

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND)

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JUDICIAL MERIT SELECTION COMMISSION
TRANSCRIPT OF PUBLIC HEARINGS

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8 BEFORE: G. MURRELL SMITH, JR., CHAIRMAN
9 SENATOR LUKE A. RANKIN
10 SENATOR RONNIE A. SABB
11 SENATOR TOM YOUNG, JR.
12 MR. ROBERT W. HAYES, JR.
13 REPRESENTATIVE J. TODD RUTHERFORD
14 REPRESENTATIVE CHRIS MURPHY
15 MICHAEL HITCHCOCK
16 JOSHUA HOWARD
17 ANDREW N. SAFRAN
18 ERIN B. CRAWFORD, CHIEF COUNSEL

19

* * * * *

20 DATE: November 29th, 2017
21 TIME: 9:30 a.m.
22 LOCATION: Gressette Building
23 1101 Pendleton Street
24 Columbia, South Carolina 29201
25 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN SMITH: Mr. Safran moves that we go into
2 executive session. Seconded by Mr. Hitchcock,
3 all in favor say, aye.

4 (Ayes are heard.)

5 CHAIRMAN SMITH: All opposed?

6 (No response is heard.)

7 CHAIRMAN SMITH: Ayes have it, we are in executive
8 session.

9 (Executive Session)

10 CHAIRMAN SMITH: Senator Young moves that we lift the
11 veil and come out of executive session. Seconded
12 by Senator Rankin, all in favor say, aye.

13 (Ayes are heard.)

14 CHAIRMAN SMITH: All opposed?

15 (No response is heard.)

16 CHAIRMAN SMITH: Ayes have it, we are out of executive
17 session and back on the record. I want to say on
18 the record, we've been in executive session for
19 the purposes of seeking legal advice. No
20 decisions were made and no votes were taken.

21 JEROME P. ASKINS, III

22 CHAIRMAN SMITH: Mr. Askins, how you doing today?

23 MR. ASKINS: Fine, thank you.

24 CHAIRMAN SMITH: I see you have somebody with you,
25 would you like to introduce them to the

1 Commission?

2 MR. ASKINS: Yes, sir, somebody very special. This is
3 my wife, Donna. We met when I was in school at
4 USC living down the street a few blocks in the
5 old Honeycombs and she was student at Columbia
6 College. We met on a blind date. I was supposed
7 to go out with her roommate because she was too
8 short. But her roommate had a conflict and she
9 filled in and we --

10 CHAIRMAN SMITH: The rest is history.

11 MR. ASKINS: We've made a pretty good team for a long
12 time.

13 CHAIRMAN SMITH: Well, good. Donna welcome, glad to
14 see you today. Mr. Askins, will you please raise
15 your right hand?

16 JEROME ASKINS, having been duly sworn, testifies as
17 follows:

18 CHAIRMAN SMITH: Mr. Askins, before you, you have your
19 personal data questionnaire and your sworn
20 statement. Are these both documents that you
21 have submitted to the Commission?

22 MR. ASKINS: Yes, sir.

23 CHAIRMAN SMITH: Are they correct to the best of your
24 knowledge?

25 MR. ASKINS: Best of my knowledge, yes, sir.

1 CHAIRMAN SMITH: Are there any amendments or updates
2 that need to be made at this time?

3 MR. ASKINS: No, sir. I made some amendments to some
4 of the documents that I filed initially, but
5 everything is in order as far as I know.

6 CHAIRMAN SMITH: And I think all those amendments are
7 before you, correct?

8 MR. ASKINS: I haven't read everything verbatim, but I
9 assume so.

10 CHAIRMAN SMITH: Yes, sir. We do a good job of making
11 sure that they are. Do you have any objection to
12 us making this as an exhibit to your sworn
13 testimony?

14 MR. ASKINS: No, sir.

15 CHAIRMAN SMITH: Without objection we're going to --
16 if you'll hand those documents to Lindi, please,
17 sir. And we're going to make these exhibits to
18 your testimony. All right. Mr. Askins, the
19 Judicial Merit Selection Commission has
20 thoroughly investigated your qualifications for
21 the bench. Our inquiry has focused on nine
22 evaluative criteria and has included a ballot box
23 survey, a thorough study of your application
24 materials, verification of your compliance with
25 state ethics laws, a search of newspaper articles

1 in which your name appears, study of previous
2 screenings, checks for any economic conflicts of
3 interest. We received no affidavits filed in
4 opposition to your election and no witnesses are
5 present to testify today. Do you wish to make a
6 brief opening statement to the Commission?

7 (EXHIBIT 1 - JUDICIAL MERIT SELECTION COMMISSION

8 PERSONAL DATA QUESTIONNAIRE OF JEROME P. ASKINS, III)

9 (EXHIBIT 2 - JUDICIAL MERIT SELECTION COMMISSION SWORN
10 STATEMENT OF JEROME P. ASKINS, III)

11 (EXHIBIT 3 - AMENDMENT TO PERSONAL DATA QUESTIONNAIRE
12 OF JEROME P. ASKINS, III)

13 MR. ASKINS: Well, Mr. Chairman, I'm not sure what
14 questions would be coming up. But just one of
15 the questions that's always been presented was
16 why I am here to start with, why I wanted to be a
17 judge. And I would simply say this was not a
18 sudden decision. I didn't wake up one morning
19 and think to myself, I would like to be a judge.
20 It's something that came over a period of time.
21 When I finished law school, I went back to
22 practice law with my father, who was a small town
23 country lawyer with a general practice in
24 Hemingway. And we did a little bit of
25 everything. I appeared in all the courts from

1 the municipal and magistrates court. Back then
2 we had a county court, the family court, court of
3 General Sessions, a Court of Common Pleas. I
4 tried cases in the US District Court. I used to
5 go to bankruptcy court a lot back then
6 representing creditors. And I haven't been there
7 in a long time, I don't have any desire to go
8 back. I also had cases in the South Carolina
9 Court of Appeals and the South Carolina Supreme
10 Court. And I've encountered judges over this
11 time of all sorts. Most were very good. Some
12 were excellent. Some were not so good and a few
13 were very bad. And somewhere a long the way I
14 decided that I would like to do that job one day.
15 And I felt that I could do it. I was qualified
16 to do it and I could do it very well. And I feel
17 like my background enables me to do the job. I
18 think I bring a lot to the table with my past
19 experience. I have practiced in a wide variety
20 of areas and I have clientele of all kinds. I've
21 represented large corporations that are traded on
22 the big board. And the small ma and pa operation
23 that struggles to pay the bills. I have
24 individual clients that have more money than I
25 know how to count. And I have some clients that

1 couldn't put their hands on a \$100 if they had
2 to. So I've seen the world through a lot of
3 different eyes. And I can relate to people
4 across the board. My dad had ability to do
5 something I call cross-cutting. He could deal
6 with people of all walks of life, all segments of
7 society, and he was very good at it. And I
8 learned a lot from him. I think that I'm ready
9 to do this. I don't have any plans to retire. I
10 turned 65 in October, but I'm still in pretty
11 good health. I was at the track last night and
12 made it around a few times without any problem.
13 I'm wearing my own hair without any color. And I
14 can still ride my unicycle. So this is something
15 I want to do. I'm not looking for a retirement
16 plan. I'm not looking for a stepping stone to a
17 seat on the Appellate Court or to a position with
18 a prestigious law firm. I want to do this job.
19 And I hope maybe the time is right for me to have
20 that opportunity.

21 CHAIRMAN SMITH: Thank you Mr. Askins. Will you
22 answer any questions that counsel may have for,
23 please, sir?

24 MR. ASKINS: Yes, sir.

25 EXAMINATION BY MS. ANDERSON:

1 Q. Good morning, Mr. Askins.

2 A. Good morning.

3 Q. I'd like to note for the record that based on the
4 testimony contained in Mr. Askins' PDQ, which has
5 been included in the record with his consent,
6 Jerome P. Askins, III meets the constitutional
7 and statutory requirements for this position
8 regarding age, residence, and years of practice.
9 Mr. Askins, the Commission received 67 ballot box
10 surveys regarding you with nine additional
11 comments. The ballot box survey, for example,
12 contained the following positive comments, "He is
13 one of hidden jewels who practices in a small
14 town where you get the reputation you deserve.
15 And Romie has a great reputation." "Would make
16 an outstanding judge." "His demeanor with
17 litigants and attorneys is very respectful, kind
18 and considerate." One of the written comments
19 expressed concerns with temperament. This
20 comment stated, and I quote, "He is a bully in
21 negotiations. He tries to talk over you as you
22 represent your client." What response would you
23 offer to this concern?

24 A. Well, any negative comment is always
25 disappointing, but not knowing the source or the

1 circumstances it's difficult for me to respond.
2 Of course, I don't agree with that. But I really
3 can't address it much further, not knowing the
4 source or the circumstances.

5 **Q. In your PDQ you indicated that during the past**
6 **five years your practice consisted of**
7 **approximately 45 percent of matters, other than**
8 **civil, criminal, or domestic. Can you describe**
9 **what constitutes that 45 percent of your**
10 **practice?**

11 A. Other than, you said 45 percent, other than civil
12 --

13 **Q. Civil criminal or domestic.**

14 A. Yeah, I do a good bit of probate work and I do a
15 good bit of collection work for some banks and
16 other folks. And general practice, preparation
17 of documents, wills, powers of attorney,
18 contracts, you know, things of that nature, real
19 estate. We do a little bit of everything still
20 in our office. In Hemingway, you can't really
21 specialize. I used to do a lot of family court
22 work. I do almost none now. I might stand in
23 for my brother or my nephew at an uncontested
24 hearing. But I try to stay out of family court.
25 I told my brother, you have to be a bigger SOB

1 than I am to be good in family court and he
2 qualifies. But we do a little bit of everything.

3 SENATOR RANKIN: This is being recorded, you know.
4 There will be a transcript.

5 A. You know, he's bigger than I am. A few years ago
6 somebody said, asked me if I sold some tickets to
7 my brother for some kind of function that he had
8 asked me to sell. And I said -- I mentioned it
9 to him and he said, well, you'll have to beat my
10 so-and-so to get me to buy a ticket. And the guy
11 said, well, you could do it, couldn't you? And I
12 said, well, I'd like to think I still could. But
13 if I try, there's going to be a whole lot more on
14 the line than selling these tickets for you.

15 **Q. And also in your PDQ, you indicated that**
16 **approximately five percent of your practice**
17 **involves criminal cases. And in some prior**
18 **screenings this addressed issue of the lack of**
19 **some criminal experience and the need for a**
20 **possible learning curve?**

21 A. Well, I had -- I've had three criminal cases this
22 year. None of them went to trial, which is good,
23 you know. Oddly enough, I mean, I'm not saying
24 that this was all because of my efforts, but all
25 the charges were dropped in all three cases. And

1 two of them were -- are serious charges. But in
2 Williamsburg County where I primarily practice,
3 where my office is located, as Senator Sabb can
4 verify, most of our criminals are not very
5 successful financially. Most of them are
6 indigents and are represented by the Public
7 Defender's office. The cases that I had in the
8 last year were retained cases. We used to have a
9 lot of appointed cases before the Public
10 Defender's office was revamped. At some point, I
11 was taken off of the criminal appointment list
12 and put on the civil appointment list, because
13 they had so many cases in family court involving
14 DSS and cases of that nature. So they needed
15 more attorneys over there. So I didn't do a lot
16 of criminal work when I was taken off the
17 appointment list. I think the last major
18 criminal case that I had that was that actually
19 went to trial was an armed robbery and that was a
20 few years back. But, you know, when I said I
21 would probably need to brush up, what I said
22 actually -- as far as the sentencing when I was
23 an assistant public defender, at one point, you
24 know, you pretty well knew what the sentence was
25 for any given offense. And not having been in

1 criminal court when sentencing was being done,
2 that would be something that I would need to
3 brush up on a little bit. Again, the learning
4 curve wouldn't be very long. It wouldn't take
5 long to get back on top of that. But I haven't
6 been there, you know, in the last year or so. So
7 I think I would need a little bit of a boost
8 there, but not much.

9 **Q. Mr. Askins, are you aware that as a judicial**
10 **candidate you are bound by the code of judicial**
11 **conduct as found in Rule 501 of the South**
12 **Carolina Appellate Court Rules?**

13 A. Yes, I am.

14 **Q. Mr. Askins, since submitting your letter of**
15 **intent, have you contacted any members of the**
16 **Commission about your candidacy?**

17 A. I have not.

18 **Q. Since submitting your letter of intent, have you**
19 **sought or received the pledge of any legislator,**
20 **either prior to this date or pending the outcome**
21 **of your screening?**

22 A. No, I have not.

23 **Q. Have you asked any third parties to contact**
24 **members of the General Assembly on your behalf or**
25 **are you aware of anyone attempting to intervene**

1 in this process on your behalf?

2 A. Yes, I am.

3 Q. Can I stop you right there. Lindi, if you
4 wouldn't mind handing him the letter, please.

5 CHAIRMAN SMITH: Let's mark that as an exhibit,
6 please, Madam Court Reporter.

7 (EXHIBIT 4 - LETTER)

8 Q. Okay. Mr. Askins, on November 15th, you notified
9 JMSC staff about a letter sent -- I'm sorry. Let
10 me make sure that we had you on record answering
11 the question that I asked previously, so I'm
12 going to ask it again to make sure we have that.
13 Have you asked any third parties to contact
14 members of the General Assembly on your behalf or
15 are you aware of anyone attempting to intervene
16 in this process on your behalf?

17 A. No, I have not asked any third party to contact
18 any member of the General Assembly at this time.
19 I had a conversation with the -- well, I'll let
20 you ask about the letter. You'll get to that.

21 Q. On November 15th, you notified JMSC staff about a
22 letter sent by Mr. Jake Moore to some members of
23 the General Assembly regarding your candidacy.
24 I'll be asking you some questions regarding that
25 letter. As a potential violation of South

1 Carolina Code, Section 2-19-70, which provides
2 that violations of that section are a misdemeanor
3 and upon conviction the violator must be fined,
4 not more than a \$1,000 or imprisoned, not more
5 than 90 days. Because of the criminal nature of
6 a violation under the statute referenced above,
7 do you understand that you have the right against
8 self-incrimination and have the right to an
9 attorney?

10 A. I understand that. I waive my right to an
11 attorney and I'll be glad to answer your
12 questions.

13 Q. So you freely and voluntarily waive your right
14 against self-incrimination and counsel?

15 A. Yes.

16 Q. You have before you a letter from Mr. Moore,
17 dated November 10th, 2017 regarding your
18 candidacy. Were you aware that Mr. Moore was
19 sending this letter to some members of the
20 General Assembly?

21 A. I was not aware that Mr. Moore was sending these
22 letters until I received copies in the mail. I
23 had a conversation with Mr. Moore. Jake Moore
24 and I are -- we're friends. We were in law
25 school about the same time. I ran for judge a

1 few years ago and Jake attempted to help me then.
2 And he was a candidate for a judgeship himself,
3 this time, as you know. I saw -- I got an email
4 that said he had withdrawn from his race. I was
5 a little surprised that he had run to begin with.
6 But sometime after he withdrew, I just called him
7 and I was curious as to what happened. And he
8 told me, you know, why he had withdrawn and he
9 said I want to help you this time. And I said,
10 well, thank you. I would appreciate your help.
11 But I never asked him to contact anybody.
12 Certainly, I'm aware of the rules and the last
13 thing I would do is to ask somebody to write
14 letters for me to members of the Commission. And
15 Jake, as a judicial candidate, must have known.
16 I think it may be just a mental lapse or
17 something. I think he would certainly verify
18 that I did not ask him to do this. I didn't know
19 he was going to do it. I didn't know about any
20 letters until I got copies in the mail.

21 **Q. Did you or anyone acting on your behalf have a**
22 **conversation with Mr. Moore about sending this**
23 **letter?**

24 A. No.

25 **Q. Did you or anyone acting on your behalf direct**

1 **Mr. Moore to send this letter?**

2 A. Absolutely not.

3 MS. ANDERSON: And Mr. Chairman, if I may, I'd like to
4 state for the record that I had a conversation
5 with Mr. Moore and he confirmed that he wrote the
6 letter on his own volition and he had not had a
7 discussion with Mr. Askins or anyone else
8 regarding this letter. He did this completely on
9 his own.

10 **Q. So, Mr. Askins, have you reviewed and do you**
11 **understand the Commission's guidelines on**
12 **pledging in South Carolina Code Section 2-19-**
13 **70(e)?**

14 A. Yes, I understand that.

15 **Q. Thank you.**

16 MS. ANDERSON: I would like to note that The Pee Dee
17 Citizens Committee reported that Mr. Askins is
18 well qualified in the evaluative criteria of
19 ethical fitness, professional and academic
20 ability, character, reputation, experience and,
21 judicial temperament. And qualified in the
22 remaining criteria of constitutional
23 qualifications, physical health, and mental
24 stability. Mr. Chairman, I would note for the
25 record that any concerns raised during the

1 investigation by staff regarding Mr. Askins were
2 raised today and incorporated into the
3 questioning of him. Mr. Chairman, I have no
4 further questions.

5 CHAIRMAN SMITH: All right. Thank you very much. Any
6 questions for Mr. Askins? Senator Sabb.

7 SENATOR SABB: Mr. Chairman. I really just want make
8 a statement with regard to, of the point raised
9 regarding the letter that we have. And I would
10 just candidly state that I'm absolutely satisfied
11 with what has been shared with this Commission.
12 I would just say that I've known Romie Askins for
13 30 years. I've been practicing in Williamsburg
14 County and he has a stellar reputation amongst
15 the Bar and folks in our community and obviously
16 very astute when it comes to the law. I just
17 simply do not believe that he would have violated
18 the rules in anyway, going on record as saying
19 that.

20 CHAIRMAN SMITH: Okay. Thank you, Senator Sabb.
21 Senator Young.

22 EXAMINATION BY SENATOR YOUNG:

23 **Q. Mr. Chairman. Mr. Askins, I have a few**
24 **questions. And the first thing I want to do is**
25 **applaud you for notifying the Commission as soon**

1 as you learned what Mr. Moore had done without
2 your knowledge. And I think that's something
3 that should be noted for the record is that you
4 sent a letter to the Commission, which has been
5 marked as an exhibit, I believe, on November 15,
6 2017 either the same day or the day after you
7 learned of it. And I just want to applaud you
8 for that. My first question to you would be,
9 what is your judicial philosophy with respect to
10 applying the law as it exists to any facts or
11 issues that would be before you on the circuit
12 court? How would you apply the law to the issues
13 or the facts -- and/or the facts as they are
14 presented to you if you're elected to the circuit
15 court?

16 A. I'm not sure I understand the question. I
17 believe what you may be getting at is the ability
18 of judges -- or the attempt of judges to
19 sometimes make law. And I believe that the
20 judge's responsibility is to apply the law as it
21 exists to the facts of the case and not to
22 attempt to achieve a given result. And what has
23 been termed judicial activism is something that I
24 don't think is appropriate. I don't think the
25 judges sit as super legislators with the ability

1 or the need to override the will of the elected
2 representatives in the General Assembly. I think
3 making the law is basically for the General
4 Assembly. The judges apply the law as it exists
5 through the facts of the case and get their
6 result however it comes out.

7 Q. Thank you for that answer. Another question I
8 have is, you have practiced, it appears, in a
9 smaller firm much of your entire legal career; is
10 that fair?

11 A. Yes, sir.

12 Q. And so, we've consistently asked candidates that
13 have appeared before us in the past few days
14 about how familiar they are with the challenges
15 that face lawyers in smaller practices,
16 especially with respect to appearing in courts,
17 in multiple courts, being pulled in one direction
18 or the other, the time constraints and then, you
19 know, challenges with being your obligations at
20 home with your family. I would expect that you
21 would be very sensitive to that, based on your
22 legal career. Is that --

23 A. Senator, I am. I would say, you know, if I am
24 elected judge at some point, I would be one who
25 would be sympathetic to the plight of attorneys.

1 I think attorneys today are under tremendous
2 pressure, whether they're large firms or small
3 firms, but particularly small firms. And you
4 know we're located out in the sticks. It's 25
5 miles to the closest courthouse from where my
6 office is. So we've got to travel to get there
7 and all that has to come into play. I remember a
8 conversation one time with a former senator,
9 former judge, Mack Morris, who said that, you
10 know, he had practiced by himself or in a small
11 firm and he understood what you're talking about.
12 And he said, I hope if I ever forget that you'll
13 remind me. And I said, yeah, judge that ought to
14 go over well, you know, you get out of hand and I
15 say, judge you're acting like a jerk, you know.
16 But he was aware and I'm aware very much of what
17 you're referring to. I was in court one time
18 when I had an order to be signed by a family
19 court judge and there were two attorneys and they
20 had what might be called a trailer park divorce.
21 They -- you know, neither one of them had much of
22 anything to fight about. And it appeared that
23 the attorneys were not well prepared and the
24 judge was getting a little frustrated. And he
25 took a recess and he motioned to me to follow him

1 into chambers to get my order signed. And he
2 said, you know, I find myself getting upset
3 sometimes and then I have to remember where I am.
4 These parties, their attorneys probably haven't
5 been paid much of anything and they're doing the
6 best they can do with what they've got to work
7 with. And I have to be mindful of that. And I
8 said, judge, bless your heart for understanding
9 that, because sometimes people don't. They don't
10 get it.

11 **Q. I noticed in your PDQ that you have two sons,**
12 **both of whom are doctors?**

13 A. Yes, sir. They're both smarter than I am. And
14 their mother did a good job with them. They both
15 went to Clemson. You know, they were raised
16 Gamecocks and my older son thought he wanted to
17 be an architect, so he went to Clemson. And
18 second semester we were talking on the phone and
19 he just casually mentioned, I've changed my major
20 to pre-med. And I said, oh, well that's kind of
21 why we thought you went up there. And, of
22 course, his blood runneth orange. When my
23 younger son was a little kid, he told me one time
24 -- he was four or five, he said, his favorite
25 color was orange. And I said, well, Benjamin,

1 orange is -- was a nice color, but, you know,
2 there are other colors that nice like garnet and
3 black, like the Gamecock colors. And he said,
4 well, dad, I like the gamecocks all right, but
5 Stephen says they always lose. I do have two
6 fine sons. And if they weren't my sons, they
7 would be my friends.

8 **Q. Where do they practice?**

9 A. My oldest son lives in Florence, practices in
10 Lake City and he has one day a week in
11 Johnsonville. My younger son lives in Lexington
12 and practices there. As a matter of fact, we
13 were on the way to see the grandchildren. We
14 just stopped by here to chat with y'all for a
15 little while.

16 **Q. I also noticed in your PDQ that you've handled a**
17 **very wide variety of cases in your career. Is**
18 **that fair to say?**

19 A. I have. I've been on capitol murder cases. I'm
20 not death penalty qualified now, by the standards
21 that exist today. But I have been on a couple of
22 those. And then I've had cases all the way down
23 to -- traffic cases in the municipal court or the
24 magistrate's court and a whole lot in between.

25 **Q. I also was reading your sworn statement and I**

1 think the Pee Dee ones were the statement that
2 there was several questions about your -- how you
3 would go about approaching sentencing criminal
4 defendants. And I was particularly impressed
5 with some of your answers in that regard. Would
6 you mind just sharing that briefly with the
7 panel?

8 A. Well, was there any particular group or just in
9 general?

10 Q. Just -- I think it was and I know it did break it
11 down into different groups, but just -- there was
12 an overriding theme that you applied, basically
13 applying wisdom, common sense, mercy, temperance?

14 A. I think the byline would be, justice tempered
15 with mercy where appropriate. The sentencing, I
16 think the approach has to depend on the
17 circumstances of each case. The questions that
18 were asked in the forms broke down the groups
19 into elderly people, disadvantaged people,
20 juveniles, repeat offenders. And I think that
21 elderly people present a particular problem.
22 Because if they are incarcerated, you know, a lot
23 of times they take their medical conditions with
24 them to prison. And the State ends up paying a
25 lot for medical expenses. So I think care has to

1 be given to that. Also, you know, you look at
2 the theat to society and the threat of repeat
3 offenders, depending on how elderly a person is
4 and what his station is that might not be as much
5 of a threat. For repeat offenders, I think it
6 stands to reason that repeat offenders are
7 treated more harshly. In our system, most of the
8 time, first-time offenders are not treated
9 harshly. They are given the opportunity to get
10 back on the right path. And, you know, if
11 somebody continues down that wrong road, at some
12 point, they have to be required to pay the price
13 and society has to be protected from these type
14 people. Some of the statutes, the criminal
15 statutes says -- as y'all are well aware, provide
16 for escalated sentences for repeat offenders.
17 And as a matter of fact, one of the cases that I
18 referred to earlier was an armed robbery where a
19 young man, 26, was facing his second armed
20 robbery, which was going to mean life in prison.
21 And that was a tough result, because this wasn't
22 the traditional armed robbery. He didn't walk
23 into a store and stick a gun in somebody's nose.
24 It involved drugs and he knew the people, and
25 technically it was an armed robbery. But it was

1 just -- I didn't think it was appropriate for him
2 to go to prison for life for what occurred there.
3 And he needed to go to prison, but in that
4 particular case, we raised some constitutional
5 issues and some -- there was a question about a
6 show up, you know, whether it was done properly.
7 And as a result, the defendant was allowed to
8 plead to common law robbery and he went to
9 prison, but not forever. But in some cases, it
10 would be appropriate for a second-offense armed
11 robbery defendant to be sentenced to life, I
12 feel. The disadvantage defendants, I think that,
13 you know, a lot of folks grow up without the
14 opportunities that I had or maybe some of you
15 had. And I've explained to my sons from time to
16 time, life is not fair. We don't all have the
17 same opportunities. We don't always have good
18 parents. I was fortunate, I had good parents.
19 Everybody doesn't. Some of them are in
20 situations where they are subjected to immense
21 peer pressure. And peer pressure that pushes
22 them in the wrong direction. And all that has to
23 be taken into account. Their background doesn't
24 give them a pass by any means. At some point we
25 all have to be responsible for our actions. But

1 that needs to be taken into account. And when
2 they're coming through the system, they
3 frequently don't understand. Now, repeat
4 offenders sometimes know more law, more criminal
5 law, than the lawyers know. But if they're there
6 for the first time, they don't really understand
7 what's going on. And I think it's incumbent upon
8 the judge to make sure that they are aware of
9 what's happening, when they waive rights, for
10 example, it needs to be very clear that they
11 understand what they're doing and the
12 consequences of that. One of the other groups
13 that I think that was mentioned in the form was
14 juvenile offenders. And you may be aware there
15 was a case not too long ago where the US Supreme
16 Court said that mandatory life sentences were not
17 proper in certain cases for juveniles and our
18 Supreme Court applied it to some of our cases as
19 well. And the idea is that people who are young
20 have a tendency to do foolish things, all of us
21 have. I have. I've done a lot of things that I
22 wasn't proud of when I was under 21 that I
23 wouldn't want to tell my kids I did when they
24 were kids. But again, you have to look at the
25 circumstances of each case. I think the bottom

1 line is every set of facts is different and it
2 requires the application of good common sense and
3 justice tempered with mercy where appropriate.

4 **Q. Thank you so much for your answers.**

5 CHAIRMAN SMITH: Senator Rankin.

6 EXAMINATION BY SENATOR RANKIN:

7 **Q. Mr. Askins, welcome. And I'm glad to see you**
8 **brought your bride here to pull your coattails if**
9 **you mess up. Surely, that's why you're here,**
10 **right?**

11 A. She was here, she -- when we came downstairs,
12 they took us to the front room and they said,
13 they're not quite ready. Have a seat in here.
14 She said, you know, this is kind of Disney World
15 when you're in the maze and you come around the
16 corner and you think you're almost there and then
17 you have another room of maze, you know.

18 **Q. There ain't no fast pass in this building, is**
19 **there?**

20 A. No, you're right, Senator.

21 **Q. Your -- and I'm familiar with you. Though I have**
22 **only encountered you one time professionally,**
23 **Senator Sabb, he was `agin' me and he was most**
24 **humorless in his dispensation of justice and a --**
25 **but it was an effective defense and I think I was**

1 pursuing a -- and you don't need to add any
2 detail, please. I don't think we tried it, but
3 it was an effective representation of my less
4 than stellar and less than credible client.

5 A. Senator, as I recall, my motion was denied. I
6 considered that you came in and beat me up in my
7 own backyard. And then later on the case got
8 resolved somehow. But --

9 Q. I call that a win for you. But nonetheless, two
10 things and one -- actually three, let me strike
11 that, three things. One, kind of on the light
12 side and I perhaps will ask your wife and swear
13 her as a witness to your role as a DJ or a radio
14 broadcaster. Was that an AM station or an FM and
15 was there music associated with your broadcast?

16 A. Yes, sir. There was an AM station in Hemingway,
17 WKYB. And at one point, back in the '60s, that
18 was the station at the beach and in Conway. That
19 was before the days of the big FMs. And I did
20 work there part-time in high school and in
21 college. I didn't know if you were going ask
22 about my run-in with the FCC. I was working on
23 an April Fool's day and I said that a bulletin
24 had come in that there had been a crash of a jet
25 liner near Florence and that over a 100,000 white

1 mice had escaped. It was bound for a research
2 center in Miami. And that the white mice were,
3 you know, headed toward the city. And then I
4 said, one other thing, April Fool. And my boss
5 called me up and said, have you lost your mind?
6 You can't do that. And sure enough, the city
7 manager in Florence wrote a letter to the FCC
8 saying that this was a terrible joke to play on
9 anybody. He took offense to it. It was just a
10 thoughtless thing. It wasn't a, you know --
11 anyway my boss was faced with the idea -- he had
12 two alternatives. He could fire me and say we
13 got rid of that crazy nut or he could say, he was
14 just stupid. He didn't know what he was doing.
15 He opted for the second one and that went through
16 ok.

17 **Q. Second point, and you've been here, done this,**
18 **and been through the process. It's my first time**
19 **sitting on this side of it, I've know you as a**
20 **candidate and each prior run. In this instance,**
21 **this race, as before, you have been the subject**
22 **of Bench Bar ballot with anonymous folks writing**
23 **in about you. And you, perhaps, know this that**
24 **there is, perhaps only one, only one, out of the**
25 **respondents it has, a remote negative comment**

1 about you. But, ultimately, in terms of
2 qualifications, ethical fitness, ability,
3 professional academic, character, reputation,
4 physical, mental health, experience and judicial
5 temperament, only one who says that you would
6 lack that, in terms of your percentage. It is
7 minuscule at best that say anything negative
8 about you. So I want to compliment you for that.
9 It's no accident you, obviously work. You have a
10 body of work and a legacy that you've created
11 there among your peers and your adversaries, I
12 guess, your opponents, all that hold you in high
13 regard. Is that something that we should pay
14 attention to, glowing for you, but perhaps if it
15 weren't, would you still tell us to pay attention
16 to this?

17 A. Senator, I think that's important. I've said
18 many times that I felt like, over the years, our
19 profession had lost the - a little bit of that
20 fraternal type of atmosphere that used to exist.
21 When my father practiced and your father
22 practiced, you know, they didn't do written
23 confirmations of continuances back then. They
24 would call each other on the telephone and say,
25 hey, how about that hearing that's set for

1 Friday. Can we put that off a couple of weeks?
2 Sure. And that was good enough. In fact, a
3 while back there was an attorney in Marion, Mr.
4 McClendon, fine gentleman. I asked him to
5 confirm something in writing and he took offense.
6 And I said, well, you know, it's not that I don't
7 trust you at all. But one of us might get in the
8 way of a runaway bus or something and we need
9 something in the file. And so he said, okay.
10 But he was somewhat offended that I would ask him
11 to verify something. And I think we've -- I
12 think, sometimes we've lost that. There was a
13 case a while back -- and if you read my
14 materials, it was of the times that I was sued
15 where I had filed suit against an attorney for
16 two friends of mine. The attorney was in
17 business with these two guys. It wasn't a legal
18 malpractice case.

19 **Q. I remember the person you're talking about. You**
20 **don't need to name him for the record.**

21 A. Right. But the attorney countered. He filed a
22 third-party complaint against me alleging a RICO
23 violation and ultimately, he got sanctioned and
24 his attorney got sanctioned. The Supreme Court
25 reprimanded the attorney as being too combative.

1 And we don't see a lot of it, but we still see
2 some of it. I think some attorneys take it to
3 heart to represent your clients with zeal and
4 they get a little carried away with it. And
5 sometimes I feel like, you know, we ought to try
6 to achieve fair and just results, as well as
7 representing the interest of our clients. I've
8 always felt that probably 90 to 95 percent of
9 cases could be resolved without a contested
10 hearing if you had good attorneys and reasonable
11 clients. But that's not always the case.

12 **Q. Third point is, your response one of the**
13 **questions and I'll quote it. "Over the years**
14 **I've encountered outstanding judges, skilled and**
15 **capable with a temperament to maintain order and**
16 **decorum in the courtroom and control the**
17 **proceeding while being patient, dignified,**
18 **courteous and respectful to attorneys, parties,**
19 **jurors, and courtroom personnel. And**
20 **unfortunately, I have encountered judges who are**
21 **rude, arrogant, impatient and inconsiderate of**
22 **those around them. I very much want to serve and**
23 **will be committed to be one of the good guys",**
24 **you write. In terms of temperament, I'm not**
25 **asking you to name those who were rude, arrogant,**

1 **impatient, or inconsiderate. But how important**
2 **is it for us to consider Bench Bar comments and**
3 **the testimony of those seeking to be made judges**
4 **and whatever other evidence that is out there,**
5 **good or bad, of someone's temperament?**

6 A. Senator, I think it's very important. Sometimes
7 I get the impression that all members of the
8 General Assembly are not fully cognizant of what
9 this job entails, how important it is to all
10 segments of society. And one question that was
11 asked me before about temperament is, was there a
12 judge that I particularly looked up to, in terms
13 of his conduct on the bench, his mannerisms and
14 his attitude. And I consistently said that for
15 me that was Judge David Harwell, who was at one
16 time a circuit judge and later was on the Supreme
17 Court and was chief justice. And to me he was
18 one who fit the mold, you know. There was never
19 any doubt who was in charge of the courtroom, but
20 he treated everybody with respect, he was
21 courteous. He acted in a dignified manner. And
22 that went across the board to the litigants, to
23 the lawyers, to the courtroom personnel, to the
24 jurors. I mean, everybody knew he was the judge,
25 but he was not heavy handed. Now, I have seen

1 judges and I'm sure that most of the attorneys
2 have witnessed judges that can get very heavy
3 handed, very short and sometimes very needlessly
4 so. Again, I don't want to name names, but there
5 was a judge in my area when I first started that
6 was terrible. You know, he would make snap
7 decisions and he would --

8 SENATOR SABB: Was that after or before lunch?

9 A. Sorry?

10 CHAIRMAN SMITH: Was that after or before lunch? We
11 all know who you're talking about from the Third
12 Circuit. So you know how it was bad -- how after
13 lunch was particularly bad.

14 A. Let me say, I went -- I had a case one time with
15 a fellow, he had a similar case and we were kind
16 of going to compare notes, because we had cases
17 against the same defendant. And I had a motion
18 pending before this judge. And I went over to
19 meet and I was in the office of the guy who was
20 suing the same defendant that I was suing for my
21 client. And he said, I've got a problem. The
22 senior partner here represents the defendant. So
23 I'm going to have to get out. And I said,
24 really. He said yeah, he's sitting back there
25 with the judge now. And they were back in his

1 office drinking coffee. And they said, come on
2 back. And I went back there and spoke. And the
3 judge said, you got a motion. And I said, yes,
4 sir. He said, I've already looked at it, said,
5 you don't have anything. Said, if you want to go
6 over there and hear it we will. I said, well,
7 judge I would like for you to hear it. But guess
8 what the result was? He's told people before, if
9 you don't plead -- if your man does not plead
10 guilty, he's going to prison. I had a case, Mr.
11 Chairman, you wouldn't remember Wade Culp, he was
12 assistant solicitor to Kurt McLeod. And it was
13 one of the only cases I had been appointed. That
14 was before we had a Public Defender. I had been
15 appointed on the case. And the guy was charged
16 with receiving stolen goods. He had a shotgun
17 and rifle that belonged to his employer and he
18 had had the keys to the house while the employer
19 was away. And the story was that he had bought
20 the guns from somebody that had a flat tire and
21 he helped them change the tire and they sold him
22 the guns and he had never seen before and never
23 seen them since. And he had no witnesses, but he
24 wanted a trial. He was not guilty and he wanted
25 a trial. And when they came out and the

1 assistant solicitor, Mr. Culp, made his opening
2 argument. He said he had been indicted for
3 receiving stolen goods and grand larceny. And
4 when he finished his opening, I said, Your Honor,
5 may we approach. So this is the first I've heard
6 about the grand larceny. You know, the warrant
7 receiving stolen goods. How can it be both? And
8 Wade said, well, we always do it that way. And
9 Mr. McLeod, y'all would have to know him. He
10 came walking back he said, we'll throw one of
11 them out, which one do you want us to throw out?
12 And I said, well, the warrant said, receiving
13 stolen goods. And the judge said, and the jury's
14 sitting right over there. And the judge says,
15 what's your defense? I said, judge, he says he
16 bought them. He said, how much did he pay? I
17 said, judge, he said he paid \$100. And the judge
18 said, "expletive," he's guilty as "expletive."
19 And that jury's going to convict him and I'm
20 going to send his "expletive" to prison. And I
21 said, judge, we need a recess. So I went back
22 and talked to my guy. I said, look, your mama
23 didn't even show for -- as a witness. We don't
24 have any defense. Your story's ridiculous. And
25 he didn't want to plead guilty. And so the judge

1 and the solicitor are back in chambers together.
2 It's just the two of them. I mean, they were a
3 tag-team. And I go back and I said, my guy
4 maintains that he's not guilty. We plead nolo.
5 And the solicitor says, yeah, we could probably
6 do that, couldn't we judge? He said, yeah, yeah,
7 we could probably do that, yeah, uh-huh. He
8 said, that would about five years probation,
9 wouldn't it judge. Yeah, that's like about five
10 years probation, uh-huh, yeah. So we plead nolo
11 and got five years probation. But he would have
12 gone to prison if we had gone to trial. And the
13 judge told me, you know, there was no doubt about
14 it. That was one of the bad guys. I could tell
15 you some more, but y'all don't have the time.

16 CHAIRMAN SMITH: All right. Mr. Safran.

17 EXAMINATION BY MR. SAFRAN:

18 Q. We appreciate hearing about that. I don't know
19 that I could ever top any of those. But they do
20 bring back some memories. Just along those
21 lines. I guess to kind of take the next step
22 from Senator Rankin. You made a comment earlier
23 that Mac Morris gave you the opportunity at least
24 say if he was getting out of line. But as a
25 practical matter, we as lawyers don't get that

1 opportunity very often, do we?

2 A. No.

3 Q. And in situations where things get out of line
4 where judges behave inappropriately, I know most
5 lawyers don't consider the remedy to be going to
6 the disciplinary counsel either, do they?

7 A. No, because, you know, that's not going to result
8 in a whole lot of positive benefit, and may
9 invoke the anger of a judge a little bit as well.

10 Q. And so just to take what he said, I think, to the
11 next step, really aren't these ballot box surveys
12 about the only way that the practicing Bar can
13 let somebody know about what goes on,
14 particularly in terms of core temperament and
15 misbehavior of judges?

16 A. I think probably so. You know, I've even thought
17 about this and I thought, you know, if I became a
18 judge about even saying to the Bar, you know, if
19 I ever get out of line, if you can get three
20 people to come in together, you know, I will give
21 you a pass. You could come in and just let me
22 know that you think that I'm out of line and you
23 will not be held accountable for that at all, you
24 know. I just kick that around in my mind. There
25 ought to be a way that people could do that

1 without any fear of retribution.

2 Q. Well, and just one last thing. We heard earlier
3 in our proceedings a couple of weeks ago.
4 Somebody from over your way who was asked the
5 question, what was their role in terms of being a
6 judge. And I was very impressed with it. I got
7 a feeling you will probably echo this. Judge
8 Nettles basically said, you know, I'm here to
9 serve the Bar. And I believe he does that. And
10 I get the sense that's what your feeling is about
11 the role of a judge too.

12 A. I think that, you know, not all judges have the
13 experience. I mean, we have judges that have
14 never had trial experience. They don't know what
15 it involves. And I think it's important to be
16 sympathetic to the plight of attorneys, you know.
17 I would never want to make an attorney go to
18 trial when he wasn't ready to go. And I've
19 started practicing in the old days where the
20 parties for the two sides can start up to say,
21 judge, the case is not ready for trial. We want
22 to continue it. Yes, sir, that's right, judge,
23 continuance. They weren't concerned about court
24 administration so much. They were concerned
25 about the case handled in the right way. And I

1 think that's the way I would approach it. I
2 would take the heat with court administration.
3 Now, if a lawyer was unprepared and it happened
4 consistently, you would have to address that.
5 But I would be one that would be sympathetic to
6 the Bar. Judge Nettles is an excellent judge.
7 He's a friend of mine. And I got drawn for jury
8 duty a while back. And I was surprised to be
9 selected on the jury, because usually we're not.
10 And Michael, Judge Nettles, made me foreman. And
11 we tried the case all the way through to Friday
12 and then they settled it before we actually were
13 -- had had the charge and we were in the jury
14 room. And they settled it. So we didn't get to
15 do our thing. But Judge Nettles has a good
16 philosophy and he's one of the good guys, you
17 know. He's very good.

18 **Q. Thank you very much.**

19 CHAIRMAN SMITH: Any questions.

20 **Q. Mr. Askins, let me just ask you this, if you're**
21 **successful in your candidacy, I note you practice**
22 **in the Third Circuit, which is in Williamsburg**
23 **County, where your office is located. You live**
24 **in Florence County. Where would you ask Court**
25 **Administration to maintain your office?**

1 A. You know, I thought about that and I'm not
2 certain. I would be open to suggestion. But my
3 thought right now is it would be in Kingstree,
4 because Florence already has three circuit judges
5 there. And Judge Newman has his office in
6 Kingstree. But Judge Newman is a resident of
7 Richland County. And I think it would be a
8 benefit to have somebody there. I would be
9 willing to pledge --I would make myself available
10 to the lawyers, you know, wherever I was needed.
11 If they have to have a motion heard or they need
12 an order signed. Again, I know what's that's
13 like when you have to hunt somebody down when you
14 live out in the sticks. And sometimes you can't
15 find a judge on a Friday afternoon, you know.
16 You can't find anybody or sometimes on a
17 Wednesday afternoon, you know, they're not to be
18 found.

19 **Q. Choose your words carefully, because Florence, as**
20 **you know, is building a new judicial center and**
21 **Williamsburg is like most of the smaller**
22 **counties. They have beautiful courthouses, but**
23 **they are antiquated, so ...**

24 A. I'm not committing to anything. I'm just saying
25 that was a thought that I had had.

1 **Q. We may have that argument at some point, if the**
2 **need arises.**

3 A. Yes, sir.

4 **Q. We'll see. We're proud of what you do in the**
5 **Third Circuit, Mr. Askins.**

6 A. Thank you, sir. You know, Hemingway is located
7 the northeast corner of Williamsburg County.
8 It's only about two miles to the Florence County
9 line. And only about five miles to the
10 Georgetown County line. So we're in all three of
11 those counties. We're over in Marion, over in
12 Senator Rankin's county, you know, Horry and
13 occasionally in Darlington. Sometimes even in
14 Sumter and Clarendon, occasionally in Berkeley.
15 I mean, we cover a wide area. But mostly,
16 Williamsburg, Florence and Georgetown.

17 CHAIRMAN SMITH: All right. Thank you. Any further
18 questions? All right, Mr. Askins. This
19 concludes this portion of your screening process.
20 I want to thank you for the -- I want to take
21 this opportunity to remind you that pursuant to
22 the Commission's evaluative criteria, the
23 Commission expects candidates to follow the
24 spirit, as well as the letter of the ethics laws.
25 And we will view violations or the appearance of

1 impropriety as serious and potentially deserving
2 of heavy weight and screening deliberations. On
3 that note, and as you know, the record will
4 remain open until the formal release of the
5 report of qualifications and you may be called
6 back at such time, if the need arises. I thank
7 you for offering for this position and I thank
8 you for your service to the State of South
9 Carolina.

10 MR. ASKINS: Thank you, sir.

11 CHAIRMAN SMITH: Mr. Askins, just for the -- so the
12 record is clean. I want the Commission members --
13 we took up the issue of Mr. Moore's letter and
14 you've made representations and I think Senator
15 Sabb has a motion, please?

16 SENATOR SABB: Mr. Chairman, I make a motion that we
17 affirmatively make a finding of no violation of
18 the rule.

19 CHAIRMAN SMITH: All right. And that's seconded by
20 Representative Murphy. All in favor of that
21 motion, please raise their hands? All opposed?
22 Let the record reflect the vote was unanimous and
23 so there is a finding that there's not been a
24 violation of Section 2-17-90, as it relates to
25 Mr. Moore's letter. Thank you, Mr. Askins.

1 MR. ASKINS: Thank you, sir.

2 MEREDITH L. COKER

3 CHAIRMAN SMITH: How are you, Ms. Coker?

4 MS. COKER: Fine, thank you.

5 CHAIRMAN SMITH: Welcome. Will you please raise your
6 right hand, please, ma'am?

7 MEREDITH COKER, having been duly sworn, testifies as
8 follows:

9 CHAIRMAN SMITH: Ms. Coker, before you is a personal
10 data questionnaire and the sworn statement. Are
11 these documents that you have submitted to the
12 Commission?

13 MS. COKER: They are.

14 CHAIRMAN SMITH: Are they both correct, to the best of
15 your knowledge?

16 MS. COKER: To the best of my knowledge they are.

17 CHAIRMAN SMITH: Do you need to make any updates or
18 changes at this time?

19 MS. COKER: I do not.

20 CHAIRMAN SMITH: Do you have any objection to us
21 making the documents an exhibit to your sworn
22 statement?

23 MS. COKER: I do not.

24 CHAIRMAN: All right, to your testimony. Without
25 objection we're going to make these documents and

1 any amendments a part of the record of your sworn
2 testimony. Ms. Coker, the Judicial Merit
3 Selection Commission has thoroughly investigated
4 your qualifications for the bench. Our inquiry
5 has focused on nine evaluative criteria and has
6 included a ballot box survey, a thorough study of
7 your application materials, verification of your
8 compliance with state ethics laws, a search of
9 newspaper articles in which your name appears,
10 study of previous screenings, and checks for
11 economic conflicts of interest. We have received
12 no affidavits filed in opposition to your
13 election. There are no witnesses that are
14 present to testify. Do you wish to make a brief
15 opening statement to the Commission?

16 (EXHIBIT 5 - JUDICIAL MERIT SELECTION COMMISSION
17 PERSONAL DATA QUESTIONNAIRE OF MEREDITH L. COKER)
18 (EXHIBIT 6 - JUDICIAL MERIT SELECTION COMMISSION SWORN
19 STATEMENT OF MEREDITH L. COKER)

20 MS. COKER: No, sir. I believe y'all's time is very
21 valuable, so I'm happy to proceed with any
22 questions you may have.

23 CHAIRMAN SMITH: Thank you very much. Answer any
24 questions that counsel may have for you, please
25 ma'am.

1 EXAMINATION BY MR. COHL:

2 Q. Thank you, Mr. Chairman. I note for the record
3 that based on the testimony contained in the
4 candidate's PDQ, which has been included in the
5 record with the candidate's consent, Meredith
6 Coker meets the constitutional and statutory
7 requirements for this position, regarding age,
8 residence, and years of practice. Ms. Coker, how
9 do you feel your legal and professional
10 experience thus far renders you qualified and
11 will assist you to be an effective circuit court
12 judge?

13 A. Well, I've actually practiced in a variety of
14 areas of the law. I started -- I won't say my
15 practice of law, but after law school I clerked
16 for a Virginia Court of Appeals court judge for
17 two years. Because of the way the appellate
18 system is set up in Virginia, we did primarily
19 domestic relations, but mostly all of the
20 criminal cases, other than the death penalty
21 cases. So the first few years of my legal career
22 were swamped in criminal matters. I then moved
23 onto a boutique heavy-duty civil litigation firm
24 in Washington, DC, where I had to deal with a
25 variety of very odd multi-national matters. I

1 also did some work with regard to constitutional
2 issues for the National Institute of Justice. I
3 taught up there as well. And then I decided that
4 DC wasn't quite what I wanted in life, so I moved
5 to Charleston. And my practice in Charleston has
6 varied through the years, based on kind of the
7 changing look of Charleston. I have done some
8 collections work. I have done large construction
9 lit matters, but it primarily focused on the
10 civil litigation and transactional side over the
11 last few years. I believe my different areas of
12 experience would be helpful.

13 **Q. Thank you, Ms. Coker. The Commission received 35**
14 **ballot box surveys regarding your candidacy with**
15 **two additional comments. The ballot box survey**
16 **contained the following comments. "Meredith**
17 **would make a good judge and she is known in non-**
18 **litigation matters." None of the written**
19 **comments expressed a concern. Ms. Coker, are**
20 **there any areas of the law that you would need**
21 **additional preparation for in order to serve as a**
22 **circuit court judge?**

23 **A.** Well, not to be flippant, but I believe all areas
24 of the law would need additional. I think we're
25 always learning. The law is obviously always

1 changing and the application due to a new set of
2 facts requires a new look and a new analysis of
3 each case. There aren't that many cookie cutter
4 cases out there even in the civil lit or criminal
5 defense areas. And so, again, without being
6 flippant, I would want to continue learning about
7 all facets of the law. I certainly would spend a
8 majority of my time up-front with regard to the
9 criminal statutes and procedures since I have not
10 worked on those over the last few years.

11 **Q. Thank you. Are you aware that as a judicial**
12 **candidate you are bound by the code of judicial**
13 **conduct as found in Rule 501 of the South**
14 **Carolina Appellate Court Rules?**

15 A. I am aware of that.

16 **Q. Since submitting your letter of intent, have you**
17 **contacted any members of the Commission about**
18 **your candidacy?**

19 A. I have not.

20 **Q. Since submitting your letter of intent, have you**
21 **sought or received the pledge of any legislator,**
22 **either prior to this date or pending the outcome**
23 **of your screening?**

24 A. I have not.

25 **Q. Have you asked any third parties to contact**

1 **members of the General Assembly on your behalf or**
2 **are you aware of anyone attempting to intervene**
3 **in this process on your behalf?**

4 A. I have not requested that and I'm not aware of
5 anyone.

6 **Q. Thank you. Have you reviewed and do you**
7 **understand the Commission's guidelines on**
8 **pledging in South Carolina Code Section 2-19-**
9 **70(e)?**

10 A. I have.

11 MR. COHL: I would note that the Lowcountry Citizen's
12 Committee reported that Ms. Coker is qualified in
13 the evaluative criteria of constitutional
14 qualifications, physical health, and mental
15 stability. And well-qualified and evaluated of
16 criteria of ethical fitness, professional
17 academic ability, character, reputation,
18 experience, and judicial temperament. Mr.
19 Chairman, I would just note for the record that
20 any concerns raised during the investigation
21 regarding the candidate were incorporated into
22 the questioning today. I have no further
23 questions.

24 SENATOR YOUNG: Thank you. Any questions for Ms.
25 Coker? Senator Young.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Thank you, Mr. Chairman. Ms. Coker, thank you so
3 much for your interest in serving our state on
4 the circuit court bench. I noted from your PDQ
5 that it appears that your practice has been --
6 you've handled a large number of significant
7 commercial litigation matters, it appears, during
8 your career; is that fair to say?

9 A. That's fair to say.

10 Q. And you've had a varied practice when it comes to
11 civil litigation matters?

12 A. Yes, sir.

13 Q. You're admitted to practice in both Virginia and
14 South Carolina currently?

15 A. I'm admitted to practice in Virginia. I'm
16 currently an associate member of Virginia. I
17 would have to fill out a form to come back into
18 active bar status.

19 Q. How long did you practice in Washington, DC?

20 A. I practiced -- I clerked for two summers in DC.
21 And then after my term as a clerk, I worked in
22 DC, I believe, for another -- between two and
23 three years.

24 Q. It appears that you are an equestrian?

25 A. I'm a little bit of one, yes, sir.

1 **Q. Yeah. Have you handled any equestrian law**
2 **issues?**

3 A. Not if I can help it.

4 **Q. Yeah. One of the questions I have for you is, as**
5 **to judicial philosophy. And my question is, how**
6 **would you apply the law to the facts and/or the**
7 **issues that would be before you on the circuit**
8 **court bench?**

9 A. Well, with regard to whether it be statutory law
10 or common law, hopefully, that law exists and is
11 explanatory. Sometimes there is some
12 interpretation that needs to be done by the court
13 with regard to application of whether it be
14 common law precedent or statutory law to the
15 facts of the specific case. I have no intention
16 of being a renegade. I certainly -- I believe in
17 the process. I believe that there are a lot
18 people a lot smarter than I am that have come
19 through that process in the last several hundred
20 years. So I think the process works if it's done
21 correctly. And I would basically be a
22 representative of the process and attempt to
23 apply the law as well as I can to whatever facts
24 are in front of me.

25 **Q. The firm that you're in now, is it just two**

1 **lawyers or how big are y'all?**

2 A. It's currently two lawyers and an associate.

3 **Q. Okay. So it's a small firm?**

4 A. Yes, sir.

5 **Q. And you've worked in a bigger firm in Washington,**
6 **DC?**

7 A. It was actually a smaller firm, it actually only
8 had about four - well, it wasn't a smaller firm.
9 It was about a four-man firm. And I had worked
10 for Finkel & Altman when coming here, which was a
11 mid-size firm.

12 **Q. Right.**

13 A. In Charleston.

14 **Q. So you've worked in firms that have -- your**
15 **current practice is in a smaller firm?**

16 A. Yes.

17 **Q. And so coming from a smaller firm, is it fair to**
18 **say that you are familiar with the challenges**
19 **that face lawyers who come from small practices,**
20 **especially with respect to being pulled from one**
21 **court to the next, trying to schedule things in**
22 **different courts, depositions and different**
23 **matters involving different courts and inevitably**
24 **you have scheduling conflicts. And would you be**
25 **sensitive to those concerns if you were elected**

1 **to the bench?**

2 A. Of course the scheduling of pre-trial matters and
3 trial matters is one of the biggest issues with
4 regard to judicial economy and judicial
5 effectiveness in this state, particularly in the
6 larger circuits. I know I have been -- I spent a
7 period of time where I had three large cases, all
8 of which were threatened to come into two
9 different courthouses in the same month. And
10 they were all three-to-six-week cases. So I am
11 certainly sensitive to that. However, I also
12 believe that there's a certain amount of managing
13 people's expectations. And I would prefer and
14 would attempt to not to allow people to abuse,
15 whether they're in a small firm or flying all
16 over the country or the world in a large firm, to
17 abuse their conflicts as a sense of delay. It's
18 really a balancing act, I feel.

19 **Q. Thank you so much for your answers.**

20 CHAIRMAN SMITH: Any further questions? Senator
21 Rankin.

22 EXAMINATION BY SENATOR RANKIN:

23 **Q. Ms. Coker, thank you likewise for offering for**
24 **this. A couple of questions. Finkel & Altman,**
25 **the namesake of that firm was or is Jerry Finkel,**

1 **correct?**

2 A. Correct.

3 **Q. Did you work with him directly or have somewhat**
4 **engagement with him?**

5 A. I did. At the time I worked there, they had a
6 Charleston office, a north Charleston office, and
7 a Columbia office. Jerry had moved to
8 Summerville, but was splitting his time between
9 the Columbia and the Charleston offices. But if
10 I had to approximate it, I would say most of my
11 associate level work, looking up to a partner,
12 would probably have been with Jerry.

13 **Q. He was trial ad teacher for a minute, super guy.**
14 **And his wife was in my class as well. Great**
15 **people.**

16 A. Even in that minute I'm sure you and I have heard
17 some of the same stories.

18 **Q. Oh, yeah. And I noted as well the equestrian**
19 **interest, you haven't litigated them, but you've**
20 **ridden many a horse, it sounds like. Do you**
21 **compete?**

22 A. I'm currently not competing. I went out and fed
23 horses this morning before driving up here.
24 Luckily for y'all, I showered and changed
25 clothes. But yeah, I just -- I grew up in both,

1 an urban area and a rural area. I mean, both my
2 grandparents were farmers. And I just went --
3 honestly, I've always wanted -- and particularly
4 when I had my child. I wanted her to have that
5 experience of being part of something that's not
6 zero -- you know, zero set, building lines and
7 narrow streets, so ...

8 **Q. Super. And forgive this question. I've often**
9 **wondered, you've offered it again and it's in**
10 **your PDQ, but what really is a boutique law firm?**

11 **A.** Well, I struggle with that definition as well.
12 But it seemed to be what everyone else called it,
13 so I've gone with it. You know, the conformity
14 thing, right? Basically, it was a very small law
15 firm. It actually was a small suite in the
16 building that became Wilmer Cutler, which is a
17 large DC defense contractor lobby firm. So when
18 9-11 happened, we were lucky enough to have AK-
19 47s all over the building. But in my experience
20 and what I was trying to convey by that was, I
21 picked that firm. I liked the people. I liked
22 the level of work. It was a tremendous
23 challenge. My first deposition ever, three weeks
24 after employment, was a million and a half dollar
25 land dispute claim. So I kind of got thrown into

1 the frying pan and I like that sort of pressure
2 of challenge. So I guess what I was trying to
3 convey by that is, it was a small firm but they
4 handled primarily large, if not, you know,
5 international type cases, so ...

6 **Q. Last point, your -- perhaps in the Jerry Finkel,**
7 **you have been an adjunct professor at the College**
8 **of Charleston for about four years, it looks**
9 **like?**

10 A. I was.

11 **Q. And teaching Mock -- Advanced Mock Trial, as part**
12 **of a political science curriculum down there?**

13 A. That's how they have there program set up. It's
14 a political science class. I mean, it's a 300 or
15 400 level class. And the students have to be
16 picked for it. So they're given academic credit,
17 but it's not really a club. It's an academic
18 credit.

19 **Q. And you were selecting the students to**
20 **participate in that?**

21 A. In part, in conjunction with their other
22 professors and with recommendations and so forth.

23 **Q. Very good. Thank you.**

24 CHAIRMAN SMITH: All right. Any further questions? All
25 right. Ms. Coker, thank you so much. This concludes

1 this portion of your screening process. I want to
2 take this opportunity to remind you that pursuant to
3 the Commission's evaluative criteria, the Commission
4 expects candidates to follow the spirit, as well as
5 the letter of the ethics laws. And we will view
6 violations or the appearance of impropriety as serious
7 and potentially deserving of heavyweight and screening
8 deliberations. On that note, and as you know, the
9 record will remain open until the formal release of
10 the report of qualifications and you may be called
11 back at such time, if the need arises. I thank you
12 for offering for this position and I thank you for
13 your service to the State of South Carolina.

14 MS. COKER: And thank you to the Commission for
15 allowing me to speak today.

16 CHAIRMAN SMITH: Have a safe trip back home.

17 MS. COKER: Thank you very much.

18 (The commission adjourned for lunch at this time.)

19 (There being nothing further, this portion of the
20 proceeding concluded at 12:45 p.m.)

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CERTIFICATE OF REPORTER

I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
CERTIFY THAT I REPORTED THIS PROCEEDING, ON WEDNESDAY, THE
29TH DAY OF NOVEMBER, 2017, AND THAT THE FOREGOING 59 PAGES
CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOMASK
REPORT OF SAID PROCEEDING.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
INTERESTED IN SAID CAUSE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL
THIS 11TH DAY OF DECEMBER, 2017.

JENNIFER NOTTLE, COURT REPORTER
MY COMMISSION EXPIRES JULY 11, 2023

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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JUDICIAL MERIT SELECTION COMMISSION

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TRANSCRIPT OF PUBLIC HEARINGS

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BEFORE: G. MURRELL SMITH, JR., CHAIRMAN

9

SENATOR LUKE A. RANKIN

10

SENATOR RONNIE A. SABB

11

SENATOR TOM YOUNG, JR.

12

ROBERT W. HAYES, JR.

13

REPRESENTATIVE J. TODD RUTHERFORD

14

REPRESENTATIVE CHRIS MURPHY

15

MICHAEL HITCHCOCK

16

JOSHUA HOWARD

17

ANDREW N. SAFRAN

18

ERIN B. CRAWFORD, CHIEF COUNSEL

19

* * * * *

20

DATE: November 29th, 2017

21

TIME: 12:00 p.m.

22

LOCATION: Gressette Building

23

1101 Pendleton Street

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Columbia, South Carolina 29201

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REPORTED BY: PATRICIA G. BACHAND, COURT REPORTER

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Court Reporter's Legend:

dashes [--] Intentional or purposeful interruption

... Indicates trailing off

[sic] Written as said

1 CHAIRMAN SMITH: So we'll get started.

2 Mr. Bultman, good afternoon. How are you doing today?

3 MR. BULTMAN: I'm doing fine. I hope you
4 are too.

5 CHAIRMAN SMITH: I'm doing well. Will you
6 raise your right hand, please, sir.

7 WHEREUPON,

8 THOMAS MURRAY BULTMAN, being duly sworn and
9 cautioned to speak the truth, the whole truth and nothing
10 but the truth, testifies as follows:

11 CHAIRMAN SMITH: Mr. Bultman, before you are
12 the data questionnaire and the sworn statement. Are these
13 the documents that you submitted to the Commission?

14 MR. BULTMAN: Yes, sir.

15 CHAIRMAN SMITH: Are there any -- are both
16 of them correct to the best of your knowledge?

17 MR. BULTMAN: Yes, sir.

18 CHAIRMAN SMITH: Are there any changes or
19 updates that you need to make?

20 Maybe No, sir.

21 CHAIRMAN SMITH: All right. Do you have any
22 objection to us making those an exhibit to your sworn
23 testimony?

24 MR. BULTMAN: None whatsoever.

25 CHAIRMAN SMITH: All right. Without

1 objection we're going to make that as an exhibit. If
2 you'll hand those to Lindi for me, please, sir.

3 (EXHIBIT NO. 7 - JUDICIAL MERIT SELECTION
4 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THOMAS
5 MURRAY BULTMAN)

6 (EXHIBIT NO. 8 - JUDICIAL MERIT SELECTION
7 COMMISSION SWORN STATEMENT OF THOMAS MURRAY
8 BULTMAN)

9 (EXHIBIT NO. 9 - AMENDMENT TO THE PERSONAL
10 DATA QUESTIONNAIRE OF THOMAS MURRAY BULTMAN)

11 CHAIRMAN SMITH: Mr. Bultman, the Judicial
12 Merit Selection Commission has thoroughly investigated your
13 qualifications for the bench. Our inquiry has focused on
14 nine evaluative criteria, and has included a ballot box
15 survey, a thorough study of your application materials,
16 verification of your compliance with state ethics laws, a
17 search of newspaper articles in which your name appears,
18 studies of -- a study of any previous screenings, and
19 checks for economic conflicts of interest.

20 We have received no affidavits filed in
21 opposition to your election today, and no witnesses are
22 here to testify. Do you wish to make a brief opening
23 statement to the Commission?

24 MR. BULTMAN: I can give you my background
25 information. But basically, Your Honor, the reason that

1 I'd like to be elected as a family court judge is to --
2 excuse me. The reason I would take it as an honor to be
3 elected as a family court judge is, number one, I've been
4 practicing family law for a long, long time, and I think I
5 have a real good knowledge of family law issues. But the
6 other reason is, Mr. Chairman, I actually think it would be
7 a lot of fun. I really do.

8 CHAIRMAN SMITH: Okay. Thank you very much.
9 Answer any questions that counsel may have for you, please,
10 sir.

11 EXAMINATION BY MR. HINSON:

12 Q. Mr. Bultman, my name's Jimmy Hinson. I'm a staff
13 attorney. I'm filling in for Mr. Davidson, who had to tend
14 to a matter this afternoon.

15 A. Yes, sir.

16 Q. Would you please state for the record, the city
17 and circuit in which you reside.

18 A. I reside in the city of Sumter, the County of
19 Sumter, 3rd Judicial Circuit.

20 Q. Thank you.

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

1 residence, and years of practice.

2 BY MR. HINSON:

3 Q. Mr. Bultman, why do you want to serve as a family
4 court judge? And why do you feel that your legal and
5 professional experience qualify and will assist you to be
6 an effective judge?

7 A. I think I answered that in my opening statement
8 to the committee -- or the Commission.

9 Q. Mr. Bultman --

10 A. So that would be the same response.

11 Q. Are there any areas in the law for which you
12 would need additional preparation in order to serve as a
13 family court judge, and how would you handle that
14 additional preparation?

15 A. It's been a while since I've handled any criminal
16 juvenile matters. At one time we had 12 lawyers in our
17 firm, and I handled all of the appointed cases, the DSS,
18 the juvenile criminals. But it's been awhile since I've
19 done that.

20 But the way I would come up to speed is,
21 basically, just look back at the statute. Because I know
22 how it works, and just bring myself up to speed on that.

23 The other areas with regard to divorce, equitable
24 distribution, the things that come out of a divorce action,
25 the child custody, alimony, division of the debt, attorney

1 fees, I got a real good working knowledge of that.

2 I'm also up on adoptions. That's the only fun
3 time we have at family court. And I love doing adoptions.
4 So I don't think I would need to come up to speed on any of
5 those areas.

6 **Q. Thank you. Would you please briefly describe**
7 **your experience in handling complex contested family court**
8 **matters, and specifically discuss your experience with the**
9 **financial aspects of family court work.**

10 A. I've tried a lot of family court cases that
11 involved major financial issues. While I was not the lead
12 attorney, my partner, Joseph McElveen, was. One of the
13 cases that's come out of the South Carolina Supreme Court
14 is the Glasscock case.

15 That was a case where there was millions of
16 dollars in assets involved. I assisted in that, I assisted
17 with the brief, although my name did not go on it. And
18 that is a defended case, now, starting with the award of
19 attorney fees from that standpoint.

20 I also had the pleasure of going down to Florida,
21 to West Palm Beach, where a lawyer down there, Howard
22 Rudolph, asked me to assist him with trying to get a
23 prenuptial agreement that was done in South Carolina
24 invalidated. Robert Rosen was the other witness for the
25 husband. I was the witness for the wife. The bottom line

1 was: Florida has mediation, like South Carolina does, and
2 they were able to resolve it in mediation.

3 Another big case that I was involved in, not from
4 a standpoint of money matters, but with regard to issue of
5 children, was Jean Shake v. the Department of Social
6 Services, again with Mr. McElveen, he was the lead
7 attorney. We did not win at the trial level.

8 Judge Spruill denied us custody of the foster
9 child, but we ended up on appeal and won that. And the
10 bottom line is, that after all is said and done through the
11 appeal, eventually the mother actually signed a consent of
12 relinquishment that allowed our client to adopt the little
13 boy. The father had already given us a consent
14 relinquishment for adoption. I hope that answers your
15 question.

16 **Q. Thank you. Mr. Bultman, the Commission received**
17 **86ballot box surveys regarding you, with 7 additional**
18 **comments. The ballot box survey, for example, contained**
19 **the following positive comments:**

20 "Would make a great family court judge. He has
21 the patience and demeanor required for that challenging
22 environment." Another stated, "You're always a gentleman
23 even under heated circumstances. Well prepared.
24 Represents his clients well and treats his colleagues with
25 respect."

1 And I would note for the record there were zero
2 negative comments expressing any concern.

3 I have a few housekeeping issues. Are you aware,
4 that as a judicial candidate you are bound by the code of
5 judicial conduct as found in Rule 501 of the South Carolina
6 Appellate rules?

7 A. I certainly am.

8 Q. Since submitting your letter of intent, have you
9 contacted any members of the Commission about your
10 candidacy?

11 A. I have not.

12 Q. Since submitting your letter of intent, have you
13 sought or received the pledge of any legislator, either
14 prior to this date or pending the outcome of your
15 screening?

16 A. I have not.

17 Q. Have you asked any third parties to contact
18 members of the General Assembly on your behalf, or are you
19 aware of anyone attempting to intervene in this process on
20 your behalf?

21 A. I have not asked anybody, and I'm not aware of
22 anybody doing it on my behalf.

23 Q. Thank you. Have you reviewed, and do you
24 understand, the Commission's guidelines on pledging and
25 South Carolina Code 2-19-70(E)?

1 A. I do.

2 MR. HINSON: I would note that the Pee Dee
3 Citizens Committee found Mr. Bultman to be well qualified
4 in the evaluative criteria of ethical fitness, professional
5 and academic ability, character, reputation, experience,
6 and judicial temperament, and qualified in the remaining
7 evaluative criteria of constitutional qualifications,
8 physical health and mental stability.

9 I would just note for the record that any
10 concerns raised during the investigation regarding the
11 candidate, were incorporated into the questioning of
12 candidate today. And with that, I have no further
13 questions.

14 CHAIRMAN SMITH: Thank you very much. Any
15 questions for Mr. Bultman? Senator Young.

16 SENATOR YOUNG: Thank you, Mr. Chairman.

17 EXAMINATION BY SENATOR YOUNG:

18 **Q. Mr. Bultman, thank you so much for your interest**
19 **and service to our state on the family court. I have a**
20 **couple of questions for you.**

21 A. Yes, sir.

22 **Q. The first one would be: What is your judicial**
23 **philosophy, as it relates to the application of the law as**
24 **it exists, to any facts or issues that would be before you**
25 **on the family court bench?**

1 A. I would take the applicable law and apply it to
2 the facts. I am not of the mind set that a judge should be
3 a judicial activist. That's the Legislature's function.
4 That's not a judge's function.

5 **Q. And I also noticed that you've practiced almost,**
6 **it appears exclusively, in family court for many, many**
7 **years. Is that fair to say?**

8 A. That is fair. What happened, Senator Young, is
9 my partner, Joe McElveen -- that's why I joined that firm,
10 because he needed somebody to do family law. And Joe had a
11 really good reputation statewide. And he was also fellow
12 in the American Academy of Matrimonial Lawyers. And I got
13 in, in 1992.

14 But what happened is, Joe's interest in family
15 law kind of waned, so he started doing workers' comp. And
16 he also picked up social security disability. And we were
17 talking one afternoon, and he said, "Tommy, you ought to
18 get into some social security disability, 'cause it's a lot
19 easier than family law."

20 And he's absolutely right. And I enjoy doing
21 that, but my main focus still is on family law. And I do a
22 little bit of VA disability law, also, which I thoroughly
23 enjoy. Because you're only before an administrative law
24 judge, and you don't have anybody on the other side.

25 So if you're well prepared and know what you're

1 doing -- fortunately, I haven't lost one as far as a social
2 security disability case in a long time. But I really go
3 through the record, before I tell somebody I'm going to
4 represent them.

5 **Q. How familiar are you with issues at the**
6 **Department of Social Services, from your practice in the**
7 **family court?**

8 A. I haven't done that for quite some time. But I'm
9 aware of what the issues were when I was handling all the
10 appointed cases from my other partners and the associates
11 in the firm. I know one of the things that's going on
12 right now is, they got a pretty good backlog.

13 In fact, when I was at the Bar they asked me, did
14 I have a solution to that problem. And I said, "I think
15 I've got a solution, but I don't think it will ever work."

16 And they said, "What's that?"

17 And I said, "Have a separate court for DSS. But
18 that's going to take funding, and I don't think that's
19 going to work."

20 **Q. Do you have a -- and while we're on that subject,**
21 **one of the topics that's come up has been whether or not**
22 **the probate court should have more jurisdiction over some**
23 **of the matters that are currently in family court,**
24 **especially as it relates to older folks, elder -- old**
25 **people. Do you have any opinion on that?**

1 A. I'm kind of at a loss. Because as far as the
2 family court, they don't handle conservatorships like
3 probate court does, or those type things, or common pleas.
4 I guess you could have vulnerable adults there, and I don't
5 see why that couldn't be held in the -- in the probate
6 court.

7 **Q. Right. And that's one -- that's one of the**
8 **particular types of cases that has come up in that context.**
9 **I may have additional questions in a few minutes. And I'll**
10 **yield at this time. Thank you.**

11 A. Thank you.

12 CHAIRMAN SMITH: Representative Murphy.

13 EXAMINATION BY REPRESENTATIVE MURPHY:

14 **Q. Mr. Bultman, thank you for your willingness to**
15 **serve the people of the 3rd Judicial Circuit. Just**
16 **quickly, my dad was a '75 grad, he was a veteran student at**
17 **the Citadel. What company were you in?**

18 A. I was in D-Company until my senior year. That's
19 1st Battalion.

20 **Q. Right.**

21 A. And then my senior year, I was a 1st Battalion
22 Academic Officer. Which is in the same --

23 **Q. I was in November Company. I graduated a little**
24 **bit after you, though.**

25 A. Okay. I graduated in 1975.

1 **Q. Just a little bit. Thank you.**

2 A. Okay.

3 CHAIRMAN SMITH: Senator Sabb.

4 SENATOR SABB: Thank you, Mr. Chairman.

5 EXAMINATION BY SENATOR SABB:

6 **Q. And, Mr. Bultman, I, too, want to express my**
7 **appreciation for your offering. Senator Young asked some**
8 **questions relating to your judicial philosophy. And I**
9 **appreciate your response. In terms of the sentencing of**
10 **juveniles --**

11 A. Yes, sir.

12 **Q. -- can you just tell me about your thought**
13 **process as it relates to what is currently going on, and**
14 **where you'd like to see things go, to the event you are**
15 **elected and can be a part of effecting some change?**

16 A. From a standpoint, if I believe with the facts
17 that I have, that a young person can be rehabilitated, I
18 don't have any problem if it's a first offense, and it's
19 not a heinous crime, to put them on probation.

20 But then again, if I've got somebody who's been
21 in and out of the juvenile system, and it's not going to
22 any good, I have no problem sentencing them till their 21st
23 birthday.

24 **Q. And have you -- your view that we have enough**
25 **alternative sources -- well, is it your view that we have**

1 enough options, as it relates to how we try to correct the
2 behavior of juveniles? Or do you think that there are
3 other things that we could be doing?

4 A. I think that the current system is working, as
5 far as somebody that wants to be rehabilitated. I mean,
6 you've got some minors out there that, no matter what you
7 do, you're never going to save them, unfortunately. And
8 those are the ones that I would have no problem with
9 sentencing them to incarceration.

10 Q. Well, and I used to see that as a part of my
11 duties as an assistant solicitor -- well, I was on the
12 school board, and so when I couldn't do both. I couldn't
13 serve on school board and be an assistant solicitor. One
14 of things that I asked Solicitor Kohl was to give me the
15 prosecution of juveniles.

16 Because somehow or another, I just felt that I
17 could be part of making a difference in the lives of some
18 of the juveniles that I came into contact with. And I
19 ended up being faced with some of the reality that you just
20 identified, trying to identify the ones that you can help
21 and rehabilitate --

22 A. Right.

23 Q. -- and then trying to identify the ones where, if
24 they're out, then those around them are almost in danger of
25 being victimized by some of their conduct.

1 So practicing in family court, I'm somewhat
2 struck by the fact that you didn't get a lot of negatives.
3 I stopped doing family court work years ago. But I
4 remember I had this case with a lawyer, and it's really one
5 of the reasons why I stopped doing it, and the lawyer's a
6 good friend of mine, and we ended up arguing back and forth
7 with each other.

8 And Judge Wright in Turbeville was kind enough to
9 offer us to his chambers, and chastised us very gently by
10 telling us how surprised he was at our conduct, and that we
11 are too good of lawyers to be carrying on like that. And
12 what the lawyer and I reflected on, as we talked with each
13 other afterwards, is that we had taken on the personalities
14 of our clients.

15 A. Exactly.

16 Q. And we were behaving the way that they were
17 behaving towards each other, which was a lesson learned for
18 both of us. Me having shared that experience with you,
19 would you share any kind of similar experiences that you've
20 had, and give us your thought as to how judges ought to try
21 to manage those kind of situations to help the lawyers
22 and/or the litigants?

23 A. Well, as you said, Senator Sabb, what you've got
24 to do is you got to step back and not step into your
25 client's shoes. You can't do that.

1 My mentor was George C. James, Sr. He was a true
2 southern gentleman, an excellent trial lawyer, and had that
3 personalty where he treated people with respect.

4 Although there were times I would get angry with
5 a lawyer on the other side, I would always wait at least 24
6 hours before I'd even send a letter, if I was that mad, to
7 let it cool off. Because you're never going to get
8 anywhere where you're arguing with the other lawyer, and it
9 becomes a personality conflict.

10 And I try to instill in my clients, "This is the
11 purpose we're going for, and we've got to be focused on
12 that and try to get the hatred out. And I know you're mad,
13 and I know you're upset, but this is what our ultimate goal
14 is."

15 I've been in cases where, like I said, the other
16 side, as far as I'm concerned, was acting highly
17 inappropriate. But I'm not going to lower myself to their
18 level. And I find that when you're honest with the other
19 lawyer, and they can trust what you say, it ends up
20 settling cases is what it does. This is before mediation
21 became mandatory.

22 **Q. And how do think mediation is working?**

23 SENATOR SABB: And, Mr. Chairman, this is my
24 last question.

25 **Q. How do you think mediation is working in the**

1 **family court?**

2 A. I think it's working real well. When I first
3 went down to Hilton Head, before mediation was mandatory,
4 you got the old school lawyers, God bless his soul, Harvey
5 Golden, was bitterly opposed to mediation. He said, "No,
6 two lawyers in the courtroom."

7 But I went down there to Hilton Head, and I could
8 see how the process would work. And if you've got a good
9 mediator, and you got two people who truly want to try to
10 resolve the issues, mediation as -- the first one I went to
11 down in Charleston, it was Cotton Harness -- and I can't
12 remember his wife's name. It was a husband-and-wife team.
13 It was before it was mandatory.

14 And we got through and we resolved it. And there
15 were a lot of issues, and a lot of financial issues,
16 including child custody. And we got back, and I asked my
17 client, I said, "If I have a future client that wants to
18 know about mediation, can I give your name?"

19 And he said, "Tommy, that's perfectly all right.
20 Mediation's the best thing since slice bread. And I'm glad
21 to see that it's becoming mandatory now."

22 And I think it resolves a lot of issues that
23 otherwise -- what was happening is that case would be
24 delayed. The 365-day rule, I know some lawyers don't like
25 it, but if you do your homework, and you're prepared, you

1 can get a case done in three sixty-five.

2 But if it's a highly complicated complex case,
3 and you go to the chief administrative law judge, they'll
4 continue it for you and they'll give you a scheduling
5 order. So I think mediation is really good, I really do.
6 I enjoy doing mediation also.

7 **Q. Thank you for your comments.**

8 CHAIRMAN SMITH: Any other questions?

9 (Hearing none.)

10 CHAIRMAN SMITH: Mr. Bultman, I appreciate
11 you being with us today. This concludes this portion of
12 our screening process. I want to take this opportunity to
13 remind you that, pursuant to the Commission's evaluative
14 criteria, the Commission expects candidates to follow the
15 spirit as well as the letter of the ethics laws. And we
16 will view violations, or the appearance of impropriety, as
17 serious and potentially deserving of heavy weight in
18 screening deliberations.

19 On that note, and as you know, the record
20 will remain open until the formal release of the report of
21 qualifications, and you may be called back at such time if
22 the need arises. I thank you for offering for this
23 position. And I thank you for your service to the state of
24 South Carolina.

25 MR. BULTMAN: Thank you for having me.

1 CHAIRMAN SMITH: Thank you.

2 MR. BULTMAN: You all have a great day.

3 (Candidate excused.)

4 CHAIRMAN SMITH: Good afternoon, Mr.
5 Donald.

6 MR. DONNARD: Good afternoon.

7 CHAIRMAN SMITH: I see you have someone with
8 you today. Would you like to introduce her to the
9 Commission?

10 MR. DONNARD: Yes. I have my wife Michelle,
11 my wife of 14 years. Almost 14 years.

12 CHAIRMAN SMITH: And, Michelle, how are you
13 doing today?

14 MS. DONALD: I'm fine.

15 CHAIRMAN SMITH: Welcome. Mr. Donald, will
16 you please raise your right hand.

17 WHEREUPON,

18 EDGAR ROBERT DONNARD, JR., being duly sworn
19 and cautioned to speak the truth, the whole truth and
20 nothing but the truth, testifies as follows:

21 CHAIRMAN SMITH: Mr. Donald, before you is
22 your personal data questionnaire and your sworn statement.
23 Are these documents that you've submitted to the
24 Commission?

25 MR. DONNARD: Yes.

1 CHAIRMAN SMITH: Are they both correct to
2 the best of your knowledge?

3 MR. DONNALD: Yes.

4 CHAIRMAN SMITH: Is there any changes or
5 updates that you need to make to those documents?

6 MR. DONNALD: No.

7 CHAIRMAN SMITH: Do you have any objection
8 to us making those as exhibits to your sworn testimony here
9 today?

10 MR. DONNALD: No.

11 CHAIRMAN SMITH: All right. Without
12 objection, if you'll hand those to Lindi for me, please,
13 sir. And we're going to make those as exhibits to your
14 testimony today.

15 (EXHIBIT NO. 10 - JUDICIAL MERIT SELECTION
16 COMMISSION PERSONAL DATA QUESTIONNAIRE OF EDGAR
17 ROBERT DONNALD, JR.)

18 (EXHIBIT NO. 11 - JUDICIAL MERIT SELECTION
19 COMMISSION SWORN STATEMENT OF EDGAR ROBERT
20 DONNALD, JR.)

21 CHAIRMAN SMITH: Mr. Donald, the Judicial
22 Merit Selection Commission has thoroughly investigated your
23 qualifications for the bench. Our inquiry has focused on
24 nine evaluative criteria, and has included a ballot box
25 survey, a thorough study of your application materials,

1 verification of your compliance with state ethics laws, a
2 search of newspaper articles in which your name appears, a
3 study of previous screenings, and checks for economic
4 conflicts of interest.

5 We've received no affidavits today filed in
6 opposition to your election, and there are no witnesses
7 here to testify. Do you wish to make a brief opening
8 statement to the Commission?

9 MR. DONNARD: Just that I appreciate y'all's
10 time, and the time and effort y'all put into this. I'm
11 humbled to be here. I'm humbled before y'all. And, quite
12 frankly, humbled before the opponents that I face in this
13 election. But I look forward to going forward. And thank
14 you for your time.

15 CHAIRMAN SMITH: Thank you, Mr. Donald.
16 Answer any questions that counsel may have for you.

17 EXAMINATION BY MR. HINSON:

18 **Q. Good afternoon, Mr. Donald.**

19 A. Good afternoon.

20 **Q. Mr. Donald, please state for the record, the**
21 **city and circuit in which you reside.**

22 A. Sumter, South Carolina. That's the 3rd Judicial
23 Circuit.

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

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

5 BY MR. HINSON:

6 **Q. Mr. Donald, why do you want to serve as a family**
7 **court judge? And why do you feel that your legal and**
8 **professional experience qualify and will assist you to be**
9 **an effective judge?**

10 A. I think that it's come time in my career to --
11 and I've had a varied career. And I don't know if you're
12 going to ask me about that in a little bit. But I've done
13 a little bit of everything. And it's come time in my
14 career to try, to do the best that I can to give back in
15 the capacity that I can.

16 And I think because of my experiences, my life
17 and legal experiences, I'm in a position where I think I
18 can be helpful to the children of South Carolina, where --
19 and where they're impacted by the court is through the
20 family court, not only in custody and divorce cases but in
21 the adjudication of delinquents and in DSS cases.

22 My experience is varied. And I just truly
23 believe that -- I humbly submit that I think I would be
24 able to provide some good solutions for those children who
25 have fallen outside the mainstream of society.

1 Q. Thank you for that. Mr. Donald, are there any
2 **areas in the law for which you would need additional**
3 **preparation in order to serve as a family court judge, and**
4 **how would you handle that additional preparation?**

5 A. As I said, I've had experience in every aspect of
6 the family court. What I've had the least amount of
7 experience in has been in two areas. One is in juveniles.
8 And I think that's -- I've represented juveniles, I've
9 never prosecuted a juvenile.

10 I've prosecuted once -- folks, once they were
11 beyond the age of the family court, plenty of times. So
12 I'm somewhat in a -- I'm familiar with dealing with them
13 once -- when the juveniles are no longer juveniles, they're
14 young adults, once they've been through the DSS system and
15 can see -- I've seen the ones that have worked and the ones
16 that haven't worked.

17 But I would like to be a little bit more familiar
18 with the adjudicatory process of the juveniles. Because I
19 do think there has to be some better way of preventing the
20 recidivism among juveniles that we see, and I'd like to
21 explore some more areas and see some more ways of trying to
22 accomplish that means.

23 The only other thing that I've never really done
24 a lot of is very, very complex marital litigation. In
25 Sumter County, my experience has been -- most of the folks

1 who hired me when I was in private practice to do family
2 court, a lot of them, quite frankly, had to borrow my
3 retainer fee. And I can guarantee you something: In a
4 small county, if somebody -- if a litigant is borrowing
5 money to pay your retainer fee, you're not getting any more
6 money out of those folks.

7 And so I have a wealth of experience dealing with
8 limited resources; I don't have a great deal of experience
9 dealing with a vast amount of resources. That being said,
10 I think that those cases -- or luckily for those cases,
11 those are the ones that there is enough money to hire a
12 forensic accountant who can provide the kind of testimony
13 you need in order to make a fair decision for both parties.

14 **Q. Thank you. Kind of following up on that,**
15 **describe what experience you do have handling complex**
16 **contested family court matters, and discuss your experience**
17 **with the financial aspects of the family court.**

18 A. Well, the cases that I handled in family were
19 smaller cases. I'm talking about cases where folks were
20 fighting over a small house, mobile homes, pots and pans,
21 and children. And I've handled hundreds of those kind of
22 cases. I've never handled one that where we were talking
23 about over a million dollars in assets.

24 Now, that being said, I don't think that's an
25 impediment, because the issues that come out of the small

1 asset cases, exponentially grow into the big cases. So the
2 issues are the same, it's just the amount of money that
3 you're dealing aren't the same.

4 And as I said a little bit before, it's my
5 opinion that, in the cases where there's plenty of assets
6 to go around, there's also money in which you can hire the
7 kind of expert that you would really benefit from in the
8 smaller kind of cases, to determine what the value of
9 something is, and how to equitably divide those resources.

10 **Q. Mr. Donald, the Commission received 89 ballot**
11 **box surveys regarding you, with 15 additional comments.**
12 **The ballot box survey, for example, contained the following**
13 **positive comments:**

14 **One stated you would make an outstanding judge.**
15 **Another said, "Mr. Donald shows the utmost professionalism**
16 **and civility to all parties."**

17 **One of the written comments expressed concern.**
18 **One comment indicated that you had poor work ethic and**
19 **temper control. What response would you offer to this**
20 **concern?**

21 **A. Well, not knowing more about where that came from**
22 **it's hard to specifically answer it. I can tell you that I**
23 **don't know where the notion that I have a poor work ethic**
24 **comes from. I'm the first one in my office every morning,**
25 **and I'm one of the last ones to leave every day. I**

1 frequently get complimented on the amount of work I put
2 into my office. And so where that came from, I don't know.

3 The only thing I can say is, that were I to know
4 the situation, I think I could address it. But I don't
5 know. I don't think work ethic is a problem on my account.

6 As far as temper, I don't -- I also -- I don't
7 think that, that's a problem either. I can get passionate
8 at times. But we are in adversarial system, and quite
9 frankly, if you've only gotten one complaint about me being
10 overly passionate at some time or another, I don't think
11 that's too bad.

12 **Q. Mr. Donald, you indicated in your PDQ, that a**
13 **tax lien was filed against you in 2013, by the South**
14 **Carolina Department of Revenue. What is the status of that**
15 **tax lien?**

16 A. I paid -- it's been resolved. I paid it the next
17 day. I didn't know it was going to be filed. As soon as I
18 found out it was filed, I went and paid it.

19 **Q. Thank you. Mr. Donald, what do you believe to**
20 **be the proper judicial temperament of a family court judge?**

21 A. Patient and understanding. A family court judge
22 has to deal with folks from all walks of life. They have
23 to deal with folks who are standing there with no attorney,
24 as well as folks who are standing there with the best
25 attorneys that money can buy.

1 They have to be fair to all parties. They have
2 to give a fair hearing, and seek a just outcome to all of
3 those parties. Additionally, the same thing with the
4 children that are -- that are in family court, the DSS
5 cases and DJJ cases, they have to be able to be patient and
6 not make up their minds ahead of time, and let the evidence
7 show what the evidence can show, and make a fair and just
8 ruling at the end of the reception of evidence.

9 **Q. Mr. Donald, should you ascend to the family**
10 **court bench, what do you anticipate being the biggest**
11 **challenge you will face?**

12 A. I think the biggest challenge in family court is
13 the sheer volume of work that comes into the family court.
14 We're working under a system that was designed many years
15 ago, long before the divorce rate was at about 50 percent,
16 long before DSS had the -- had the duty to be involved in
17 as many families as there are.

18 And there's an overwhelming amount of work to be
19 done in the family court. They don't have law clerks.
20 They don't have a lot of staff, and they rely on lawyers to
21 -- the party lawyers to help them prepare orders when they
22 can.

23 That's the challenge that I see, is just trying
24 to make sure that things keep going and dealing with the
25 overwhelming amount of work that does appear in front of

1 the family court.

2 Q. Thank you for that. I have just a few
3 housekeeping issues. Mr. Donald, are you aware that as a
4 judicial candidate, you are bound by the code of judicial
5 conduct as found in Rule 501 of the South Carolina
6 Appellate Court rules?

7 A. I am.

8 Q. Mr. Donald, since submitting your letter of
9 intent, have you contacted any members of the Commission
10 about your candidacy?

11 A. I have not.

12 Q. Since submitting your letter of intent, have you
13 sought or received the pledge of any legislator, either
14 prior to this date or pending the outcome of your
15 screening?

16 A. I have not.

17 Q. Have you asked any third parties to contact
18 members of the General Assembly on your behalf, or are you
19 aware of anyone attempting to intervene in this process on
20 your behalf?

21 A. I have not, and I am not.

22 Q. Have you reviewed, and do you understand, the
23 Commission's guidelines on pledging and South Carolina Code
24 2-19-70(E)?

25 A. Is that the 48-Hour Rule?

1 **Q. Yes.**

2 A. Yes, I am aware of it.

3 MR. HINSON: I would note that the Pee Dee
4 Citizens Committee found Mr. Donald qualified in the
5 evaluative criteria of constitutional qualifications,
6 physical health and mental stability. The Committee found
7 him well qualified in the evaluative criteria of ethical
8 fitness, professionalism, academic ability, character,
9 reputation, experience, and judicial temperament.

10 I would just note for the record that any
11 concerns raised during the investigation regarding the
12 candidate, were incorporated in the questioning of
13 candidate today. And with that, I don't have any other
14 questions.

15 CHAIRMAN SMITH: Thank you. Mr. Donald,
16 let me -- you called this morning, and told Mr. Hinson
17 about an issue. And I just want to place that on the
18 record, about that you purchased some property as part of
19 an LLC that I once owned the building, which was in Mr.
20 Young's complex as I call it, his building complex. And I
21 didn't realize that you -- I forgot that you had done that.

22 But I looked at that, and it does not to me
23 appear that there's any conflict of interest. It was so
24 remote, and I just want to make sure you don't have any
25 issues as it relates to me sitting on this Commission

1 today.

2 MR. DONNARD: I can put on the record, that
3 I do not have any issues as it relates to you. I can
4 further put on the record, that the entire transaction had
5 been fully negotiated before I even became aware of the
6 transaction, and only came into it as a partner in Mr.
7 Young -- or as a partner of Mr. Young, and while working
8 for his law firm. So the fact that you were involved in it
9 had nothing to do -- it was done by the time I got involved
10 anyway.

11 CHAIRMAN SMITH: That's what I recall too.
12 I recall negotiating with Mr. Young, and then showing up at
13 some closing -- or giving me papers to sign. So I realized
14 today, that you probably -- you and John Keffer are
15 probably partners in that.

16 MR. DONNARD: It is owned by EJK
17 Investments. And that stands for "Eddie, John, and Ken."

18 CHAIRMAN SMITH: All right. Thank you, Mr.
19 Donald. Any questions for Mr. Donald?

20 SENATOR YOUNG: Mr. Chairman, thank you so
21 much. And before I ask Mr. Donald some questions, I just
22 want to clarify for the record that the "Mr. Young" that
23 y'all are referring to is not me on this.

24 (Off-the-record discussion.)

25 EXAMINATION BY SENATOR YOUNG:

1 Q. Anyway, Mr. Donald, thank you so much for your
2 interest in serving on the family court bench. And it's
3 good to see you today.

4 A. Good to see you too.

5 Q. One of the questions I have for you, is one that
6 we've asked, I think, about every candidate who's come in
7 here, and I want to ask you. And that is: What is your
8 judicial philosophy? And what I mean by that is, how will
9 you apply the law, as it exists, to any issues or facts
10 that would be before you on the family court bench?

11 A. How would I apply the law to the facts? Well, I
12 believe that you apply the law to the facts as the law was
13 written. I do not believe, in any way, in judicial
14 activism. I think that's -- I think I'm answering your
15 question.

16 Q. That's right.

17 A. I do not believe in judicial activism. I am a
18 strong adherent and believer in the separation of powers,
19 and that only works when the judiciary follows the law as
20 given to it by the legislature.

21 Q. Okay. And so another question I have for you is,
22 I noticed in your PDQ, in No. 52, that you said that you
23 had a previous profession before you went to college and
24 law school, in which you were a truck driver. And then you
25 actually went to college as a nontraditional student. You

1 **started college at age 23.**

2 **And I have noticed that you finished college and**
3 **law school quicker than might normally be expected. Can**
4 **you comment on that briefly?**

5 A. I had intended to play football. And I didn't
6 get into the college I applied to, to play football. So I
7 had to go to work. And I worked for five years. I started
8 out working in a -- at a warehouse, 'cause I was big and I
9 could pick stuff up.

10 That transitioned quickly into the being the guy
11 driving the truck instead of the guy loading the truck,
12 because that seemed to be a much -- they made more money
13 and it was an easier job. But it didn't take me long to
14 figure out that was not where I needed to be.

15 My job -- my job at the time -- you want a short
16 answer, and I'm giving you a long answer. And I apologize
17 for that. But I don't mind putting this on the record too.
18 My grandfather was shot in the eye in World War II, and he
19 was at -- he played football at Carolina. And he was a
20 pre-med student when it happened. He left to go -- he left
21 school to go fight in the war.

22 When he came back, he couldn't study because of
23 headaches. I was sitting with him at the dinner table one
24 night, and he looked at me and he said, "Eddie, you are too
25 smart to be a truck driver, just like I was too smart to be

1 a mechanic."

2 Because he spent his life as a mechanic. And
3 that hit me pretty hard. And I was 22 at the time, and I
4 said, "You know what? He was right."

5 And I decided that I was going to go back to
6 school and make some -- and make something of myself, with
7 an education. So I started back as a freshman in college,
8 drove every day and worked every day.

9 And the five years it took me to get through
10 college and law school is not so much -- it's kind of a
11 mathematical thing. If you start in the -- in January, and
12 go year round, you'll finish in five years. So I just
13 didn't take any breaks.

14 I worked the whole time. But I was working
15 anyway, so that wasn't that big of a deal. But I committed
16 myself to trying to make something out of myself other than
17 somebody who just worked with my hands.

18 **Q. The other thing I noticed is, that you had**
19 **mentioned about your prior experience advocating for**
20 **children who are victims of abuse and neglect. And you**
21 **believe that, that prior experience would benefit you in**
22 **servicing on the family court bench. Can you elaborate on**
23 **that for us, please?**

24 A. Yes, sir. I have been the program attorney for
25 Sumter and Lee County for the past -- almost 15 years now.

1 I started when I was in private practice. Quite frankly,
2 when I started it was to -- I was getting appointed to move
3 half of them anyway. So I -- when they needed to hire
4 somebody, they took me and the firm off the appointment
5 list. So it was a monetary decision at the time.

6 However, I found that I actually loved the job,
7 because it allowed me to get into the family court and do
8 something to help the children who are in situations of
9 abuse and neglect.

10 And it's my firm belief that most of these cases
11 -- a lot of these cases arise from parents who never had
12 any good examples of how to be a parent, themselves. And
13 what you can do is the -- from the guardians position, more
14 so than you can do from DSS and a caseworker's position, is
15 you can guide those parents into the way they need to be,
16 and what they need to do, and the things they need to
17 learn, the training they need to get, in order to become a
18 viable parent to those children or a functional parent to
19 those children.

20 And I think I can take that experience onto the
21 family court bench. Because oftentimes, the family -- it's
22 the -- it's the judge at the merit hearing and the probable
23 cause hearing that initiates the process through which DSS
24 is made -- the Department of Social Services is made to
25 ensure that folks who can become good parents, leave after

1 that first hearing on their way to becoming good parents to
2 those children, and ultimately do everything they can to
3 become a good parent to those children.

4 SENATOR YOUNG: Those are all my questions
5 right now. I yield.

6 CHAIRMAN SMITH: Thank you. Mr. Safran.
7 EXAMINATION BY MR. SAFRAN:

8 Q. Thank you for coming. I tell people this,
9 because I really believe it, that you've really got to have
10 some desire to do this in order to go through what we're
11 more or less having to see today. I mean, it's not a
12 comfortable situation. And I think -- I admire anybody
13 that stands up and tries to really kind of convey why they
14 want to be here, and what it means to them.

15 I think it was very telling to me, about your
16 personal story, in terms of having the ability to go in a
17 different direction, and then for whatever reason -- in
18 your situation, talking to your grandfather -- kind of
19 saying "I got a different path to go."

20 You mentioned earlier, about the dealing with the
21 kids. Do you think that your own story is going to be
22 helpful, in terms of giving them direction from the bench,
23 and understanding, you know, that sometimes people need to
24 kind of be diverted a different way in order to kind of
25 fulfill their potential?

1 A. In my opening remarks, I mentioned that my life
2 experience, I think, will play heavily and favorably into
3 the position of family court, should I be able to succeed
4 in my election. And that's exactly what I was referring
5 to.

6 I didn't know whether to go into it, because I
7 didn't know whether another question would come up about
8 it. But that was exactly what I think. I am someone who
9 firmly believes that a person can be whatever they want to
10 be, and whomever they choose to be.

11 And oftentimes, what folks, especially children
12 need, is somebody to point them in the direction and help
13 them believe in themselves, that they can be who they think
14 they can -- who they think they can become, they will
15 ultimately achieve it. It's just a matter of putting the
16 work in. And I absolutely believe that will -- that will
17 translate into a family court judgeship.

18 **Q. Well, and I guess just another -- or the point**
19 **is, that I think how you talk about the potential for**
20 **having to get into these multimillion-dollar divorces. And**
21 **I understand that the run-of-the-mill cases are generally**
22 **not going to involve that.**

23 **But do you feel like, based upon your previous**
24 **private practice experience, and just, you know, your own**
25 **background, that given the opportunity to be able to review**

1 what the experts in those kind of cases bring in, that
2 you'll still be able to handle those issues in a way that
3 would be appropriate?

4 A. I absolutely believe I'd be able to handle those
5 issues. I don't know of any reason -- anything that could
6 be in a -- in a multimillion-dollar asset case that would
7 be beyond my grasp dealing with -- and I -- the truth of
8 the matter -- what I said earlier, I think, is absolutely
9 true.

10 I think that in many ways, it's much harder
11 dealing with a case with limited assets than it is in
12 dealing with a case where there are enough assets, that
13 nobody is really going to be destitute at the end of the
14 day, one way or the other.

15 Q. And just another one of those, I guess, issues
16 is, that you have been there and handled the situation, as
17 you say, where they're fighting about the pots and the
18 pans. And, candidly, that's one reason I quit doing the
19 family court work, because I just didn't think it was
20 worth, you know, having to spend somebody else's money to
21 fight over nonsense.

22 Yet, there are times as a lawyer, if you stay on
23 the case, you've got of kind see it through. Does that
24 background kind of bring the perspective, that when you see
25 the lawyers in there having to kind of go through that

1 process, that you understand their plight, their
2 predicament, and that, you know, you will be able to
3 maintain that good temperament, even though it would be
4 something that otherwise might be a little frustrating?

5 A. I absolutely do. I will tell you, I think that
6 mediation has helped a whole lot of that. Because
7 oftentimes -- I'm a certified mediator. And I've done
8 dozens -- hundreds of mediations. Actually, I'm not
9 certified now. I was certified.

10 When I went back to work at the solicitor's
11 office, I let -- I quit sending fifty dollars in. But I'm
12 still a trained mediator. Oftentimes, what folks who are
13 fighting over pots and pans want is for somebody -- some
14 third party to hear what they have to say about it, and
15 then they can resolve their issues. Mediation has helped
16 with that in a great deal. And I'm grateful for that.

17 But, yes, I absolutely think I can maintain my
18 composure and patience with the attorneys who are in that
19 situation. 'Cause you get in that situation, and that --
20 you're hired by the client and you have to see it through.

21 **Q. Thank you for your responses.**

22 A. Yes, sir.

23 CHAIRMAN SMITH: Any further questions?

24 Senator Hayes.

25 EXAMINATION BY MR. HAYES:

1 Q. I just wanted to clarify. Looking at your
2 record, you've got the program attorney for the guardian ad
3 litem program. Do you still do that?

4 A. Yes, sir.

5 Q. Is that a paid position?

6 A. It is a paid position. Yes, sir.

7 Q. How much you -- and then you also are program
8 attorney for the vulnerable adult.

9 A. That's correct.

10 Q. And that's a paid position too?

11 A. That's correct.

12 Q. And then you work for the solicitor's office.

13 A. That's correct.

14 Q. About what percentage of your time is doing those
15 jobs?

16 A. Well, I work for the solicitor's office -- that's
17 my full-time job. My guardian ad litem work -- when I went
18 back to work for the solicitor, when I left private
19 practice and went back to work for the solicitor's office,
20 I had a conversation with the solicitor. And I said, "Mr.
21 Finney, I need -- one thing I'm asking is, that you allow
22 me to keep doing this."

23 Because I do have a passion for it. I enjoy
24 doing it. And I think it's one of the few good things in
25 the law, where we're not trying to do destroy somebody else

1 or some other -- someone else's opinion or position.

2 And it's one of the few things that you can do,
3 that I feel like I've done that has a positive good almost
4 every time that you get involved in it. So I'm passionate
5 about it. And I asked him if I could keep doing it, and he
6 said, "Yes." And that's the long part of the answer.

7 The short part of the answer is: Every other
8 Thursday, we have DSS day in Sumter County. So one -- and
9 one half of the day in Lee County. So one and half days --
10 two -- three days out of the month, I'm dealing with -- I'm
11 in court, dealing with DSS issues.

12 I was supposed to be there today, but I got
13 somebody to cover it for me.

14 **Q. DSS covers the vulnerable adults, too, as well as**
15 **the children?**

16 A. That's correct. But it's still -- they occur
17 also on the DSS day, which is every other Thursday,
18 approximately, in Sumter County.

19 **Q. Your solicitor work, is it related to family**
20 **court? Or is it mostly just criminal?**

21 A. It's just general sessions criminal court, from
22 shoplifting to murder.

23 **Q. Thank you. I appreciate it.**

24 CHAIRMAN SMITH: Any further questions?
25 Representative Rutherford.

1 REPRESENTATIVE RUTHERFORD: Mr. Donald, I
2 just want to say I've had cases with you, when you were a
3 prosecutor in Richland. I had cases with you when you were
4 a prosecutor in Sumter. I've Been with you when you were
5 representing the guardian in Lee. You've done a fantastic
6 job in your practice. And I commend you for putting in for
7 this.

8 I wondered why you didn't put in for a general
9 sessions seat, since I've mostly seen you in general
10 sessions court. So it was interesting to hear your
11 perspective on families and children, and what you were
12 doing with guardian. So again, I commend you.

13 MR. DONNARD: Thank you.

14 CHAIRMAN SMITH: Any further questions.

15 (Hearing none.)

16 CHAIRMAN SMITH: All right. Mr. Donald,
17 thank you so much. This concludes this portion of your
18 screening process. I want to take this opportunity to
19 remind you that pursuant to the Commission's evaluative
20 criteria, the Commission expects candidates to follow the
21 spirit as well as the letter of the ethics laws. And we
22 will view violations, or the appearance of impropriety, as
23 serious and potentially deserving of heavy weight in
24 screening deliberations.

25 On that note, and as you know, the record

1 will remain open until the formal release of the report of
2 qualifications, and you may be called back at such time if
3 the need arises. I thank you for offering for this
4 position. And I thank you for your service to the state of
5 South Carolina.

6 MR. DONNALD: Thank you, Mr. Chairman. And
7 thank you, Commission.

8 CHAIRMAN SMITH: All right. Thank you.
9 Y'all have a save trip back.

10 MR. DONNALD: Yes, sir.

11 (Candidate excused.)

12 CHAIRMAN SMITH: Mr. Jarrett, how are you
13 doing this afternoon?

14 MR. JARRETT: Doing well. Doing well.

15 CHAIRMAN SMITH: I see you've got someone
16 special with you today. Would you like to introduce her to
17 the Commission?

18 MR. JARRETT: Yes, this is my wife, Josette.

19 CHAIRMAN SMITH: Hey Josette, how are you
20 doing? Welcome. I appreciate you being here today.

21 Mr. Jarrett, will you raise your right hand,
22 please, sir.

23 WHEREUPON,

24 ERNEST JOSEPH JARRETT, being duly sworn and
25 cautioned to speak the truth, the whole truth and nothing

1 but the truth, testifies as follows:

2 CHAIRMAN SMITH: Mr. Jarrett, you have
3 before you your personal data questionnaire and your sworn
4 statement. Are these documents that you've submitted to
5 the Commission?

6 MR. JARRETT: They are.

7 CHAIRMAN SMITH: Are they both correct to
8 the best of your knowledge?

9 MR. JARRETT: They are.

10 CHAIRMAN SMITH: Are there any changes or
11 updates that you need to make at this time?

12 MR. JARRETT: No changes.

13 CHAIRMAN SMITH: Do you have any objection
14 to us marking those as exhibits to your sworn testimony
15 here today?

16 MR. JARRETT: No objection.

17 CHAIRMAN SMITH: All right. If you'll hand
18 those to Lindi for me, please, sir, and we'll mark those as
19 exhibits without objection.

20 (EXHIBIT NO. 12 - JUDICIAL MERIT SELECTION
21 COMMISSION PERSONAL DATA QUESTIONNAIRE OF ERNEST
22 JOSEPH JARRETT)

23 (EXHIBIT NO. 13 - JUDICIAL MERIT SELECTION
24 COMMISSION SWORN STATEMENT OF ERNEST JOSEPH
25 JARRETT)

1 CHAIRMAN SMITH: Mr. Jarrett, the Judicial
2 Merit Selection Commission has thoroughly investigated your
3 qualifications for the bench. Our inquiry has focused on
4 nine evaluative criteria, and has included a ballot box
5 survey, a thorough study of your application materials,
6 verification of your compliance with state ethics laws, a
7 search of newspaper articles in which your name appears, a
8 study of previous screenings, and checks for economic
9 conflicts of interest.

10 We have not -- we have not received any
11 affidavits today in opposition to your election, and there
12 are no witnesses present to testify. Do you wish to make a
13 brief opening statement to the Commission?

14 MR. JARRETT: Sure. My name is Ernie
15 Jarrett. I'm 50 years old. I'm from Kingstree. I'm
16 married to my wife Josette, and have three children. My
17 oldest, Kyle, finished at the Citadel. And he works in
18 Lake City, selling Kubotas and tractors.

19 My middle child, Katie, is a junior at
20 Wofford. And my baby, Winston, she is a senior at
21 Williamsburg Academy.

22 And I have practiced pretty much my entire -
23 - my entire legal career in Kingstree, with Jenkinson --
24 it's now Jenkinson, Jarrett & Kellahan. It used to be
25 Jenkinson, Jenkinson & McFadden. And I've been there 25

1 years and done primarily family court.

2 And so I'm seeking the position of family
3 court judge, based on that history.

4 CHAIRMAN SMITH: Thank you very much. Will
5 you answer any questions that Counsel may have for you.

6 EXAMINATION BY MR. STIMSON:

7 **Q. Mr. Jarrett, please state for the record, the**
8 **city and circuit in which you reside.**

9 A. I reside in Kingstree, South Carolina. And
10 that's the 3rd Circuit.

11 MR. STIMSON: Mr. Chairman, I note for the
12 record that based on the testimony contained in the
13 candidate's PDQ, which has been included in the record with
14 the candidate's consent, Mr. Jarrett meets the statutory
15 requirements for this position regarding age, residence,
16 and years of practice.

17 BY MR. STIMSON:

18 **Q. Mr. Jarrett, why do you want to serve as a family**
19 **court judge, and why do you feel that your legal and**
20 **professional experience qualify and will assist you to be**
21 **an effective judge?**

22 A. Well, when I was a third-year law student, I
23 interned with Judge Byars out of Camden. And that was
24 probably the best class I had taken, my entire law school
25 career. And I knew at that point I was fascinated with

1 family court, and knew at that point that at one day I
2 wanted to be a family court judge.

3 And so when I graduated from law school and went
4 back to work in Kingstree, I knew that was going to be one
5 of my primary practice areas. Bubba Jenkinson primarily
6 did family court in our firm, and so he taught me to do
7 family court.

8 And so I've tried to establish my professional
9 career, preparing me to be a family court judge. 'Cause I
10 always knew that's what I wanted to do. I didn't want to
11 be a circuit. I didn't want to do any one of the Appellate
12 Court judge positions at all.

13 And so I have done that with my professional
14 career. I enjoy serving others. And I see being a family
15 court judge as an extension of what I've done so far in my
16 career.

17 I have represented the Department of Social
18 Services for the last 25 years, as a contract attorney. So
19 I have that piece of family court, as well as a very active
20 family court practice, where I've done equitable division,
21 divorces, child custody. All of -- all of the cases that
22 are before our family court judge.

23 I'm a certified family court mediator. And I've
24 also served as a guardian ad litem in many, many custody
25 and visitation cases. And so I've just really tried to

1 prepare my professional career for the day that I could be
2 a family court judge. And so I'm just here today, trying
3 to further my professional goal of being a family court
4 judge.

5 **Q. Thank you, Mr. Jarrett. Are there any areas of**
6 **the law for which you would need additional preparation in**
7 **order to serve as a family court judge, and how would you**
8 **handle that additional preparation?**

9 A. I really don't believe I would need a lot of
10 additional preparation. Out of everything a family court
11 judge does, the least familiar I am would be the juvenile
12 justice. And I've handled probably six or seven of those
13 cases in my career.

14 I've been at a lot of those hearings, as counsel
15 for DSS. 'Cause obviously those areas overlap very often,
16 and we have to be present for DJJ hearings. And so that's
17 what I'm least familiar with. But I think I would be able
18 to handle those cases, pretty easily, based on the
19 experience that I -- that I have.

20 The others -- I've done hundreds and hundreds of
21 family court cases in all areas: child support, visitation,
22 custody, divorces, DSS, termination of parental rights,
23 both private and DSS name changes, birth certificates,
24 amended birth certificates. Everything a family court
25 judge does, I've done over and over and over.

1 **Q. Thank you. Mr. Jarrett, please briefly describe**
2 **your experience in handling complex contested family court**
3 **matters, and specifically discuss your experience with the**
4 **financial aspects of family court work.**

5 A. As I indicated earlier, part of my practice is a
6 private family court practice. And of course I represent
7 litigants trying to get divorces. And on equitable
8 division awards, I've represented doctors, pharmacists,
9 lawyers. And those have been some complex cases.

10 I don't do complex cases all the time, just
11 'cause of the nature of I'm in Kingstree, and we don't have
12 a lot of -- of those kind of cases. I mostly split up
13 mobile homes and pickup trucks. But I have had the
14 opportunity to represent doctors and lawyers.

15 I can do those cases. I certainly know what a
16 marital asset addendum is and have prepared those. A lot
17 of times, in the cases that I have, it's just sometimes the
18 zeros are not as big as the guys who practice in the bigger
19 cities. But I've handled those kind of cases in the past,
20 all the way through to the appellate level.

21 **Q. Thank you. Mr. Jarrett, the Commission received**
22 **208 ballot box surveys regarding you, with 48 additional**
23 **comments. The ballot box survey, for example, contained**
24 **the following positive comments:**

25 **"He is a great lawyer and would be an even better**

1 judge," and "Ernie would make an excellent family court
2 judge. He is smart, even-tempered. And he would treat all
3 parties with respect."

4 One of the written comments expressed a concern.
5 It indicated that your decision making could be swayed
6 because of the -- because of the identity of the attorneys
7 before you. What response would you offer to this concern?

8 A. I don't think that I would let the identity or
9 the friendship or a connection with any of the attorneys
10 that I have influence the outcome of my decision. If
11 selected as a family court judge, I would be impartial and
12 fair to all, and hear the testimony and evidence before me,
13 and try to make the appropriate decision regardless of who
14 represented the litigant. I don't -- I don't think that
15 would be a problem at all.

16 Q. Mr. Jarrett, what do you feel would be the proper
17 temperament and demeanor for a family court judge?

18 A. Well, I think you've got to realize in family
19 court you're dealing with people at their very worst. I
20 mean they're -- you know, you're taking their money and
21 their children away from them. And so they're at their
22 very worst.

23 So you've got to keep the courtroom demeanor
24 professional, and you've got to keep it firm and let them
25 know you're in charge. But I think you can do that with

1 being polite and kind, and have empathy for the litigants
2 before you.

3 And I've tried to do that in my DSS practice,
4 with the people that are before -- come forward, and we
5 have to deal with, with DSS cases. They're in -- they're
6 in bad, bad, bad situations. And try not to judge them or
7 look down on them, but treat them with empathy.

8 But at the same time, I want them to know it's a
9 courtroom and it's a court of law, and we have to have a
10 certain decorum and procedure for the way we do things.

11 **Q. Thank you. Mr. Jarrett, what do you envision**
12 **being the most challenging aspect of serving as a family**
13 **court judge?**

14 A. Probably court orders. When there -- the way we
15 do them now, the attorneys submit them to you. And so the
16 judge reads them, and usually signs them based on the -- on
17 the way they're submitted. And I'm an English major, and a
18 very grammatical person, and so it's going to probably
19 drive me crazy that I didn't get to draft the order, and
20 that somebody else drafted the order and I have to sign it
21 and put my name on it.

22 Because I'm a stickler for grammar and
23 punctuation and those kind of things, and I can imagine
24 that's probably would drive me a little crazy. That would
25 be the most -- the most challenging.

1 Q. Thank you, Mr. Jarrett. I just have a few more
2 housekeeping issues. Are you aware that as a judicial
3 candidate you are bound by the code of judicial conduct as
4 found in Rule 501 of the South Carolina Appellate Court
5 Rules?

6 A. I am.

7 Q. Mr. Jarrett, since submitting your letter of
8 intent, have you contacted any members of the Commission
9 about your candidacy?

10 A. I have not.

11 Q. Since submitting your letter of intent, have you
12 sought or received the pledge of any legislator, either
13 prior to this date or pending the outcome of your
14 screening?

15 A. I have not.

16 Q. Have you asked any third parties to contact
17 members of the General Assembly on your behalf, or are you
18 aware of anyone attempting to intervene in this process on
19 your behalf?

20 A. I have not.

21 Q. Have you reviewed, and do you understand, the
22 Commission's guidelines on pledging and South Carolina Code
23 Section 2-19-70(E)?

24 A. I have reviewed that. And I am aware.

25 Q. Thank you.

1 MR. STIMSON: The Pee Dee Citizens Committee
2 found Mr. Jarrett to be well qualified in the evaluative
3 criteria of ethical fitness, character, professional and
4 academic ability, reputation, experience, and judicial
5 temperament, and found Mr. Jarrett qualified in the
6 remaining evaluative criteria of constitutional
7 qualifications, physical health and mental stability.

8 I would just note for the record that any
9 concerns raised during the investigation regarding Mr.
10 Jarrett, were incorporated into the questioning of him
11 today. Mr. Chairman, I have no further questions.

12 CHAIRMAN SMITH: Thank you very much. Any
13 questions for Mr. Jarrett? Senator Young.

14 SENATOR YOUNG: Thank you, Mr. Chairman.

15 EXAMINATION BY SENATOR YOUNG:

16 Q. Mr. Jarrett, good afternoon. And thank you for
17 your interest in serving our state on the family court
18 bench.

19 A. Yes, sir.

20 Q. I have some questions. One is, one that we've
21 asked all the candidates, I think, for this position. And
22 that is, in the application of the law as it exists, how
23 would you apply it when you look at the facts and the --
24 and on the issues that would be before as a family court
25 judge? How would you apply the law?

1 A. Well, I would try to apply it as fairly and
2 impartial as possible. I do believe that it's your job to
3 set the law, and the judiciary's job to interpret it and
4 apply it to situations. I would not ever try to be a rogue
5 judge or activist judge, to try to further my personal
6 opinions in the courtroom.

7 I'm kind of a strict constructionist of the law,
8 and would just try to apply the law to those circumstances
9 and facts, to the best of my ability, impartially and
10 fairly.

11 **Q. I noticed that you're the president-elect of your
12 Rotary club in Kingstree; is that correct.**

13 A. Correct.

14 **Q. You're a long-time Rotarian, and you've been
15 involved in a whole number of areas in Williamsburg County;
16 one of which is the Williamsburg County First Steps board.
17 How do you think your time on the First Steps board will
18 assist you if elected to the family court bench?**

19 A. It's just been very beneficial to see the need,
20 and know what needs to happen in that area that the First
21 Steps board represents. It's made me more aware that we've
22 got to get to -- education to kids earlier, reading and
23 getting people in the homes and those kind of things.

24 'Cause those are the kids that you end up seeing
25 in the DJJ system, and the family court system, I think,

1 that don't get that early intervention there. And so
2 that's kind of opened my eyes.

3 I didn't really realize that age group, zero to
4 three or four in there, that you really needed to get
5 people in those homes, and have books and those kind of
6 things, until I got on the First Steps board. And that
7 helped educate me in that area.

8 **Q. How do you -- what in your -- in your legal**
9 **career, or your career outside of the law, do you think has**
10 **prepared you for dealing with child abuse and neglect**
11 **cases, in situations that may come before you on the family**
12 **court bench?**

13 A. I just think the 22 years that I've represented
14 DSS as a contract attorney has helped me on both sides.
15 You know, a lot of people assume if you become a judge,
16 you're going to definitely be a pro-DSS judge because you
17 worked for DSS all those years, and so you're going always
18 rule on DSS's side.

19 I think that my knowledge of how DSS should be
20 run, and how the statute should be doing, and whether
21 caseworkers are adhering to the statutes, is going to
22 actually make me a better judge to hold DSS accountable,
23 sometimes, when they're not.

24 I've worked for DSS under very different
25 administrations. And some have been better than others.

1 And so I certainly value my job there now and don't want to
2 speak, but I think it would have helped -- my experience
3 will help me not only further what DSS is trying to do, but
4 also hold DSS very accountable, and make sure they are
5 complying with the statutes, and that they are doing what's
6 in childrens' best interest.

7 Because I know what should be done, and what
8 should be done correctly, and I can look at a caseworker
9 and tell if it's a good caseworker or not, 'cause I've had
10 twenty-two years of working with them. And so when I get
11 on the stand, I'm going to be able to spot, you know, and
12 kind of know exactly if they're doing what needs to be
13 done, or if they need to be doing more.

14 **Q. You've been working in some capacity, through**
15 **your private law practice, with DSS for over twenty years.**

16 A. Twenty-two years. I actually have a contract
17 with DSS. And I handle all of the Williamsburg cases, all
18 of the Georgetown cases. And then I do the termination
19 cases in Horry County, all the termination of parental
20 right cases.

21 And so that takes up probably half to 60 percent
22 of my practice. And then the other 40 to 50 percent are
23 the private cases that I do. And so I'm in court, you
24 know, three to four times a week. I might have anywhere
25 from, you know, three hearings a week to 40 hearings a

1 week.

2 If I have a back-to-back Williamsburg/Georgetown
3 docket on Tuesday, I do Williamsburg on Wednesday, and I do
4 Georgetown, I may have 40 cases that week. And so I'm in
5 front of family court, pretty much every week, even on the
6 chambers week. 'Cause we have the EPCs and we have the
7 emergencies. So I would say I'm before a family court
8 judge, probably 48 out of 52 weeks out of the year.

9 **Q. Those cases that you have, through your firm's**
10 **relationship with DSS, are cases that involve children and**
11 **childrens' issues.**

12 A. Right. They are abuse and neglect cases, all of
13 them.

14 **Q. Thank you very much.**

15 CHAIRMAN SMITH: All right. Any further
16 questions. Senator Rankin.

17 EXAMINATION BY SENATOR RANKIN:

18 **Q. I just want to commend you for offering, and for**
19 **bringing your bride with you here as well.**

20 Two things stuck out to me. And forgive me, I'm
21 a Disney kind of guy. I've evoked that term earlier. In
22 fact, you've got -- you presented at an Orlando CLE, on a
23 subject called "Fast Pass to the Child Custody Roller
24 Coaster."

25 That's more for my benefit, and one who got the

1 **joke up here. Erin, she's so sharp. But acutely, the**
2 **dollars and cents in family court, briefly tell me -- tell**
3 **me what your focus was there. And that was in a -- you**
4 **were a code course planner back in 2011.**

5 A. Right. What we do is, I'm on the Family Law
6 Counsel of the South Carolina Bar. And I've been on that
7 for about ten years. And that's 12 lawyers who concentrate
8 on family court issues. And I am in charge of planning the
9 intensive, which we do every two years, which is a two- to
10 three-day workshop for advanced family court practitioners.

11 And so I do the course curriculum, and am over
12 that. And so we did it at the Grove Park, and did the
13 Dollar and Cents. And in that one, we had accountants and
14 business valuation people come and speak about how you
15 divide up marital assets, and train lawyers on better ways
16 to look at tax returns and those kind of things.

17 So the Dollar and Cents one was all on the
18 equitable division with family court. When we went to
19 Disney, the issues were all about children's issues. And
20 we had a renowned expert, Dr. Clower, come who spoke on
21 Parental Alienation Syndrome, and we had a child
22 psychologist come and speak. And so the Disney one was
23 more about children's issue in family court, whereas the
24 one in Asheville was on Dollars and Cents.

25 **Q. I noticed in your five most significant cases,**

1 you, as an early lawyer, a young lawyer, slayed the giant
2 in one hotly-contested custody case. I don't want to
3 relitigate that. But I am the father of two children who
4 have weathered a split and a divorce, early in their lives.
5 And I'll be honest with you, I did not have the
6 appreciation, before, of all that the family court plays in
7 that context, as much as I did afterwards.

8 And so I commend you for running. You have
9 associated yourself with great, well known lawyers and
10 judges. And so in terms for preparing yourself, perhaps,
11 for this position, you have certainly been on the right
12 path. And kudos to you.

13 A. Thank you, Senator.

14 Q. In fact -- and then one final point to echo that,
15 not just to take my word for it, but you had a number of
16 folks -- approximately 200-plus, participate in the Bench
17 Bar ballot box survey. And I can't tell you -- I can't
18 tell you, but I will tell you, overwhelmingly, without
19 qualification -- and particularly the comments that you've
20 earned by your peers, to your baby who is a high-schooler
21 and to your more aged children, who you likewise would call
22 babies if they were the youngest, and to your wife, that
23 you have got quite a legacy in the reputation that you
24 hold.

25 A. Thank you. Thank you.

1 CHAIRMAN SMITH: Mr. Safran.

2 EXAMINATION BY MR. SAFRAN:

3 Q. We appreciate you being here --

4 A. Yes, sir.

5 Q. -- and offering. And I share that, in that if
6 looks like you had a, you know, admiral academic record.
7 You know, I've learned, now, just because somebody goes to
8 practice in a smaller town, it doesn't mean that their not
9 up to the task across the board.

10 And I do appreciate the fact that you've devoted
11 yourself to this one area. I mean, we see a lot of people
12 that come in, that say, "Well, I've never done any of
13 this."

14 You've apparently done a great deal of family
15 court work, and pretty much touched all aspects. And I
16 think that's something, again, that we don't always see.
17 And, frankly, to look at the kind of comments that you get
18 -- because I understand being a DSS lawyer is not always,
19 you know, the guy that everybody loves.

20 And you've you got to do some things sometimes
21 that are going to upset people. For people to still
22 reflect on you that way, is extremely commendable.

23 Tell me this, so Judge Byars kind of turned you
24 in this direction?

25 A. He did. He did. I loved that experience.

1 That's the best -- the best -- the best thing I did in law
2 school.

3 **Q. And you've spent a lot of time with him,**
4 **personally, I guess.**

5 A. I did not have a part-time job -- well, I
6 actually did part-time work for Billy and Bubba, but it was
7 -- I didn't go to the office every day, since they were in
8 Kingstree. So every hour that I wasn't in class, I was at
9 the Richland County courthouse. And they gave me a little
10 pass, and I got to park where the judges parked, and got to
11 go up the judges' elevator. It was -- you know, I just
12 fell in love with it. It was great.

13 **Q. And apparently, you haven't lost your zeal for**
14 **it.**

15 A. Oh, yeah. I've just been waiting for this day.

16 **Q. Let me ask this: I mean, a lot of people that who**
17 **do family court work over time, really kind of run into**
18 **that burnout. What have you seen in your own practice,**
19 **that has not led you down that road?**

20 A. Well, I have a wonderful family, and they kind of
21 keep me grounded. And my wife is a children and youth
22 director at the Methodist church in town, and so I help her
23 with that and working with youth and children. I help her
24 with Bible school.

25 I go on the yearly mission trips. We've gone on

1 18 different mission trips all over the Southeast. I think
2 that's kind of what helps me stay grounded from the legal
3 stuff, is my good family at home and staying involved in
4 church activities.

5 Q. I guess, one thing I did hear from you, kind of
6 lastly, is that what a lot of times you see is that people
7 who run for family court judgeships, go one of two
8 directions: Either they're going to stay for life, or then
9 they're going to be kind of using it as the next step. And
10 I get the sense the next step is really not what you're --

11 A. Correct. I would -- I would like to retire as a
12 family court judge, you know, if they -- the Legislature
13 would see fit to have me that long.

14 Q. Thank you very much for your time.

15 A. Thank you.

16 CHAIRMAN SMITH: Any questions?

17 SENATOR YOUNG: Mr. Chairman, I've got one
18 more thing.

19 CHAIRMAN SMITH: Senator Young.

20 REEXAMINATION BY MR. YOUNG:

21 Q. I just want to commend you on your answer to No.
22 52 of the PDQ. I have read it, and I can tell that your
23 answer is heartfelt, and that you really care for children.
24 And I just want to publicly commend you for that.

25 A. Thank you.

1 CHAIRMAN SMITH: Senator Sabb.

2 SENATOR SABB: To your knowledge, Mr.
3 Chairman. I really just have a comment. I would just tell
4 you all that what you are witnessing here, today, is what
5 I've witnessed from knowing Ernie Jarrett for 25 years.

6 I was practicing law in Kingstree when he
7 came on board, and he is just an awesome kind of presence,
8 more so than a lawyer, when it comes to our community.
9 Very involved in things. And I don't think he knew this,
10 but he's a part of the second most favorite law firm, as
11 far as I'm concerned -- of course, the Sabb Law Group is
12 number one.

13 But Ernie, I commend you for all that you've
14 done, and all you're doing. And thank you for offering for
15 this position.

16 MR. JARRETT: Thank you, Senator.

17 CHAIRMAN SMITH: All right. Thank you.
18 And, Ernie, I'll have to say, and tell the folks over here
19 is, Ernie and I have known each other probably middle
20 school or high school. We've attended school that played
21 sports against one another all those years, and then we had
22 the pleasure of going to the second smartest school --
23 being the first, Mr. Safran. I practiced with someone from
24 Duke who tells me how smart he is on a daily basis.

25 But we went to Wofford together, and so I've

1 known him forever. And all these comments, and what y'all
2 have seen is, he's displayed that since he was a child.
3 And so he is a person of impeccable and sterling
4 reputation. He's had that throughout his whole lifetime.

5 So you married well, I'll say that.

6 MR. JARRETT: Thank you.

7 CHAIRMAN SMITH: Okay. Well, Mr. Jarrett, I
8 appreciate you being here today. This concludes this
9 portion of your screening process. I want to take this
10 opportunity to remind you that pursuant to the Commission's
11 evaluative criteria. The Commission expects candidates to
12 follow the spirit as well as the letter of the ethics laws.
13 And we will view violations, or the appearance of
14 impropriety, as serious and potentially deserving of heavy
15 weight in screening deliberations.

16 On that note, and as you know, the record
17 will remain open till the formal release of the report of
18 qualifications, and you may be called back at such time if
19 the need arises. I thank you for offering for this
20 position. And I thank you for your service to the state of
21 South Carolina.

22 MR. JARRETT: Thank you.

23 CHAIRMAN SMITH: Y'all have a safe trip
24 back.

25 (Candidate excused.)

1 CHAIRMAN SMITH: Senator Sabb moves that we
2 go into executive session. All in favor say aye.

3 (At this time the members audibly say "aye.")

4 CHAIRMAN SMITH: All opposed?

5 (Hearing none.)

6 CHAIRMAN SMITH: The ayes have it. We're
7 now in executive session. And we'll turn off our mics.

8 (Off the record from 3:19 p.m. to 4:01 p.m.)

9 CHAIRMAN SMITH: We're back on the record.
10 Ms. Matthews, how are you doing today?

11 MS. MATTHEWS: I'm doing fine, thank you.

12 CHAIRMAN SMITH: Good to see you.

13 MS. MATTHEWS: Good to see you.

14 CHAIRMAN SMITH: Do you have some people
15 with you, today, you would like to introduce to the
16 Commission?

17 MS. MATTHEWS: Yes, sir. I have my son,
18 Raymond. My son, Jody, and his fiancée, Christine
19 Davenport.

20 CHAIRMAN SMITH: Okay. Well, welcome. Glad
21 to see y'all. I appreciate you being here today.

22 All right. Ms. Matthews, will you please
23 raise your right hand.

24 WHEREUPON,

25 DEBRA A. MATTHEWS, being duly sworn and

1 cautioned to speak the truth, the whole truth and nothing
2 but the truth, testifies as follows:

3 CHAIRMAN SMITH: Ms. Matthews, before you is
4 your personal data questionnaire and your sworn statement.
5 Are these both documents that you have submitted to the
6 Commission?

7 MS. MATTHEWS: Yes, sir.

8 CHAIRMAN SMITH: Are they both correct, to
9 the best of your knowledge?

10 MS. MATTHEWS: Yes, sir.

11 CHAIRMAN SMITH: Do you need to make any
12 changes or updates at this time?

13 MS. MATTHEWS: No, sir.

14 CHAIRMAN SMITH: Do you have any objection
15 to us making these documents a part of the record of your
16 sworn testimony?

17 MS. MATTHEWS: No objection.

18 CHAIRMAN SMITH: Okay. Without objection,
19 if you'll hand those to Lindi, and we'll make those
20 exhibits to your sworn testimony.

21 (EXHIBIT NO. 14 - JUDICIAL MERIT SELECTION
22 COMMISSION PERSONAL DATA QUESTIONNAIRE OF DEBRA
23 A. MATTHEWS)

24 (EXHIBIT NO. 15 - JUDICIAL MERIT SELECTION
25 COMMISSION SWORN STATEMENT OF DEBRA A. MATTHEWS)

1 CHAIRMAN SMITH: Ms. Matthews, the Judicial
2 Merit Selection Commission has thoroughly investigated your
3 qualifications for the bench. Our inquiry has focused on
4 nine evaluative criteria, and has included a ballot box
5 survey, a thorough study of your application materials,
6 verification of your compliance with state ethics laws, a
7 search of newspaper articles in which your name appears, a
8 study of previous screenings, and checks for economic
9 conflicts of interest.

10 We have had no affidavits filed today in
11 opposition to your election, and there are no witnesses
12 present to testify. Do you wish to make a brief opening
13 statement to the Commission?

14 MS. MATTHEWS: Just briefly.

15 CHAIRMAN SMITH: Yes, ma'am.

16 MS. MATTHEWS: First, I'd like to thank all
17 of you for allowing me this opportunity to appear before
18 you. I have been a sole practitioner, with a general
19 practice. My office is located in Winnsboro, Fairfield
20 County. And since 2001, when I was admitted, I have
21 practiced in the family court, the bankruptcy court, the
22 Court of Common Pleas. I've done some criminal law. I've
23 done probate. I've done real estate. I've had a full
24 general practice, as a sole practitioner. Thank you.

25 CHAIRMAN SMITH: All right. Thank you very

1 much. Will you answer any questions Counsel may have.

2 EXAMINATION BY MR. FRANKLIN:

3 **Q. Good afternoon, Ms. Matthews.**

4 A. Hello, Mr. Franklin.

5 **Q. Please state for the record, the city and circuit**
6 **in which you reside.**

7 A. I live in a town called Blackstock, South
8 Carolina. It is in Fairfield County. It is the Fairfield
9 County's 6th Judicial Circuit.

10 MR. FRANKLIN: Mr. Chairman, I note for the
11 record, that based on the testimony contained in the
12 candidate's PDQ, which has been included in the record,
13 with the candidate's consent, Debra A. Matthews meets the
14 statutory requirements for this position, regarding age,
15 residence, and years of practice.

16 BY MR. FRANKLIN:

17 **Q. Ms. Matthews, why do you want to serve as a**
18 **family court judge? And why do you feel that your legal**
19 **and professional experience qualify you and will assist you**
20 **to be an effective judge?**

21 A. Well, quite frankly, this is how I would like to
22 end my legal career, and finish my career out. I believe
23 that I bring a diverse practice, with all the different
24 areas of law that I practice in, including the bankruptcy
25 court and the similarities and the overlay between the

1 various the laws, including bankruptcy.

2 I think it's important for a family court judge
3 to understand the basics of bankruptcy, in that family
4 court judges need to receive a relief from stay if a party
5 is in bankruptcy. I think the family court judges need to
6 understand that -- excuse me -- if a party is in
7 bankruptcy, they're -- the nondischargeable debt is the
8 support.

9 But equitable distribution is not
10 nondischargeable, it is dischargeable. And I think family
11 court judges need to understand that, so that they can
12 implement particular language in orders to -- so not to
13 allow someone to file bankruptcy after the final hearing,
14 and eliminate that -- the equitable distribution.

15 **Q. All right. Are there any areas of the law for**
16 **which you would need additional preparation in order to**
17 **serve as a family court judge, and how would you handle**
18 **that additional preparation?**

19 A. I consider myself a very good researcher. I
20 think that I would have to research on the uniform
21 interstate acts. I have touched those acts, but I have not
22 dove into them so that -- I would have to prep up on those.

23 We also have a new drug court in our circuit, and
24 one of our family court judges resides over it. I think
25 about that -- I would need to be educated on that.

1 **Q. Please briefly describe your experience in**
2 **handling conflicts and contested family court matters. And**
3 **specifically discuss your experience with financial aspects**
4 **of family court work.**

5 A. I was involved in a -- in a case that's at the
6 Supreme Court right now. It's already been heard. There
7 were eight attorneys involved, two guardian ad litem. It
8 was set for a two-week trial. I was appointed after the
9 biological mother's attorney had passed away, and I was
10 appointed to come in, literally, weeks before the trial was
11 set. So I had to study very hard and learn the case.

12 It is a complex case in that there is pending
13 legislation, about whether or not a foster parent has
14 standing to petition the court for an adoption. That case
15 is -- we're ready for the decision from the Supreme Court.

16 Could you repeat the second part of your
17 question, please?

18 **Q. Discuss your experience with the financial**
19 **aspects of family court work.**

20 A. Well, first off, I've had -- I had experience
21 with appraisers appraising homes, experts on evaluating
22 businesses. I usually prepare my clients' financial
23 declarations.

24 **Q. Thank you. Mrs. Matthews, the Commission**
25 **received 94 ballot box surveys regarding you, with 14**

1 additional comments. The ballot box survey, for example,
2 contained the following positive comments:

3 "Debra is knowledgeable about all aspects of
4 family law, from private divorce to DSS matters. Debra
5 Matthews is the best family lawyer I know. She would make
6 an outstanding family court judge. She has a vast
7 knowledge of family law, and is well respected by the bench
8 and Bar."

9 And also, "Mrs. Matthews is exactly the kind of
10 person we need to fill the vacancy in Judge Sprotts' family
11 court seat. We need someone that is familiar with this
12 circuit, and the situations unique to our rural circuit.
13 Mrs. Matthews is extremely professional and respectful to
14 your clients, court staff members, and other practitioners,
15 and everyone involved in the system. Mrs. Matthews is well
16 respected among her peers in her circuit, with her skill
17 level and practicing within the family court, and would be
18 a great fit for this opening."

19 However, four of the written comments expressed
20 concerns. One comment indicated that you lacked experience
21 for the position, because you only dabble in family law in
22 your county. What response would you offer to this
23 concern?

24 A. I don't think that I just dabble. I've been
25 practicing family court from the get-go. My very first

1 court appointment was a family court case. And I have -- I
2 have practiced family court since that time.

3 I've been to many other counties for cases. I've
4 been to Sumter, York, Union, Chester, Lancaster. I've been
5 to the Beach. I've been to many counties. I just don't
6 dabble in my circuit -- in my county or my circuit.

7 **Q. Another individual complained that you do not**
8 **answer letters or phone calls from other attorneys, and**
9 **never communicate with the other side, and that you have a**
10 **poor grasp of the law. What response would you offer to**
11 **that concern?**

12 A. Well, I don't know how I could possibly be
13 practicing family court without a grasp of the law, for 16-
14 plus years. That's -- obviously, this person may not like
15 me. I don't know why they would say that. I try to answer
16 every phone call and every piece of correspondence that
17 comes into my office.

18 **Q. Ms. Matthews, you self-reported that a lawsuit --**
19 **you brought a lawsuit in 2005, in federal court, against**
20 **the Town of Winnsboro and Verizon South. A couple of the**
21 **ballot box responses allude to that lawsuit.**

22 Please explain the facts that gave rise to the
23 lawsuit, including the initial complaint you filed with the
24 Public Service Commission, and why, after that process had
25 concluded, you filed the complaint in federal court.

1 A. Certainly. I represented a female police
2 officer. The chief of police took her to the shooting
3 range, and while she was shooting he came up behind her, he
4 put his hands down her pants, and said, "Let me see if you
5 can shoot and fire under pressure."

6 So I represented her. And the recourse was a
7 severe -- was just severe harassment to me, to both of my
8 children, to my husband, to my staff. We had telephone
9 issues at the office. I literally had police officers
10 coming to my side door, telling me that the chief of police
11 was doing this.

12 I brought in an expert from Washington DC, and he
13 acknowledged, while at my office, that it was happening.
14 We brought Verizon in, but it was not -- it was done with
15 the advice of counsel. I only -- my intent was only to sue
16 the chief of police. No one else.

17 The case ultimately settled and the telephone
18 company paid out a confidential settlement.

19 **Q. Thank you. Mrs. Matthews, it's my understanding**
20 **that most family court judges work without the benefit of**
21 **having law clerks. What strategies would you use to make**
22 **sure your docket does not get too backed up, and that**
23 **orders are issued in a timely manner?**

24 A. Well, I handle all of my orders. I type and
25 prepare all of my orders at my office. I can still make

1 sure that things are getting done, orders are getting done.
2 I am a good researcher. If I don't know something, I can
3 research it.

4 I had a case -- an election law case I had no
5 knowledge of election law. We were -- I researched, my
6 office literally shut down for a month. We researched and
7 we combed the records, and we had an election overturned
8 for the first time in Fairfield County.

9 I am on top of my work, whether I have an
10 assistant or not. I stay on top of my files. It is my
11 practice, especially as a sole practitioner, when we don't
12 have the assistance or other counsel to help, I stay on top
13 of my files.

14 **Q. Thank you. Now for a few housekeeping issues.**
15 **Ms. Matthews, are you aware that as a judicial candidate**
16 **you are bound by the code of judicial conduct as found in**
17 **Rule 501 of the South Carolina Appellate Court Rules?**

18 A. I am.

19 **Q. Since submitting your letter of intent, have you**
20 **contacted any members of the Commission about your**
21 **candidacy?**

22 A. I have not.

23 **Q. Since submitting your letter of intent, have you**
24 **sought or received a pledge of any legislator, either prior**
25 **to this date or pending the outcome of your screening?**

1 A. No.

2 **Q. Have you asked any third parties to contact**
3 **members of the General Assembly on your behalf, or are you**
4 **aware of anyone attempting to intervene in this process on**
5 **your behalf?**

6 A. I do not.

7 **Q. Have you reviewed, and do you understand, the**
8 **Commission's guidelines on pledging in SC Code Section 2-**
9 **19-70(E)?**

10 A. I do understand it.

11 MR. FRANKLIN: I would note that the
12 Piedmont Citizens Committee found Ms. Matthews qualified in
13 the evaluative criteria of constitutional qualifications,
14 physical health and mental stability. The Committee found
15 her well qualified in the evaluative criteria of ethical
16 fitness, professional and academic ability, character,
17 reputation, experience, and judicial temperament.

18 Finally, I would note for the record that
19 any concerns raised during the investigation regarding the
20 candidate, were incorporated into the questioning of the
21 candidate today. Mr. Chairman, I have no further
22 questions.

23 CHAIRMAN SMITH: All right. Thank you. Any
24 questions for Ms. Matthews? Senator Young.

25 SENATOR YOUNG: Thank you, Mr. Chairman.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Mrs. Matthews, I want to thank you for your
3 interest in serving our state on the family court bench.
4 And I want to also commend you for bringing your children
5 here today, and introducing them to our commission. I had
6 noticed from your PDQ, that they both have -- are
7 successful in their own business. What do they do?

8 A. They are residential builders.

9 Q. In Fairfield County?

10 A. Yes, for the most part. They also go into
11 Richland.

12 Q. One question I have for you is related to your
13 judicial philosophy and the application of the law. If you
14 are elected to the family court bench, how would you apply
15 the law, as it exists, to the facts and to the issues that
16 would be before you on the family court bench?

17 A. I believe in judicial restraint and due process.
18 I believe in Constitutional rights. I would apply the law
19 as it is written.

20 Q. I would like to know a little bit more about this
21 Verizon lawsuit.

22 A. Yes, sir.

23 Q. Can you tell us -- I mean, I -- we've been
24 provided some information here from the Public Service
25 Commission, and it looks like that they had investigated

1 it. And it -- they did not determine that there had been a
2 -- any kind of tap on your phone lines at your office.

3 And then it appears that a lawsuit was filed
4 against Verizon at a later date. Would you tell me a
5 little bit more about that.

6 A. I believe the Public Utility Commission said that
7 Verizon was in compliance. And I don't believe they made a
8 finding as to whether or not there was actually something
9 going on with my phones, because they didn't investigate
10 that.

11 But let me just say one thing about Verizon. It
12 was not my intent to bring Verizon in. It was done --
13 Verizon was brought in upon the advice of counsel. It was
14 not my intent, originally, and I did not want to bring
15 Verizon in later on. It was done by the advice of counsel.

16 Q. And your case ended up -- I mean, did y'all
17 settled the case?

18 A. Yes, we settled. But let me just say this: I was
19 also working with an FBI agent who was literally giving me
20 advice on how to get to the bottom of it. And I also made
21 a complaint to SLED. It's also my understanding that the
22 solicitor ordered SLED to investigate the matter.

23 There was a SLED agent that informed my attorneys
24 that there was evidence found that there was a problem with
25 my phones, but that the solicitor did not want to do --

1 move forward with any charges.

2 Q. And you were represented by counsel in the case.

3 A. I was. Two attorneys.

4 Q. Stephen Hucks and Dan Felker?

5 A. That's correct.

6 Q. And it looks like it ultimately ended up in
7 federal court.

8 A. Yes, it was moved to federal court.

9 Q. Let's talk a little bit about the family court, a
10 little bit more about that. And one area that I am
11 particularly interested in, and would like to ask you a
12 question about, is advocacy for children and abuse and
13 neglect.

14 And so what I would like to know from you is,
15 based on your prior experience in your private law
16 practice, or outside of that, what do you think that you --
17 in your past, has prepared you for dealing with issues that
18 face children and abuse and neglect issues as they come
19 before the family court?

20 A. Yes. I was actually an attorney that represented
21 court-appointment parents for abuse and neglect cases. I
22 have some experience with the TPR statutes. I understand
23 that it's clear and convincing evidence under a TPR, that
24 the more familiar or common factors for terminating
25 someone's parental rights is a finding that the child has

1 been out of the home for 15 of the 22 months, that there's
2 a diagnosable condition, mental illness, drug addiction,
3 alcohol addiction, mental illness -- some type of mental
4 deficiency.

5 So I have experience in cases and trials and
6 hearings, representing those parents. And those are the
7 more common factors, why parents parental rights are
8 terminated.

9 Also, if the child's been out of the home for six
10 months, and there's been a failure to visit, or a failure
11 to support the child in accordance to the child's needs or
12 the parent's needs or income needs. So I think I have
13 enough experience with abuse and neglect cases, that I can
14 effectively rule on a case.

15 Also, if there is an -- a parent or a child who
16 is a member of a federally recognized Indian tribe the --
17 you have to -- it has to be beyond a reasonable doubt, and
18 there has to be an expert at the trial to testify before
19 the TPR can be granted.

20 **Q. Those are all my questions right now. I may have**
21 **some more in a few minutes.**

22 CHAIRMAN SMITH: All right. Thank you.
23 Senator Hayes.

24 MR. HAYES: Just very briefly.

25 EXAMINATION BY MR. HAYES:

1 **Q. I know your initial -- you were going after the**
2 **police chief, is that right, in Winnsboro? Whatever**
3 **happened on that?**

4 A. Ultimately, he left the position. I'm not sure
5 if he was -- it was shortly after the case had finished. I
6 don't know whether he was asked to resign, or if he quit.
7 I don't know the facts behind that.

8 **Q. The disposition of the case, was it settled?**

9 A. It was settled. There was a settlement.

10 **Q. And you were representing the party that was --**
11 **I'm saying your client was the police officer that he**
12 **allegedly abused, and that case was settled?**

13 A. That case settled. Yes, sir.

14 **Q. And then the matter with Verizon came as a result**
15 **of some activities that followed that suit; is that true?**

16 A. It didn't follow. It was immediate. The problem
17 began immediately.

18 **Q. Now, I noticed that you had a -- some other**
19 **business interests. RDJ Properties, does that take up much**
20 **of your time on this things?**

21 A. No. Actually, it does not take a lot of time.
22 Occasionally, I have to file an eviction. But for the most
23 part, if there are -- it's a rental business. And for the
24 most part, if there's -- or if there are any repairs that
25 need to be done, my two sons handle that.

1 Q. Thank you. No further questions.

2 CHAIRMAN SMITH: Senator Sabb.

3 SENATOR SABB: Thank you, Mr. Chairman.

4 EXAMINATION BY SENATOR SABB:

5 Q. Ms. Matthews, let me also express my appreciation
6 for you offering. You indicated that your sons do building
7 work in Fairfield?

8 A. Yes, sir.

9 Q. Do they know anything about building nuclear
10 plants?

11 A. I'm afraid not. They're residential builders.

12 Q. I understand. Tell me about these colleges that
13 you've attended. What are they? I'm not that familiar
14 with them.

15 A. Pam Am is in Texas -- McAllen, Texas. Ocean
16 County is in New Jersey. The university is in New Jersey,
17 and then the law school is in Delaware.

18 Q. Okay. All right. In going through some of your
19 information, and listening to your exchange, I didn't hear
20 you talk about the prosecution of juveniles in family
21 court. Would you tell us about your experience as it
22 relates to that area of the responsibility that a family
23 court would have?

24 A. Certainly. I have represented some juveniles. I
25 have some experience on -- in family court. I do

1 understand that it's beyond reasonable doubt that the
2 court, for the legal standard. I do understand that the
3 family court can transfer jurisdiction if the child's going
4 to be charged as an adult. They can agree to transfer the
5 jurisdiction. I'm not sure what else you would like to
6 know.

7 Q. Approximately how many cases do you think you've
8 handled in dealing with juvenile prosecution?

9 A. About four.

10 Q. And so you would agree with me, that the
11 experience along those lines would be somewhat limited.

12 A. Yes, sir.

13 Q. What do you think you can do to sort of beef up
14 your experience along those lines?

15 A. Read the case laws that's available, and the
16 statutes.

17 Q. What has been your impression of that system, in
18 terms of whether or not we are offering adequate resources?
19 Obviously, you've been -- with the prosecution of
20 juveniles, the issue is still what's in the best interest
21 of the child.

22 A. Always.

23 Q. And what's your view of whether or not we are
24 offering adequate alternatives to try to help steer our
25 juvenile population, who have an issue with delinquency, in

1 **the right direction?**

2 A. And I'm not that we do have enough available for
3 the juveniles. So I don't know that we do.

4 Q. **As it relates to your interaction with lawyers in**
5 **the courtroom, have you had occasion to experience**
6 **situations where lawyers are, for lack of a better term,**
7 **called down by the judges?**

8 A. I've seen it happen.

9 Q. **And how would you approach a situation where it**
10 **appears that two lawyers are somewhat, to use the term, out**
11 **of hand? But I think you would understand what I'm saying**
12 **if I were to use that term. And so as the judge, how would**
13 **you approach and handle those situations?**

14 A. I think it would be appropriate to recess and
15 have the lawyers come back into chambers and discuss it
16 there. Not in front of the clients.

17 Q. **Yeah, because stuff like that could adversely**
18 **impact --**

19 A. That's right.

20 Q. **Yeah. All right. Thank you, ma'am.**

21 A. You're welcome.

22 CHAIRMAN SMITH: Any further questions?

23 Senator Young.

24 REEXAMINATION BY SENATOR YOUNG:

25 Q. **I'm still confused about this lawsuit. I just**

1 want to ask you a little bit more about it. You said that
2 it ultimately was settled --

3 A. Yes.

4 Q. -- the Verizon lawsuit? I mean, was their
5 discovery done on the thing? Or did it settle right after
6 it got into federal court?

7 A. It went on for a very long period of time. There
8 was a lot of discovery.

9 Q. Did y'all mediate the case or something?

10 A. We did not mediate.

11 Q. Did they end up -- I mean, was there really and
12 truly a tap on your phone?

13 A. There were anomalies on my phone. I, literally,
14 would be speaking to someone and there were beeps and dings
15 and disconnections. It was a severe problem. It wasn't
16 minor. I was being disconnected, landline to landline, and
17 the calls were being dropped. We kept a log. My staff and
18 I kept a log, and we have over eleven hundred telephone
19 calls that had problems.

20 Q. Okay. Thank you very much.

21 A. You're welcome.

22 EXAMINATION BY SENATOR RANKIN:

23 Q. Ms. Matthews, I want to pursue that. And I'm
24 looking at the -- your PDQ, and I notice that I'm the
25 recipient of one of your contributions.

1 A. It's not the first time.

2 Q. A very good selection. Tommy Pope, myself, and
3 one other --

4 A. Me.

5 Q. -- are recipients of your support. Thank you for
6 that.

7 A. You're welcome.

8 Q. Two questions on this Verizon thing. I noticed
9 that the actual caption of the federal case does not
10 include Verizon, only the Chester Telephone Company.

11 A. That's correct.

12 Q. But did I hear you, earlier, to say that there
13 was a confidential payment from Verizon?

14 A. TruVista.

15 Q. TruVista.

16 A. From the Chester Phone Company.

17 Q. Okay. And the -- I guess the impetus for this,
18 these anomalies you mentioned, was an assault on a client
19 by a local law enforcement officer at a shooting range?

20 A. That was --

21 Q. That was the correlation --

22 A. That was the repercussion for representing her.
23 Correct.

24 Q. And that representation was against the city, or
25 against the county?

1 A. Against the chief of police.

2 Q. And did that result in litigation and --

3 A. It settled.

4 Q. Okay. And that was in federal court?

5 A. No.

6 Q. That was in state court?

7 A. Yes, sir.

8 Q. Okay. And that would have resolved prior to your
9 lawsuit against TruVista and the others.

10 A. It did.

11 Q. That's all. Thank you.

12 A. You're welcome.

13 CHAIRMAN SMITH: Mr. Howard.

14 EXAMINATION BY MR. HOWARD:

15 Q. Ma'am, just a couple follow-up questions to that.
16 You had mentioned there was some discovery in the case? Or
17 "lots of it," I think you said.

18 A. There were several depositions.

19 Q. Were you one of the ones deposed?

20 A. I was deposed.

21 Q. Okay.

22 A. I was deposed. My private investigators were
23 deposed. My expert from Washington DC was deposed. The
24 other parties were deposed.

25 Q. Were there any motions presented to Judge

1 Seymour? I see one here to dismiss. Do you know what
2 Judge Seymour did with any of the motions before her?

3 A. Ultimately, she dismissed Verizon and the Town.

4 Q. Do you know if any of the transcripts of the
5 depositions were filed? Do you recall?

6 A. I don't recall.

7 Q. Thank you, ma'am.

8 A. You're welcome.

9 CHAIRMAN SMITH: All right. Any further
10 questions?

11 (Hearing none.)

12 CHAIRMAN SMITH: All right. Ms. Matthews,
13 thank you so much. This concludes this portion of your
14 screening process. I want to take this opportunity to
15 remind you that pursuant to the Commission's evaluative
16 criteria, the Commission expects candidates to follow the
17 spirit as well as the letter of the ethics laws. And we
18 will view violations, or the appearance of impropriety, as
19 serious and potentially of heavy weight and screening
20 deliberations.

21 On that note, and as you know, the record
22 will remain open until the formal release of the report of
23 qualifications, and you may be called back at such time if
24 the need arises. I thank you for offering for this
25 position, and for your service to the State of South

1 Carolina.

2 MS. MATTHEWS: Thank you. Thank you very
3 much.

4 CHAIRMAN SMITH: Y'all have a safe trip back
5 home.

6 MS. MATTHEWS: Thank you.

7 (Candidate excused.)

8 CHAIRMAN SMITH: All right. Ms. Hendrix,
9 we're going to get on the record. You win the award for
10 the most people brought with you, today, to the screening
11 process. So congratulations on that.

12 MS. HENDRIX: Thank you.

13 CHAIRMAN SMITH: Do you want to introduce
14 some or all? Or how would you like to do it?

15 MS. HENDRIX: You know, I'll just run
16 through it, real fast. It's my family -- my biological
17 family and my work family. My sister, my father, my baby
18 sister, my brother, my husband, my baby girl. And then
19 this entire back row is my work family. It's Kate,
20 Rebecca, William, Tanner, and Terry. I'm actually very
21 proud of myself for getting everybody's names out. And
22 then I have one of my dearest friends, Allison Shusterman
23 here. And two of my mentors, and my partner, Ken Lester.
24 So I couldn't -- I couldn't do this without him.

25 CHAIRMAN SMITH: Well, awesome. Welcome

1 everybody. I appreciate y'all being here today.

2 Ms. Hendrix, will you please raise your
3 right hand.

4 WHEREUPON,

5 CATHERINE S. HENDRIX, being duly sworn and
6 cautioned to speak the truth, the whole truth and nothing
7 but the truth, testifies as follows:

8 CHAIRMAN SMITH: Ms. Hendrix, before you is
9 the personal data questionnaire and sworn statement that
10 you've submitted to the Commission. Are these the same
11 documents that you submitted? With any amendments that you
12 may have filed.

13 MS. HENDRIX: Yes, sir. I sent an amendment
14 on October the 18th. I see that here. My sworn statement
15 and my personal data questionnaire, yes, sir, these appear
16 to be the documents I sent you.

17 CHAIRMAN SMITH: All right. Are all those
18 documents correct, to the best of your knowledge?

19 MS. HENDRIX: To the best of my knowledge.

20 CHAIRMAN SMITH: Does anything need to be
21 changed or updated at this time?

22 MS. HENDRIX: No, sir. I don't believe --
23 other than, possibly, I participated in an ask -- the WLTX
24 "Ask a Lawyer" thing last week. But I think we can --

25 CHAIRMAN SMITH: We'll give you --

1 MS. HENDRIX: -- move past that.

2 CHAIRMAN SMITH: -- pass on that. How about
3 that? We've been allowing oral amendments, but we don't
4 need to make it on that. Do you have any objections to
5 these documents, and your amendment, being a part of the
6 record of your sworn testimony?

7 MS. HENDRIX: I do not, Mr. Chairman.

8 CHAIRMAN SMITH: All right. Without
9 objection, if you'll give those to Lindi for me, please,
10 ma'am. And we're going to mark those as an exhibit to your
11 sworn testimony.

12 MS. HENDRIX: Thank you, Mr. Chairman.

13 (EXHIBIT NO. 16 - JUDICIAL MERIT SELECTION
14 COMMISSION PERSONAL DATA QUESTIONNAIRE OF
15 CATHERINE S. HENDRIX)

16 (EXHIBIT NO. 17 - JUDICIAL MERIT SELECTION
17 COMMISSION SWORN STATEMENT OF CATHERINE S.
18 HENDRIX)

19 (EXHIBIT NO. 18 - AMENDMENT TO THE PERSONAL
20 DATA QUESTIONNAIRE OF CATHERINE S. HENDRIX)

21 CHAIRMAN SMITH: Ms. Hendrix, the Judicial
22 Merit Selection Commission has thoroughly investigated your
23 qualifications for the bench. Our inquiry has focused on
24 nine evaluative criteria, and has included a ballot box
25 survey, a thorough study of your application materials,

1 verification of your compliance with ethics laws, a search
2 of newspaper articles in which your name appears, a study
3 of previous screenings, and checks for economic conflicts
4 of interest.

5 We've received no affidavits today in
6 opposition to your election, and there are no witnesses
7 present to testify. Do you wish to make a brief opening
8 statement to the Commission?

9 MS. HENDRIX: Just briefly. I would like to
10 thank all of you, for giving of your time so that we can
11 move through this process. I'm very honored to be here.
12 And I'm ready to answer any questions you may have.

13 CHAIRMAN SMITH: Thank you very much.
14 Answer questions that Counsel may have.

15 MR. PEARCE: Good afternoon, Ms. Hendrix.

16 MS. HENDRIX: Good afternoon, Mr. Pearce.

17 EXAMINATION BY MR. PEARCE:

18 **Q. First, could you state for the record, the city**
19 **and circuit of your residence?**

20 A. I live in Blair, South Carolina. It is in
21 Fairfield County. And but prior to that, I lived in
22 Winnsboro, in Fairfield County.

23 **Q. And then what judicial circuit --**

24 A. It is --

25 **Q. -- is that?**

1 A. -- the 6th Judicial Circuit. And the seat I'm
2 seeking is the Family Court Seat No. 2.

3 MR. PEARCE: Mr. Chairman, and members of
4 the Commission, I would note for the record that record,
5 that based on the testimony contained in this candidate's
6 PDQ, which as amended, has been included in the record
7 today, with the candidate's consent, Catherine S. Hendrix
8 meets the statutory requirements for this position,
9 regarding age, residence, and years of practice.

10 BY MR. PEARCE:

11 **Q. So, Ms. Hendrix, why do you want to serve as a**
12 **family court judge? And why do you feel that your legal**
13 **and professional experience qualify and will assist you to**
14 **be an effective family court judge?**

15 A. I was never the little girl that dreamed of
16 weddings and white picket fences. I started working when I
17 was 13 years old, and I've been hard at it ever since. I
18 was in the food service industry for quite a few years, and
19 the legal field was a second career for me. I love family
20 law. I love the family court. And I've never looked back.

21 As you do note from my PDQ, I was a paralegal for
22 many years. And then I sold everything I owned and I went
23 to law school, when that little one was a toddler. And
24 there were several classes that she attended with me.

25 I had dedicated my entire life to the practice of

1 family law. I manage a very busy law firm. We have three
2 offices, one here in Columbia and two satellite offices.

3 A great deal of my success has come from mentors,
4 both individuals who wore the robe -- like Walter B.
5 Brown, Jr. -- and others who have tutored me and mentored
6 me along the way. Two of whom are here with me today: Ken
7 Lester and Mr. Joe Underwood. They are just two examples
8 of members of the profession that have encouraged me along
9 the way.

10 I've been a guardian ad litem for lots of years.
11 I speak at frequent seminars. I try to give back to the
12 profession, in every way I can.

13 I practiced family law for 16 years, and I
14 believe that today I'm in a uniquely qualified place to be
15 a family court judge. I have the maturity level, the
16 understanding of the mechanics of running a busy office,
17 and keeping up with administrative work. I understand the
18 litigants who will be coming before me.

19 I believe I can make a positive difference in
20 their lives, and in the lives of others in South Carolina.

21 If you think about it, most of our citizens only
22 experience with the judicial is normally in the family
23 court. If given the opportunity, I would like that
24 experience to reflect positively on the family court in
25 general, on the attorneys involved in it, and for

1 litigants, so that they know they've been heard by an
2 empathetic ear. That's why I'd like to be a family court
3 judge.

4 **Q. Are there any areas of the law for which you**
5 **would need additional preparation in order to serve as a**
6 **family court judge? And if so, how would you handle that**
7 **additional preparation?**

8 A. Yes, sir, I do believe there are probably two
9 areas that I would need to bone up on. One of those is the
10 juvenile justice rules, and the other is -- are the private
11 adoption laws. I have already begun reviewing the
12 Department of Juvenile Justice rules and laws. I have been
13 trying to get, and have attended one or two juvenile
14 justice hearings.

15 I think that by the time the elections are over,
16 I will be able to hit the ground running, and I can easily
17 learn anything that I need to learn.

18 **Q. And you touched on this, but if you could briefly**
19 **describe your experience in handling complex contested**
20 **family court matters, and specifically discuss your**
21 **experience with the financial aspects of family court work.**

22 A. I'd be happy to. Our practice actually centers
23 most around the high-end complex custodial and complicated
24 financial cases. Many times, because of that process, you
25 are having to work with tax advisors, you're having to work

1 with business valuers. You have a guardian or a
2 psychological evaluator. You have to understand all of
3 their languages, and be able to apply the law to those
4 areas.

5 My clients depend on me to be thorough. My
6 experience, not only in acting as an attorney and guardian
7 and mediator, will give me the ability to be able to be
8 effective in a courtroom, right away.

9 I am a member of the American Academy of
10 Matrimonial Lawyers. That is a very difficult achievement,
11 and I am one of only seven women in the state of South
12 Carolina who have passed that rigorous process.

13 I am AV Preeminent rated. I speak at seminars
14 all over the state. I practice in all -- all over the
15 state. I -- I'm part -- I'm a member of many different Bar
16 associations. I'm a certified mediator. I just feel that
17 I'm ready to take another step.

18 **Q. Ms. Hendrix, the Commission received 201 ballot**
19 **box surveys regarding you. Of these 201 participants in**
20 **that ballot box survey, 31 additional comments were made by**
21 **those participants.**

22 **This survey, for example, contains some positive**
23 **comments that included: "Very experienced and qualified.**
24 **Would be a tremendous judge. Has the practical experience**
25 **required. Has the experience, temperament, and knowledge**

1 to do our state good. Would be an asset to the family
2 court bench. Professional and has vast knowledge and
3 experience in family law. An able and skilled advocate.
4 Able to understand complex legal concepts and distill them
5 to their essence. Has a firm grasp of the law. The go-to
6 knowledge base for our family law Listserv."

7 A. Wow.

8 Q. "A good, solid attorney who does good, solid
9 work. And capable of disagreeing without being
10 disagreeable."

11 Ms. Hendrix, some of the written comments
12 expressed concerns. For example, one comment indicated
13 that your temperament and demeanor would not be suited for
14 this position. What response would you offer to this
15 concern?

16 A. Well, first, let me say that if I have left that
17 impression with anyone, I would -- if I knew who had said
18 it, I would seek them out and try to -- try to work through
19 it. I do everything I possibly can to make the experience
20 in family court, both for my clients and for my opposing
21 counsels, a pleasant one.

22 I rarely attend temporary hearings. I settle my
23 cases. My experience has told me that I -- in my courtroom
24 experience with the judges around the state, I understand
25 how to apply the law to the facts.

1 I know that I don't have to argue about things.
2 I don't have to fight about things. We all -- I know what
3 the judges are going to do.

4 Most of the people with whom I work, I can't
5 imagine having a -- them said I don't have the correct
6 demeanor. I've been in the family court for 20 years. I'm
7 sure I've argued more than I should have on one occasion,
8 or two.

9 But I would like this commission to know, I am --
10 I originate -- I originate more than 250 cases a year
11 through my office; a huge portion of those are settled. I
12 tell you this, because it means I'm capable of working with
13 people. It means that I'm reasonable and that I have
14 reasonable expectations.

15 It tells you that I am able to get along with
16 opposing counsels. People call me to find out my views on
17 how to handle a problem in their cases. If I left that
18 impression with someone, I'm hoping that it possibly was
19 when I was a paralegal or a baby-lawyer.

20 Because I can tell you this, over the years I
21 have matured. I think all of us have to be introspective
22 at times, and look at ourselves, and challenge ourselves to
23 correct the things within our personalities that we are not
24 happy with.

25 When I was a baby-lawyer, I thought everything

1 was black and white. And now as an older woman, I
2 understand that most things are gray. And that with a
3 little bit of discussion, we can reach a meeting of the
4 minds.

5 My mediation practice has taught me how to
6 adjudicate resolution to problems. And I would like an
7 opportunity to do it for the state. Did that answer your
8 question?

9 **Q. Yes, ma'am.**

10 CHAIRMAN SMITH: Ms. Hendrix, let me just
11 say this before he finishes up, I want you to know I've got
12 a -- I've got my legislative duties instead of these
13 duties, and a part of them requires me be in Charleston at
14 6:30 tonight to make a presentation to Order of the
15 Palmetto somebody.

16 So I have to leave. I don't want you to
17 think I'm walking out on you, so I want you to know that.
18 Senator Rankin's going to take over with the chairman --
19 with the duties of the chairman. But I appreciate you
20 being here today. And I thank you for offering for this
21 position. And I thank you for what you do for the State of
22 South Carolina.

23 MS. HENDRIX: Thank you, Mr. Chairman.

24 CHAIRMAN SMITH: All right. Thank you. All
25 right. I'll see y'all tomorrow.

1 BY MR. PEARCE:

2 Q. Ms. Hendrix, there was another concern. In
3 addition to talking about your temperament, it talked about
4 your ability to keep your temper in the courtroom, and
5 described a temper tantrum in the courtroom involving foul
6 language in front of other lawyers and clients, and
7 questioned whether a judge would -- should do that in the
8 family courtroom.

9 What response would you offer to this concern
10 that was expressed in the survey?

11 A. Well, the first thing I'd like to say is, that it
12 was a surprise to me. As you can see from the individuals
13 I brought, I'm the third of four children. I rarely, if
14 ever, got my way. And I learned not to throw temper
15 tantrums; they don't do any good. I have learned over the
16 years to handle disappointment and success with an even
17 hand. I never gloat. I don't allow my clients to gloat.

18 And as a matter of policy, our clients are always
19 told that we must maintain a poker face, regardless of a
20 ruling.

21 Usually, the first time I worked with opposing
22 counsel, I will tell them that I am deaf in my left ear. I
23 also have a theater background. So even though I'm rather
24 petite, I have a big voice. And I project that voice. And
25 I often speak louder than I need to.

1 Sometimes, I become overly animated when I firmly
2 believe in something that is transpiring in the courtroom.
3 I am an animated advocate for my clients. They hire me to
4 do this.

5 If settlement doesn't work, my focus shifts three
6 hundred percent to litigation. I go into my mode. I am
7 focused. I don't have time to chitchat. I don't have time
8 to play. I don't have time to negotiate anymore. If that
9 has ever been perceived as having a temper tantrum or being
10 rude or -- or being uninterested in something that opposing
11 counsel or a client would say, it certainly was never
12 intended to be.

13 I do develop tunnel vision. And I dive into what
14 I need to do. That's -- I'm vigorous in my representation,
15 and I can't leave a stone unturned. Because of the
16 financial level of many of our clients, I don't know -- I
17 don't know how to get to the bottom of things, without
18 sometimes having to push and push and push and push.

19 For example, yesterday I put to bed a case in
20 Laurens County, that had twelve defendants. We've spent
21 three and a half years on that case. There were motions to
22 compel and motions to compel and motions to compel. And we
23 argued and we fought, and we argued and we fought. And
24 then afterwards, we shook hands and we said, "Well done."

25 We got a mediated settlement put together and we

1 put the case to bed. I don't ever want to think that I
2 have left somebody thinking that I am immature or incapable
3 of staying in possession of my emotions and my thoughts.

4 In my courtroom, if I am allowed to become a
5 family court judge, my mediation, as I said, has helped me.
6 But I would emphasize decorum. I would emphasize respect
7 and adherence to the rules of civility. I take those very
8 seriously.

9 And that would be the code in my courtroom, and
10 that would also govern my demeanor.

11 **Q. Ms. Hendrix, you reported that your husband was**
12 **involved in a lawsuit with South Carolina Electric & Gas**
13 **Company.**

14 A. Yes, sir.

15 **Q. And that you were potentially going to be**
16 **involved in it as well. Could you please explain that to**
17 **the Commission?**

18 A. It is a -- we live out in Blair, which is pasture
19 land and timber property. And years ago, if I understand
20 this correctly -- Billy will probably correct me. Years
21 ago there was a transfer of property between his
22 grandfather and SCE&G. There have -- there is a lawsuit
23 that was filed against my husband and the trust and my
24 husband's father, regarding the ingress and egress across
25 our property to get to SCE&G's land.

1 They have brought equipment down there, and been
2 building a road. There's gully wash-offs from the two
3 floods. They named the trust, my husband and his father.
4 But actually, the property belongs to Billy and I. I'm not
5 named in the lawsuit, but they're going to have to refile
6 and name me, 'cause I'm the correct defendant.

7 We have hired an attorney. We are working on
8 trying to resolve it. And I think we're going to be able
9 to do so without it going much further. But, basically,
10 it's an argument over ingress and egress.

11 **Q. You self-reported a lien that was filed by the**
12 **South Carolina Department of Revenue. Can you tell the**
13 **Commission about that?**

14 A. I really can't tell the Commission about that,
15 'cause I didn't know anything about it until I started
16 filling out the personal data questionnaire and doing my
17 financial stuff. I had never been made aware of it.

18 It involved a home that I sold in Winnsboro, when
19 Billy and I got married. I don't know how that -- I don't
20 know what happened. But it was, I think, for \$250. And it
21 was satisfied, years and years ago.

22 It never had popped up on any credit report of
23 mine. We had refinanced our home. We've bought cars. It
24 had never -- it had never shown up anywhere. So I was
25 surprised to see that. But it has been taken care of.

1 Q. Is that lien --

2 A. And as I said, it's satisfied years ago.

3 Q. And then you also reported a \$250 donation to the
4 campaign of Margie Bright Matthews.

5 A. Yes, sir.

6 Q. Is that donation related to your candidacy to
7 become a family court judge?

8 A. Oh, no. No sir. That was done -- I don't know
9 if it was 2013, '14 or -- I don't know. But it was when
10 she was running for her senate seat. And it was a one-time
11 contribution. And I think I got in trouble with it -- for
12 it with my husband. But that was the only time I've ever
13 made a contribution such as that.

14 MR. PEARCE: And, Mr. Chairman, and members
15 of the Commission, I do have some housekeeping issues.

16 BY MR. PEARCE:

17 Q. Ms. Hendrix, are you aware as a judicial
18 candidate, that you are bound by the code of judicial
19 conduct as found in Rule 501 of the South Carolina
20 Appellate Court Rules?

21 A. I am, sir.

22 Q. Since submitting your letter of intent, have you
23 contacted any members of this Commission about your
24 candidacy?

25 A. I have not.

1 Q. Since submitting your letter of intent, have you
2 sought or received a pledge of any legislator, either prior
3 to this date or pending the outcome of your screening?

4 A. I have not.

5 Q. Have you asked any third parties to contact
6 members of the General Assembly on your behalf, or are you
7 aware of anyone attempting to intervene in this process on
8 your behalf?

9 A. No, sir. No, sir.

10 Q. Have you reviewed and do you understand the
11 Commission guidelines on pledging, as well as South
12 Carolina Code Section 2-19-70(E)?

13 A. Yes, sir, I have. And I'm terrified of making a
14 mistake.

15 MR. PEARCE: The Piedmont Citizens Committee
16 found Ms. Hendrix to be well qualified in the evaluative
17 criteria of ethical fitness, professional and academic
18 ability, character, reputation, experience, and judicial
19 temperament. They also found her qualified in the
20 remaining criteria of constitutional qualifications,
21 physical health and mental stability.

22 The Committee noted that "Ms. Hendrix has
23 maintained an active family court practice in the Midlands
24 of South Carolina since 2001. She has handled a wide range
25 of family court matters, though perhaps not as broad a

1 range as Ms. Matthews, the other candidate for this seat.

2 To the extent that Ms. Hendrix lacks
3 experience in a particular type of matter, however, the
4 Committee is confident that she could acquire that
5 experience on the bench."

6 I would note for the record that any
7 concerns raised during the investigation regarding this
8 candidate were incorporated in my questioning of her today.
9 And, Mr. Chairman, I have no further questions.

10 SENATOR RANKIN: All right. Any questions
11 of the -- from members of the Commission? Senator Hayes.

12 EXAMINATION BY MR. HAYES:

13 Q. Very briefly. I saw where you worked with Bill
14 Hancock.

15 A. Yes, sir.

16 Q. He was a longtime friend. And I hate that he
17 died too young.

18 A. Yes, sir, he did.

19 Q. What were your duties with him?

20 A. I was a domestic and trial paralegal. I went
21 with him to court. I did all the background work for
22 trials of cases. And it was actually while I was working
23 with Bill, that I made the decision to go to law school.

24 There was a incident, we were trying a college
25 education case, and an attorney asked that I have -- that I

1 leave the courtroom, because I had not filed a notice of
2 appearance. And Judge Brown -- Walter B. Brown said,
3 "She's a paralegal. She's not an attorney. She ought to
4 be."

5 And that was the first time that the light switch
6 went off in my head, and I thought "I'm going to go to law
7 school."

8 And so Mr. Hancock, I left his employ and went
9 directly to law school. He was a fine man.

10 **Q. Thank you. I appreciate it.**

11 A. Yes, sir.

12 SENATOR RANKIN: Senator Young.

13 SENATOR YOUNG: Thank you, Mr. Chairman.

14 EXAMINATION BY SENATOR YOUNG:

15 **Q. Mrs. Hendrix.**

16 A. Yes, sir.

17 **Q. Thank you very much for your interest in serving**
18 **on the family court bench. I have just a few questions.**
19 **And the first of which is, as to the application of the**
20 **law, if you are elected to serve on the family court bench,**
21 **how would you apply the law to the facts and/or the issues**
22 **that may be presented to you in a given case on the family**
23 **court?**

24 A. I would try to do it as succinctly and accurately
25 as possible. As you -- as you have a history of doing this

1 over the years, although the scenarios sometimes change,
2 and the facts are often adjusted, there's a -- there are
3 only a limited number of issues that really can come up in
4 a family law case.

5 Equitable distribution, custody, visitation,
6 valuation and -- and after you have done it for a while,
7 you -- you -- it's not -- it's not difficult to apply the
8 law to the facts.

9 A lot of times it becomes difficult when we don't
10 know what the law is going to be. For example, the new
11 alimony law is still being discussed and bantered around.
12 And so my job as an attorney, and what would become my job
13 if I were on the bench, would be to apply the law as it is
14 now, irrespective of any conversations that were going on
15 about changing it.

16 But as an attorney, I must figure out how to
17 advise my clients in the event I'm entering into a trial or
18 a -- an agreement that has an issue that will be affected
19 by law changing in the immediate future.

20 So you kind of -- you just have to stay up to
21 date on what's going on, and apply the existing law
22 accordingly and make allowances for things you think may be
23 changing.

24 **Q. Do you believe that the judge should -- should**
25 **the judge be restrained in the application of the law?**

1 A. In what manner?

2 **Q. Or should the judge --**

3 A. I'm not sure --

4 **Q. Or should the judge be more active -- take a more**
5 **activist role in applying the law to the facts?**

6 A. If I'm elected -- any judge on the bench has a
7 responsibility to apply the existing law to the facts. As
8 a judge, you don't -- you should not, in my opinion, try to
9 alter the law. You shouldn't try to turn it into something
10 that it isn't. It's not my job as a judge, if I'm elected,
11 to try and change the law. That's y'all's job.

12 My job is to take the rules, guidelines, case
13 law, rules of civil procedure, and apply them fairly,
14 evenly in my courtroom, to the attorneys and to the
15 litigants. That's my job. It's not my job to guess what
16 should be the law.

17 **Q. Thank you for that.**

18 A. Did that answer your --

19 **Q. Yes, ma'am. Thank you for the answer. The next**
20 **question relates to children. And in particular, issues**
21 **related to abuse and neglect of children. And so my**
22 **question would be, what in your prior work experiences or**
23 **your past, you believe has particularly prepared you for**
24 **the family court bench, and working on issue from the bench**
25 **that come before you that related to children -- to child**

1 **abuse and neglect?**

2 A. I'm not sure -- I have been a guardian. I have
3 extensive in being a guardian. I was a guardian for minor
4 children as a paralegal, and I have continued to do that as
5 an attorney.

6 I was a single mother, so I understand visitation
7 schedules and how to wiggle them and how you have to work
8 with the opposing side to get them accomplished. I have
9 been appointed to represent mostly parents in abuse and
10 neglect actions.

11 As a -- as a judge, my job would be to elevate
12 the best interest of the child. That has got to be my
13 primary focus. If that means removing them from abusive
14 situations, I have to do that. If it means review --
15 removing them from a situation that is overly neglectful, I
16 have to do that.

17 But as you're doing that, you also have to take
18 into consideration the family in which they live. Many
19 times as a guardian, I've noticed that individuals apply
20 their own concepts of what their life is, to some of the
21 children who -- who they represent.

22 You have to -- you have to look at their social
23 scale, you have to look at their home life, and you can't -
24 - you can't demand of parents, things that are outside
25 their realm of possibility, based on their particular

1 circumstances.

2 You also have to take into account what resources
3 are available in counties. There's a lot of -- there's a
4 lot of things that -- that need to be fixed in the family
5 court system. There's a lot of children that require help.
6 My job would be to get them every possible piece of
7 assistance in any area I could.

8 **Q. Have you worked with DSS in the past?**

9 A. I have never represented a child in DSS, Senator
10 Young. I have represented parents who have had their
11 children removed from them.

12 I have been appointed to represent them, and have
13 navigated them through the process of compliance with the
14 DSS standards, requirements, counselings, so that they
15 could be reunited with their children.

16 And I have also represented parents who were
17 unable to do that, and the children were then put up for
18 adoption. As the judge, I have to look out for the
19 children's best interest, regardless of where that takes
20 me.

21 **Q. Thank you for your answers.**

22 A. You're welcome.

23 SENATOR RANKIN: Okay. Any other questions?
24 Senator sabb.

25 SENATOR SABB: Thank you, Mr. Chairman.

1 EXAMINATION BY SENATOR SABB:

2 Q. And thank you, Ms. Hendrix, for offering
3 yourself. I know in the area where you describe your
4 experience as it relates to equitable distribution issues
5 as being very vast --

6 A. Yes, sir.

7 Q. -- I think you might have indicated that you've
8 handled a plethora of -- from quoting the Bible, to multi-
9 million --

10 A. I tried a case for half a day over a quote in a
11 Bible. It was great.

12 Q. And what's important to us, is important to us.
13 And so I've got an appreciation for that. What I'm curious
14 about, and I think you indicated in some of your responses,
15 that one of the areas you believe you need to bone up in is
16 in the area of the juvenile prosecution practice.

17 And so I'm curious as to how you would approach
18 that, number one. And number two, I'm curious about as
19 you've evaluated that responsibility as a judge, what's
20 your thought process in terms of sentencing?

21 A. Oh, that's a hard question. Well, the way I have
22 been trying to prepare myself is just by reading the codes,
23 reading book case law, trying to attend some DJJ hearings.
24 I have noticed, though, that there's a language that's
25 spoken in that area of law, that I really have to learn.

1 And I'm trying to do that.

2 I don't -- I don't really know how to answer
3 that question, Senator. And I'll tell you why. We call
4 these young people "juveniles." I think that expression,
5 in and of itself, has a negative connotation. These are
6 children. They're children. And they may have done
7 something horrendous. But they're children.

8 I can't be too lenient. I can't be too harsh. I
9 want to figure out what is happening in their life, that
10 results in the reason that they're in front of me in a
11 courtroom.

12 For instance, I think I said on my personal data
13 questionnaire, I did some death penalty work when I was in
14 law school. And there's was not a single person on death
15 row, in South Carolina, that did not start in the family
16 court. They came in front of the family court because they
17 kept running away, or they kept being taken away. Children
18 at 8 years old, at 10 years old, don't run away over and
19 over and over and over again, unless there's something
20 going on in that house that needs to be fixed.

21 And I've got to look at that. We've got to
22 figure out how to fix it on this end so they're not --
23 they're not in the -- in the garbage heap on the other end.
24 And I think the family court judge is in the best place to
25 assess what can be done.

1 **Q. And I really appreciate your response. And,**
2 **obviously, the classification of "juvenile" is not to -- is**
3 **not meant to carry a negative connotation, but I can**
4 **certainly appreciate your perspective on that.**

5 Can you tell me a little bit about other issues
6 or passions that you have beyond the law? Some of the
7 **social engineering-type things that you're involved in.**

8 A. Well, I'm an actress. I love to perform in
9 plays. I have done several productions, and dragged
10 everybody behind me to them, whether they wanted to or not.
11 So I enjoy that.

12 I frequently volunteer my time to organizations.
13 I serve Thanksgiving meals for the Mercy LLC. That's a
14 mental illness recovery center. I try to help out there.

15 I live an hour outside of Columbia, Senator Sabb.
16 And it takes me an hour to get here in the morning and an
17 hour to get home at night, so I'm not quite as active as I
18 used to be. I'm tired and --

19 **Q. And I suspect that you don't work nine to five,**
20 **either.**

21 A. I don't. That's what I was just going to say.
22 Sometimes my days get very long. I would love to be able
23 to do more than I do now, which is one of the reasons I --
24 I want to be a family court judge.

25 There's a lot of things going on in Winnsboro

1 now, and if I'm elected, Fairfield County would be my seat.
2 And there are a lot of businesses in Fairfield County who
3 are trying to come together with the Chamber of Commerce
4 and some of the churches that are trying to do things that
5 could bring children into a positive environment. I'd like
6 to explore some of that and see how or if that could be a
7 resource.

8 **Q. You indicated, I believe, that y'all have three**
9 **offices?**

10 A. Yes, sir. We have an office -- our main office
11 is here in Columbia. We have an office in Beaufort, South
12 Carolina. And we have an office in Myrtle Beach, South
13 Carolina.

14 **Q. And do you personally split your time? I know**
15 **you said you practice all around the state. And is it**
16 **those practices that kind of take you-all around?**

17 A. Well, we practice, literally, everywhere. So I'm
18 in Florence or Camden or -- anywhere. But it's very odd,
19 but our Myrtle Beach office and our Beaufort office seem to
20 demand more of our attention in the summer months than they
21 do in the winter months.

22 But, yes, sir, we have a full practice in all
23 three areas. And we -- and everywhere in-between, really.

24 **Q. Well, thank you for your responses. And, again,**
25 **thank you for offering yourself. And I think when we get**

1 an opportunity to evaluate candidates who have not gained
2 direct experience, it's always refreshing to know that
3 they've got a perspective. And, obviously, as lawyers we
4 have the ability to learn. So I appreciate what you've
5 shared with us today.

6 A. Thank you, Senator.

7 EXAMINATION BY SENATOR RANKIN:

8 Q. Okay. Ms. Hendrix, I want to just comment on the
9 last very point that you made, about the rise in business
10 in your Myrtle Beach office. My father was a lawyer and a
11 judge, Ken Lester. And earlier in my life, comments about
12 what you've said just, that speaks to the rise and fall of
13 domestic practice.

14 In the winter months, people seem to get along.
15 When the heat goes up, so does the --

16 A. So do the tempers.

17 Q. In the marriages.

18 A. Uh-huh.

19 Q. So I want to commend you for running and for not
20 living in the City of Winnsboro, apparently. And forgive
21 me for not knowing exactly where you live is, in relation
22 to the city. You're not in the city limits, correct?

23 You're --

24 A. No, sir, I'm not in the Winnsboro city limits.

25 Q. But you're in Fairfield County.

1 A. I'm in Fairfield County. I am in Blair, South
2 Carolina.

3 Q. My wife, who is from Winnsboro, would punch me
4 for not knowing where Blair is. And her parents will
5 likewise do so when I admit that I don't know.

6 A. Don't admit that to them, 'cause that will not be
7 taken well.

8 Q. A couple of -- a couple of quick points here.
9 And you, obviously, are distinguished by every metric
10 barometer/group that recognizes your practice. Certainly,
11 you were joined by a host of endorsers. Joe Underwood, my
12 law school classmate, I can't wait to hear what he really
13 thinks, but I don't want to hear it today.

14 A. No, not today.

15 Q. His presence speaks volumes to me.

16 A. Joe has --

17 Q. Don't tell me.

18 A. He's always been an ear for me to bounce ideas
19 off of. And I rely on his knowledge and his friendship,
20 and have for many years.

21 Q. Well, as someone commented about you being a go-
22 to person regarding domestic law subject, I trust he would
23 be that -- at least that, if not other subjects as well. I
24 remember him well from law school. So real quick, the
25 Bench Bar ballot survey --

1 A. Yes, sir.

2 Q. -- do you recognize this as a valuable tool that
3 this judicial merit selection committee should rely upon,
4 consider, give any credence to?

5 A. I think it's very difficult for a candidate to
6 answer anonymous accusations. I think it's very difficult
7 because the anonymity allows for pot shots. You all -- you
8 all know that. I'm not telling you anything you don't
9 know.

10 But I do think it is a tool that gives you
11 information about attorneys across the state who may be
12 running for seats that you can't possibly know all of. I
13 would like to see names being signed to it, though, at some
14 point.

15 Q. Do you participate in these anonymous --

16 A. I do.

17 Q. You do.

18 A. Yes, sir.

19 Q. Do you sign your name?

20 A. I do.

21 Q. And that is an option that we have.

22 A. I do.

23 Q. Does it matter whether you are deemed by your
24 peers -- and I assume that these are your peers. There are
25 201 that have participated. -- overwhelmingly qualified in

1 every category? Should we throw that out and consider the
2 naysayers?

3 A. Well, not today. I'm talking about tomorrow when
4 you're thinking about this. Right now it's a valuable
5 tool.

6 Q. Somehow, Scarlett O'Hara is coming to mind.

7 A. Yes, it is. We'll think about that later.

8 Q. And as you were asked by Counsel, both positive
9 and some negative, and again, overwhelmingly positive in
10 every aspect. A couple of -- in the positive, let me just
11 say, "Skilled practitioner. Asset to the bench."

12 You've probably mentioned that. "Someone who's
13 work in a number of family court matters. Professional,
14 vast knowledge." Highly recommend you.

15 The negative, and an equal number that -- that
16 slightly confrontational, and that -- that you might allow
17 your temper to override your, perhaps, objectivity. Now, I
18 can attribute those latter to advocacy and zealous
19 advocacy.

20 A. Uh-huh.

21 Q. And would you agree with that? I mean, I don't
22 need a long answer, but would that be a -- perhaps, an
23 explanation of that?

24 A. Well, yes, sir. I mean, the short answer: Yes,
25 sir. Every now and again, that case comes along that you

1 try to stay one hundred percent objective, but it just gets
2 into your soul. And there could be a time that maybe I
3 argued a little bit more than I should have.

4 But I am very respectful of the fact that these
5 clients -- this is not my reality. I represent these
6 people. I represent his actions or his bid for custody.
7 But it's not my fight. And all of my friends are in the
8 family court, and we can fight like crazy in the courtroom,
9 shakes hands, walk out and have dinner together. And that
10 is the more common practice for me.

11 There are now a lot of folks that are dabbling in
12 family law, that may not do it on a regular basis. And so,
13 perhaps, they think I'm confrontational because I'm saying,
14 "No, sorry. We don't do it that way. That's not how it
15 works in family court."

16 That could well be. And as I said, Senator,
17 because these comments are anonymous, there's no way for me
18 to know in what part of my practice it happened. But I
19 would certainly think that the majority of my colleagues
20 would tell you that I have grown as a lawyer, both in my
21 attitude, my understanding and my application of the law to
22 cases.

23 **Q. Well, if it's any consolation to you, in terms of**
24 **judicial temperament, nearly 70 percent have a favorable**
25 **view of you. And a distinct minority say otherwise. And**

1 then a large number have no opinion at all.

2 Real quick, you've been in front of great judges.

3 A. Yes, sir.

4 Q. You've been in front of judges who lack the
5 proper temperament.

6 A. Yes.

7 Q. Is that a fair statement?

8 A. Yes, sir.

9 Q. Other than family court, perhaps, in other --

10 A. Yes, sir.

11 Q. -- courts.

12 A. Yes, sir.

13 Q. If you were successful, tell us, ever so briefly,
14 what attributes that you would want to be judge by in terms
15 of your judicial temperament. How would -- how would you
16 have your service on the bench judged in a, hopefully,
17 favorable light?

18 A. So if I have to describe what my legacy may be.

19 Q. And it might help you, perhaps, give us the name
20 of a judge who you would aspire to be like?

21 A. Walter B. Brown, Jr. He was the reason I went to
22 law -- I'm sorry. He was the reason I went to law school.
23 He was my hometown judge. He taught me how to be a judge -
24 - I mean, how to be a lawyer. He encouraged me. He
25 corrected me.

1 And there were times that I would see him at
2 church, and I would -- I would be like, "Judge, why did you
3 do this? I don't understand. Why did you do that?"

4 And I'll never forget one thing he said to me, "I
5 will never embarrass an attorney in the courtroom in front
6 of their client. Ever."

7 And that has stuck with me all these years.
8 Because you can do your job, both as an attorney, and if I
9 am able to become a judge, as a judge I can do my job and
10 treat people with respect, treat them with dignity, hear
11 them out, and issue a ruling that does not -- that does not
12 harm their reputation with their client.

13 Hopefully, they will understand my ruling. Even
14 if it is not favorable to them, they will be able to at
15 least see the wisdom in it. That's what I want to
16 accomplish. Because I have this big, loud voice, I think
17 I'll be able to keep control of a courtroom. I don't even
18 think I would need this microphone.

19 So I -- I would -- I want to be -- I want to be
20 like Judge Brown. And it's so poetic to me, that he began
21 my career. And if I am elected, I will end my career,
22 sitting in his chair behind his desk.

23 SENATOR RANKIN: Any other questions?

24 (Hearing none.)

25 MS. HENDRIX: I can't believe I cried.

1 SENATOR RANKIN: You haven't.

2 MS. HENDRIX: I haven't, technically.

3 SENATOR RANKIN: And I want to -- just for
4 disclosure here, I was with his brother and his family. My
5 wife is married -- I mean, my wife is married. Thank God,
6 she is.

7 MS. HENDRIX: Married to you.

8 SENATOR RANKIN: Did I mention Scarlet
9 O'Hara.

10 MS. HENDRIX: No.

11 SENATOR RANKIN: Anyway, so --

12 MS. HENDRIX: I taught her Sunday school.

13 SENATOR RANKIN: -- her aunt is a Brown.

14 And so I never met him, never knew him --

15 MS. HENDRIX: He was a fine man.

16 SENATOR RANKIN: -- professionally, but his
17 children and their entire family -- you cannot have a
18 better mark. And so if you are successful in this process,
19 in the election process -- God help you, and Godspeed, and
20 God help you if you're not what you say you should be --

21 MS. HENDRIX: I will be.

22 SENATOR RANKIN: -- if you succeed. So
23 thank you again. This concludes this portion of our
24 screening process. I want to thank -- take the opportunity
25 to remind you, that pursuant to the Commission's evaluative

1 criteria, the Commission expects candidates to follow the
2 spirit as well as the letter of the ethics laws. We will
3 view violations, or the appearance of impropriety, as
4 serious and potentially deserving of heavy weight and
5 screening deliberations.

6 On that note, and as you know, the record
7 will remain open until the formal release of the report of
8 your qualifications. And you may be called back at such
9 time if the need arises. I thank you for offering. Thank
10 you for bringing the host of supporters --

11 MS. HENDRIX: My posse.

12 SENATOR RANKIN: Your posse. And you are
13 excused from any further proceedings. Again, thank you for
14 --

15 MS. HENDRIX: Thank you, all.

16 SENATOR RANKIN: -- participating in this --

17 MS. HENDRIX: Thank you, gentlemen, so much.
18 Thank you, ma'am.

19 SENATOR RANKIN: Safe travels back to Blair.

20 (Candidate excused.)

21 SENATOR RANKIN: Ms. Angela Abstance.

22 MS. ABSTANCE: Yes.

23 SENATOR RANKIN: Welcome. Do you -- first,
24 let me have you raise your hand.

25 WHEREUPON,

1 ANGELA W. ABSTANCE, being duly sworn and
2 cautioned to speak the truth, the whole truth and nothing
3 but the truth, testifies as follows:

4 SENATOR RANKIN: You have before you, the
5 PDQ, your personal data questionnaire and sworn statement
6 that you submitted to the Commission, correct?

7 MS. ABSTANCE: Yes, sir.

8 SENATOR RANKIN: Are they both correct?

9 MS. ABSTANCE: Yes, they are.

10 SENATOR RANKIN: Does anything need to be
11 changed, amended, or updated about either one of those at
12 this time?

13 MS. ABSTANCE: No, sir. The amendments are
14 up to date.

15 SENATOR RANKIN: And do you have any
16 objection to us making these documents as a part of your
17 record of your sworn testimony?

18 MS. ABSTANCE: No objection.

19 SENATOR RANKIN: All right. If you'll let
20 Lindi get that, and she'll hand that to the court reporter.

21 (EXHIBIT NO. 19 - JUDICIAL MERIT SELECTION
22 COMMISSION PERSONAL DATA QUESTIONNAIRE OF ANGELA
23 W. ABSTANCE)

24 (EXHIBIT NO. 20 - JUDICIAL MERIT SELECTION
25 COMMISSION SWORN STATEMENT OF ANGELA W. ABSTANCE)

1 (EXHIBIT NO. 21 - AMENDMENT TO THE PERSONAL
2 DATA QUESTIONNAIRE OF ANGELA W. ABSTANCE)

3 SENATOR RANKIN: The Judicial Merit
4 Selection committee has thoroughly investigated your
5 qualifications for the bench. Our inquiry has focused on
6 nine evaluative criteria, and has included a ballot box
7 survey, a thorough study of your application materials,
8 verification of your compliance with state ethics laws, a
9 search of newspaper articles in which your name appears, a
10 study of previous screenings, a check for economic
11 conflicts of interest.

12 We've received no affidavits filed in
13 opposition to your election. Congratulations on that. No
14 witnesses are present to testify. Do you have a brief
15 opening statement that you'd like to make at this time?

16 MS. ABSTANCE: No, sir. I know you've had a
17 long day. I just appreciate the opportunity to be here.

18 SENATOR RANKIN: God bless you. There will
19 be some questions that Counsel will have for you. If
20 you'll answer them.

21 MS. DEAN: Thank you, Mr. Chairman.

22 EXAMINATION BY MS. DEAN:

23 **Q. Ms. Abstance, please state for the record the**
24 **city and circuit in which you reside.**

25 A. I live in the City of Barnwell. And that's in

1 the 2nd Judicial Circuit.

2 **Q. Thank you.**

3 MS. DEAN: Mr. Chairman, I note for the
4 record that based on the testimony contained in the
5 candidate's PDQ, which has been included in the record,
6 with the candidate's consent, along with her amendment, Ms.
7 Abstance meets the statutory requirements for this
8 position, regarding age, residence, and years of practice.
9 BY MS. DEAN:

10 **Q. Ms. Abstance, why do you want to serve as a**
11 **family court? And why do you feel that your legal and**
12 **professional experience qualify and will assist you to be**
13 **an effective judge?**

14 A. I have been practicing since 2001. And when I
15 first started, I was in a general practice firm. And I
16 practiced different kinds of law, so I explored different
17 areas. And I just felt drawn to practice in family court.
18 I like the -- I just like being in family court. I like
19 the issues. I like helping people solve those problem.

20 I think it's important to have compassion and
21 empathy to people who come into the family court. And I
22 feel like I offer that. And I believe that I've served in
23 almost every capacity that you can in family court.

24 I represented guardians ad litem, I've been a
25 guardian ad litem. I've represented parents.

1 And I've represented DSS in abuse and neglect
2 actions. And I feel like I have a -- an abundance of
3 experience in all those different areas. And I feel like
4 the family court bench is the next step for me. I would
5 like the opportunity to serve there.

6 **Q. Thank you. Ms. Abstance, are there any areas of**
7 **the law for which you would need additional preparation in**
8 **order to serve as a family court judge? And how would you**
9 **handle that additional preparation?**

10 A. I think we're always learning as attorneys and
11 judges. So certainly, all of those areas I would still be
12 keeping up to date. I have not done a lot of juvenile
13 court work in our circuit; most of that's handled by the
14 solicitor's office and the public defender's office.

15 I have already gone to observe juvenile court on
16 four different occasions, I think. And I've sat down with
17 those attorneys at the solicitor's office and public
18 defender's office; they've been very gracious in answering
19 my questions, and helping me understand their process.

20 Our family court judges also have been very
21 gracious in letting me sit in and observe and ask
22 questions. So I have gone to the Children's Law Center
23 website and downloaded their bench book, and I have
24 reviewed that and studied that and will continue to do so.

25 **Q. Thank you. Ms. Abstance, please briefly describe**

1 **your experience in handling complex contested family court**
2 **matters, and specifically discuss your experience with the**
3 **financial aspects of family court work.**

4 A. Over the years, I've handled a number of divorce
5 and custody equitable division cases. Not all of those
6 have involved substantial assets. Because in our area, we
7 just have a lot more property than some other areas in the
8 state. But I have handled some substantial assets of that.

9 I've also worked with real estate transactions.
10 When I first started, I handled a lot of those. And I
11 understand the intricacies of mortgages and notes. And in
12 my mediation practice, when I've served as mediator I have
13 worked with some younger attorneys who don't quite, I
14 think, have a grasp on the difference between a refinance
15 and a loan modification, and when you take somebody's name
16 off the note and what you have to actually have to do to go
17 through that process. So I do think I'm well versed in
18 that.

19 I've handled probate work with the state, and
20 worked on CBAs, preparing estate tax issues. And I feel
21 like I can confidently understand the expert testimony of
22 forensic accountings that would be at issue in those kind
23 of situations.

24 **Q. Thank you. The Commission received 120 ballot**
25 **box surveys regarding you, with ten additional comments.**

1 Those additional comments contained the positive comments,
2 stating things like, "Extremely well qualified, an
3 excellent attorney who will make an exceptionally great
4 judge."

5 One of the written comments expressed concern
6 regarding indecisiveness and general knowledge of family
7 court rules. What response would you offer to these
8 concern?

9 A. Of course, it's always hard to respond to those
10 comments in a vacuum, when you don't know exactly what
11 situation they're referring to. Obviously, I think I have
12 the experience that's necessary. And I think that's
13 reflected in my answers to my -- on my application.

14 And as far as indecisiveness, I really can't
15 respond to what that situation was. I could have had a
16 client that was very indecisive, that was causing a problem
17 there. But I will say that I'm always -- attempt to be
18 very open-minded in dealing with opposing counsel, and
19 would like to consider all sides of a question before
20 making a decision.

21 Q. Thank you. The Midlands Citizens Committee
22 report expressed concerns regarding your ability to command
23 a courtroom. How would you respond to that?

24 A. I don't think that I would have any problem in
25 that area. I think I have been in control of docketing in

1 the courtroom. When I was with DSS, it was my
2 responsibility to get all those cases in and out, and what
3 order they were to be called in. And I've handled that
4 process.

5 And I think it's helpful to consider that -- the
6 compliments and the comments from the Bench Bar surveys,
7 and the opposing counsel that I've dealt with over the
8 years didn't share those concerns, so...

9 **Q. Thank you. Ms. Abstance, you've been involved in**
10 **two lawsuits. The first in 2003, between Ronnie Hair with**
11 **regard to Kirshner. Your involvement with this case was as**
12 **a specific administrator, and you stated in your PDQ that**
13 **you had no personal involvement with this action. Is that**
14 **correct?**

15 A. Yes, it is. They needed to get an estate opened
16 by a certain deadline, and they didn't have a personal
17 representative ready to serve, so I served in that capacity
18 until they got someone appointed.

19 **Q. Thank you. And the second lawsuit in 2017, the**
20 **plaintiff was Ethel Faust in the Barnwell County First**
21 **Steps. You and others were named as defendants. It**
22 **appears this case was dismissed earlier this year; is that**
23 **correct? And can you please explain, briefly?**

24 A. That is correct. That is a case where I served
25 as a volunteer board member for the county First Steps.

1 And an attorney who was -- I mean, an employee who was
2 terminated filed a lawsuit in connection with her
3 termination against the board, and also named me
4 individually. And I was dismissed from that action prior
5 to the case going to mediation. And my understanding is,
6 it was settled at mediation. And the action's been
7 dismissed.

8 **Q. Thank you.**

9 MS. DEAN: Mr. Chairman, I would like to
10 request that we go into executive session to handle a
11 matter.

12 SENATOR RANKIN: All right. Senator Young
13 moves we go into executive session. Andy Safran seconds
14 it. Everyone turn their mics off and we'll shut the door.

15 (Off the record from 5:40 p.m. to 5:45 p.m.)

16 SENATOR RANKIN: All right. We're going to
17 go back on the record. Thank you, ladies and gentlemen.
18 The Judicial Merit Selection committee is now back on the
19 record. And for the record, I'd like to state that we've
20 been in executive session. However, in executive session,
21 no decisions were made and no votes were taken.

22 EXAMINATION RESUMED BY MS. DEAN:

23 **Q. Just a few housekeeping matters. Ms. Abstance,**
24 **you're aware that, as a judicial candidate, you are bound**
25 **by the code of judicial conduct as found in Rule 501 of the**

1 **South Carolina Appellate Court Rules?**

2 A. Yes.

3 Q. Since submitting your letter of intent, have you
4 contacted any members of the Commission about your
5 candidacy?

6 A. No.

7 Q. Since submitting your letter of intent, have you
8 sought or received the pledge of any legislator, either
9 prior to the date or pending the outcome of your screening?

10 A. No.

11 Q. Have you asked any third parties to contact
12 members of the General Assembly on your behalf, or are you
13 aware of anyone attempting to intervene in this process on
14 your behalf?

15 A. No.

16 Q. Have you reviewed and do you understand the
17 Commission's guidelines on pledging in South Carolina Code
18 Section 2-19-70(E)?

19 A. Yes.

20 MS. DEAN: I note that the Midlands Citizens
21 Committee found Ms. Abstance well qualified in the four
22 categories of ethical fitness, professional and academic
23 ability, character and experience. The Committee found Ms.
24 Abstance qualified in five evaluative criteria of
25 constitutional qualifications, physical health and mental

1 stability, and reputation and judicial temperament.

2 As previously discussed, the Committee
3 summarized: "We think Ms. Abstance meets most of the
4 qualifications for this position, but we're not sure that
5 she can command a courtroom."

6 I just note for the record that any concerns
7 raised during the investigation regarding the candidate,
8 were incorporated into the questioning of the candidate
9 today. Mr. Chairman, I have no further questions.

10 SENATOR RANKIN: Okay. Thank you. Senator
11 Hayes.

12 MR. HAYES: Thank you.

13 EXAMINATION BY MR. HAYES:

14 Q. I appreciate your willingness to serve. I
15 noticed of all in the race we've had, you're the only one,
16 other than the incumbents, running unopposed. I've done it
17 both ways, and believe me unopposed is better. But I think
18 that's certainly an tribute to your -- what you're thought
19 of in the community, to a certain extent. And I appreciate
20 that. I noticed you at one time were executive director of
21 the Chamber of Commerce?

22 A. I was.

23 Q. When was that?

24 A. It was last year.

25 Q. Was that in addition to the practice of law? Or

1 **how does that --**

2 A. Yes, sir.

3 Q. -- work out?

4 A. It was.

5 Q. **Was it not considered full-time, or just a part-**
6 **time --**

7 A. It was a part-time position.

8 Q. **But now you have your own -- your full-time job,**
9 **is it the practice of law? Is that a private firm?**

10 A. Yes, sir, it is. I'm a solo practitioner.

11 Q. **Have you been -- how long have you been a solo**
12 **practitioner?**

13 A. Since 2014.

14 Q. **And was that position on the Chamber of Commerce**
15 **was just a short stint or --**

16 A. Yes, sir. It was about eleven months.

17 Q. **Thank you.**

18 A. Thank you.

19 SENATOR RANKIN: Representative Murphy.

20 REPRESENTATIVE MURPHY: Thank you, Senator.

21 EXAMINATION BY REPRESENTATIVE MURPHY:

22 Q. **Ms. Abstance, just curious how many -- you**
23 **practiced -- your law firm is in Barnwell, correct?**

24 A. That's right.

25 Q. **This is a -- considered, I guess, a Barnwell seat**

1 in the 2nd Circuit. How many members of the Bar make up or
2 comprise the Barnwell County Bar Association? There's a
3 lot in, probably, Aiken and Bamberg and that area. But is
4 there -- I'm just curious as to the number of law firms or
5 attorneys that are in Barnwell.

6 A. Well, we have kind of a mix. We have a good many
7 attorneys who are associated with Terry Richardson's firm
8 that is still in Barnwell. And most of those attorneys
9 practice a lot of civil court work, so I don't run into
10 them in the family court too much. But I would say we
11 probably have about -- between 15 and 20 on our -- on our
12 e-mail list, that came out for a Christmas party the other
13 day, so...

14 Q. So of the 15/20 attorneys that practice in
15 Barnwell, how many would you say practice in family court?

16 A. In family court, we probably have four or five
17 that are regularly devoted mainly to family court work.

18 Q. And I think you answered -- as an aside, I think
19 you answered the question regarding the concern about being
20 timid in the courtroom. I think if you can run a DSS
21 docket and herd all those cats, and keep that running
22 efficiently, I think that you'd be able to run a courtroom.

23 A. Thank you.

24 Q. Thank you for your willingness to serve.

25 A. Thank you.

1 SENATOR RANKIN: Senator Young.

2 SENATOR YOUNG: Thank you, Mr. Chairman.

3 EXAMINATION BY SENATOR YOUNG:

4 Q. Ms. Abstance, I appreciate your interest in
5 serving our circuit, in the 2nd Circuit on the family court
6 bench. This particular seat, as I understand it, is
7 traditionally, and I think by statute, is a Barnwell-
8 Bamberg seat. Is that right?

9 A. That's correct.

10 Q. And so I know that Representative Murphy was
11 asking you questions about the Barnwell Bar, but you also
12 could be a resident of Bamberg County and have applied for
13 this position; is that correct?

14 A. That's correct.

15 Q. And I noticed that you actually go to church in
16 Denmark, which is in Bamberg County.

17 A. I do. I actually lived in Bamberg County for a
18 number of years, just over the county line. My husband is
19 a Bamberg County fellow, and I'm a Barnwell County girl.
20 So we've got both of them -- both of them covered.

21 Q. Well, real quick, I've got two questions. One is
22 just a question we've asked every candidate, and that is
23 about the judicial philosophy and application of the law.
24 And so in your situation, when you're applying for the
25 family court, and you want to be a family court judge, so

1 if you are elected to the family court how would you apply
2 the law, as it exists, to the facts and to the issues that
3 would be before you on the family court bench?

4 A. Well, the family court is a court of equity. So
5 I think we have some leeway on certain issues. I mean, you
6 do -- you would weigh the credibility of your witnesses and
7 testimony and make those calls.

8 However, we're constrained by the statute and the
9 case law that's out there, and we're bound to follow that.
10 You know, whether it makes us happy in a particular case or
11 not, we have to follow that.

12 I know sometimes some -- some of the tougher
13 issues that we deal with are those central registry issues
14 on DSS cases when they -- when they have to ask for those
15 in every situation. But the law says you have to apply it
16 in certain situations, and so you've got to follow what
17 that says.

18 Q. You went to private practice and then you went to
19 work for DSS in the 14th Judicial Circuit?

20 A. Yes, that's right.

21 Q. And then you came back into private practice?

22 A. I did.

23 Q. And you went back into practice on your own; is
24 that right?

25 A. That's right.

1 Q. And then the last area that I want to ask you
2 about is with respect to children and abuse and neglect.
3 And I noted in your PDQ, in Question 52 and your answer in
4 which you provided, you talked about the -- that children -
5 - you know, children are displaced from their homes, and
6 they endure significant changes that affect them greatly in
7 the family court.

8 You touched briefly in that answer, about your
9 prior experience in handling abuse and neglect cases. You
10 just tell us, real quick for the record, to this
11 Commission, about how you think, in particular, your
12 experience with DSS in the past will be of benefit to you
13 in your service to the family court and the citizens of
14 this state, as it relates to children who are abused and
15 neglected that come before the family court -- or come, you
16 know, before the family court for the cases that are before
17 the court.

18 A. I think that having that experience in working
19 day in and day out with that, I've had the opportunity to
20 observe cases where children are in foster care. I think
21 sometimes people -- you know, foster care is a good place
22 when you have to use it. But it's not the greatest place
23 for kids.

24 So I think these cases need to move as quickly as
25 they can, to a resolution that's safe for everyone. And I

1 think we need to keep that in mind. Sometimes there's a
2 problem with backlog of cases, and getting those contested
3 trials heard, especially in these smaller counties where we
4 have court one week out of a month.

5 And I think we need to be really cognizant and on
6 top of that, trying to make sure that -- especially those
7 foster care cases are heard in a timely manner, so that --
8 that we don't have those children being displaced for
9 longer than they need to. And also, making sure that
10 there's sufficient visitation set up for parents.

11 Caseworkers right now has been, you know, all
12 over the news that there's a lot of turnover there. And
13 they are particularly short-staffed in that area. So when
14 a caseworker has to supervise visitation for parents, they
15 might not get more than an hour, twice a month, to be able
16 to visit with those children in foster care.

17 So I just think that as we apply the law and the
18 facts, we do need to keep in mind that these are not just
19 names and numbers on a page; that these are families in
20 distress, and we need to try to keep them at the forefront
21 as we try to help them through the process.

22 **Q. I appreciate your recognizing that family court**
23 **cases involving foster children need to be heard as quickly**
24 **as possible.**

25 A. Yes, sir.

1 Q. Thank you.

2 SENATOR RANKIN: Anything else?

3 (Hearing none.)

4 EXAMINATION BY SENATOR RANKIN:

5 Q. Real quick, Ms. Abstance, I want to commend you
6 for the regard that you are held by your peers. You were
7 asked earlier, there were a number of folks -- 120, perhaps
8 -- all weighing in about you. And you enjoyed, on all
9 fronts, an endorsement of your ability to all the
10 categories that we ask in these Bench Bar anonymous ballot
11 box comments.

12 A. Thank you.

13 Q. Do you participate in those, yourself?

14 A. I do send in questions. When the time arises, I
15 send in answers.

16 Q. And God bless you for being the only candidate,
17 so I think you've got a good road ahead of you.

18 A. I hope so.

19 Q. And shortly, if all goes well and you get a
20 favorable report here, and then there's no -- nothing
21 between this process and election day in your -- at the end
22 of your term, you're going to be judged on these same
23 criteria: judicial temperament, etc. You are aware of
24 that, correct?

25 A. Yes.

1 **Q. And real quickly, you've had great judges you've**
2 **appeared before, and some that failed at that judicial**
3 **temperament level, correct?**

4 A. Yes, sir.

5 **Q. Who would be your judge that you would try to**
6 **emulate?**

7 A. I really enjoy appearing in front of Judge Smoak,
8 down in Walterboro, Jerry Smoak down there. I think he
9 does a really good job of just commanding the courtroom and
10 being respectful and courteous to all of the litigants.
11 And I feel like everybody leaves his courtroom feeling like
12 they were heard and got their day in court.

13 **Q. And that is important to you --**

14 A. It is.

15 **Q. -- as a lawyer?**

16 A. Yes.

17 **Q. And will be as a judge?**

18 A. Yes, sir.

19 SENATOR RANKIN: Anything else? Yes, sir.
20 Mr. Safran.

21 MR. SAFRAN: Thank you. Just very briefly.
22 EXAMINATION BY MR. SAFRAN:

23 **Q. I just heard that. And frankly, I think modeling**
24 **after Judge Smoak would be a great thing. He was a**
25 **classmate of Senator Hayes and I. And frankly, he has, I**

1 think, done a great job on that bench. Basically, I guess
2 what I'm getting at is that, you know, you know everybody
3 in the Bar down there.

4 A. Yes, sir.

5 Q. So you feel like you're pretty comfortable being
6 able to kind of step in and not really have any issues that
7 maybe some of these folks have raised about controlling a
8 courtroom? You know these folks, they're going to
9 basically respect you. I think you've dealt with them over
10 the years.

11 A. Yes, sir. I'm not concerned with that at all.

12 Q. And you've practiced with Tim Moore down there --

13 A. That's right.

14 Q. -- for a period of time? I can't remember what -
15 - the seat you're getting was the one that Judge Gable was
16 in?

17 A. That's right.

18 Q. Did you practice in front of Judge Inabinet
19 before that at any time?

20 A. I didn't. That was before my time.

21 Q. You've heard about him, I'm assuming, over time.

22 A. Yes, sir.

23 Q. Now, I've had the very pleasant opportunity to
24 know him, years back. And I just have always found that,
25 that circuit seemed to have, you know, at least a good calm

1 about it when it came to the family court work. Has that
2 been your experience?

3 A. Yes, sir. It's a really good circuit to practice
4 in.

5 Q. Do you feel comfortable being able to handling
6 it?

7 A. Yes, sir.

8 Q. I know you'll have to go in places like Aiken,
9 with the senator who's looking down over there, Senator
10 Young's. But have you handled some stuff over there too?

11 A. I do. I go to Aiken, quite a bit. So I --

12 Q. I saw you also --

13 A. -- have been.

14 Q. -- used to go to the 14th Circuit down there too.

15 A. That's right.

16 Q. You've kind of made the rounds, it seems like.

17 A. Yes, sir.

18 Q. All right. Well, thank you again.

19 A. Thank you.

20 SENATOR RANKIN: All right. Ma'am, this
21 concludes this portion of the screening process. And I
22 want to thank you for participating. Also, I want to take
23 this opportunity to remind you that pursuant to the
24 Commission's evaluative criteria, the Commission expects
25 candidates to follow the spirit as well as the letter of

1 the ethics law.

2 We will view violations, or the appearance
3 of impropriety, as serious and potentially deserving of
4 heavy weight and screening deliberations. With that note,
5 and as you know, the record will remain open until the
6 formal release of the report of your qualifications. And
7 you may be called back at such time, if the need arises.

8 Thank you for offering your service. Thank
9 you for participating in this process. And God speed to
10 you on the bench.

11 MS. ABSTANCE: Thank you for your
12 consideration.

13 SENATOR RANKIN: Yes, ma'am.

14 (Candidate excused.)

15 (Off the record from 6:00 p.m. to 6:04 p.m.)

16 SENATOR RANKIN: Judge Porter, raise your
17 right hand, if you will.

18 WHEREUPON,

19 WILLIAM HAIGH PORTER, being duly sworn and
20 cautioned to speak the truth, the whole truth and nothing
21 but the truth, testifies as follows:

22 SENATOR RANKIN: Judge Porter, do you have
23 before you the personal data questionnaire and sworn
24 statement that you've submitted to this commission,
25 correct? Are those correct?

1 MR. PORTER: Yes, sir.

2 SENATOR RANKIN: Do they need to be amended
3 or updated in any way at this time?

4 MR. PORTER: I don't think so.

5 SENATOR RANKIN: Do you object to us making
6 those a part of this record?

7 MR. PORTER: Not a bit.

8 SENATOR RANKIN: Okay. And if you'll hand
9 those to the young lady to your left. And she'll give
10 those to the court reporter and we'll put those in the
11 record.

12 (EXHIBIT NO. 22 - JUDICIAL MERIT SELECTION
13 COMMISSION PERSONAL DATA QUESTIONNAIRE OF WILLIAM
14 HAIGH PORTER)

15 (EXHIBIT NO. 23 - JUDICIAL MERIT SELECTION
16 COMMISSION SWORN STATEMENT OF THE HONORABLE
17 WILLIAM HAIGH PORTER)

18 SENATOR RANKIN: Now, we have thoroughly
19 evaluated -- or investigated your qualifications for
20 continued service on the bench. We focused on nine
21 criteria, including a ballot box survey, a study of your
22 application materials, verification of your compliance with
23 state ethics laws, a search of newspaper articles in which
24 your name appears, a study of previous screenings, a check
25 for economic conflicts of interest.

1 We have received no affidavits in opposition
2 to your election. No witnesses are here to testify, but we
3 may call your wife if you don't do right. That is a joke.
4 She's smiling and you're not. She gets it.

5 MR. PORTER: Much to her unhappiness, I'm a
6 little hard of hearing. Could you speak up just a little
7 bit for me?

8 SENATOR RANKIN: Yes, sir. And my apologies
9 --

10 MR. PORTER: I apologize.

11 SENATOR RANKIN: -- for standing away from
12 the mic. The court reporter's probably saying the same
13 thing.

14 MR. PORTER: If I get a hearing aid, then
15 I'm going to hear things I don't want to hear.

16 SENATOR RANKIN: When it's uncomfortable,
17 I'll get real quiet.

18 MR. PORTER: Okay.

19 SENATOR RANKIN: Do you have an opening
20 statement you'd like to make? Or in the interest of your
21 time, and your wife's interest --

22 MR. PORTER: No.

23 SENATOR RANKIN: You'd like to waive that.
24 All right. We're going to have a few questions for you.
25 Listen, if you will. She'll speak loudly. If you can't

1 hear her, tell us.

2 MS. DEAN: Thank you, Mr. Chairman.

3 Mr. Porter, I'm Emma Dean. And I'm going to be filling in
4 for Patrick Dennis. I believe you've met with him as your
5 screening attorney.

6 I note for the record, that based on the
7 testimony contained in the candidate's PDQ, which has been
8 included in the record with the candidate's consent, Mr.
9 Porter meets the statutory requirements for this position,
10 regarding residence and years of practice.

11 EXAMINATION BY MS. DEAN:

12 **Q. Mr. Porter, how do you feel that your legal and**
13 **professional experience thus far renders you qualified and**
14 **will assist you to be an effective master in equity?**

15 A. Ma'am, I've been, in effect, master in equity now
16 for twelve years, as special referee. I'm probably the
17 oldest candidate you folks have seen. I know I'm older
18 than everybody in this room. But when I approached my 70th
19 birthday, I said, "You know, I think I'll slow down a
20 little bit."

21 And I had been getting appointed quite often as a
22 special referee. I said, "I'll just do that." So I've had
23 twelve years, where I have done nothing but serve as a
24 special referee. I've heard numerous different types of
25 cases.

1 I think based on right at 53 years now as a
2 member of the Bar, and twelve years full-time serving as a
3 special referee, primarily in four counties, but I counted
4 up the other day, I believe I have heard one type case or
5 another in either twelve or thirteen counties. And I think
6 based on my experience, that I can handle the job.

7 Q. Thank you, sir. Mr. Porter, you receive --

8 A. I would point out that I have had cases from
9 Senator Sabb's office, too, that I've heard.

10 Q. Thank you, sir. Mr. Porter, the Commission
11 received 268 ballot box surveys regarding you, with 19
12 additional comments. Two of the written comments expressed
13 concerns, based to some degree, about temperament as a
14 special referee. How would you answer any questions about
15 your temperament?

16 A. Mr. Dennis commented to me, when I had the
17 interview with him. I believe he said it looked like to
18 him, that, that was an anomaly. I have tried to rack my
19 brain, my memory, as best I could, of what I might have
20 done to ever offend some lawyer that would put that down.

21 I will tell you, that on a couple of occasions,
22 after hearings in some foreclosures, I have talked to
23 younger lawyers and said, "You know but for the Grace of
24 God, you could be sitting in that fellow's seat. Be a
25 little kinder. Be a little more understanding."

1 If that's offended somebody, I make no apology
2 for that. If I've stepped on somebody's toes, otherwise, I
3 wish you were in a position to where you could tell me, and
4 I realize you can't, but I can't for the life of me -- I
5 grew up in an old-fashioned family, and courtesy was a key
6 element of my upbringing. So I don't know what I've done.
7 I wish I knew.

8 **Q. Thank you, Mr. Porter. And I would point out for**
9 **the record, that there were many positive comments**
10 **including, "A brilliant lawyer. An excellent individual.**
11 **And he has done a great job for many years."**

12 **Mr. Porter, I now have some housekeeping**
13 **questions. Are you aware that a judicial candidate -- that**
14 **as a judicial candidate, you are bound by the Code of**
15 **Judicial Conduct as found in Rule 501 of the South Carolina**
16 **Appellate Court Rules?**

17 A. Yes. Yes, ma'am.

18 **Q. Thank you. Mr. Porter, since submitting your**
19 **letter of intent, have you contacted any members of the**
20 **Commission about your candidacy?**

21 A. No.

22 **Q. Since submitting your letter of intent, have you**
23 **sought or received a pledge of any legislator, either prior**
24 **to this date or pending the outcome of your screening?**

25 A. No.

1 **Q. Have you asked any third parties to contact**
2 **members of the General Assembly on your behalf, or are you**
3 **aware of anyone attempting to intervene in this process on**
4 **your behalf?**

5 A. No.

6 **Q. Have you reviewed and do you understand the**
7 **Commission's guidelines on pledging in the South Carolina**
8 **Code Section 2-19-70(E)?**

9 A. I don't recall what that section is. Say it
10 again.

11 **Q. It's the 48-Hour Rule that --**

12 A. Yeah, I'm familiar with that.

13 **Q. Thank you, sir.**

14 MS. DEAN: I would note that the Pee Dee
15 Citizens Committee reported that Mr. Porter was well
16 qualified as to ethical fitness, professional and academic
17 ability, character and reputation, experience, and judicial
18 temperament. The Committee also found Mr. Porter qualified
19 as to the remaining criteria which are constitutional
20 qualifications, physical health and mental stability.

21 Mr. Chairman, I would note for the record
22 that any concerns raised during the investigation by staff
23 regarding the candidate, were incorporated into today's
24 questioning. Mr. Chairman, I have no further questions.

25 SENATOR RANKIN: Thank you, ma'am. Senator

1 Sabb.

2 SENATOR SABB: Thank you, Mr. Chairman. I
3 really do not have any questions of Mr. Porter, but I would
4 make a comment. He simply enjoys a stellar reputation in
5 our area. I have not come across any lawyers, over the
6 course of him being our master in equity, that has any
7 hesitation, both plaintiff or defense, when it comes to
8 him, and overseeing those matters.

9 And I just want to express my appreciation
10 to Mr. Porter for being willing to continue to serve us in
11 the manner in which he does in our area.

12 MR. PORTER: Thank you.

13 SENATOR RANKIN: Thank you. And I want to
14 just comment -- not a question, but to echo that. Not to
15 give words to that sense, someone wrote -- and, Mr. Porter,
16 this might be helpful to you too: "Judge Porter could
17 easily be the treasurer in Heaven. He's that respected,
18 trusted, and insightful. We're lucky to have this fine
19 gentleman serving our community in his capacity."

20 So that's a great legacy. Unless there are
21 any other questions, unless you've got any other comments,
22 that's a -- that's a strong encouragement, strong
23 endorsement right there, Judge.

24 MR. PORTER: Just glad she heard it.

25 SENATOR RANKIN: And I've learned a thing or

1 two about that as well. I'm learning as I speak. Mr.
2 Porter -- Judge Porter, thank you so much. And this
3 concludes this portion of our screening process.

4 I want to also take this opportunity to
5 remind you that pursuant to the Commission's evaluative
6 criteria, the Commission expects candidates to follow the
7 spirit as well as the letter of the ethics law.

8 We will view violations, or the appearance
9 of impropriety, as serious and potentially deserving of
10 heavy weight and screening deliberations. On that note,
11 and as you know, the record will remain open until the
12 formal release of the report of your qualifications, and
13 you may be called back at such time if the need arises.

14 Again, I want to thank you for your
15 willingness to continue to service, and offering for
16 reappointment by your delegation. And the Governor signs
17 off on this as well, so --

18 MR. PORTER: Well, I have no desire to
19 retire. I think working keeps you going. And I think I
20 told Ms. Legare, that the question about "Do you intend to
21 serve out the term?"

22 I said, "It's six years. At 82 years old,
23 you don't think about six years. You think about six days
24 or six weeks." But it's my goal to serve two full terms.

25 SENATOR RANKIN: We'll see you on the next

1 screening.

2 MR. PORTER: I hope so.

3 SENATOR RANKIN: I look forward to it. Nice
4 having both of y'all here. This concludes the record.
5 Thank y'all so much.

6 MR. PORTER: Thank you.

7 (Candidate excused.)

8 SENATOR RANKIN: And that concludes today's
9 agenda. Motion to adjourn is moved and seconded by Josh.

10 (Off the record from 6:13 p.m. to 6:16 p.m.)

11 SENATOR RANKIN: Let's go back on the
12 record. Thank you. The Judicial Merit Selection committee
13 is -- the Commission is now back on the record. For the
14 record, I'd like to say that we have been in executive
15 session. However, no decisions were made and no votes were
16 taken during executive session.

17 Do I have a motion to adjourn for the day?
18 Josh, thank you. A second? All in favor say "aye."

19 (At this time the members audibly say "aye.")

20 SENATOR RANKIN: Ten o'clock tomorrow.

21 (OFF THE RECORD AT 6:27 P.M.)

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CERTIFICATE OF REPORTER

I, PATRICIA G. BACHAND, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT CONSISTING OF 157 PAGES IS A TRUE, ACCURATE, AND COMPLETE RECORD TO THE BEST OF MY SKILL AND ABILITY.

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IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 11TH DAY OF DECEMBER 2017.

PATRICIA G. BACHAND, COURT REPORTER
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