

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**



Court, Position, and Seat # for which you are applying:
Family Court, At-Large, Seat 5

1. NAME: Ms. Melissa Johnson Emery
BUSINESS ADDRESS: PO Box 1531, Conway, SC 29526
TELEPHONE NUMBER: (office): 843-488-0600
2. Date of and Place of Birth: 1969; Darlington, SC
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Divorced. Divorced on May 25, 2007, from Melissa Johnson Emery, Plaintiff, Georgetown County Family Court, adultery by Defendant, two children.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) Francis Marion College: August 1987–May 1991; Bachelor of Science;
 - (b) USC School of Law: August 1991–May 1994; JD.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

SC, 1994
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.

Francis Marion College:

 - (a) Senator of the Student Government Association, 1989-91;
 - (b) President's Advisory Committee, 1990-91;
 - (c) Pi Gamma Mu Honor Society, Inducted in 1990;
 - (d) Pi Sigma Alpha Honor Society – Rho Lambda Chapter, Inducted in 1990.

University of South Carolina School of Law:

 - (a) Student Bar Association, 1991-94;
 - (b) Women's Law Society, 1991-94;
 - (c) Young Lawyers Division – Student Chapter, 1993-94.
10. Describe your continuing legal or judicial education during the past five years.

| <u>Conference/CLE Name</u> | <u>Date(s)</u> |
|--------------------------------------|----------------|
| (a) Substantive Issues in Family Law | 12/14/06; |

- | | | |
|-----|--|-----------|
| (b) | Family Court Procedural & Substantive Law | 10/11/07; |
| (c) | Children's Issues in Family Court | 03/28/08; |
| (d) | Family Law Intensive Workshop | 11/21/08; |
| (e) | Family Court Procedural & Substantive Law | 12/17/08; |
| (f) | 2009 South Carolina Family Court Bench Bar | 12/04/09; |
| (g) | Family Court Procedural & Substantive Law | 12/10/09; |
| (h) | Steering Your Way Through Family Court | 05/21/10; |
| (i) | ABA 2010 Annual Meeting – Family Court Seminar | 08/05/10; |
| (j) | Family Court Procedural & Substantive Law | 12/09/10; |
| (k) | The 8 Types of Clients and How to Survive 7 of Them | 02/23/11; |
| (l) | Family Court Procedural & Substantive Law | 12/08/11; |
| (m) | Presenting the Family Law Case: The Basic Essentials | 04/27/12. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.
- (a) I have coordinated and participated as a presenter for the annual Horry County Family Court Procedural & Substantive Law Seminar from 2000 to present. This is an annual seminar that is conducted each year by the Horry County Family Court Bar, which I have chaired since 2000. In working closely with our resident judges, the committee presents a practical nuts & bolts type seminar which aides the Family Court practitioner with substantive and procedural issues dealt with in Family Court;
- (b) I was part of the presentation faculty for the seminar Presenting the Family Law Case: The Basic Essentials on April 27, 2012. This is a seminar presented by the Family Law Council of the SC Bar on a bi-annual basis to teach attorneys who are new to Family Court the basic procedures for practicing in Family Court;
- (c) I was part of the presentation faculty for the seminar Steering Your Way Through Family Court on May 21, 2010. This is the first seminar presented by the Family Law Council of the SC Bar, now done on a bi-annual basis to teach attorneys who are new to Family Court the basic procedures for practicing in Family Court;
- (d) I was part of the presentation faculty for the seminar Children's Issues in Family Court on March 17, 2006, and March 28, 2008. This seminar dealt directly with the issues of children in Family Court. It also served as training for Guardians ad Litem in Family Court;
- (e) I was part of the presentation faculty for the seminar Hot Tips from the Coolest Domestic Law Practitioners on September 23, 2005. This is a seminar conducted by the Family Law Council each year to educate new and experienced attorneys alike in Family court;
- (f) I was part of the presentation faculty for the seminar Guardian ad Litem Training on March 5, 2004. This seminar dealt directly with the issues

of children in Family Court and served as training for Guardians ad Litem in Family Court.

12. List all published books and articles you have written and give citations and the dates of publication for each. None.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
 - (a) Admitted to practice before the State Courts of SC in 1994;
 - (b) Admitted to practice before the Federal District Court in 1996.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
 - (a) Law Clerk to the Honorable James E. Lockemy, Circuit Judge of the Fourth Judicial Circuit – August 1994-August 1995;
 - (b) Law Offices of John R. Clarke, North Myrtle Beach, South Carolina, Associate, Civil and Domestic Litigation, August 1995-November 1996;
 - (c) Jeffcoat Pike & Nappier, LLC, Myrtle Beach, SC, Associate, Domestic Litigation to include GAL work and mediation, November 1996-August 2000;
 - (d) Monckton Law Firm, Myrtle Beach, SC, Associate, Domestic Litigation to include GAL work and mediation, August 2000-March 2001;
 - (e) Jeffcoat Pike & Nappier, LLC, Myrtle Beach, SC, Partner, Domestic Litigation to include GAL work and mediation, March 2001-October 2007;
 - (f) McLain & Lee, LLC, Conway, SC, Partner, Domestic Litigation to include GAL work and mediation, October 2007-December 2010;
 - (g) Melissa Johnson Emery, LLC, Conway, SC, Owner, Domestic Litigation to include GAL work and mediation, January 2011-Present.

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

I have practiced in the Family Court area since 1995, and exclusively since 1996.

Divorce/Separate Support and Maintenance/Equitable Division: The majority of my cases fall into this category. I have dealt with each ground for divorce as allowed by statute in my cases throughout my practice as a family court practitioner. Some of my cases have been so disturbing that I feared for the life of my client. I have had to seek Ex

Parte Orders and Emergency Hearings on the most severe cases. As part of most divorce cases, the issue of equitable division of assets and debts must be dealt with. My cases dealing with this issue have ranged from parties with little by way of assets and debts to parties with estates worth millions of dollars. Some of the cases have included businesses that must be evaluated and buy outs discussed. I have also handled cases that deal with common law marriage and these are very difficult once the relationship goes sour.

Children's Issues: Many of the divorce cases I have handled also included issues involving the minor children of the parties. In most cases, there is generally a primary caretaker of the children, but more and more there is a blending of duties between parents in regarding to the children. Because both parents are such an integral part of raising children while they are married, it is hard to explain to parents that their time and rights to their children could be drastically cut when going through a divorce. In addition to the contested custody cases, I have also dealt with complex issues involving children such a child endangerment, drug and alcohol abuse, parental alienation, visitation restrictions and adoptions. I have also dealt with many modification actions wherein parties have moved from the area or have had other substantial changes of circumstance. I have handled many adoption cases, as I have a personal interest in this area. (I have a few family members who are adopted, including my own daughter.) I have tried two complex terminations of parental rights cases in the last few years. I have also done adult adoptions. I have represented parents seeking to change the name of their child, one of which resulted in a contested trial.

Another role in which I have addressed children's issues is as a Guardian ad Litem. I have served as a Guardian ad Litem for contested custody cases and adoptions for over fifteen years. I have participated in trials as the Guardian for the minor children involved in the action, and have conducted investigations so that I could represent the best interests of my charge. I have served as a Guardian in termination of parental rights actions, to include one particular case in which twin girls were horribly burned, allegedly by one or both of their parents.

DSS/ Juvenile Justice: All family court appointments dealing with the Department of Social Services and juvenile justice came to me for many years in my prior firm. I have handled many cases as the attorney for a litigant in a DSS case or I have served as the Guardian ad Litem for the minor child(ren) in abuse and neglect cases. I have conducted investigations on behalf of the client. I strongly believe that any attorney appointed to these cases should serve their client just as any paid client is served. Often these people need help the most, and I know that these children are the neediest in the court system. I have

handled cases as the attorney for a juvenile who has been arrested, and have also served as the GAL for the juvenile when their parent or guardian is not present or was the victim of the alleged crime.

Mediation: Horry County is a pilot county for mediation, and I have served as a certified family court mediator for approximately thirteen years. I must say that I truly enjoy this aspect of family law. It is rewarding to help parties reach a resolution that can begin the healing process, especially for their children. The litigants may not always get what they want; however, if they have had a hand in reaching a resolution, the end result is usually very successful and contempt actions tend to be avoided.

15. What is your rating, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, etc.? If you are currently a member of the judiciary, list your last available rating, if any. Martindale-Hubbell: BV (4.4) rating.
16. What was the frequency of your court appearances during the last five years?
 - (a) federal: none;
 - (b) state: Average of 3–4 times per week in Family Court.
17. What percentage of your practice involved civil, criminal, domestic, and other matters during the last five years?
 - (a) civil: 0%;
 - (b) criminal: 0%;
 - (c) domestic: 100%.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?
 - (a) jury: 0%;
 - (b) non-jury: 100% in family court.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel.
19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
 - (a) Eileen K. Lee v. Thomas F. Lee, Jr. (2010-DR-22-071). This was a divorce wherein the parties separated due to the sexual and mental abuse of the parties' minor child by the Defendant Father. While the private divorce case was pending, there were separate actions involving SCDSS and criminal charges against the Defendant Father. While the Family Court had found that the Defendant Father had abused his son, he still continued to fight in the divorce action to have access to the minor child even though he was under a court order to receive services which he refused. He contested each and every issue before the Court and this added to the level of difficulty because of the threat of harm against the Plaintiff Mother and the minor child. He challenged the notion that the marriage was broken by his acts against the minor child

as those acts did not constitute grounds for divorce under the laws of South Carolina;

- (b) Dewey Cecil Baldwin v. Mary Florence Matherly Baldwin (2010-DR-26-0768). This case dealt with a modification of alimony requested by the Plaintiff. At the time of the divorce, the parties agreed that the Plaintiff would pay permanent periodic alimony to the Defendant. They agreed that alimony would continue until such time as Defendant remarried or either party died, as that was the current statute at the time. Subsequently, the alimony statute was changed to include the current cohabitation clause as a way to terminate alimony. Defendant had been living with her paramour for over fifteen years but would not marry him because she would lose her alimony. Plaintiff sought to terminate the alimony because of the change in the statute regarding cohabitation as well as the fact that she was living in a relationship that was tantamount to marriage. Defendant argued that the cohabitation term did not apply to her because the law was changed after their Final Order was entered. This case challenged the Family Court judge to determine if the statutory change was retroactive to orders that came before it. During the trial, and after briefs on the topic were submitted and argued, the parties agreed to a resolution that found the relationship was tantamount to marriage and an agreement was reached. Alimony was subsequently terminated. Therefore, the issue of the statute being retroactive did not have to be addressed;
- (c) Irene Wanda Shubeck v. Theodore Richard Shubeck (2008-DR-26-2666). This case dealt with a divorce, alimony and equitable distribution. The problematic aspect of this case was based upon the fact that the parties owned several businesses in a flea market setting which took in a lot of cash that may or may not have been accurately reported. While the parties were able to maintain a very comfortable lifestyle during the course of the marriage, the values and incomes of their businesses were sketchy at best. With difficulty, the attorneys and the Court had to pick through financial records and proof of lifestyle, to include items purchased throughout the marriage, to determine what values could be assigned to their property as well as what income could be used in determining support obligations;
- (d) David Wayne Schamens & Pilianna M. Schamens v. William Gaither & Julie Gaither (05-DR-26-2225). This case dealt with the termination of parental rights of both parents and the adoption of the minor child by her maternal uncle and aunt. The parents of the child had been involved in litigation over the child for an eight year period of time. Both of them eventually abandoned the litigation as well as the minor child. Mother had an order allowing supervised visitation; however, she made only sporadic efforts to see her daughter. Father had supervised custody (due to sexual abuse allegations) and was to be supervised by his wife.

The step-mother raised the minor child for a period of two years with no monetary support from either parent and little or no visitation with either parent. Mother's brother and sister-in-law petitioned to terminate the parents' parental rights and adopt the minor child. Both parents came forward to contest the action. Eventually, Father voluntarily gave up his parental rights. Mother fought the action in a four day trial. The Court terminated her parental rights on six separate grounds and granted the adoption;

(e) Nicolaos G. Papagianis v. Debbie T. Papagianis (00-DR-26-619). This case dealt with a unique caveat of equitable distribution. The parties owned a small business, which the husband operated while Wife worked a separate job. Husband was injured severely when he was struck by a police squad car during a high speed chase. Wife was forced to quit her job and operate the family business and take care of Husband while he recuperated. When the parties separated, Wife sought a share of Husband's personal injury settlement due to the fact that she had given up her job to care for him when he could not care for himself. Husband argued that he should receive 100% of the settlement proceeds because a large portion was based on his future pain and suffering. The Court awarded Wife 10% of the personal injury settlement proceeds received by Husband.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter). None.

Daniel Griffin v. Terri Lopez (02-DR-26-1152). In this case I represented the Defendant who filed a Rule to Show Cause contempt action against the Plaintiff after the case was finalized. The Plaintiff was found to be in contempt and he appealed the ruling. After initial briefs were filed by the parties, the Plaintiff dismissed the appeal allowing the contempt finding to stand.

21. List up to five criminal appeals that you have personally handled. None.

22. Have you ever held judicial office? No.

24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?

Francis Marion University Board of Trustees – May 1998-Present. All reports were timely filed.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. N/A.

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

I ran for Horry County Family Court Seat 2 in 2008. I withdrew from the race in January 2008.

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

I have had no other employment since graduating law school in 1994 other than the ones listed above. Prior to graduating law school, I worked as a law clerk for Koon & Cook, PA in Columbia from May 1993-May 1994. In addition, I had jobs as a server/wait staff in three restaurants between high school and graduating law school.

28. Are you now an officer or director or involved in the management of any business enterprise? No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No.
36. Have you ever been investigated by the Department of Social Services? Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No.
37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? If so, please explain when you were covered by a tail policy.

I have been covered under malpractice insurance since I began practice in 1994 until present. Current policy: \$500,000 each claim/\$1,000,000 aggregate; \$1,000 deductible.

38. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
39. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals,

- beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
40. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." None.
41. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." None.
42. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.
Stationary and postage - \$50.00
43. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
44. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
45. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
46. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
47. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
48. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) SC Bar Association;
 - (b) Horry County Bar Association;
 - (c) SC Bar Family Law Section Council, 2003 – present; Section Delegate, 2012; Chair, 2010; Vice Chair, 2009; Secretary 2008;
 - (d) SC Fee Disputes Board, April 2012 – present;
 - (e) Horry County Family Court Executive Committee, 2000 – present
 - (f) Certified Family Court Mediator, 1999 – present;
 - (g) Coastal Women's Law Society, 2000–present; President 2000-03.
49. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include

any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.

(a) Burgess Elementary School Improvement Council, 2008–present;
Secretary 2008-09;

(b) Francis Marion University Board of Trustees, 1998–present.

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

With the exception of my first year in practice, I have dedicated my entire professional life to practicing in Family Court and have practiced in no other area. I am very passionate about this area of the law. We deal with people's children, livelihood, and assets that they have worked their entire lives to acquire. They are truly at their most vulnerable and have put their complete trust in their lawyer to take care of their family issues and the presiding judge to make a fair decision. Having gone through the process of adopting a child and also a divorce myself, I have been on the "litigant" side of Family Court as well. Therefore, I am well acquainted with the fact that someone going into the Family Court arena has to put their trust in the system and the fact that the judge presiding over the matter has the requisite knowledge of law and concern for the litigants. I believe that my life experience has prepared me to be a judge who will understand the fact that those appearing in front of me are not just a caption and case number but people who need to know that the judge is compassionate and will strive to be as fair as possible.

51. References:

- (a) Dr. Fred Carter
PO Box 100547
Florence, SC 29502
843-661-1210
- (b) Martha L. Hamel
PO Box 65
Pawleys Island, SC 29585
843-235-3600
- (c) Mark A. Nappier
3575 Hwy 17 Business
Murrells Inlet, SC 29576
843-357-6454
- (d) Rev. Craig Cheney
328 Highfield Loop
Myrtle Beach, SC 29579
843-492-6700
- (e) Linda Hucks
Horry County State Bank
1300 2nd Ave.
Conway, SC 29526;

843-488-6391

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

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

Signature: Melissa Johnson Emery

Date: August 1, 2012