

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**



Court, Position, and Seat # for which you are applying:
Family Court, At-Large, Seat 6

1. NAME: Mr. David Earl Phillips
BUSINESS ADDRESS: P.O. Box 8002
Anderson, SC 29622
TELEPHONE NUMBER: (office): 864-260-4267
2. Date and Place of Birth: 1970; Easley, SC
3. Are you a citizen of SC? Yes
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on March 17, 2001, to Maryanne Evington Phillips.
~~Never married; two children.~~ *Never divorced; two children.*
6. Have you served in the military? Not applicable
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) Clemson University 1988-94, BA in History 1992, BS in Accounting 1994
 - (b) USC School of Law 1994-97, 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, 1997
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.
I assisted in a fundraiser for Senator Strom Thurmond during the summer of 1996.
10. Describe your continuing legal or judicial education during the past five years.

| <u>Conference/CLE Name</u> | <u>Date(s)</u> |
|---|---------------------|
| (a) 2011 SC Solicitor's Association | 09/28/11; |
| (b) Prosecuting Cases in Family Court | 08/17/11, 12/13/00; |
| (c) ABOTA: Masters-in-Trial: Winning Your Trial Through Trial Witnesses | 02/04/11; |
| (d) Prosecuting Cases in Family Court | 08/16/10; |
| (e) Prosecuting Cases in Family Court | 08/21/09; |
| (f) 2008 SC Solicitor's Association | 09/28/08; |
| (g) Hot Tips From the Coolest Domestic Practitioners | 08/20/08; |

- (h) Prosecuting Cases in Family Court 08/20/08;
(i) 2007 Annual Conference 09/23/07.
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have guest lectured at a Clemson University Sociology class regarding juvenile justice issues;
- (b) I have lectured juvenile arbitration program volunteers in Anderson, SC.
12. List all published books and articles you have written and give citations and the dates of publication for each. Not applicable
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 SC Supreme Court December 16, 1997;
- (b) Also admitted to practice before the United States District Court for the District of SC October 19, 1998;
- (c) Also admitted to practice before the United States Court of Appeals for Fourth Circuit October 13, 1998.
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) Chapman, Byrholdt & Yon, LLP, August 1997 to August 31, 2004: I began my law practice with this law firm in August 1997, shortly after having taken the bar exam. Upon being admitted to the bar, I was very fortunate to work for three excellent attorneys on a wide variety of cases including family law, workers' compensation, personal injury, and criminal defense. I was lead counsel in 90% of the cases I handled at this firm. I worked for this firm until August 31, 2004.
- (b) David E. Phillips, Attorney at Law, LLC, September 1, 2004-May 23, 2011: I opened my own law practice September 1, 2004. I continued to practice in the same areas in which I had gained experience at Chapman, Byrholdt & Yon. In August 2006, I was asked to be the juvenile prosecutor for the Anderson County Solicitor's Office on a part-time, contract basis. Despite the "part-time" nomenclature, this contractual employment has been significant in terms of the time it has demanded from my private practice; however, it has also been rewarding, as I truly feel that I have contributed to helping steer young people in the right direction.
- (c) Tenth Circuit Solicitor's Office, May 23, 2011-present: On May 23, 2011, I began serving full-time as an assistant solicitor. I prosecute all of the juvenile delinquency cases in Anderson County. Additionally, I prosecute all of the civil forfeiture cases for Anderson County and

Oconee County. I also prosecute all of the Transfer Court cases, bond estreatments and preliminary hearings for Anderson County.

- 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.

Divorce and equitable division of property: I have represented hundreds of individuals in these types of cases. In the vast majority of these cases, I evaluated and applied the statutory factors relating to equitable division of property. Often, these cases required consideration of procedural issues of varying degrees of complexity.

Child Custody: I have represented many individuals in these types of cases, both incident to divorce and as separate actions where custody was the primary issue. The paramount and controlling interest in each of these cases is the best interest of the child or children. These cases almost always required consideration of issues incident to custody including visitation, child support, and restrictions regarding parental conduct. In many of these cases, the court was assisted by a guardian *ad litem*.

Adoption: I have represented families in adoptions. These have been some of the most emotionally rewarding cases of my life. Although I have handled far fewer of these cases than divorce or custody cases, the adoption cases have been spread out over the course of my practice such that I remain familiar with this area of law on an ongoing basis.

Abuse and neglect: One of the first contested cases I tried in family court was a three day termination of parental rights case in which I was appointed to represent the defendant mother. I have had additional experience in the area; however, my experience has been limited. I believe my background in other family law matters has adequately prepared me to preside over these matters as Family Court Judge. The custody cases I have had over the years have required me to evaluate each case in light of the child or children's best interest(s). While this is not the only concern of the family court, it is the paramount concern.

Juvenile justice: I have significant experience in juvenile justice cases. In 2000, I served as juvenile public defender in Anderson County and gained significant experience in this area. In 2006, I began serving as the juvenile prosecutor for Anderson County and presently still serve in that capacity. I have represented the State in hundreds of cases in the two year period of time. I have tried numerous criminal cases in family court both as prosecutor and defense attorney. As prosecutor, I have successfully tried a waiver (or transfer of jurisdiction) case where State sought to transfer jurisdiction over a 15-year old juvenile to the Court of General Sessions for prosecution as an adult.

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

I am not listed and have not requested a listing due to the fact that the vast majority of my practice is local in nature.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: None in the last five years;
(b) state: On average three to four times per week.

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

- (a) civil: 10%;
(b) criminal: 40%;
(c) domestic: 40%;
(d) other: 10%.

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: 30%;
(b) non-jury: 70%.

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) In the Interest of Jermal R., 2006-JU-04-539-543, 2007-JU-04-409-420: This was a juvenile waiver case where I served as prosecutor. In a waiver case, the State is seeking to transfer jurisdiction over a juvenile to the Court of General Sessions to be tried as an adult. These cases are often considered to be among the most serious cases tried in Family Court. The juvenile was accused of being involved in armed robberies and kidnapping. I succeeded in having jurisdiction of this case transferred to the Court of General Sessions after a lengthy hearing in Family Court on the matter. The juvenile eventually pled guilty in the Court of General Sessions and was sentenced to eleven (11) years in prison.

(b) State v. Holder, 2003-GS-23-1307: This was a high profile, four day trial in which co-counsel and I defended a mother accused of homicide by child abuse. This was a very difficult case which centered around the death of my client's two year old son. The case required extensive preparation. I evaluated numerous complex evidentiary and legal issues. The experience was significant because of the volume of evidence I was required to evaluate and the media exposure the trial received. During the trial, I made the opening statement, presented direct testimony of

some of the witnesses, cross-examined some of the witnesses, and delivered the closing argument.

- (c) Perrin v. Health Management Resources, SCWCC File No. 0124951: This was a workers' compensation case in which I was sole counsel at the hearing commissioner level and appellate panel level. The case was significant because it was a difficult case, and it was the first case in which I was able to obtain permanent and total disability benefits for my client as the result of a trial.
- (d) SC Department of Social Services v. Pettis, et al, 95-DR-04-207: This was one of the first family court cases I tried. I defended a mother in a termination of parental rights action brought by DSS. I was appointed to represent the mother after DSS had been involved with this family for a long period of time. This case was tried over a three day period in family court and demonstrates my familiarity with this area of law.
- (e) Rogers v. Tipton, 2007-DR-39-1079: This was a termination of parental rights and adoption case where mother and step-father of a ten year old child sought to terminate the parental rights of the child's birth father so that his step-father could adopt him. The step-father had assumed the role of father in the child's life for many years due to the difficult circumstances in which the birth father found himself. Ultimately, the termination of parental rights and adoption were granted by the court. The case is special to me because of the personal friendship I have with the plaintiffs and the child.

- 20. List up to five civil appeals you have personally handled. None
- 21. List up to five criminal appeals that you have personally handled. None
- 22. Have you ever held judicial office? No
- 23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported.
Not applicable
- 24. Have you ever held public office other than judicial office? No
- 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. Not applicable
- 26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
Yes. I was a candidate for Family Court Judge, 10th Judicial Circuit, Seat 1. I was qualified and nominated by the Judicial Merit Selection Commission in that race; however, I withdrew just prior to the election in February 2009.
- 27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No
- 28. Are you now an officer or director or involved in the management of any business enterprise? No

29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Not applicable
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
36. Have you ever been investigated by the Department of Social Services? Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy?
- I am no longer engaged in the private practice of law; however, during my private practice. I maintained malpractice insurance throughout my private practice. Prior to opening my own law office, I was covered by a policy obtained by the firm where I was employed. Although I left the private practice of law May 23, 2011, I maintained coverage for the following year. That policy period will expire August 31, 2012. I am arranging for an extended reporting period which my carrier advises would cover any claims beyond the close of my private practice for occurrences prior to August 31, 2012. I am not aware of any claims or anything that might become a claim from my private law practice.
38. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
39. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
40. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." None

41. S.C. Code § 8-13-765 provides, in part, that “[n]o person may use government personnel, equipment, materials, or an office building in an election campaign.”
None
42. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
43. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
44. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
45. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
46. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
47. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? 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;
 - (b) Anderson County Bar;
 - (c) Anderson Inn of Court;
 - (d) SC Solicitor’s Association.
49. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
 - (a) Mount Pisgah Baptist Church- Body of Deacons –Chairman of Deacons;
 - (b) Mount Pisgah Baptist Church- Finance Committee- Chairman;
 - (c) Mount Pisgah Baptist Church Search Committee- Vice- Chairman;
 - (d) Mount Pisgah Baptist Church- Sunday School Teacher-College and Career Class;
 - (e) Potter’s House Family Counseling- Board of Directors;
 - (f) Anderson University Drive Smart Partnership Advisory Board.
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.

God blessed me with parents who taught me so many things by example, not the least of which is a strong work ethic. My father worked full-time with IBM for thirty years including literally hundreds of hours of overtime each year and earned numerous awards for service. During this time, he also served as part-time minister of music and senior adults. He is now retired, but I believe he still works as many hours as he did prior to his retirement. Likewise, I have observed my mother work hard throughout my life. She was a stay-at-home mother to my brother and me when we were very young. She later returned to school and earned her college degree. In fact, she did so well, she was asked to return and teach, which she did for many years at Greenville Technical College. She no longer teaches but works more hours now than she ever has.

I intend to bring this work ethic with me to the bench. I take pride in being reliable and diligent in my work. For seven years, I practiced with a firm in Anderson, SC. For nearly seven years thereafter, I had my own office as a sole practitioner. I now work as an assistant solicitor in Anderson County. In each of these roles, I have been reliable and being diligent, and as a result, I have enjoyed great success everywhere I have been. As a judge, the citizens of this state can count on me to continue working diligently to serve them in this new role.

51. References:

- (a) V. Laniel Chapman
Chapman, Byrholdt & Yon
P.O. Box 2506
Anderson, SC, 29622
(864) 222-1411.
- (b) Christina T. Adams
Solicitor Tenth Judicial Circuit
P.O. Box 8002
Anderson, SC, 29622
(864) 260-4046.
- (c) Robert Dye, Jr.
SC Bank and Trust
1800 East Main Street
Easley, SC 29640
(864) 859-2265.
- (d) Gordon Comer
1104 Kensington Lake Drive
Easley, SC, 29642
(864) 220-4123.

- (e) Rev. David C. Shorter
The Potter's House Family Counseling
405 East First Avenue, Suite B
Easley, SC 29640
(864) 850-1777.

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: David E. Phillips

Date: August 8, 2012

DAVID E. PHILLIPS

113 Laboone Road
Easley, South Carolina 29642
(864) 306-3529
Facsimile: (864) 306-3960

November 7, 2012

Judicial Merit Selection Commission
Attn: Jane Shuler
Post Office Box 142
Columbia, South Carolina 29202

**RE: David E. Phillips
Amendments to Application
Family Court At-Large, Seat 6**

Dear Ms. Shuler:

Please allow this letter to serve to amend responses contained in my application materials as follows.

PDQ # 42:

August 14, 2012, I spent \$73.80 on postage related to my campaign.

PDQ # 49:

(g) 2012 Ernest F. Hollings Award for Excellence in State Prosecution in the Family Court category, awarded September 23, 2012.

PDQ #50: (Correcting typographical error in the second paragraph)

God blessed me with parents who taught me so many things by example, not the least of which is a strong work ethic. My father worked full-time with IBM for thirty years including literally hundreds of hours of overtime each year and earned numerous awards for service. During this time, he also served as part-time minister of music and senior adults. He is now retired, but I believe he still works as many hours as he did prior to his retirement. Likewise, I have observed my mother work hard throughout my life. She was a stay-at-home mother to my brother and me when we were very young. She later returned to school and earned her college degree. In fact, she did so well, she was asked to return and teach which she did for many years at Greenville Technical College. She no longer teaches but works more hours now than she ever has.

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now work as an assistant solicitor in Anderson County. In each of these roles, I have been reliable and diligent. As a result, I have enjoyed great success everywhere I have been. As judge, the citizens of this state can count on me to continue working diligently to serve them in this new role.

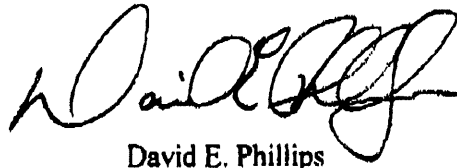
Sworn Statement # 28:

August 14, 2012, I spent \$73.80 on postage related to my campaign.

Should you have any questions or concerns, please do not hesitate to contact me.

With kind regards,

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Phillips", written in a cursive style.

David E. Phillips