And the demeanor of the Family Court Judge is very
12 important in letting that happen.

13 MR. ODOM: Judge Brigman, do you currently
14 carry malpractice insurance, and, if so, how long
15 have you carried it?

16 JUDGE BRIGMAN: I do carry malpractice
17 insurance. I've had it since I began practicing in
18 1986.

19 MR. ODOM: The Commission received 126
20 ballot box surveys regarding you with seven
21 comments, only one of which was negative. That
22 comment expressed concern about whether you would
23 put forth the necessary work ethic needed in Family
24 Court.

25 What explanation can you offer the

1 Commission with respect to that concern?

2 JUDGE BRIGMAN: You and I discussed this
3 when we met earlier, and I have really worried about
4 that. I was not happy about having that comment
5 made. It's hard to address because those comments
6 are anonymous. I don't know what context that
7 comment came. I can tell you that I'm a committed
8 attorney at the Jebaily Law Firm. I am a committed
9 Chief Magistrate in the County of Darlington. I
10 work both those jobs and I do a good job at both of
11 them.

12 What that comment has taught me is that
13 it's kind of a wake-up call that you need to always
14 remember no matter what you're doing, people are
15 watching and they're judging your behavior. So it's
16 taught me to be a little more aware of what I'm
17 doing, saying, and how I'm conducting myself.

18 MR. ODOM: Thank you, Judge Brigman.

19 Really just a few minor housekeeping
20 issues remaining. Have you sought or received the
21 pledge of any legislator prior to this date?

22 JUDGE BRIGMAN: I have not.

23 MR. ODOM: Have you sought or been offered
24 a conditional pledge of support of any legislator
25 pending the outcome of your screening?

1 JUDGE BRIGMAN: I have not.

2 MR. ODOM: Have you asked any third
3 parties to contact Members of the General Assembly
4 on your behalf?

5 JUDGE BRIGMAN: I have not.

6 MR. ODOM: Are you aware of anyone
7 attempting to intervene in any part of the process
8 on your behalf?

9 JUDGE BRIGMAN: I am not.

10 MR. ODOM: Have you contacted any members
11 of this Commission?

12 JUDGE BRIGMAN: I probably contacted
13 Senator Campsen before he was appointed to this
14 Committee.

15 MR. ODOM: You do understand that you are
16 prohibited from seeking a pledge or commitment until
17 48-hours after the formal release of the
18 Commission's report?

19 JUDGE BRIGMAN: Yes. I do.

20 MR. ODOM: Have you reviewed the
21 Commission's guidelines on pledging?

22 JUDGE BRIGMAN: Yes.

23 MR. ODOM: Are you aware that the
24 penalties for violating the pledging rules or that
25 it is a misdemeanor and upon conviction, the

1 violator must be fined not more than \$1,000 or
2 imprisoned not more than 90 days?

3 JUDGE BRIGMAN: Yes.

4 MR. ODOM: Mr. Chairman, I would note that
5 the Pee Dee Citizens Committee reported that Judge
6 Brigman was qualified in the evaluative criteria of
7 constitutional qualifications, physical health, and
8 mental stability. The Committee found her well
9 qualified in the evaluative criteria of ethical
10 fitness, professional and academic ability,
11 character, reputation, experience, and judicial
12 temperament.

13 The Committee stated in summary, Judge
14 Brigman is knowledgeable, qualified, energetic. She
15 will be an asset in Family Court. I also note for
16 the record that any concerns raised during the
17 investigation regarding Judge Brigman were
18 incorporated into the questioning of her today.

19 I have no further questions.

20 REPRESENTATIVE DELLENEY: Does any member
21 of the Commission have any questions for Judge
22 Brigman? There being none, Judge Brigman, thank you
23 for appearing before us this evening.

24 This concludes this portion of your
25 screening; however, the record is open until the

1 report is published and until it becomes a final
2 report of the Commission, and 48-hours after that,
3 you can seek pledges, but prior to the time that it
4 becomes a report of the Commission, we could re-open
5 your public hearing and bring you back and ask you
6 questions. That's very unlikely but I want to
7 remind you of the 48-hour rule.

8 Thank you for your service, and I hope you
9 have a safe trip back home.

10 JUDGE BRIGMAN: Thank you, sir.

11 REPRESENTATIVE DELLENEY: Good evening.
12 We have with us Robert Allison Clark, who seeks a
13 position on the Family Court.

14 If you would please raise your right hand
15 to be sworn.

16 (Robert Allison Clark, was duly sworn,
17 after which testimony commenced at 6:05 p.m.)

18 REPRESENTATIVE DELLENEY: Have you had an
19 opportunity to review your Personal Data
20 Questionnaire?

21 MR. CLARK: Yes, sir.

22 REPRESENTATIVE DELLENEY: Is it correct?

23 MR. CLARK: Yes, sir.

24 REPRESENTATIVE DELLENEY: Do you object to
25 our making that part of the record of your sworn

1 testimony?

2 MR. CLARK: I do not.

3 REPRESENTATIVE DELLENEY: It will be done
4 at this point in the transcript.

5 (EXH. 19, Personal Data Questionnaire of
6 Robert Allison Clark, marked for identification.)

7 REPRESENTATIVE DELLENEY: The Judicial
8 Merit Selection Commission has thoroughly
9 investigated your qualifications for service on the
10 bench. Our inquiry has primarily focused on nine
11 evaluative criteria, which include a survey of the
12 bench and the bar, a thorough study of your
13 application materials, verification of your
14 compliance with state ethics laws, a search of any
15 newspaper articles in which your name may have
16 appeared, a study of previous screenings, and a
17 check for economic conflicts of interest.

18 There are no affidavits filed in
19 opposition to your election. There are no witnesses
20 here to testify. Do you have a brief opening
21 statement that you would like to make?

22 MR. CLARK: Yes, sir. I appreciate the
23 opportunity to address the Commission. This has
24 been a great journey. Everyone has been very
25 professional in the whole process, and I appreciate

1 the thoroughness of all committees that have
2 investigated all the candidates.

3 REPRESENTATIVE DELLENEY: Thank you, sir.

4 MS. SHULER: You have before you your
5 sworn statement. Are there any amendments you would
6 like to make to your sworn statement at this time?

7 MR. CLARK: No, ma'am.

8 MS. SHULER: Mr. Chairman, I'd like to
9 offer the sworn statement as an exhibit please.

10 REPRESENTATIVE DELLENEY: It will be done
11 at this point in the transcript without objection.

12 (EXH. 19A, Sworn Statement of Robert
13 Allison Clark, marked for identification.)

14 MS. SHULER: Mr. Clark, you've been
15 practicing law since 2004. Why do you now want to
16 serve as a Family Court Judge.

17 MR. CLARK: I originally got into law when
18 I was volunteering in the Guardian Ad Litem program
19 and saw how I could help myself by becoming an
20 attorney and become more of a stable, long-term
21 attorney for the guardian program. I never dreamed
22 of being involved in law. I've been in a private
23 family business for over ten years and once I got
24 involved in the guardian program as an attorney, I
25 feel like I can help even more by being a judge. So

1 I feel like that's been my calling and what I'm
2 trying to do is help children.

3 MS. SHULER: I'm going to turn you over to
4 Mr. Fiffick.

5 MR. FIFFICK: You've just now told us why
6 you want to serve. Can you explain to the
7 Commission how you feel your legal and professional
8 experience will assist you in being an effective
9 judge.

10 MR. CLARK: Sure. I've been fortunate to
11 practice around a lot of seasoned, well learned
12 attorneys in Greenville that do family law. As a
13 private Guardian Ad Litem, I've been able to see
14 both sides of things. It's a unique position to be
15 able to hear and talk to both sides; whereas, an
16 attorney is advocating for one side or the other.
17 So that's been a very unique experience in being
18 able to absorb that information and then go out and
19 practice it on my own.

20 MR. FIFFICK: Are there any areas,
21 including subjective areas of the law, that you
22 would need to additionally prepare for in order to
23 serve as judge, and how would you handle that
24 preparation?

25 MR. CLARK: DJJ cases are my least

1 experience in. I've met with attorneys who handle
2 those cases regularly. I've read the code. I've
3 looked at case law so I'm trying to come up to speed
4 as much as possible to be an effective judge in that
5 area as well.

6 MR. FIFFICK: Although you address this in
7 your sworn affidavit, could you explain to the
8 Commission what you feel is the appropriate demeanor
9 of a judge.

10 MR. CLARK: I think judges should always
11 treat litigants with compassion and respect, and I
12 think that should be shown 24/7 in a judge's life
13 and environment. You don't want to call into
14 question the judiciary or a judge's actions. Even
15 in the private world, you want to show that level of
16 commitment to the job.

17 MR. FIFFICK: Thank you. What suggestions
18 would you offer for improving the backlog of case on
19 the docket for Family Court?

20 MR. CLARK: I think technology could be
21 used more, whether it be some electronic filing,
22 paperless transmissions, having attorneys sign off
23 on proposed orders through e-mail and not having to
24 be as formal using paper, and whatnot. So
25 technology is one big area. For where I come from,

1 in Greenville, we have a tremendous volume, and I
2 think we've worked hard to process, especially
3 institutional case law, so I think our court has
4 been very efficient.

5 MR. FIFFICK: Thank you. The Commission
6 received 94 ballot box surveys regarding your
7 candidacy, with 16 additional comments. Five of
8 those comments indicated concerns. The first one
9 was that your performance in GAL work is average and
10 that your work ethic is questionable. What would
11 you say to that?

12 MR. CLARK: Well, as guardian work, you
13 always end up with someone not happy. You can't
14 walk away and make both sides happy, if your stated
15 objective is in the best interest of the child. My
16 philosophy has always been to reach compromise
17 between the parents and avoid litigation if
18 possible. So all I can say is that I don't believe
19 that to be true, as far as my work ethic. I treat
20 everyone with respect, and I'm sorry that that
21 person feels that way.

22 MR. FIFFICK: And to the same line of
23 questions with GAL work, that you only do minimal
24 investigations with GAL issue unless you're paid a
25 grade sum. What would you say to that?

1 MR. CLARK: The private guardian work that
2 I have done, which accounts for about a third of my
3 practice, I think I have only four or five cases
4 that went over \$10,000. The average was anywhere
5 between \$2,000 to \$2,500. As I said previously, I'm
6 the kind of guardian that encourages settlement not
7 litigation, so I don't believe that to be an
8 accurate statement.

9 MR. FIFFICK: The next one was, I've had
10 hundreds of cases with this attorney. I do not feel
11 he's qualified.

12 MR. CLARK: If this person has had
13 hundreds of cases with me then I can only assume
14 that that's a DSS attorney or related person. The
15 DSS people don't realize what my private practice is
16 and I provided you with information about where my
17 revenue comes from and it only accounts for about a
18 third of my private practice. So while they see me
19 down there every Tuesday and Thursday in Greenville,
20 I still have a thriving private practice that they
21 know nothing about. So I would like to prove
22 otherwise to them.

23 MR. FIFFICK: And as you know, there are
24 several other questions along the same lines. I
25 think you've answered those.

1 You have a family HVAC business and one of
2 the ballot boxes questions the employment situation
3 and how you handle the payroll situation and that
4 your paralegal is paid out of your HVAC payroll.

5 MR. CLARK: That's correct. General
6 air-conditioning -- 100-percent of that corporation
7 is a Sub S and it's taxed at my personal level. My
8 law practice is a sole proprietorship. General Air
9 uses an outside payroll service and I didn't want
10 to set up a whole separate payroll service just for
11 my law practice, so my paralegal is paid through
12 General Air, and whatever profits from both
13 corporations come down to me. So I don't know that
14 there's anything wrong with that.

15 MR. FIFFICK: Related to the HVAC
16 business, do you feel your ownership would be an
17 impediment or something that would make it difficult
18 for you to be a good judge?

19 MR. CLARK: I do not. I've been doing my
20 private practice over eight years. I have really
21 good people running General Air Conditioning, and I
22 have two brothers that are in a parallel business,
23 called General Heating and Air Conditioning, so it's
24 done very well over the past eight years while I've
25 maintained my private practice and I would expect it

1 to continue to do so if I became judge.

2 MR. FIFFICK: Thank you. I have some
3 housekeeping issues to take care of, Mr. Clark.

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

6 MR. CLARK: No, sir.

7 MR. FIFFICK: Have you sought or been
8 offered a conditional pledge of support of any
9 legislator pending the outcome of your screening?

10 MR. CLARK: No, sir.

11 MR. FIFFICK: Have you asked any third
12 parties to contact Members of the General Assembly
13 on your behalf?

14 MR. CLARK: No, sir.

15 MR. FIFFICK: Are you aware of anyone
16 attempting to intervene in any part of the process
17 on your behalf?

18 MR. CLARK: No, sir.

19 MR. FIFFICK: Have you contacted any
20 members of this Commission?

21 MR. CLARK: No, sir.

22 MR. FIFFICK: Do you understand that you
23 are prohibited from seeking a pledge or commitment
24 until 48-hours after the formal release of the
25 Commission's report?

1 MR. CLARK: Yes.

2 MR. FIFFICK: Have you reviewed the
3 Commission's guidelines on pledging?

4 MR. CLARK: Yes, sir.

5 MR. FIFFICK: Are you aware that the
6 penalties for violating the pledging rules or that
7 it is a misdemeanor and upon conviction, the
8 violator must be fined not more than \$1,000 or
9 imprisoned not more than 90 days?

10 MR. CLARK: Yes, sir.

11 MR. FIFFICK: I would note that the
12 Upstate Citizens Committee found Mr. Clark qualified
13 in the evaluative criteria of constitutional
14 qualifications, physical health, and mental
15 stability. The Committee found him well qualified
16 in the evaluative criteria of ethical fitness,
17 professional and academic ability, character,
18 reputation, experience, and judicial temperament.

19 I don't have any further questions.

20 REPRESENTATIVE DELLENEY: Does any member
21 have any questions?

22 There being no further questions,
23 Mr. Clark, thank you for being here with us.

24 This concludes this portion of your
25 screening; however, the record is open until the

1 report is published and until it becomes a final
2 report of the Commission, and 48-hours after that,
3 you can seek pledges, but prior to the time that it
4 becomes a report of the Commission, we could re-open
5 your public hearing and bring you back and ask you
6 questions. That's very unlikely but I want to
7 remind you of the 48-hour rule.

8 Thank you for your service, and I hope you
9 have a safe trip back home.

10 MR. CLARK: Thank you.

11 REPRESENTATIVE DELLENEY: Good evening.
12 How are you doing?

13 MS. GRAHAM: I'm doing fine.

14 REPRESENTATIVE DELLENEY: We're glad to
15 have you with us this evening. We have before us
16 Ms. Kimaka Nichols-Graham, who seeks a position on
17 the Family Court, At-Large, Seat number 4.

18 If you would please raise your right hand
19 to be sworn.

20 (Kimaka Nichols-Graham, was duly sworn,
21 after which testimony commenced at 6:20 p.m.)

22 REPRESENTATIVE DELLENEY: Have you had an
23 opportunity to review your Personal Data
24 Questionnaire?

25 MS. GRAHAM: Yes, sir.

1 REPRESENTATIVE DELLENEY: Is it correct?

2 MS. GRAHAM: Yes, sir.

3 REPRESENTATIVE DELLENEY: Do you object to
4 our making that part of the record of your sworn
5 testimony?

6 MS. GRAHAM: I do not.

7 REPRESENTATIVE DELLENEY: It will be done
8 at this point in the transcript.

9 (EXH. 20, Personal Data Questionnaire of
10 Ms. Nichols-Graham, marked for identification.)

11 REPRESENTATIVE DELLENEY: Do you have
12 anybody that you would like to introduce us to?

13 MS. GRAHAM: Yes, sir. I brought my
14 mother and my father and my husband.

15 REPRESENTATIVE DELLENEY: We're glad to
16 you with us this evening.

17 The Judicial Merit Selection Commission
18 has thoroughly investigated your qualifications for
19 service on the bench. Our inquiry has primarily
20 focused on nine evaluative criteria, which include a
21 survey of the bench and the bar, a thorough study of
22 your application materials, verification of your
23 compliance with state ethics laws, a search of any
24 newspaper articles in which your name may have
25 appeared, a study of previous screenings, and a

1 check for economic conflicts of interest.

2 There are no affidavits filed in
3 opposition to your election. There are no witnesses
4 here to testify. Do you have a brief opening
5 statement that you would like to make?

6 MS. GRAHAM: No, sir. I would like to
7 stick with the statement I provided. I would say
8 that I would like to be a Family Court Judge because
9 I chose this profession to serve people. And I've
10 been serving low income citizens in South Carolina
11 for some time. I've dedicated my life to children
12 and families of this state, and I would like the
13 opportunity to serve at another level.

14 REPRESENTATIVE DELLENEY: Thank you,
15 ma'am. If you would answer any questions that our
16 able counsel has for you.

17 MS. ANZELMO: Ms. Graham, you have before
18 you the sworn statement that you provided with
19 detailed answers to over 30 questions regarding
20 judicial conduct, statutory qualifications, office
21 administration, and temperament.

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

25 MS. GRAHAM: No, ma'am.

1 MS. ANZELMO: Mr. Chairman, I would like
2 to ask that Ms. Graham's sworn statement be entered
3 as an exhibit to the hearing record.

4 REPRESENTATIVE DELLENEY: Without
5 objection it will be done at this point in the
6 record.

7 (EXH. 20A, Sworn Statement of Ms.
8 Nichols-Graham, marked for identification.)

9 MS. ANZELMO: Mr. Chairman, I note for the
10 record that based on the testimony contained in Ms.
11 Graham's PDQ, which has been included in the record
12 with her consent, Ms. Graham meets the statutory
13 requirements regarding age, residence, and years of
14 practice.

15 Ms. Graham, would you please state the
16 city and circuit in which you reside.

17 MS. GRAHAM: I reside in Greenville,
18 Circuit 13.

19 MS. ANZELMO: Why do you want to serve as
20 a Family Court Judge?

21 MS. GRAHAM: Because I'm dedicated to
22 serving children and families in this state, and I
23 believe that I have the required temperament, I have
24 excellent character, I'm fair, I would have an open
25 courtroom. People who entered would be comfortable.

1 They would have a complete and fair opportunity to
2 present their case and present their side of the
3 story.

4 And that is why I believe that I would be
5 a good candidate for Family Court Judge.

6 MS. ANZELMO: Can you explain to the
7 Commission how you feel your legal and professional
8 experience thus far will assist you in being an
9 effective judge.

10 MS. GRAHAM: I have been practicing law 14
11 years this week, and I've had the privilege of
12 serving people across the state in different types
13 of family law, as well as school law. I have
14 practiced family law primarily, for Legal Services,
15 and I've handled divorce, custody, adoption, child
16 support, alimony, visitation, DSS abuse and neglect.
17 On occasion also appeared in DJJ cases dealing with
18 juveniles. When it comes to education work. I've
19 done a lot of administration cases in school law.
20 And I believe that I will, you know, be able to
21 learn more about DJJ cases. As far as the
22 Department of Juvenile Justice cases, I don't have
23 as much experience in that area, but I will be able
24 to attend CLEs, and I believe that the knowledge and
25 experience that I have received on the school

1 administrative side in school discipline cases will
2 translate into that area.

3 MS. ANZELMO: Thank you. Are there any
4 areas of the law for which you would need additional
5 preparation to serve as a Family Court Judge and how
6 would you handle that preparation?

7 MS. GRAHAM: The only other area would be
8 DJJ cases, and I'm prepared to acquire more
9 information and experience in that area. And I, you
10 know, as I said, I've appeared in a couple of those
11 cases and I've appeared when representing students
12 in related issues in the school. And I feel as if
13 my representation may have needed to assist the
14 juvenile public defender. So that is the only area
15 where I don't have an extensive background, but I am
16 prepared to get that.

17 MS. ANZELMO: Thank you. Although you
18 address this in your sworn affidavit, could you
19 explain to the members of the Commission what you
20 think is the appropriate demeanor for a judge.

21 MS. GRAHAM: I think judges should be
22 competent, fair, they should have an even
23 temperament, they should not anger easily, they are
24 in control of their courtroom, they're knowledgeable
25 about the laws and facts before them. Judges should

1 be fair regardless of circumstances, and I believe
2 that I have displayed those qualities throughout my
3 life, and I would be able to serve in that capacity.

4 MS. ANZELMO: Is there any Family Court
5 Judge currently on the bench that would you like to
6 model yourself after?

7 MS. GRAHAM: We have several Family Court
8 Judges in the Greenville area that I believe one can
9 model themselves after. I can't think of a negative
10 thing to say about any of our sitting judges, and I
11 don't have any complaints against any of the judges
12 that I have appeared before.

13 They all tend to display the qualities
14 that are required for the job. So I can't say that
15 I have one role model. The first Family Court Judge
16 that I ever observed was Judge Buskin, in Marion,
17 South Carolina, when I interned for Timothy Poe, the
18 Family Court Judge in that area because I wanted to
19 go to law school and I had never met a lawyer
20 before. So I have many stories but not one person.

21 MS. ANZELMO: What suggestions would you
22 offer for improving the backlog of cases on the
23 docket in Family Court?

24 MS. GRAHAM: I would suggest that we take
25 a look at which counties need additional docket

1 time, and we figure out a way to have time on the
2 docket. If that means changing some of the hours,
3 I'm open to that. In Greenville we hear cases from
4 12 to 12:30, I would want to highlight or find
5 places where we could hear cases more often or
6 longer. And I'm glad that you received funding to
7 add judges to the judiciary because that will help.

8 I do practice in the upper part of the
9 state, and I am aware of the problems that rural
10 counties have. And some of the rural counties, like
11 Anderson and Oconee, so I'm interested as a
12 practitioner to address those issues.

13 MS. ANZELMO: Do you currently carry
14 malpractice insurance in your law practice, and, if
15 so, how long have you carried it?

16 MS. GRAHAM: I've always been covered by
17 malpractice insurance through South Carolina Legal
18 Services. We have maybe 51 lawyers in our law firm,
19 but I'm covered by malpractice and have always been.

20 MS. ANZELMO: Thank you. The Commission
21 received 56 ballot box surveys, with seven written
22 comments concerning your candidacy. Only one set
23 forth concerns. That comment said that you're not
24 well known in your community and that you have
25 limited experience. How would you respond to that

1 comment?

2 MS. GRAHAM: I would -- the first response
3 would be, I wish I knew who made that comment
4 because if they don't know me very well, that
5 probably just means they don't know me very well. I
6 am well known in my community. I do practice in
7 four different Family Courts, and also I'm known in
8 other communities across the state.

9 Just last night I was in Edgefield County
10 practicing before the School Board. So I do have
11 statewide experience that lends itself to this
12 particular At-Large position.

13 MS. ANZELMO: Just a few housekeeping
14 issues.

15 Have you sought or received the pledge of
16 any legislator prior to this date?

17 MS. GRAHAM: No, ma'am.

18 MS. ANZELMO: Have you sought or been
19 offered a conditional pledge of support of any
20 legislator pending the outcome of your screening?

21 MS. GRAHAM: No, ma'am.

22 MS. ANZELMO: Have you asked any third
23 parties to contact Members of the General Assembly
24 on your behalf?

25 MS. GRAHAM: No, ma'am.

1 MS. ANZELMO: Are you aware of anyone
2 attempting to intervene in any part of the process
3 on your behalf?

4 MS. GRAHAM: No, ma'am.

5 MS. ANZELMO: Have you contacted any
6 members of this Commission?

7 MS. GRAHAM: No, ma'am.

8 MS. ANZELMO: Do you understand that you
9 are prohibited from seeking a pledge or commitment
10 until 48-hours after the formal release of the
11 Commission's report?

12 MS. GRAHAM: Yes.

13 MS. ANZELMO: Have you reviewed the
14 Commission's guidelines on pledging?

15 MS. GRAHAM: Yes, ma'am.

16 MS. ANZELMO: Are you aware that the
17 penalties for violating the pledging rules or that
18 it is a misdemeanor and upon conviction, the
19 violator must be fined not more than \$1,000 or
20 imprisoned not more than 90 days?

21 MS. GRAHAM: Yes, ma'am.

22 MS. ANZELMO: I would note that the
23 Upstate Citizens Committee found Ms. Graham
24 qualified in the evaluative criteria of
25 constitutional qualifications, physical health, and

1 mental stability. The Committee found her well
2 qualified in the evaluative criteria of ethical
3 fitness, professional and academic ability,
4 character, reputation, experience, and judicial
5 temperament.

6 I don't have any further questions.

7 REPRESENTATIVE DELLENEY: Does any member
8 have any questions?

9 There being no further questions, this
10 concludes this portion of your screening; however,
11 the record is open until the report is published and
12 until it becomes a final report of the Commission,
13 and 48-hours after that, you can seek pledges, but
14 prior to the time that it becomes a report of the
15 Commission, we could re-open your public hearing and
16 bring you back and ask you questions. That's very
17 unlikely, but I want to remind you of the 48-hour
18 rule.

19 Thank you for your service, and I hope you
20 and your family have a safe trip back home.

21 MS. GRAHAM: Thank you.

22 REPRESENTATIVE DELLENEY: Good evening,
23 Ms. McJimpsey. We have before us this evening the
24 Honorable Erika McJimpsey, who seeks a position on
25 the Family Court, At-Large, Seat number 4.

1 If you would please raise your right hand
2 to be sworn.

3 (Judge Erika McJimpsey, was duly sworn,
4 after which testimony commenced at 6:30 p.m.)

5 REPRESENTATIVE DELLENEY: Have you had an
6 opportunity to review your Personal Data
7 Questionnaire?

8 JUDGE MCJIMPSEY: Yes, sir.

9 REPRESENTATIVE DELLENEY: Is it correct?

10 JUDGE MCJIMPSEY: Yes, sir.

11 REPRESENTATIVE DELLENEY: Do you object to
12 our making that part of the record of your sworn
13 testimony?

14 JUDGE MCJIMPSEY: I do not.

15 REPRESENTATIVE DELLENEY: It will be done
16 at this point in the transcript.

17 (EXH. 21, Personal Data Questionnaire of
18 Judge McJimpsey, marked for identification.)

19 REPRESENTATIVE DELLENEY: The Judicial
20 Merit Selection Commission has thoroughly
21 investigated your qualifications for service on the
22 bench. Our inquiry has primarily focused on nine
23 evaluative criteria, which include a survey of the
24 bench and the bar, a thorough study of your
25 application materials, verification of your

1 compliance with state ethics laws, a search of any
2 newspaper articles in which your name may have
3 appeared, a study of previous screenings, and a
4 check for economic conflicts of interest.

5 There are no affidavits filed in
6 opposition to your election. There are no witnesses
7 here to testify. Do you have a brief opening
8 statement that you would like to make?

9 JUDGE MCJIMPSEY: Yes, sir. Good evening.
10 My name is Erika McJimpsey. I reside in the 2nd
11 Circuit. It has truly been a wonderful experience.
12 Your staff has been very accessible in regard to
13 answering any questions that came up, and I really
14 appreciate the opportunity to be here.

15 I'm currently in my 16th year practicing
16 law, and I can truly say that I've enjoyed every
17 aspect. I've had a raw base of experience varying
18 from a prosecutor to a military lawyer to now judge.
19 So I consider myself somewhat of an ambassador of
20 the law, and whenever I have an opportunity I try to
21 express what a wonderful profession it is.

22 REPRESENTATIVE DELLENEY: Thank you,
23 ma'am. Please answer any questions counsel may have
24 for you.

25 MR. DENNIS: Good evening. You have

1 before you your sworn statement that answers 30
2 questions on a myriad of topics. Do you have any
3 changes that you would like to make to that sworn
4 statement at this time?

5 JUDGE MCJIMPSEY: No, sir.

6 MR. DENNIS: Mr. Chairman, I would ask
7 that that be made part of the record.

8 REPRESENTATIVE DELLENEY: It will be done
9 at this point in the record.

10 (EXH. 21A, Sworn Statement of Judge
11 McJimpsey, marked for identification.)

12 MR. DENNIS: Mr. Chairman, I note for the
13 record that based on the testimony contained in
14 Judge McJimpsey's PDQ, which has been included in
15 the record with her consent, Judge McJimpsey meets
16 the statutory requirements regarding age, residence,
17 and years of practice.

18 Ms. McJimpsey, would you please state the
19 city and circuit in which you reside.

20 JUDGE MCJIMPSEY: Seventh Judicial
21 Circuit, Spartanburg County.

22 MR. DENNIS: Judge, would you mind telling
23 the Commission why you would like to serve as a
24 Family Court Judge.

25 JUDGE MCJIMPSEY: My experience in the

1 last 16 years have been directly or somewhat related
2 to family law. It's been a passion of mine starting
3 out as a domestic violence prosecutor for the
4 Seventh Circuit. I believe that my experience would
5 be a great benefit on the Family Court bench. I
6 believe domestic issues effect every aspect of our
7 lives, and I would love the opportunity to expand my
8 knowledge and to be a Family Court Judge.

9 MR. DENNIS: Thank you. Do you feel there
10 are any areas of the law that you would need
11 additional preparation for before taking the bench,
12 and how would you go about getting this preparation?

13 JUDGE MCJIMPSEY: I have not had direct
14 experience on the civilian side with matrimonial
15 law. In my experience in the military, I had the
16 opportunity to work with soldiers in regard to
17 separation agreements and issues as it relates to
18 child support. That would probably be the only area
19 where I would think I need extra assistance in, but
20 I've already begun studying the advance sheets, and
21 I attend CLEs, and I believe with my knowledge and
22 skill base, that it would not be difficult to gain
23 the necessary expertise in that area.

24 MR. DENNIS: Judge, would you mind telling
25 the Commission what you feel the appropriate

1 demeanor for a Family Court Judge is.

2 JUDGE MCJIMPSEY: I think a Family Court
3 Judge should be conscientious, should be fair, and
4 compassionate. I think in Family Court you need
5 individuals who understand the delicate issues that
6 take place in the Family Court arena.

7 MR. DENNIS: Judge, is there a current
8 Family Court Judge sitting on the bench that you
9 would like to model yourself after?

10 JUDGE MCJIMPSEY: If I had to model myself
11 after one particular judge, it would be retired
12 Judge Georgia Anderson. I've had a lot of
13 opportunity to work with Judge Anderson, and I often
14 admired her temperament. She was always very kind
15 and did a good job listening to both sides.

16 MR. DENNIS: Judge, do you have any
17 recommendations to improve the Family Court backlog?

18 JUDGE MCJIMPSEY: I've thought about that
19 and I know the backlog is an issue. Mediation is an
20 area that would be beneficial to be mandated in the
21 Seventh Judicial Circuit. We're not currently a
22 mandatory mediation circuit, but I believe often
23 times there are issues that could be litigated prior
24 to coming before a judge that could be taken care of
25 in mediation. And expanding the time period in

1 which the judge sits on the bench.

2 I currently serve as the municipal judge
3 for Spartanburg and we start our docket every day at
4 8:30. Although that seems like a minor
5 modification, it does allow us a lot more court
6 time. Actually we also have a docket that starts at
7 three o'clock. We work from 8:30 to around five
8 o'clock. Lengthening the time in which judges are
9 on the bench, in addition to mediation are great
10 tools to alleviate the docket. I've also noted
11 often times in a lot of other courts, judges don't
12 work a lot on Fridays. And we work on Fridays. We
13 have a three o'clock docket on Friday, and, again,
14 that's helped alleviate the backlog in my
15 municipality.

16 MR. DENNIS: Judge, as you're aware, the
17 Commission has solicited ballot box surveys. You
18 received approximately 42 responses. Of those who
19 took time to make a specific written comment, there
20 were four specific comments that question your
21 experience. I would note three of those are
22 actually complimentary of Judge McJimpsey in other
23 areas. We don't want to suggest that if she had a
24 weakness -- it would be specific Family Court
25 experience. would you speak to that please.

1 JUDGE MCJIMPSEY: Yes, sir. I know that
2 was an issue that was brought up in the bench and
3 bar survey, and what I'd like to add, although I
4 don't have direct matrimonial experience on the
5 civilian side, it's important to look at the depth
6 and the breadth of each candidate's experience.

7 And I've had the experience as a
8 prosecutor; I've had experience on the civil side
9 with the Department of Juvenile Justice; I've had
10 experience in the military arena; I've had
11 experience as a jurist; I've had experience as a
12 teacher.

13 And I've been able to excel in each of
14 those areas, and that's an important consideration
15 to take into account when you look at a person or
16 candidate. And I have been successful in each of
17 those arenas.

18 MR. DENNIS: Mr. Chairman, at this time I
19 need a brief executive session.

20 REPRESENTATIVE DELLENEY: Do I hear a
21 motion for executive session?

22 MR. HARRELL: Motion.

23 REPRESENTATIVE CLEMMONS: Second.

24 REPRESENTATIVE DELLENEY: All in favor.

25 (Multiple speakers respond, "Aye.")

1 REPRESENTATIVE DELLENEY: All right.

2 We're now in executive session.

3 (The Committee went into executive session
4 from 6:32 p.m. to 6:34 p.m.)

5 REPRESENTATIVE DELLENEY: The veil is
6 lifted. All right. We're now back in public
7 session.

8 MR. DENNIS: Thank you, Judge. Just a few
9 housekeeping issues.

10 Have you sought or received the pledge of
11 any legislator prior to this date?

12 JUDGE MCJIMPSEY: No, sir.

13 MR. DENNIS: Have you sought or been
14 offered a conditional pledge of support of any
15 legislator pending the outcome of your screening?

16 JUDGE MCJIMPSEY: No, sir.

17 MR. DENNIS: Have you asked any third
18 parties to contact Members of the General Assembly
19 on your behalf?

20 JUDGE MCJIMPSEY: No, sir.

21 MR. DENNIS: Are you aware of anyone
22 attempting to intervene in any part of the process
23 on your behalf?

24 JUDGE MCJIMPSEY: No, I am not.

25 MR. DENNIS: Have you contacted any

1 members of this Commission?

2 JUDGE MCJIMPSEY: No, I have not.

3 MR. DENNIS: Do you understand that you
4 are prohibited from seeking a pledge or commitment
5 until 48-hours after the formal release of the
6 Commission's report?

7 JUDGE MCJIMPSEY: Yes.

8 MR. DENNIS: Have you reviewed the
9 Commission's guidelines on pledging?

10 JUDGE MCJIMPSEY: Yes, sir.

11 MR. DENNIS: Are you aware that the
12 penalties for violating the pledging rules or that
13 it is a misdemeanor and upon conviction, the
14 violator must be fined not more than \$1,000 or
15 imprisoned not more than 90 days?

16 JUDGE MCJIMPSEY: Yes, sir.

17 MR. DENNIS: I would note that the Upstate
18 Citizens Committee found Judge McJimpsey qualified
19 in the evaluative criteria of constitutional
20 qualifications, physical health, and mental
21 stability. The Committee found her well qualified
22 in the evaluative criteria of ethical fitness,
23 professional and academic ability, character,
24 reputation, experience, and judicial temperament.

25 I don't have any further questions.

1 REPRESENTATIVE DELLENEY: Does any member
2 have any questions?

3 PROFESSOR FREEMAN: Very quickly. Could
4 you give me an approximate number of divorce cases
5 that you handled in South Carolina -- straight up
6 divorce on behalf of either husband or wife.

7 JUDGE MCJIMPSEY: I have not handled any
8 on the civilian side, but on the military side in
9 terms of separation agreements, probably 50 to 75.

10 REPRESENTATIVE DELLENEY: Any further
11 questions? There being none, thank you, Judge
12 McJimpsey.

13 This concludes this portion of your
14 screening; however, the record is open until the
15 report is published and until it becomes a final
16 report of the Commission, and 48-hours after that,
17 you can seek pledges, but prior to the time that it
18 becomes a report of the Commission, we could re-open
19 your public hearing and bring you back and ask you
20 questions. That's very unlikely, but I want to
21 remind you of the 48-hour rule.

22 Thank you for your service, and I hope you
23 have a safe trip back home.

24 JUDGE MCJIMPSEY: Thank you. I appreciate
25 it.

1 REPRESENTATIVE DELLENEY: We have before
2 us Ms. Monet Pincus, who seek a position on the
3 Family Court, At-Large. Seat number 4.

4 (Monet Pincus, was duly sworn, after which
5 testimony commenced at 6:35 p.m.)

6 REPRESENTATIVE DELLENEY: Have you had an
7 opportunity to review your Personal Data
8 Questionnaire?

9 MS. PINCUS: Yes, sir.

10 REPRESENTATIVE DELLENEY: Is it correct?

11 MS. PINCUS: Yes, sir.

12 REPRESENTATIVE DELLENEY: Do you object to
13 our making that part of the record of your sworn
14 testimony?

15 MS. PINCUS: I do not.

16 REPRESENTATIVE DELLENEY: It will be done
17 at this point in the transcript.

18 (EXH. 22, Personal Data Questionnaire of
19 Monet Pincus, marked for identification.)

20 REPRESENTATIVE DELLENEY: The Judicial
21 Merit Selection Commission has thoroughly
22 investigated your qualifications for service on the
23 bench. Our inquiry has primarily focused on nine
24 evaluative criteria, which include a survey of the
25 bench and the bar, a thorough study of your

1 application materials, verification of your
2 compliance with state ethics laws, a search of any
3 newspaper articles in which your name may have
4 appeared, a study of previous screenings, and a
5 check for economic conflicts of interest.

6 There are no affidavits filed in
7 opposition to your election. There are no witnesses
8 here to testify. Do you have a brief opening
9 statement that you would like to make?

10 MS. PINCUS: I would like to waive an
11 opening statement and just thank you for the
12 opportunity to be here.

13 REPRESENTATIVE DELLENEY: Thank you. If
14 you would answer any questions our able counsel has
15 for you.

16 MS. SHULER: Good evening, Ms. Pincus.
17 You have before you your sworn statement with
18 answers to over 30 questions. Do you have any
19 changes that you would like to make to that sworn
20 statement at this time?

21 MS. PINCUS: No, ma'am.

22 MS. SHULER: Mr. Chairman, I would ask
23 that that be made part of the record.

24 REPRESENTATIVE DELLENEY: It will be done
25 at this point in the record.

1 (EXH. 22A, Sworn Statement of Monet
2 Pincus, marked for identification.)

3 MS. SHULER: Mr. Chairman, I note for the
4 record that based on the testimony contained in Ms.
5 Pincus' PDQ, which has been included in the record
6 with her consent, Ms. Pincus meets the statutory
7 requirements regarding age, residence, and years of
8 practice.

9 Ms. Pincus, would you please state the
10 city and circuit in which you reside.

11 MS. PINCUS: Columbia, Fifth Circuit.

12 MS. SHULER: After practicing law since
13 1993, why do you want to serve as a Family Court
14 Judge?

15 MS. PINCUS: I absolutely love the
16 practice of Family Law. It's the only type of law
17 that I have ever practiced and wanted to practice,
18 and I've devoted my career to family law in South
19 Carolina. I'm here today to tell you that I've been
20 so blessed by this area of practice and so enriched
21 in my life, by not only the judges, who I greatly
22 admire, but also from the lawyers in the state --
23 the ones that befriended me, mentored me, and helped
24 me become the lawyer that I am today.

25 But also our citizens. I have four to 500

1 coming through my office every year, and they put
2 their confidence in me to take their cases, and they
3 send their friends and their family members to me.
4 So I want to become a family Court Judge to give
5 back.

6 Now, everything that I have learned as a
7 Family Court practitioner, my skills, my experience,
8 my knowledge and insight to our citizens -- I knew
9 the first day that I went into court that I wanted
10 to become a judge, but I made a commitment to myself
11 that I wouldn't come before you and ask you for that
12 privilege until I first became a good family law
13 lawyer.

14 So I spent 15 years doing that. So I
15 believe I've achieved that goal, and, in summary,
16 I've just been blessed by those ahead of me in this
17 practice area, and I want to start paying that back.

18 MS. SHULER: Thank you. Can you explain
19 to the Commission how you feel your legal and
20 professional experience thus far will assist you in
21 serving as an effective judge, and maybe include in
22 that discussion that you are a fellow in the
23 American Academy of Matrimonial Lawyers.

24 MS. PINCUS: Yes. There are three ways
25 that my experience has prepared me. First as an

1 attorney practicing in family law, I have advanced
2 knowledge of family law. I know the courtroom from
3 being inside on multiple occasions. I know the
4 practical application of the rules of civil
5 procedure, the rules of evidence, case law,
6 statutes. I have a unique insight to the citizens
7 of our state through my practice because I know what
8 they're afraid of in Family Court. I know what
9 their myths are and their good experiences and bad
10 experiences. So I bring all of that with me, if I
11 were able to serve, as my role as an attorney. Also
12 for the last five years, I have served as a Medicaid
13 hearing officer with DHHS, and through that I've
14 been in a judicatory role. So I've learned through
15 serving as a hearing officer how to rule on
16 objections, how to listen to motions, listen to
17 expert testimony. Similar to a Family Court Judge,
18 I'm the one that finds the facts in those hearings,
19 and I'm the one that comes up with the conclusion of
20 law, and I write the decision. And I presided over
21 approximately 100 cases. And I've also learned
22 about judicial temperament and what people expect
23 and how to hone those skilled.

24 And thirdly, I'm very active in South
25 Carolina Bar, in pro bono programs and CLEs and

1 committees, and that has also benefited me because I
2 understand the importance of improving the practice
3 of law and improving the image of Family Court. You
4 asked me about American Academy of Matrimonial
5 Lawyers. That organization is limited currently to
6 about 1,500 fellows. I understand there's about
7 50,000 Family Court practitioners in the United
8 States, and I was asked to apply to that
9 organization from my mentor. And usually what
10 happens is a current medical fellow asks you or
11 nominates you to become a fellow to go through that
12 process. It was a very rigorous application process
13 and a background check and written application. I
14 had to take a national exam on very out of the
15 ordinary, complex issues of law. I went through a
16 state interview. I went through -- finally I had to
17 be voted on by a national committee, and I was able
18 to proudly win a membership into that organization.
19 So the AML has given me experience in advanced areas
20 of law that you may not get every day and it's
21 connected me to people all across the country, that
22 are far better at this job than I am and I gleaned
23 their wisdom and a lot of things from them.

24 MS. SHULER: Are there any areas of law
25 that you need to additionally prepare for on the

1 Family Court bench, and, if so, how would you handle
2 that preparation?

3 MS. PINCUS: I always work hard to educate
4 myself about family law. What I would definitely do
5 from the time, if elected, to the time I train, I'm
6 going to go to Richland County and observe our
7 Family Court Judges on Juvenile Justice Day. I would
8 like to see those types of trials in action.

9 MS. SHULER: Could you explain what you
10 think is the appropriate demeanor of a judge and
11 cite an example of a judge that has that demeanor.

12 MS. PINCUS: Yes. The first thing that
13 comes to mind from a litigant's perspective is that
14 I know the number one thing that people want when
15 they're in Family Court, and they tell me this, they
16 want to know that the judge listened to them, that
17 they had the ability to get their side of the story
18 out. And good or bad result, if they feel the judge
19 listened, they can live with what happened.

20 Additionally, some adjectives come to
21 mind -- calm, courteous, evenhanded, patient,
22 professional, fair, hard-working, dignified. And I
23 have a judge in mind. Again, I admire all of our
24 judges but if I had to choose one, it was the first
25 judge I ever appeared before in Family Court. I

1 didn't have track record or any experience. I was a
2 new lawyer. The opposing attorney was very
3 experienced, and I was nervous and concerned about
4 how I would be treated without having that kind of
5 reputation. And this judge was so evenhanded. He
6 gave me the same amount of respect and that really
7 left an impression on me and helped me become who I
8 am today. Evenhandedness and respect regardless of
9 who the lawyers are and that was Judge Don Strom.

10 MS. SHULER: What suggestions would you
11 offer for improving the backlog of cases on the
12 Family Court docket?

13 MS. PINCUS: One is to enforce pretrial
14 orders. We always get a pretrial order on a case in
15 Family Court if you're going to have a trial. And
16 for some reason these pretrial orders, even though
17 they are signed by a judge and they have a
18 definitive deadline, they're not taken seriously.
19 And when they're not taken seriously meaning if you
20 don't abide to what the pretrial order says, it just
21 delays the case. It continues to delay the case and
22 the litigants never know what to expect. I think
23 enforcement and compliance with pretrial orders
24 would be a big help on improving the docket.

25 And I also believe that technology -- I'm

1 very interested in technology. I use it a lot.
2 Anything that we can do faster or more efficient, is
3 better for the docket. It's important and would
4 help the docket if guardians were required to
5 provide a preliminary report at the status
6 conferences because a lot of time when a guardian
7 lets you know what they're doing in a case, they
8 can help settle a case.

9 And sometimes you don't find that out
10 until two years into a case. And I think being
11 mindful of people's time in the courtroom and
12 watching the clock is an important thing to do. And
13 if you don't have time as a judge to have a
14 conversation with people or lecture or give a lesson
15 story, then you shouldn't do it. If you have five,
16 six, or seven cases behind you that are waiting.

17 Two other things that I'm interested in
18 that I can't do anything about, but I've heard there
19 was a bill introduced to have hearing officers
20 appointed to do uncontested cases. And I think that
21 would have been a big help to have pro se litigants
22 off the main docket. And the other is to explore
23 introduction of a bill on arbitration. Not just
24 mediation. There are certain types of cases that
25 perhaps if they have an estate of \$250,000, or less.

1 Perhaps those are the types of cases that we could
2 look into that could be referred to arbitration.

3 MS. SHULER: Thank you. Do you carry
4 malpractice insurance in your law firm, and, if so,
5 how long have you carried it?

6 MS. PINCUS: Yes. Since the first day I
7 practiced -- 18 years.

8 MS. SHULER: You've been involved in
9 several lawsuits, and I want to briefly cover those
10 with you. The first lawsuit was filed by a client
11 named Sly against your law firm in 1998. Please
12 give a one sentence explanation of the nature and
13 the disposition.

14 MS. PINCUS: It was a slip and fall from a
15 client that came to the office for a real estate
16 closing. She was injured, retained an attorney, and
17 our general liability insurance company assisted and
18 that case was resolved.

19 MS. SHULER: Thank you. The second was
20 filed in 2004 after your ex-husband was sued for
21 stealing real estate escrow money. Please explain
22 the nature and disposition of this lawsuit.

23 MS. PINCUS: That was a title insurance
24 agency, and he did real estate closings and was an
25 agent for that company. I had a general liability

1 business policy. They sued the law firm to, number
2 one, be indemnified in the event there was
3 restitution ordered and there was an employee
4 dishonesty part of that policy as well. So they
5 really sued for the general liability. There was no
6 disposition against me and nothing regarding my
7 personal conduct.

8 MS. SHULER: The third was filed by a
9 former partner seeking declaratory relief in the
10 Court of Common Pleas in 2003. What was the
11 disposition of that case?

12 MS. PINCUS: It was disposed of in my
13 favor, and I obtained a large judgment against them.
14 Both of them were suspended at one time and one is
15 currently disbarred.

16 MS. SHULER: Your SLED report indicated in
17 2004 you were listed as a defendant brought by ATF a
18 real property of LLC in the Court of Common Pleas.
19 Please explain the disposition of that.

20 MS. PINCUS: I don't know the details of
21 that lawsuit. I don't recall ever being served or
22 anything ever happening with that. I know that it's
23 there, but I can't say anything about it.

24 MS. SHULER: And the SLED report indicated
25 it was dismissed in 2006.

1 MS. PINCUS: Yes.

2 MS. SHULER: The last lawsuit was filed
3 against you by Michael Scott Parker in 2005, in the
4 Court of Common Pleas.

5 MS. PINCUS: Okay. That case involved a
6 motorcycle shop that my father owned, and I did
7 corporate paperwork for him for that LLC, and I was
8 listed as the registered agent for service of
9 process. I didn't own it, but if you look you might
10 think I did. A lawyer called me, and I said, No, I
11 don't. I'm just the registered agent, but I was
12 named anyway. The case was successfully resolved,
13 but there was nothing personally against me. No
14 allegations that I did anything wrong.

15 MS. SHULER: The last lawsuit was filed in
16 2011, by Hodge Systems and Consulting Service, LLC.
17 What was the disposition of this lawsuit?

18 MS. PINCUS: We settled that lawsuit. It
19 had to do with work done on my building to my
20 network wiring. I had a dispute about certain
21 aspects of the job and fees.

22 MS. SHULER: The Commission received 152
23 ballot box surveys regarding you, with 27 written
24 comments, 14 of which indicated concerns. I will
25 share first the positive comments. Fine family

1 court attorney, would make a wonderful Family Court
2 Judge. Her opinions are always well thought out,
3 based on solid reasoning, seems to care about family
4 and her clients, served on boards and commissions
5 with her and she is always prepared, courteous,
6 extremely knowledgeable about the law, would make a
7 great judge, absolute star on the bench.

8 However, there were 14 concerns. Two
9 written comments indicated concerns about your
10 ethics, just stating that you have a lax
11 understanding of rules of professional
12 responsibility. Have you ever been found in
13 violation of any rules of professional
14 responsibility?

15 MS. PINCUS: Never.

16 MS. SHULER: Is there any response that
17 you would offer?

18 MS. PINCUS: Number one, that I've never
19 been disciplined; two, I've achieved the highest
20 rating through Martindale Hubbell. It's an AV
21 rating. That's a survey by my peers. One of the --
22 it's two-part rating, but the part about ethics is
23 that I've achieved the highest ethical rating.

24 The third point is that I'm so proactive
25 with regard to my ethical compliance, not lax, and

1 I'd like to give you one or two examples. I know I
2 personally called Professor Freeman, and I had a
3 question about something an employee had done. I
4 called him and he gave me information, gave me
5 advise. I hung up the phone and took it. The other
6 example is that we're regulated a lot about our
7 advertising and marketing, and I have a lot of
8 marketing venues, and I took all of my material from
9 my website to social media and hired an attorney in
10 Columbia that's known for helping lawyers, just for
11 an extra set of eyes. He got back to me, and said,
12 you should change this. I changed it. He said get
13 rid of that. He said this could either way, I went
14 the safe way. So I do take my ethical compliance
15 seriously and I'll strictly adhere to the code of
16 judicial conduct.

17 MS. SHULER: Several other comments
18 indicated that you can be difficult to work with,
19 because you are rude to opposing counsel, immature
20 in dealing with individuals with whom you do not
21 agree. What response would you offer in response?

22 MS. PINCUS: Hearing that comment -- and I
23 appreciate you sharing it with me -- it was a
24 humbling moment. Extremely disappointed in myself.
25 I work hard to have good relationships with lawyers

1 that I practice with. And I'm very disappointed
2 that I came across that way to an opposing attorney.
3 I never intended to. Although I don't consider
4 myself to be that way, even if one person felt that
5 way, it's not okay.

6 I want you to know if I'm given the
7 privilege to become a judge, I'll do everything in
8 my power to not to give that perception. And the
9 other thing is that there are some positive examples
10 of my temperament that I would hope you would
11 consider in regards to my presiding over the
12 Medicaid hearings. My supervisor wrote a letter of
13 recommendation for me. I've had many. And he wrote
14 and told you how my temperament is in those
15 hearings. I've never had a petition or a complaint
16 from anybody in that setting about how I preside
17 over the Medicaid hearing. And there are, you know,
18 there are two different roles: Being a litigator
19 and being an advocate. And when you litigate, as a
20 lawyer -- by the way, most of my cases do settle and
21 that happens because I'm reasonable and empathetic.

22 Every day I go to work, I'm dealing with
23 people that are my adversary and have opposing
24 opinion to me. I litigate zealously for the benefit
25 of my clients. I'm formidable but I balance that

1 with the oath of civility. But it's an entirely
2 different role to sit over matters and make a
3 decision, and I have those skills and I do that
4 well.

5 And predominantly different personality
6 traits come out depending on what setting you're in.
7 I hope that you would consider that information from
8 my supervisor, and I'll do everything in my power as
9 a Family Court Judge not give that perception to
10 people and respect people in front of me and be
11 courteous.

12 MS. SHULER: Thank you. Have you sought
13 or been offered a conditional pledge of support of
14 any legislator pending the outcome of your
15 screening?

16 MS. PINCUS: No. I have not.

17 MS. SHULER: Have you asked any third
18 parties to contact Members of the General Assembly
19 on your behalf?

20 MS. PINCUS: No. I have not.

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

24 MS. PINCUS: No. I am not.

25 MS. SHULER: Have you contacted any

1 members of this Commission?

2 MS. PINCUS: No.

3 MS. SHULER: Do you understand that you
4 are prohibited from seeking a pledge or commitment
5 until 48-hours after the formal release of the
6 Commission's report?

7 MS. PINCUS: Yes. I do.

8 MS. SHULER: Have you reviewed the
9 Commission's guidelines on pledging?

10 MS. PINCUS: Yes.

11 MS. SHULER: Are you aware that the
12 penalties for violating the pledging rules or that
13 it is a misdemeanor and upon conviction, the
14 violator must be fined not more than \$1,000 or
15 imprisoned not more than 90 days?

16 MS. PINCUS: Yes.

17 MS. SHULER: I would note that the
18 Midlands Citizens Committee found Ms. Pincus
19 qualified in evaluative criteria regarding
20 constitutional qualifications, physical health and
21 mental stability. The committee found her well
22 qualified in the evaluative criteria of ethical
23 fitness, professional and academic ability,
24 character, reputation, experience and judicial
25 temperament. The committee states in summary, we

1 were very impressed by Ms. Pincus in many ways and
2 we enjoyed our interview with her. Her passion for
3 the Family Court and her energy is contagious. We
4 were Impressed by her, not just her honors and
5 accomplishments, but by the fact she has operated
6 her own family law firm for 15 years. She has
7 Family Court in her blood and we believe she is
8 ready to serve. We feel she would be a committed
9 and compassionate public servant and for all of
10 these reasons we find her most eminently qualified
11 to serve on the Family Court. I would just note
12 that any concerns raised during the investigation
13 regarding the candidate were incorporated into my
14 questioning of the candidate today. Mr. Chairman, I
15 have no further questions.

16 REPRESENTATIVE DELLENEY: Does any member
17 of the Commission have any questions? There being
18 none, Ms. Pincus, thank you for being here with us
19 tonight.

20 This concludes this portion of your
21 screening; however, the record is open until the
22 report is published and until it becomes a final
23 report of the Commission, and 48-hours after that,
24 you can seek pledges, but prior to the time that it
25 becomes a report of the Commission, we could re-open

1 your public hearing and bring you back and ask you
2 questions. That's very unlikely, but I want to
3 remind you of the 48-hour rule.

4 Thank you for your service, and I hope you
5 have a safe trip back home.

6 MS. PINCUS: Thank you very much.

7 REPRESENTATIVE DELLENEY: We have before
8 us the Honorable Caroline Whitehead Streater, who is
9 seeking a position on the Family Court, At-Large,
10 Seat number 4.

11 If you would please raise your right hand
12 to be sworn.

13 (Judge Caroline Whitehead Streater, was
14 duly sworn, after which testimony commenced at 7:14
15 p.m.)

16 REPRESENTATIVE DELLENEY: Have you had an
17 opportunity to review your Personal Data
18 Questionnaire?

19 JUDGE STREATER: Yes, sir.

20 REPRESENTATIVE DELLENEY: Is it correct?

21 JUDGE STREATER: Yes, sir.

22 REPRESENTATIVE DELLENEY: Do you object to
23 our making that part of the record of your sworn
24 testimony?

25 JUDGE STREATER: I do not.

1 REPRESENTATIVE DELLENEY: It will be done
2 at this point in the transcript.

3 (EXH. 23, Personal Data Questionnaire of
4 Judge Streater, marked for identification.)

5 REPRESENTATIVE DELLENEY: The Judicial
6 Merit Selection Commission has thoroughly
7 investigated your qualifications for service on the
8 bench. Our inquiry has primarily focused on nine
9 evaluative criteria, which include a survey of the
10 bench and the bar, a thorough study of your
11 application materials, verification of your
12 compliance with state ethics laws, a search of any
13 newspaper articles in which your name may have
14 appeared, a study of previous screenings, and a
15 check for economic conflicts of interest.

16 There are no affidavits filed in
17 opposition to your election. There are no witnesses
18 here to testify. Do you have a brief opening
19 statement that you would like to make?

20 JUDGE STREATER: I know you've had a long
21 day. I'm here to answer questions you might have
22 regarding my candidacy. I brought with me my
23 husband, Campbell Streater.

24 REPRESENTATIVE DELLENEY: We're glad to
25 have you with us. Please answer any questions our

1 able counsel may have for you.

2 MR. GENTRY: Judge Streater, you have
3 before you the sworn statement you provided with
4 detailed answers to over 30 questions regarding
5 judicial conduct, statutory qualifications, office
6 administration, and temperament. Are there any
7 amendments that you would like to make at this time
8 to your sworn statement?

9 JUDGE STREATER: None at this time.

10 MR. GENTRY: Mr. Chairman, I'd ask that
11 Judge Streater's sworn statement be entered as an
12 exhibit into the hearing record.

13 REPRESENTATIVE DELLENEY: Without
14 objection it will be done at this point in the
15 transcript.

16 (EXH. 23A, Sworn Statement of Judge
17 Streater, marked for identification.)

18 MR. GENTRY: One final procedural matter.
19 Based on the testimony contained in the candidate's
20 PDQ, which has been included in the record, please
21 state the county and circuit in which you reside.

22 JUDGE STREATER: I live in Richland
23 County, Fifth Judicial Circuit.

24 MR. GENTRY: Please explain to the
25 Commission why you want to serve as a Family Court

1 Judge.

2 JUDGE STREATER: On a daily basis, I
3 believe the Family Court directly impacts what we
4 consider to be the backbone of our society -- the
5 family. It does this in deciding matters regarding
6 the state's expectation for the welfare of its
7 children and in determining other matters regarding
8 the family, handling separation process, and the
9 redefinition of the family unit when parents
10 divorce.

11 I'm well aware that a Family Court's
12 ruling becomes the fabric of a child's life well
13 after a ruling, and I understand how significant
14 that is. I have a passion for children as you can
15 see in my professional resume and background, and
16 I've always been involved and concerned in the legal
17 system handling of issue involving children.

18 So I believe that serving as a Family
19 Court Judge would allow me to use my experience as a
20 Magistrate in Richland County, and my knowledge in
21 children's law, working with DJJ and DSS, with my
22 passion for children and families and their
23 application of our laws in South Carolina.

24 MR. GENTRY: Are there any areas,
25 including subjective areas of the law, that you need

1 to additionally prepare for in order to serve as a
2 Family Court Judge, and how would you handle that
3 preparation?

4 JUDGE STREATER: I do have a lack of
5 experience in private Family Court litigation and
6 recognize that. I've addressed that, in part,
7 through reading and become familiar with statutes
8 that involve those areas of the law, as well as, the
9 many appellate court decisions involving those areas
10 of the law, and I plan to continue to address my
11 weakness through attending CLEs, and I have
12 identified a shadow Family Court Judge as a mentor.
13 I have found that process to be beneficial as a
14 magistrate.

15 MR. GENTRY: Please explain to the
16 Commission what you think is the appropriate
17 demeanor for a Family Court Judge.

18 JUDGE STREATER: Well, patient, and I
19 think somewhat reserved, but compassionate,
20 respectful of the litigant. And I think
21 importantly, engaged in the present during the
22 proceeding.

23 MR. GENTRY: Is there any Family Court
24 Judge on the bench that you would like to model
25 yourself after or one that you think exemplifies the

1 characteristics of a Family Court Judge.

2 JUDGE STREATER: I have to smile when you
3 say that. Judge Buyers is hands down one of my
4 favorite people. I have the opportunity to work
5 with him at DJJ, so he would be hands down. Judge
6 Riddle has a passion for procedures and for families
7 and children. Another judge is Judge Moorehead, who
8 has a very keen intellect and I enjoy practicing in
9 front of him.

10 MR. GENTRY: What suggestions, if any,
11 would you offer for improving the backlog of cases
12 in the Family Court?

13 JUDGE STREATER: I think when you look at
14 the backlog, you have to look at what the particular
15 problems in your court and your circuit. I've had
16 the opportunity to work on backlogs in two arenas.
17 In Family Court in Aiken County when I was running
18 the DSS cases, there was a significant backlog, and
19 children had languished in foster care for some
20 period of time due to continuances.

21 We were very successful with Judge Nestle,
22 who was at that time the chief resident judge and
23 the local bar to work out two things. One, more
24 efficient way to use their time because many lawyers
25 that appear in those cases, appear pro bono. And

1 for them to come and wait all morning was
2 inefficient for them. So we worked on that and we
3 worked on moving cases in a more efficient manner.
4 I think we were successful in Aiken.

5 When I was appointed as a magistrate in
6 Richland, there were cases on the docket over two
7 years old and had not held a preliminary hearing,
8 despite the statute that said they must be held
9 within ten days of the date of request. Within six
10 months we were within under 60 days, and within a
11 year we were under 30 days. There were lots of
12 avenues of approach, but you have to work with the
13 clerks and you have to work with the local Bar to
14 figure out what works for them.

15 MR. GENTRY: The Commissioner received 120
16 ballot box survey responses regarding your candidacy
17 with 17 written comments. Of those two indicated a
18 concern with your temperament, and one survey
19 indicated that you may display bias in the
20 courtroom. What response would you offer to those
21 comment?

22 JUDGE STREATER: Well, having no
23 information on the particulars, I can't respond to
24 the particular situation. But in terms of
25 temperament and bias, I would say that Dr. Paultis,

1 who I'm sure you're familiar with, I have presided
2 over several cases with Dr. Paultis.

3 And then as to the bias, when it comes to
4 ruling in a case, I don't believe personally that I
5 let personal acquaintanceships enter into my
6 decision at all.

7 As a practicing lawyer, practicing 20-plus
8 years, you get to know a lot of attorneys. I'm
9 friendly and I speak to people when they come into
10 my courtroom, so if that gives someone the
11 impression that I'm biased, that's unfortunate.

12 MR. GENTRY: Have you sought or received
13 pledge of any legislator prior to this date?

14 JUDGE STREATER: No, sir.

15 MR. GENTRY: Have you sought or been
16 offered a conditional pledge of support of any
17 legislator pending the outcome of your screening?

18 JUDGE STREATER: No, sir.

19 MR. GENTRY: Have you asked any third
20 parties to contact Members of the General Assembly
21 on your behalf?

22 JUDGE STREATER: No, sir.

23 MR. GENTRY: Are you aware of anyone
24 attempting to intervene in any part of the process
25 on your behalf?

1 JUDGE STREATER: No, I am not.

2 MR. GENTRY: Have you contacted any
3 members of this Commission?

4 JUDGE STREATER: I think Senator Campsen
5 is the one that I sent a letter to prior to his
6 appointment to the Commission.

7 MR. GENTRY: Do you understand that you
8 are prohibited from seeking a pledge or commitment
9 until 48-hours after the formal release of the
10 Commission's report?

11 JUDGE STREATER: Yes.

12 MR. GENTRY: Have you reviewed the
13 Commission's guidelines on pledging?

14 JUDGE STREATER: Yes, sir.

15 MR. GENTRY: Are you aware that the
16 penalties for violating the pledging rules or that
17 it is a misdemeanor and upon conviction, the
18 violator must be fined not more than \$1,000 or
19 imprisoned not more than 90 days?

20 JUDGE STREATER: Yes, sir.

21 MR. GENTRY: I would note that the
22 Midlands Citizens Committee found Judge Streater
23 qualified in evaluative criteria regarding
24 constitutional qualifications, physical health and
25 mental stability. The committee found her well

1 qualified in the evaluative criteria of ethical
2 fitness, professional and academic ability,
3 character, reputation, experience and judicial
4 temperament.

5 I don't have any further questions.

6 REPRESENTATIVE DELLENEY: Does any member
7 of the Commission have any questions for Judge
8 Streater? There being none. Good to see you again.
9 Thank you so much for offering to serve as a Family
10 Court Judge.

11 This concludes this portion of your
12 screening; however, the record is open until the
13 report is published and until it becomes a final
14 report of the Commission, and 48-hours after that,
15 you can seek pledges, but prior to the time that it
16 becomes a report of the Commission, we could re-open
17 your public hearing and bring you back and ask you
18 questions. That's very unlikely, but I want to
19 remind you of the 48-hour rule.

20 Thank you for your service, and I hope you
21 have a safe trip back home.

22 JUDGE STREATER: Thank you.

23 REPRESENTATIVE DELLENEY: Good evening.
24 We have before us Katherine Joyce Hall Tiffany, who
25 seek a position on the Family Court, At-Large, Seat

1 number 4. If you would raise your right hand to be
2 sworn.

3 (Katherine Tiffany, was duly sworn, after
4 which testimony commenced at 7:40 p.m.)

5 REPRESENTATIVE DELLENEY: Have you had an
6 opportunity to review your Personal Data
7 Questionnaire?

8 MS. TIFFANY: Yes, sir.

9 REPRESENTATIVE DELLENEY: Is it correct?

10 MS. TIFFANY: Yes, sir.

11 REPRESENTATIVE DELLENEY: Do you object to
12 our making that part of the record of your sworn
13 testimony?

14 MS. TIFFANY: I do not.

15 REPRESENTATIVE DELLENEY: It will be done
16 at this point in the transcript.

17 (EXH. 24, Personal Data Questionnaire of
18 Ms. Tiffany, marked for identification.)

19 REPRESENTATIVE DELLENEY: The Judicial
20 Merit Selection Commission has thoroughly
21 investigated your qualifications for service on the
22 bench. Our inquiry has primarily focused on nine
23 evaluative criteria, which include a survey of the
24 bench and the bar, a thorough study of your
25 application materials, verification of your

1 compliance with state ethics laws, a search of any
2 newspaper articles in which your name may have
3 appeared, a study of previous screenings, and a
4 check for economic conflicts of interest.

5 There are no affidavits filed in
6 opposition to your election. There are no witnesses
7 here to testify. Do you have a brief opening
8 statement that you would like to make?

9 MS. TIFFANY: I would like to thank
10 everyone for the opportunity to have me here. I
11 know I'm the last person of the day. This has been
12 an incredible learning experience. No matter what
13 happens, I'll take something away.

14 I'm sure you know that I consider everyone
15 running extremely qualified. I had the great
16 opportunity to meet and speak with most, so I don't
17 think there are going to be any wrong decisions
18 here.

19 REPRESENTATIVE DELLENEY: Thank you. If
20 you would answer any questions our able counsel may
21 have.

22 MS. DEAN: Ms. Tiffany, you have before
23 you the sworn statement you provided with detailed
24 answers to over 30 questions regarding judicial
25 conduct, statutory qualifications, office

1 administration, and temperament. Are there any
2 amendments that you would like to make at this time
3 to your sworn statement?

4 MS. TIFFANY: I did send Ms. Shuler an
5 update on the amount that I had spent in response to
6 question 28, where I have spent a total of \$86.05 on
7 my campaign thus far. And on my PDQ, number 9, I
8 should have pointed this. I did send a letter to
9 Ms. Shuler.

10 I wanted to amend my response to state
11 that when I served -- when I was part of the Real
12 Property Probate and Trust Journal in law school, I
13 had initially listed that my position was articles
14 editor, I couldn't remember what I did. I went back
15 and found my certificate and it did list me as
16 student editorial board.

17 MS. DEAN: Mr. Chairman, I'd ask that Ms.
18 Tiffany's sworn statement be entered as an exhibit
19 into the hearing record.

20 REPRESENTATIVE DELLENEY: Without
21 objection it will be done at this point in the
22 transcript.

23 (EXH. 24A, Sworn Statement of Ms. Tiffany,
24 marked for identification.)

25 MS. DEAN: One final procedural matter.

1 Based on the testimony contained in the candidate's
2 PDQ, which has been included in the record, please
3 state the county and circuit in which you reside.

4 MS. TIFFANY: I live in Greenville County,
5 13th Judicial Circuit.

6 MS. DEAN: Thank you. Ms. Tiffany, why do
7 you now want to serve as a Family Court Judge?

8 MS. TIFFANY: I've articulated this in my
9 questionnaire. I guess to give you a brief
10 background. The way I was raised by my parents, the
11 way I've been trained in my practice, it's
12 essentially been -- particularly when I was growing
13 up, I had a mother and maternal grandfather who were
14 a huge influence on me.

15 My father was part of the legal
16 profession, but it was my mother who was encouraging
17 me to do as much as I could with what I had. I had
18 a grandfather who was always encouraging me. When I
19 would come home and have all As and a B, would say I
20 hope you did your best. How can you do better. In
21 the 16 years I've been practicing with my firm, one
22 thing they have taught me is attention to detail,
23 and striving for excellence. Not for yourself but
24 for the people that you represent. So initially
25 when I practiced, I did a lot of cases with my

1 partner Tom Traxler. Whether the result was good or
2 bad, the first conversation we always had was maybe
3 we did our best but how can we do better next time.
4 I look at this as an opportunity to do more. I've
5 spent 16 years in practice and I have loved it and I
6 had enjoyed my partners and it will be difficult to
7 leave them. I look at this as an opportunity for me
8 to do more. I feel like I'm at my best when I'm
9 pushing myself to do more. And that's what I hope
10 to do serving on the bench. I'm lifelong South
11 Carolinian. I am passionate and proud about the
12 state. I would love an opportunity to invest myself
13 in that way.

14 MS. DEAN: Are there any areas that you
15 would need to additionally prepare for in order to
16 serve as a judge and how would you go about that
17 additional preparation?

18 MS. TIFFANY: I think probably the area
19 that I have the least amount of experience would be
20 in the area of DJJ, handling juvenile crimes. I
21 have, by association with my DSS cases, I've had the
22 opportunity to become familiar with the DJJ process,
23 but I do believe that's an area where I probably
24 don't have as much experience. What I would
25 anticipate is, assuming there would be a certain

1 amount of time before I would take the bench, I
2 would take the opportunity to observe as many
3 proceedings as I could. I would like to meet the
4 former and current DJJ prosecutors and have them
5 give me their perspective. The same with the
6 defenders that are assigned. I could attend CLEs
7 but I anticipate that is an area where I may have to
8 take a little time to educate myself. Of course
9 there's no better way to learn than just doing it.

10 MS. DEAN: Thank you. Ms. Tiffany,
11 although you address this in your sworn affidavit,
12 could you explain to the members of the Commission
13 what you think the appropriate demeanor of a judge
14 is.

15 MS. TIFFANY: I think a judge should be
16 fair and patient. That calls on you to use more
17 resources than you think you might need to. I think
18 diligence is a quality too. You're making a
19 commitment to the people in front of you and the
20 lawyers and to the state that has hired you.

21 So I think you ought to be diligent. Not
22 only in hearing the evidence, but in researching and
23 applying the law. I think firmness is necessary. I
24 thought a lot about in response to the questionnaire
25 about anger. Do you think anger is an appropriate

1 emotion. No, I don't, but I recognize that we're
2 all human. What I do realize is that that doesn't
3 help. It's not going to help achieve the goals that
4 the parties are seeking. It's not going to help you
5 administer justice. I think you have to realize
6 that everybody is different and has a different
7 background. The same solution is not going to work
8 for every set of facts that come in front of you.
9 And I think creativity has a play. Not that you're
10 going to create law, but you have to understand the
11 law well enough and be empathetic enough so that you
12 can come to a resolution.

13 MS. DEAN: Is there any Family Court Judge
14 on the bench that you would like to model yourself
15 after or one that you feel exemplifies the
16 characteristics of a Family Court Judge.

17 MS. TIFFANY: I have to say in our circuit
18 one judge that I have looked up to is Judge Jenkins.
19 I think his demeanor is excellent. When you're in
20 front of him you feel like you are getting hurt.
21 I'm not sure I've even seen him demonstrate a hint
22 of him losing his temper. He's always, always,
23 always impressed in that way and he just comes
24 across as being a truly kind person, willing to
25 listen. We have a newly elected judge, Marsh

1 Robertson, who I knew somewhat in private practice,
2 but how he has impressed me on the bench is he's the
3 move thoughtful I've ever been in front of. I was
4 lucky enough to moderate a seminar in the Upstate
5 last year, what Family Court Judges want you to
6 know. So I had to have a panel of judges and I sent
7 them questions ahead of time and said this is what
8 I'm going to be asking you. Judge Robertson sat
9 down next to me and the man had an outline in
10 response to every question. So his thoughtfulness
11 has impressed me. Judge Jenkins' kindness has
12 impressed me. We're fortunate in Greenville to have
13 a fantastic Family Court bench.

14 MS. DEAN: What suggestions would you
15 offer for improving the backlog of cases on the
16 Family Court docket?

17 MS. TIFFANY: Fortunately I believe
18 Greenville is probably the most current or one of
19 the more current dockets in the state. So quite
20 frankly I don't have a lot of experience practicing
21 in a backlog docket, but I do know that are other
22 circuits where it takes months to get to a temporary
23 hearing. That's an inordinate amount of time for
24 someone to wait to get temporary child support.

25 The At-Large positions will help. What, I

1 mean, again, not having worked in that
2 administratively, I can only guess that it seems to
3 me that with the At-Large positions, send the Judge
4 where they need to go. I think different dockets --
5 sometimes they're going to be more current than
6 others. So if there's a way to send the Judge where
7 they to go to get that docket -- it may be a
8 juggling process. Greenville has a great system for
9 stacking cases -- A, B, and C cases.

10 I think the use of five or ten minute
11 dockets to hear uncontested divorces can move those
12 cases along. I know there are mandatory mediation
13 provisions in place now in Greenville for private
14 cases as well as some of the DSS cases. That can
15 help bring cases to a resolution.

16 MS. DEAN: Ms. Tiffany, do you carry
17 malpractice insurance and how long have you carried
18 that insurance?

19 MS. TIFFANY: I think I reviewed this in
20 my questionnaire. My firm has had coverage since I
21 joined it. I can't remember all the names, but we
22 currently have coverage through ALPS. I believe
23 we've had it since 2000, but I would defer to
24 whatever my response is in my questionnaire because
25 I went to the carriers, and said, Okay, I need to

1 know. Give me the exact timeframes.

2 MS. DEAN: But you've had consistent
3 coverage.

4 MS. TIFFANY: Yes.

5 MS. DEAN: And as part of the process, we
6 received ballot box surveys, which were anonymous
7 responses. We received 84 survey responses and this
8 included 15 written comments. Three of those
9 comments expressed concerns, although I will note
10 that two of the three also primarily contained
11 compliments. Those three concerns were questions
12 about your experience, specifically representing low
13 income individuals. Could you please respond to
14 that.

15 MS. TIFFANY: I'll be glad to. First of
16 all I can understand why someone would want to voice
17 that concern because I think a judge needs to be
18 prepared to listen and resolve cases for people from
19 all stations. They obviously don't know my
20 practice. My cases run the gamut. I have
21 represented people in DSS cases, I've worked as a
22 Guardian Ad Litem, some with families that are
23 affluent and some that really had nothing. In my
24 private practice cases, I've represented people who
25 have nothing more than debt to deal with to

1 occasionally a few -- they're more the minority that
2 tend to have resources. I had my paralegal track my
3 cases for the last 12 years. According to what we
4 found, I think 400 files -- 98 were guardian cases,
5 25 were DSS cases, and five were adoption cases. my
6 DSS work alone -- you don't generally represent
7 people that have enormous resources. I just
8 finished a case last week where literally the only
9 issue was custody. They had no resources. In all
10 likelihood my client can't finish paying me. He
11 needed the help and I was there to give it. All I
12 can say is I have represented everyone from A to Z,
13 and I'm very conscious of the fact that that is what
14 a Family Court Judge needs to be aware of. There
15 are going to be some cases where there are not going
16 to be resources so you have to be aware of that.

17 I was raised to realize that, you know,
18 there is not a whole lot of difference between those
19 that have and those that have not. So I don't
20 consider myself to the extent that I might have been
21 concerned that I'm unfamiliar with people who have
22 lower incomes or -- my biggest concern is that they
23 thought I was better than people of low income but I
24 certainly don't believe that because I know that
25 it's not true.

1 MS. DEAN: Thank you. I'll note for the
2 record, many of these responses were very
3 complimentary, saying, she's incredibly bright, very
4 knowledgeable and a hard worker, intelligent, fair,
5 will make a good judge, ethics are impeccable. And
6 character is outstanding.

7 At this time I just have some housekeeping
8 issues. Ms. Tiffany, have you sought or received
9 the pledge of any legislator prior to this date?
10 Have you sought or received pledge of any legislator
11 prior to this date?

12 MS. TIFFANY: No.

13 MS. DEAN: Have you sought or been offered
14 a conditional pledge of support of any legislator
15 pending the outcome of your screening?

16 MS. TIFFANY: No.

17 MS. DEAN: Have you asked any third
18 parties to contact Members of the General Assembly
19 on your behalf?

20 MS. TIFFANY: No.

21 MS. DEAN: Are you aware of anyone
22 attempting to intervene in any part of the process
23 on your behalf?

24 MS. TIFFANY: No, I am not.

25 MS. DEAN: Have you contacted any members

1 of this Commission?

2 MS. TIFFANY: No, I have not.

3 MS. DEAN: Do you understand that you are
4 prohibited from seeking a pledge or commitment until
5 48-hours after the formal release of the
6 Commission's report?

7 MS. TIFFANY: Yes.

8 MS. DEAN: Have you reviewed the
9 Commission's guidelines on pledging?

10 MS. TIFFANY: Yes.

11 MS. DEAN: Are you aware that the
12 penalties for violating the pledging rules or that
13 it is a misdemeanor and upon conviction, the
14 violator must be fined not more than \$1,000 or
15 imprisoned not more than 90 days?

16 MS. TIFFANY: Yes.

17 MS. DEAN: I would note that the Upstate
18 Citizens Committee found Ms. Tiffany qualified in
19 evaluative criteria regarding constitutional
20 qualifications, physical health and mental
21 stability. The committee found her well qualified
22 in the evaluative criteria of ethical fitness,
23 professional and academic ability, character,
24 reputation, experience and judicial temperament.

25 I don't have any further questions.

1 REPRESENTATIVE DELLENEY: Does any member
2 of the Commission have any questions for Ms.
3 Tiffany? There being none. Thank you so much for
4 offering to serve as a Family Court Judge.

5 This concludes this portion of your
6 screening; however, the record is open until the
7 report is published and until it becomes a final
8 report of the Commission, and 48-hours after that,
9 you can seek pledges, but prior to the time that it
10 becomes a report of the Commission, we could re-open
11 your public hearing and bring you back and ask you
12 questions. That's very unlikely, but I want to
13 remind you of the 48-hour rule.

14 Thank you for your service, and I hope you
15 have a safe trip back home.

16 MS. TIFFANY: Thank you.

17 REPRESENTATIVE DELLENEY: Okay. We need
18 executive session.

19 All in favor?

20 (Multiple speakers respond, "Aye.")

21 (The Committee went into executive session
22 from 8:05 p.m. to 8:12 p.m.)

23 REPRESENTATIVE DELLENEY: Do you have a
24 motion to lift the veil?

25 REPRESENTATIVE CLEMMONS: I make a motion.

1 SENATOR MARTIN: Second.

2 REPRESENTATIVE DELLENEY: All in favor?

3 (Multiple speakers respond, "Aye.")

4 REPRESENTATIVE DELLENEY: Back on the
5 record. Okay. Family Court Seat number 1. Does
6 anybody have any reason not to find Frierson,
7 Goodwin, and Pope qualified?

8 SENATOR MARTIN: So move.

9 REPRESENTATIVE DELLENEY: So I guess
10 they're all qualified and nominated.

11 MS. SHULER: Ten for all three. On this
12 one you have three votes for five candidates.

13 REPRESENTATIVE DELLENEY: Family Court,
14 At-Large, Seat number 2, is there any reason not to
15 find Jones, Keefer, LaMantia, Price, and Seigler
16 qualified?

17 MS. SHULER: Nine.

18 REPRESENTATIVE DELLENEY: And you have
19 three votes and we have five candidates. Everybody
20 who finds Tony Miller Jones qualified and nominated
21 raise your hand.

22 MS. SHULER: Eight for Tony Jones.

23 REPRESENTATIVE DELLENEY: Everybody who
24 finds Sean F. Keefer qualified and nominated raise
25 your hand.

1 MS. SHULER: One.

2 REPRESENTATIVE DELLENEY: Everybody who
3 finds Anthony Philip LaMantia qualified and
4 nominated raise your hand.

5 MS. SHULER: Zero.

6 REPRESENTATIVE DELLENEY: Everybody who
7 finds Samuel McGowan Price qualified and nominated
8 raise your hand.

9 MS. SHULER: Seven.

10 REPRESENTATIVE DELLENEY: Everybody who
11 finds William Gregory Seigler qualified and
12 nominated raise your hand.

13 MS. SHULER: Eight.

14 REPRESENTATIVE DELLENEY: All right. We
15 move on to Seat 3. There's only one candidate.
16 Everybody believe that James McGee is qualified and
17 nominated raise your hand.

18 MS. SHULER: Ten.

19 REPRESENTATIVE DELLENEY: Lastly we have
20 Seat number 4, which we have seven candidates. Does
21 anybody have an objection to finding them all
22 qualified? If not, does everybody believe that
23 Brigman, Clark, Graham, McJimpsey, Pincus, Streater,
24 and Tiffany are all qualified? Raise your hand.

25 MS. SHULER: Ten.

1 REPRESENTATIVE DELLENEY: All right. We
2 have three votes. Everybody that believes Cely Anne
3 Baker Brigman should be qualified and nominated
4 raise your hand.

5 MS. SHULER: Five.

6 REPRESENTATIVE DELLENEY: Everybody that
7 finds Robert Allison Clark qualified and nominated
8 raise your hand.

9 MS. SHULER: Zero.

10 REPRESENTATIVE DELLENEY: Everybody that
11 thinks Kimaka Nichols-Graham should be qualified and
12 nominated raise your hand.

13 MS. SHULER: Five.

14 REPRESENTATIVE DELLENEY: Everybody that
15 believes the Honorable Erika L. McJimpsey should be
16 found qualified and nominated raise your hand.

17 MS. SHULER: Zero.

18 REPRESENTATIVE DELLENEY: Everybody that
19 believes Monet S. Pincus should be qualified and
20 nominated raise your hand.

21 MS. SHULER: Five.

22 REPRESENTATIVE DELLENEY: Everybody that
23 believes the Honorable Caroline Whitehead Streater
24 should be found qualified and nominated raise your
25 hand.

1 MS. SHULER: Six.

2 REPRESENTATIVE DELLENEY: Everybody that
3 believes Katherine Joyce Hall Tiffany should be
4 found nominated and qualified raise your hand.

5 MS. SHULER: Nine. So it's Caroline
6 Streater and Katherine Tiffany because it takes six.
7 And that leaves -- there are two with no votes --
8 Robert Allison Clark and Erika McJimpsey.

9 So that leaves three to vote on for the
10 third candidate: Cely Anne Brigman, Kamika
11 Nichols-Graham, and Monet Pincus. One vote each.

12 REPRESENTATIVE DELLENEY: Everybody that
13 thinks Cely Anne Brigman should be found qualified
14 and nominated raise your hand.

15 MS. SHULER: Two.

16 REPRESENTATIVE DELLENEY: Everybody that
17 thinks Kamika Nichols-Graham should be found
18 nominated and qualified raise your hand.

19 MS. SHULER: Four.

20 REPRESENTATIVE DELLENEY: Everybody that
21 believes Monet Pincus should be found qualified and
22 nominated raise your hand.

23 MS. SHULER: Four.

24 REPRESENTATIVE DELLENEY: Everybody that
25 believes Cely Anne Brigman should be found nominated

1 and qualified raise your hand.

2 MS. SHULER: Zero.

3 REPRESENTATIVE DELLENEY: Everybody that
4 believes Kamika Nichols-Graham ought to be qualified
5 and nominated raise your hand.

6 MS. SHULER: Five.

7 REPRESENTATIVE DELLENEY: Everybody that
8 believes Monet Pincus should be found qualified and
9 nominated raise your hand.

10 MS. SHULER: Five.

11 REPRESENTATIVE DELLENEY: Now we've got a
12 runoff. So it's between -- everybody that believes
13 Kamika Nichols-Graham should be found qualified and
14 nominated raise your hand.

15 MS. SHULER: Five.

16 REPRESENTATIVE DELLENEY: Everybody that
17 believes Monet Pincus should be found nominated and
18 qualified raise your hand.

19 MS. SHULER: Five.

20 REPRESENTATIVE DELLENEY: We'll try it
21 again. Everybody that believes Kamika
22 Nichols-Graham should be found nominated and
23 qualified raise your hand.

24 MS. SHULER: Three.

25 REPRESENTATIVE DELLENEY: Everybody that

1 wants to vote for Monet Pincus raise your hand.

2 MS. SHULER: Seven.

3 So it's Monet Pincus, Caroline Streater,
4 and Katherine Tiffany.

5 REPRESENTATIVE DELLENEY: All right.

6 We'll be back at nine o'clock.

7 MS. SHULER: I just want to say a special
8 thank you to all the staff that has helped -- all
9 the screening attorneys and the security too.

10 (The proceedings concluded at 8:45 p.m.)

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