NO. 5

JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

STATE OF SOUTH CAROLINA

REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

THURSDAY, JANUARY 15, 2009
(STATEWIDE SESSION)

Thursday, January 15, 2009
(Statewide Session)

~~Indicates Matter Stricken~~
Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Psalm 43:4: "Then will I go to the altar of God, to God my joy and my delight."

Let us pray. Gracious Lord, may our faith and trust in You overcome our doubts and fears and bless us with gainful gusto in doing the work of the people. May Your blessing and favor be upon these people who give up other things in life to do what they feel is proper to serve and protect our people and State. Look in favor upon our Nation, President, State, Governor, Speaker, and all who serve in these Halls of Government. Protect our defenders of freedom at home and abroad as they protect us. Hear us as we pray, O Lord. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER ordered it confirmed.

MOTION ADOPTED

Rep. GILLIARD moved that when the House adjourns, it adjourn in memory of Jasiri Whipper, son of Representative Seth Whipper, which was agreed to.

MOTION ADOPTED

Rep. KELLY moved that when the House adjourns today, it adjourn to next meet in Statewide Legislative Session on Tuesday, January 27, which was agreed to.

MOTION ADOPTED

Rep. KELLY moved that the House, pursuant to House Rule 6.1b, meet in perfunctory session for the sole purpose of introducing and referring bills and with no attendance taken, on Thursday, January 22, which was agreed to.

STATEMENT BY REP. MOSS

On motion of Rep. ANTHONY, with unanimous consent, Rep. MOSS's remarks were ordered printed in the Journal as follows:

Dear Friends,

Our family would like to express our sincere gratitude and thanks for the outpouring of love, affection, and support that we received after the unexpected death of our loved one, Rep. Olin Phillips. We have been overwhelmed by the support and caring shown to us by the community, the state and the news media. Olin would be honored and very humbled by the hundreds of people from all walks of life who have expressed to us how much he meant to them. As others have said, it did not matter to Olin if you were rich or poor, black or white, Democrat or Republican. If you had a problem or concern, he was always there to help you find a solution if possible. He was truly the "People's Politician" and "Cherokee County's own Strom Thurmond." He cared for everyone in our county and state, especially the "little people and the common folk". He was honored to be their voice in Columbia. There was a prayer hanging in his office at the State House in Columbia that sums up his philosophy of life and the way we should treat each other.

"Dear God,

We pray thee give to the people of America and to their leaders old fashioned love of country that seeks to give rather than get." Amen.

He was truly one of a kind who can never be replaced in our hearts and lives. Even though the "Office" under the tree is closed and Seat #56 in the corner on the back row at the SC House of Representatives is empty, his knowledge, wisdom, and expertise will live on for many years to come through all the people who sought his advice and help. He devoted all of his time and energy to serve South Carolina House of Representatives District 30 for 30 years. Thank you for being his friends and sharing his life. Please continue to keep us in your prayers as we face the difficult days ahead without him.

The Family of Rep. Olin R. Phillips

THURSDAY, JANUARY 15, 2009

REPORT RECEIVED

The following was received:

Judicial Merit Selection Commission
Report of Candidate Qualifications

Date Draft Report Issued: Thursday, January 15, 2009
Date and Time Final Report Issued: 12:00 Noon on Tuesday, January 20, 2009

Judicial candidates are not free to seek or accept commitments until Tuesday, January 20, 2009 at Noon.

Judicial Merit Selection Commission

January 15, 2009

Dear Members of the General Assembly:

Enclosed is the Judicial Merit Selection Commission's Report of Candidate Qualifications. This Report is designed to assist you in determining how to cast your vote. The Commission is charged by law with ascertaining whether judicial candidates are qualified for service on the bench. In accordance with this mandate, the Commission has thoroughly investigated all judicial candidates for their suitability for judicial service. The Commission found all candidates discussed in this Report to be qualified.

The Commission's finding that a candidate is qualified means that the candidate satisfies both the constitutional criteria for judicial office and the Commission's evaluative criteria. The attached Report details each candidate's qualifications as they relate to the Commission's evaluative criteria.

Judicial candidates are **prohibited** from asking for your commitment until **Noon, Tuesday, January 20, 2009**. **Members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, statements detailing a candidate's qualifications, or commitments to vote for a candidate until Noon, Tuesday, January 20, 2009. In sum, no member of the General Assembly should, orally or by writing, communicate about a candidate's candidacy until the time designated after release of the Judicial Merit Selection Commission's Report of Candidate Qualifications.** If you find a candidate violating the pledging

prohibitions or if you have questions about this report, please contact the Commission office at 212-6629.

Thank you for your attention to this matter.

Sincerely,
Glenn F. McConnell, Chairman
F. G. Delleney, Jr., Vice-Chairman

Judicial Merit Selection Commission

January 15, 2009
Members of the South Carolina General Assembly
South Carolina State House
Columbia, South Carolina

Dear Fellow Members:

This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate's contact with members of the General Assembly, as well as third parties contacting members on a candidate's behalf. It is also to remind you of these issues for the Fall 2008 screening.

Section 2-19-70(C) of the South Carolina Code contains strict prohibitions concerning candidates seeking or legislators giving their pledges of support or implied endorsement through an introduction prior to 48 hours after the release of the final report of the Judicial Merit Selection Commission (Commission). The purpose of this section was to ensure that members of the General Assembly had full access to the report prior to being asked by a candidate to pledge his or her support. The final sentence of Section 2-19-70(C) provides that "the prohibitions of this section do not extend to **an announcement of candidacy <u>by the candidate</u> and <u>statements by the candidate</u>** detailing the candidate's qualifications" (emphasis added). Candidates may not, however, contact members of the Commission regarding their candidacy; please note that six members of the Commission also are legislators.

In April 2000, the Commission determined that Section 2-19-70(C) means <u>**no** member of the General Assembly should engage in any form of communication, written or verbal, concerning a judicial candidate before the 48-hour period expires following the release of the Commission's report</u>. The Commission would like to clarify and reiterate that until at least 48 hours have expired after the Commission has released its final report of candidate qualifications to the General

Assembly, only candidates, and not members of the General Assembly, are permitted to issue letters of introduction, announcements of candidacy, or statements detailing the candidates' qualifications.

The Commission would again like to remind members of the General Assembly that a violation of the screening law is likely a disqualifying offense and must be considered when determining a candidate's fitness for judicial office. Further, the law requires the Commission to report any violations of the pledging rules by members of the General Assembly to the House or Senate Ethics Committee, as may be applicable.

Should you have any questions regarding this letter or any other matter pertaining to the judicial screening process, please do not hesitate to call Jane O. Shuler, Chief Counsel to the Commission, at 212-6629 (T-TH).

Sincerely,

Glenn F. McConnell	F. G. Delleney, Jr.
Chairman	Vice-Chairman

INTRODUCTION

The Judicial Merit Selection Commission is charged by law to consider the qualifications of candidates for the judiciary. This report details the reasons for the Commission's findings, as well as each candidate's qualifications as they relate to the Commission's evaluative criteria. The Commission operates under the law that went into effect July 1, 1997, and which dramatically changed the powers and duties of the Commission. One component of this law is that the Commission's finding of "qualified" or "not qualified" is binding on the General Assembly. The Commission is also cognizant of the need for members of the General Assembly to be able to differentiate between candidates and, therefore, has attempted to provide as detailed a report as possible.

The Judicial Merit Selection Commission comprises ten members, four of whom are non-legislators. The Commission has continued the more in-depth screening format started in 1997. The Commission has asked candidates their views on issues peculiar to service on the court to which they seek election. These questions were posed in an effort to provide members of the General Assembly with more information about candidates and the candidates' thought processes on issues relevant to their candidacies. The Commission has also engaged in a more probing inquiry into the depth of a candidate's experience in areas of practice that are germane to the office he or she is seeking. The Commission feels that candidates should have familiarity with the

subject matter of the courts for which they offer, and feels that candidates' responses should indicate their familiarity with most major areas of the law with which they will be confronted.

The Commission also used the Citizens Committees on Judicial Qualifications as an adjunct of the Commission. Since the decisions of our judiciary play such an important role in people's personal and professional lives, the Commission believes that all South Carolinians should have a voice in the selection of the state's judges. It was this desire for broad-based grassroots participation that led the Commission to create the Citizens Committees on Judicial Qualifications. These committees, composed of people from a broad range of experiences (lawyers, teachers, businessmen, bankers, and advocates for various organizations; members of these committees are also diverse in their racial and gender backgrounds), were asked to advise the Commission on the judicial candidates in their regions. Each regional committee interviewed the candidates from its assigned area and also interviewed other individuals in that region who were familiar with the candidate either personally or professionally. Based on those interviews and its own investigation, each committee provided the Commission with a report on their assigned candidates based on the Commission's evaluative criteria. The Commission then used these reports as a tool for further investigation of the candidate if the committee's report so warranted. Summaries of these reports have also been included in the Commission's report for your review.

The Commission conducts a thorough investigation of each candidate's professional, personal, and financial affairs, and holds public hearings during which each candidate is questioned on a wide variety of issues. The Commission's investigation focuses on the following evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental health, and judicial temperament. The Commission's investigation includes the following:

(1) survey of the bench and bar;
(2) SLED and FBI investigation;
(3) credit investigation;
(4) grievance investigation;
(5) study of application materials;
(6) verification of ethics compliance;
(7) search of newspaper articles;
(8) conflict of interest investigation;
(9) court schedule study;

(10) study of appellate record;
(11) court observation; and
(12) investigation of complaints.

While the law provides that the Commission must make findings as to qualifications, the Commission views its role as also including an obligation to consider candidates in the context of the judiciary on which they would serve and, to some degree, govern. To that end, the Commission inquires as to the quality of justice delivered in the courtrooms of South Carolina and seeks to impart, through its questioning, the view of the public as to matters of legal knowledge and ability, judicial temperament, and the absoluteness of the Judicial Canons of Conduct as to recusal for conflict of interest, prohibition of ex parte communication, and the disallowance of the acceptance of gifts. However, the Commission is not a forum for reviewing the individual decisions of the state's judicial system absent credible allegations of a candidate's violations of the Judicial Canons of Conduct, the Rules of Professional Conduct, or any of the Commission's nine evaluative criteria that would impact a candidate's fitness for judicial service.

The Commission expects each candidate to possess a basic level of legal knowledge and ability, to have experience that would be applicable to the office sought, and to exhibit a strong adherence to codes of ethical behavior. These expectations are all important, and excellence in one category does not make up for deficiencies in another.

Routine questions related to compliance with ethical Canons governing ethics and financial interests are now administered through a written questionnaire mailed to candidates and completed by them in advance of each candidate's staff interview. These issues were no longer automatically made a part of the public hearing process, unless a concern or question was raised during the investigation of the candidate. The necessary public record of a candidate's pledge to uphold the Canons, etc., is his or her completed and sworn questionnaire.

Written examinations of the candidates' knowledge of judicial practice and procedure were given at the time of candidate interviews with staff and graded on a "blind" basis by a panel of four persons designated by the Chairman. In assessing each candidate's performance on these practice and procedure questions, the Commission has placed candidates in either the "failed to meet expectations" or "met expectations" category. The

Commission feels that these categories should accurately impart the candidate's performance on the practice and procedure questions.

This report is the culmination of weeks of investigatory work and public hearings. The Commission takes its responsibilities seriously, as it believes that the quality of justice delivered in South Carolina's courtrooms is directly affected by the thoroughness of its screening process. Please carefully consider the contents of this report, as we believe it will help you make a more informed decision.

This report conveys the Commission's findings as to the qualifications of all candidates currently offering for election to the Court of Appeals, Circuit Court, Family Court, and Administrative Law Court.

Kaye G. Hearn
Chief Judge, Court of Appeals, Seat 5

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Hearn since her candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Hearn meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Hearn was born in 1950. She is 58 years old and a resident of Conway, South Carolina. Judge Hearn provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1977.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Hearn.

Judge Hearn demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hearn reported that she has not made any campaign expenditures.

Judge Hearn testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Hearn testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hearn to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Hearn described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Appellate Issues (Bridge the Gap) 3-10-03;
(b) South Carolina Judicial Conference 8-03;
(c) National Council of Chief Judges' Conference 11-03;
(d) Family Court Bench Bar 12-5-03;
(e) Appellate Issues (Bridge the Gap) 3-8-04;
(f) Using Electronic Evidence in Civil Litigation 7-15-04;
(g) South Carolina Judicial Conference 8-04;
(h) Hot Tips from the Coolest Domestic Practitioners 9-24-04;
(i) Wofford and the Law 9-25-04;
(j) National Council of Chief Judges' Conference 11-04;
(k) South Carolina Family Court Bench/Bar 12-3-04;
(l) Appellate Issues (Bridge the Gap) 3-7-05;
(m) South Carolina Judicial Conference 8-06;
(n) National Council of Chief Judges' Conference 11-05;
(o) South Carolina Family Court Bench/Bar 12-12-05;
(p) Trial and Appellate Advocacy 1-28-06;
(q) Appellate Issues (Bridge the Gap) 3-6-06;
(r) S.C. Family Court Summit 7-06;
(s) South Carolina Judicial Conference 8-06;
(t) National Council of Chief Judges' Conference 11-06;
(u) AutoTorts 12-2-06;
(v) South Carolina Judicial Conference 8-07;
(w) National Council of Chief Judges' Conference 11-07;
(x) South Carolina Judicial Conference 8-08."

Judge Hearn reported that she has taught the following law-related courses:

"(a) Hearsay Rule in the Family Court, Columbia, S.C., July 21, 1979;

(b) Order Writing for Circuit Judges, Columbia, S.C., Aug. 1979;

(c) Order Writing for Family Court Judges, Columbia, S.C., Nov. 16, 1979;

(d) Moderator, Organizer, and Presenter at People's Law School, Horry Georgetown Tech, 1980-1984;

(e) Appellate Court Writs, Columbia, S.C., June 19, 1980;

(f) Order Writing for Law Clerks, Columbia, S.C. Aug. 1980;

(g) Order Writing for Law Clerks and Staff Attorneys, Columbia, S.C., Aug. 1981;

(h) Rules and Procedures of the Family Court, S.C. Trial Lawyers Convention, Hilton Head, S.C., Aug. 20, 1981;

(i) Appellate Advocacy Brief Writing, Greenville, S.C., Apr. 2, 1982;

(j) Appellate Advocacy Brief Writing, Charleston, S.C., May 1982;

(k) Appellate Advocacy Brief Writing, Florence, S.C., June 25, 1982;

(l) Appellate Advocacy Preservation of the Record, Columbia, S.C. July 15, 1983;

(m) Opinion Writing for Appellate Judges, Columbia, S.C., Oct. 1983;

(n) Separation and Antenuptial Agreements, Columbia, S.C., Oct. 12, 1984;

(o) Effective Order Writing, Columbia, S.C., Dec. 6-7, 1984;

(p) Order Writing, New Family Court Judges' School, Columbia, S.C., Feb. 28, 1985;

(q) Order Writing, Bridge the Gap, Columbia, S.C., Mar. 1985;

(r) Order Writing, Bridge the Gap, Columbia, S.C., August 1985;

(s) Complex Issues in Family Court, Statutory Update, and Alimony Perspective – Co-Moderator, Columbia, S.C., Nov. 19-20, 1987;

(t) Practical Problems in Legal Ethics, Columbia, S.C. Dec. 1987;

(u) Order Writing, New Family Court Judges' School, Columbia, S.C., July 21- 22, 1988;

(v) Children's Rights, SCDSS Family Violence Conference, Columbia, S.C., Mar. 19-20, 1990;

(w) Judge's Perspective on Adoption, Columbia, S.C., April 6, 1990;

(x) Domestic Relations, Bridge the Gap, Columbia, SC, Aug. 1990;

(y) Domestic Relations, Bridge the Gap, Columbia, SC, March 1991;

(z) The Future of Families in the Courts, Greenville, S.C., Apr. 4, 1991;

(aa) Domestic Relations, Bridge the Gap, Columbia, SC, Aug. 1991;

(bb) Order Writing, New Alimony Statute, Abuse and Neglect, and Contempt – Moderator, New Family Court Judges' School, Columbia, S.C., Aug. 27-28, 1991;

(cc) Domestic Violence, Magistrate's JCLE, Columbia, S.C., November 8, 1991;

(dd) Domestic Relations, Bridge the Gap, Columbia, SC, March 1992;

(ee) Adoption, Abuse and Neglect – Moderator, New Family Court Judges' School, Columbia, S.C., July 28, 1992;

(ff) Separation Agreements, Columbia, S.C., Dec. 1992;

(gg) Domestic Relations, Bridge the Gap, Columbia, SC, May 17, 1993;

(hh) The Future of Family Court, S.C. Trial Lawyers Convention, Hilton Head, S.C., August 18, 1993;

(ii) Suppression Hearings in Family Court, Solicitors' Conference, Myrtle Beach, S.C., Oct. 4, 1993;

(jj) How the Family Court is Using ADR and Mediation in the Courtroom, S.C. Bar Mid-Winter Meeting, Charleston, S.C., Jan. 21, 1994;

(kk) Domestic Relations, Bridge the Gap, Columbia, SC, February 28, 1994;

(ll) Juvenile Delinquency, Family Court Judges' School, Columbia, S.C., June 24, 1994;

(mm) Family Court Rules, Columbia, S.C. July 29, 1994;

(nn) Waiver Hearings, Family Court Bench/Bar Seminar, Columbia, S.C., Aug. 19, 1994;

(oo) Domestic Relations, Bridge the Gap, Columbia, SC, March 6, 1995;

(pp) Domestic Relations, Bridge the Gap, Columbia, SC, May 16, 1995;

(qq) The Hot Evidentiary Issues Under the New Rules, The Judicial Conference, Columbia, S.C., Aug. 24, 1995;

(rr) Judicial Perspective on Briefs and Oral Arguments, Ethical Issues Facing Family Law Practitioners, Columbia, S.C., Dec. 19, 1995;

(ss) Domestic Relations, Bridge the Gap, Columbia, SC, March 5, 1996;

(tt) The Future of Appellate Courts, Seminar for New Appellate Court Judges, Columbia, S.C., May 1, 1996;

(uu) Preserving the Trial Record, Circuit Court Judges Seminar, Fripp Island, S.C., May 1996;

(vv) Preserving the Trial Record, The Judicial Conference, Columbia, S.C., Aug. 22, 1996;

(ww) Ethics: A View from the Bench, S.C. Public Defenders' Conference, North Myrtle Beach, S.C., Sept. 30, 1996;

(xx) A View from the Bench, Ethics for Family Law Practitioners, Columbia, S.C., Dec. 10, 1996;

(yy) Appellate Writs and Motions Practice, S.C. Bar Mid-Winter Meeting, Charleston, S.C., Jan. 25, 1997;

(zz) Family Law Update, The Judicial Conference, Columbia, S.C., Aug. 22, 1997;

(aaa) Perspectives on Judging, S.C. Student Trial Lawyers Association, Columbia, S.C., Oct. 1, 1997;

(bbb) The Rules of Evidence and The Dead Man's Statute, S.C. Probate Judges Conference, Myrtle Beach, S.C., Oct. 13, 1997;

(ccc) Automatic Stay, Petitions for Supersedeas, Family Court Seminar, Conway, S.C., Oct. 21, 1997;

(ddd) Appellate Ethics Update, Ethics Seminar, Columbia, S.C., Nov. 14, 1997;

(eee) Order Writing, Probate Judges Conference, Columbia, S.C., Feb. 26, 1998;

(fff) Important Rules of Appellate Practice, S.C. Practice and Procedure Update, Columbia, S.C., March 20, 1998;

(ggg) Comparative Negligence Developments, S.C. Tort Law Update, Columbia, S.C., Sept. 25, 1998;

(hhh) Preserving Evidentiary Matters on Appeal, Winning Evidence, Columbia, S.C., Feb. 19, 1999;

(iii) Appellate Issues, Court of Appeals Bench/Bar seminar, Columbia, S.C., October 22, 1999;

(jjj) Appellate Issues, Bridge the Gap, Columbia, S.C. May 2000;

(kkk) Appellate Issues, Family Court Bench/Bar seminar, Columbia, S.C., Dec. 1, 2000;

(lll) Appellate Issues, Bridge the Gap, Columbia, S.C. March 2001;

(mmm) Issues in Comparative Negligence, 2001 South Carolina Tort Law Update, Columbia, S.C., September 28, 2001;

(nnn) Appellate Issues, Ring Out the Old, Ring In the New, Columbia, S.C. December 21, 2001;

(ooo) Appellate Issues, Bridge the Gap, Columbia, S.C., May 15, 2002;

(ppp) Appellate Issues, Family Court Bench/Bar, Conway, S.C., Dec. 6, 2002;

(qqq) Appellate Issues, Bridge the Gap, Columbia, S.C., March 10, 2003;

(rrr) Oral Argument, South Carolina Trial Lawyers' Association Convention, 2003;

(sss) Now we have Campbell, what do we do with it? South Carolina Defense Trial Attorneys' Association, Sea Island, GA, Nov. 7, 2003;

(ttt) Appellate Issues, Family Court Bench/Bar, Conway, S.C., Dec. 5, 2003;

(uuu) Appellate Issues, Bridge the Gap, Columbia, S.C., March 8, 2004;

(vvv) Using Electronic Evidence in Civil Litigation, July 15, 2004;

(www) Hot Tips from the Coolest Domestic Practitioners, Columbia, S.C., September 24, 2004;

(xxx) Wofford and the Law, Panel Leader for Legal Symposium, Spartanburg, SC, September 25, 2004;

(yyy) Appellate Issues, South Carolina Family Court Bench/Bar, Conway, S.C., December 3, 2004;

(zzz) Appellate Issues, Bridge the Gap, Columbia, S.C., March 7, 2005;

(aaaa) Professionalism, Forum on Professionalism at the Charleston School of Law, Charleston, S.C.;

(bbbb) Oral Arguments, S.C. Bar Convention, January 28, 2006;

(cccc) Appellate Issues, Bridge the Gap, Columbia, S.C., March 6, 2006;

(dddd) Expediting Appeals in Dependency Cases, S.C. Family Court Summit, Columbia, S.C., July 2006;

(eeee) Appellate Advocacy, Charleston School of Law, Visiting Adjunct Professor, Fall 2006 semester;

(ffff) Order Writing, 14th Annual Probate Bench/Bar, Columbia, S.C., Sept. 15, 2006;

(gggg) Keeping Your Verdicts Without Compromising Your Ethics, AutoTorts, Atlanta, G.A., December 2, 2006;

(gggg) Oral Argument, Family Court Bench/Bar, Conway, S.C., December 7, 2006;

(hhhh) Appellate Advocacy, Charleston School of Law, Visiting Adjunct Professor, Fall 2007 semester;

(iiii) Ethics, Summary Court Judges' Conference, Myrtle Beach, S.C., September 7, 2007;

(jjjj) Panel on the Constitution, Wofford College, Spartanburg, S.C., September 26, 2007;

(kkkk) Appellate Issues, Bridge the Gap, Columbia, S.C., March 10, 2008;

(llll) Appellate Issues, Bridge the Gap, Columbia, S.C., May 12, 2008;

(mmmm) New Appellate Rules in Workers' Compensation Cases, Clarion Townhouse, Columbia, S.C., May 2008;

(nnnn) Appellate Advocacy, Charleston School of Law, Visiting Adjunct Professor, Fall 2008 semester."

Judge Hearn reported that she has published the following:

"(a) S.C. Appellate Practice Handbook, (S.C. Bar CLE 1985), Contributing Author;

(b) Marital Litigation in S.C., Roy T. Stuckey and F. Glenn Smith (S.C. Bar CLE 1997), Editorial Board;

(c) South Carolina Damages, Terry E. Richardson, Jr., and Daniel S. Haltiwanger (S.C. Bar CLE 2004), authored chapter titled, "S.C. Modified Comparative Negligence";

(d) The Appellate Prosecutor: A Practical and Inspirational Guide to Appellate Advocacy, Ronald H. Clark (S.C. Bar CLE 2005), authored chapter on oral argument."

(4) Character:

The Commission's investigation of Judge Hearn did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Hearn did not indicate any evidence of a troubled financial status. Judge Hearn has handled her financial affairs responsibly.

The Commission also noted that Judge Hearn was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Hearn reported that her last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Hearn appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Hearn appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Hearn was admitted to the South Carolina Bar in 1977.

She gave the following account of her legal experience since graduation from law school:

"1977-1979: Law clerk to the Honorable Julius B. Ness, Associate Justice of the S.C. Supreme Court

1979-1985: Associate and partner in firm which eventually became Stevens, Stevens, Thomas, Hearn & Hearn; located in Loris and Myrtle Beach, S.C.

1985-1995: Family Court Judge for the Fifteenth Judicial Circuit (Chief Administrative Judge from 1987-1995)

1995-1999: Judge, S.C. Court of Appeals

1999-present: Chief Judge, S.C. Court of Appeals."

Judge Hearn reported that she has held the following judicial office(s):

"I was elected Family Court Judge in 1986 and served until 1995. The family court has jurisdiction over matters involving domestic relationships, such as divorce, division of marital property, custody, visitation rights, adoptions, and termination of parental rights. The family court also has jurisdiction over minors under the age of seventeen who have committed crimes, unless those crimes are serious enough for the child to be "waived up" to General Sessions Court.

In 1995, I was elected to serve as a judge on the S.C. Court of Appeals, and in 1999, I was elected Chief Judge of the Court of Appeals. I continue to serve in that position. The court of appeals has jurisdiction over all appeals, with the following seven exceptions (see § 14-8-200 of the South Carolina Code):

(a) death penalty cases;

(b) final decisions of the Public Service Commission setting public utility rates;

(c) challenges to the constitutionality of a statute or ordinance (unless the Supreme Court deems the constitutional question raised insignificant);

(d) final judgments from the circuit court involving 'the authorization, issuance or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the State, its agencies, political subdivisions, public service districts, counties, and municipalities, or any other indebtedness authorized by Article X of the Constitution of this State';

(e) judgments dealing with elections or election procedures;

(f) orders limiting the investigation of the state grand jury; and

(g) orders dealing with an abortion by a minor."

Judge Hearn provided the following list of her most significant orders or opinions:

"(a) Shaw v. Atlantic Coast Life Ins. Co., 322 S.C. 139, 470 S.E.2d 382 (Ct. App. 1996), cert. denied, 520 U.S. 1167 (1987) (holding that an employee seeking to recover benefits under ERISA was entitled to a jury trial);

(b) Davenport v. Cotton Hope Plantation Horizontal Property Regime, 325 S.C. 507, 482 S.E.2d 569 (Ct. App. 1997) (en banc), aff'd as modified, 333 S.C. 71, 508 S.E.2d 565 (1998) (holding that assumption of risk has been subsumed by South Carolina's adoption of comparative fault);

(c) State v. Hamilton, 327 S.C. 440, 486 S.E.2d 512 (Ct. App. 1997), cert. denied, 525 U.S. 904 (1998) (finding no error in trial judge's decision to allow the State to prove defendant had two prior burglary convictions despite defendant's willingness to stipulate to his prior convictions);

(d) State v. Slater, 360 S.C. 487, 602 S.E.2d 90 (Ct. App. 2004) (Hearn, C.J., dissenting and finding Slater was not entitled to a self defense charge), rev'd, 373 S.C. 66, 644 S.E.2d 50 (2007) (agreeing with dissent that charge of self defense was not warranted);

(e) In re Expediting Appeals from Termination of Parental Rights Proceedings 366 S.C. 670, 623 S.E.2d 661 (Ct. App. 2005) (recognizing the need for stability in children's lives and implementing an expedited procedure for handling appeals from termination of parental rights proceedings, adoption proceedings, and/or DSS actions involving the custody of a minor child)."

Judge Hearn reported the following regarding her employment while serving as a judge:

"Adjunct Professor of Appellate Advocacy for the Charleston School of Law. Employed for the Fall Semesters of 2006, 2007, and 2008, from August through November. The class meets two hours per week, and I co-teach with my former law clerk, William Cook."

Judge Hearn further reported the following regarding unsuccessful candidacies:

"In May of 2007, I unsuccessfully ran for Seat 5 on the South Carolina Supreme Court. The Judicial Merit Selection Committee nominated Donald Beatty, H. Bruce Williams, and me for the seat. The Honorable Donald W. Beatty won the election. In February of 2008, I ran for Seat 3 on the South Carolina Supreme Court. The Judicial Merit Selection Committee nominated John Kittredge, John Few, and me for the seat. The Honorable John Kittredge won the election."

(9) Judicial Temperament:

The Commission believes that Judge Hearn's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Hearn to be a "highly regarded candidate who would ably serve on the Court of Appeals bench."

Judge Hearn is married to George M. Hearn, Jr. She has one child.

Judge Hearn reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;
(b) Council of Chief Judges
Immediate Past President, 2006-2007
President, 2005-2006
Chair, Education Committee, 2003
Member, Executive Board, 2001-Present
Member, Education Committee, 2000-2002;
(c) Conference of Family Court Judges
Treasurer, 1990
Secretary, 1991
President, 1992."

Judge Hearn provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:
"In 2004, I was a portrait honoree of the South Carolina Trial Lawyers Association."

(11) Commission Members' Comments:

The Commission commented that Judge Hearn's exemplary service as the former President of the National Council of Chief Judges brings credit to our State. They noted that she has been a successful leader and administrator as the Chief Judge on the Court of Appeals.

(12) Conclusion:

The Commission found her qualified and nominated her for re-election to the Court of Appeals.

Jeffrey P. Bloom
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Bloom meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Bloom was born in 1956. He is 52 years old and a resident of Sandy Run, South Carolina. Mr. Bloom provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985. He was also admitted to the North Carolina Bar in 1983.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Bloom.

Mr. Bloom demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Bloom reported that he has not made any campaign expenditures on anything other than travel, room, and board.

Mr. Bloom testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Bloom testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Bloom to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Bloom described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Federal Advocacy Training (registered; to be completed) 10/6/08;

(b) Federal Criminal Practice (registered; to be completed) 10/16/08;

(c) Federal Criminal Practice 11/1/07;

(d) Victim Outreach Training 3/24-25/07; 4/14-15/07;

(e) 21st Annual Criminal Law Update 1/27/06;

(f) 4th Annual Civil Law Update 1/27/06;

(g) Restorative Justice 5/8-5/12/06;

(h) 27th Annual Capital Punishment 7/21-7/23/06;

(i) Habeas Institute 6/2/05;

(j)Capital PCR Training 10/14-15/04;

(k) Mental Health Concerns for Attys 12/10/04."

Mr. Bloom reported that he has taught the following law related courses:

"(a) 'Mitigation and Forensic Psychiatry' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2006;

(b) 'A Case Study of *Rompilla* and the Role of Mitigation: *Wiggins* revisited,' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2006;

(c) 'The Habeas Institute: Teaching the Art of Advocacy,' National Institute for Trial Advocacy, Georgia State University College of Law, Atlanta, Georgia, June 2- 5, 2005;

(d) 'A Case Study of *State v. Von Dohlen* and the Role of Mitigation,' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 24, 2005;

(e) 'Changing the Theme of Your Capital Post-Conviction Case,' N.C. Center for Death Penalty Litigation, Chapel Hill, N.C., October 2004;

(f) '*Wiggins* and the Forensic Social Worker,' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 25, 2004;

(g) 'The Application of *Ring* to S.C. Law,' S.C. Public Defender Assn. Conference, Charleston, S.C., October 1, 2003;

(h) 'Diagnosing Mental Retardation and its Impact,' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., February 2003;

(i) 'Voir Dire in Capital Jury Selection', and "Team-Building in Capital Cases," Virginia Death Penalty College, Richmond, VA., January 31, 2003;

(j) 'Psychiatric Issues and Jury Selection in Capital Cases,' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 28, 2002;

(k) 'Psychiatric Issues & Mitigation in Capital Cases,' Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., January 31, 2001;

(l) 'Understanding Juries in Capital Cases,' S.C. Public Defender Assn., Myrtle Beach, S.C., October 2000;

(m) 'Use of Mock Trials/Focus Groups in Preparing Capital Cases,' N.C. Academy of Trial Lawyers, Raleigh, N.C., September 2000;

(n) 'Jury Selection in Capital Cases,' Georgia Indigent Defense Council Seminar, Atlanta, Georgia, July 2000;

(o) 'Use of Mock Trials/Focus Groups in Preparing Capital Cases,' NAACP Legal Defense Fund Capital Litigation Seminar, Virginia, August 1999;

(p) 'Prosecutorial Conduct and Witnesses', Lecture delivered to the S.C. Judicial Conference, August 22, 1997;

(q) 'Caseloads, Ethics, and Remedies' S.C. Public Defender Assn. Seminar, Sept. 30, 1996;

(r) 'Obtaining Adequate and Effective Resources in Capital Cases,' S.C. Assn. of Criminal Defense Attorneys, February 1996;

(s) 'Court Appointments in Conflict Cases,' S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, December 15, 1995;

(t) 'Psychiatry and The Law' University of South Carolina, School of Medicine Seminar, December 16, 1994;

(u) 'The Ethics of Dealing With Difficult Clients & Difficult Issues: Confronting Race & Gender,' S. C. Public Defender Association Conference, September 30, 1994;

(v) 'Family Court Criminal Law Seminar: Search and Seizure and Schmerber,' Dept. of Juvenile Justice, August 19, 1994;

(w) 'Constitutional Law,' Magistrate Training Seminar, S.C. Criminal Justice Academy, July 28, 1994;

(x) 'Mock Trial Demonstration: Insanity Issues,' University of South Carolina, School of Medicine, May 25, 1994;

(y) 'Criminal Practice in South Carolina: The Fifth & Sixth Amendments,' S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, November 12, 1993;

(z) 'Panel Discussion on Indigent Defense: Practical and Ethical Problems and Solutions,' S.C. Association of Criminal Defense Lawyers, October 8, 1993;

(aa) 'Opening Statements, Final Arguments, and Jury Dynamics – Including Batson and Edmonson Issues (Panel Discussion of Jury Selection and Dynamics),' S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, April 2, 1993;

(bb) 'Death Penalty Litigation: Getting Funds and Experts,' S.C. Public Defender Association Conference, October 1993;

(cc) 'Ethics in Criminal Defense: What To Do, What Not To Do, And Changing Rules,' S.C. Bar Continuing

Legal Education Seminar, University of South Carolina, School of Law, September 3, 1992;

(dd) 'Ethics: Conflicts of Interest in Criminal Law,' S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, 1991;

(ee) 'Criminal Defense and Investigation,' S.C. Association of Legal Investigators, May 11, 1990."

Mr. Bloom reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Bloom did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Bloom did not indicate any evidence of a troubled financial status. Mr. Bloom has handled his financial affairs responsibly.

The Commission also noted that Mr. Bloom is punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Bloom reported that he is not rated by Martindale-Hubbell.

Mr. Bloom reported that he has held the following public offices:

(a) Commission Member, S.C. Comm. on Indigent Defense: 2006-07;

(b) Chair, Appellate Defense Comm.: 1990-98;

(c) Commission Member, S.C. Sentencing Guidelines Comm.: 1990-96;

(d) Zoning Board of Appeals, City of North Myrtle Beach, S.C.: 1989-92.

(6) Physical Health:

Mr. Bloom appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Bloom appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Bloom was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

(a) 1984 – Brunswick County, N.C.; Juvenile Court;

(b) 1985 – Neighborhood Legal Aid Assn., Conway, S.C.: Civil and Family Court;

(c) 1985-1992 – Horry County Public Defender Office, Conway, S.C. Began as an Assistant Public Defender. Served as Chief Public Defender 1988-1992;

(d) 1992-1999 – Richland County Public Defender Office, Columbia, S.C. Served as Chief Public Defender;

(e) 1999-Present. Private Practice. I have handled capital trial, appellate, and post-conviction cases. In February 2006, I began accepting appointments and assisting the Calhoun County Public Defender Office, St. Matthews, S.C. I have also handled pro bono cases in civil court, including bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. I continue to donate more than 100 hours pro bono services annually.

Mr. Bloom further reported:

"I have handled complex criminal cases for more than 20 years (representing defendants) as a Public Defender in two counties, Horry and Richland. I have also, since 2006, begun handling criminal appointments and pro bono criminal cases in Calhoun County (please contact, for any references in this regard, Calhoun County Public Defender Martin Banks: P.O. Box 243, St. Matthews, S.C., 29135; # 803-874-2100). This includes the trial level, appellate, and post-conviction stages. Beginning about 2004, I began handling federal criminal cases, too. Cases handled in the last 5 years include numerous complex capital cases and numerous criminal cases, such as: *State v. (Rita) Bixby,* 373 S.C. 74, 644 S.E.2d 54 (2007). This case set the precedent in that a defendant charged as an accessory before the fact to murder cannot be subject to capital punishment as a principal. Other issues in such cases have involved constitutional questions such as due process, search and seizure, effective assistance of counsel, and related issues. Similar case examples can be listed if necessary.

In civil cases, I have handled numerous capital post-conviction cases, which operate under the rules of civil procedure and are treated as such by the court. Case examples include: Charping v. Ozmint, Mem. Op. 2006-MO-024 (S.C. July 3, 2006) and Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004). I have also handled pro bono cases in civil court representing mainly

defendants, including bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. While I have not handled numerous civil litigation–type cases, my experience with the civil rules and procedures in the numerous aforementioned cases have exposed me to the arena of civil law."

Mr. Bloom reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: more than 30;
(b) State: more than 60."

Mr. Bloom reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 50% (including capital PCR cases which are treated as civil cases);
(b) Criminal: 50%;
(c) Domestic: none."

Mr. Bloom reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 25%;
(b) Non-jury: 75%."

Mr. Bloom provided that he most often served as lead counsel.

The following is Mr. Bloom's account of his five most significant litigated matters:

"(a) State v. (Rita) Bixby, 373 S.C. 74, 644 S.E.2d 54 (2007)

This case set the precedent in that a defendant charged as an accessory before the fact to murder cannot be subject to capital punishment as a principal;

(b) Kelly v. Ozmint, 7th Cir. Court of Common Pleas and S.C. Sup.Ct.; 5/24/06, cert. den.

Affirming Circuit Court's grant of relief (no reported decision). This case established a number of significant constitutional claims, including the constitutional mandate that race cannot play any part of the prosecutorial decision to seek the death penalty;

(c) Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004)

First S.C. Supreme Court case which adopted, interpreted and applied the U.S. Supreme Court recent precedent of Wiggins v. Smith, 539 U.S. 510 (2003);

(d) U.S. v. Reid, 523 F.3d 310 (4th Cir. 2008). I represented defendant at trial. While the appeal was unsuccessful for the defendant, it established important sentencing principles in federal court;

(e) Blakeney v. Branker, appeal pending in 4th Circuit Court of Appeals. This was a complicated capital post-conviction case in U.S. District Court in N.C. involving race issues in jury selection, ineffective assistance of counsel at sentencing, and discovery issues."

The following is Mr. Bloom's account of five civil appeals he has personally handled:

"(a) Charping v. Ozmint, Mem. Op. 2006-MO-02

(S.C., July 3, 2006), affirming Circuit Court's grant of relief.;

(b) Kelly v. Ozmint, 7th Cir. Court of Common Pleas and S.C. Sup.Ct.

5/24/06, cert. den., affirming Circuit Court's grant of relief.;

(c) Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004)

[See above];

(d) Lawrence v. State, 1st Circuit Court of Common Pleas and S.C. Sup. Ct.

8/08, cert. den., affirming Circuit Court's grant of relief. (pro bono);

(e) Credell v. State, appeal pending from 1st Circuit Court of Common Pleas, S.C. Supreme Court. (pro bono)."

The following is Mr. Bloom's account of the criminal appeals he has personally handled:

"(a) State v. (Rita) Bixby, 373 S.C. 74, 644 S.E.2d 54 (2007)

[See above];

(b) State v. Crisp, 362 S.C. 412, 608 S.E.2d 429 (2005)

Established the parameters for Circuit Court in accepting a guilty plea in a capital case. (I was appointed by the S.C. Supreme Court and served pro bono in this appeal);

(c) State v. Cockerham, 294 S.C. 380, 365 S.E.2d 22 (19988)

Established 5th Amendment protections for the defendant as applied to the prosecutor's closing argument. (brief no longer available due to age of case; may be requested from S.C. Supreme Court library if necessary)."

(9) Judicial Temperament:

The Commission believes that Mr. Bloom's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee reported the following regarding Mr. Bloom: "Constitutional Qualifications: Mr. Bloom meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Bloom is considered ethical. Professional and Academic Ability: The committee gave Mr. Bloom an exceptional rating in this area. Character: The committee reported that Mr. Bloom's character is unquestionable. Reputation: Mr. Bloom enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Bloom is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Mr. Bloom's good legal experience in the criminal arena. Judicial Temperament: The committee gave Mr. Bloom a good rating in this category."

Mr. Bloom is not married. He has two children.

Mr. Bloom reported that he was a member of the following bar associations and professional associations:

"(a) S.C. Bar;
(b) N.C. Bar;
(c) S.C. Assn. of Criminal Defense Lawyers;
(d) Calhoun County Bar;
(e) Richland County Bar;
(f) American Society of Trial Consultants;
(g) Formerly a member of the S.C. Public Defender Assn., and served as President from 1990-96."

Mr. Bloom provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Scoutmaster, Boy Scouts of America, Troop 397, Asbury Methodist Church, 2005-Present;

(b) Asst. Clinical Professor of Neuropsychiatry and Behavioral Science, USC School of Medicine, 1999-Present. (serve pro bono);

(c) Former Board Member, Domestic Abuse Center."

(11) Commission Members' Comments:

The Commission commented that Mr. Bloom has a high reputation for always being fair and trustworthy, which would assist him on the Circuit Court bench. They also noted that he has a tremendous work ethic.

(12) Conclusion:

The Commission found Mr. Bloom qualified and nominated him for election to the Circuit Court.

Edgar Warren Dickson
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Dickson meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Dickson was born in 1950. He is 58 years old and a resident of Orangeburg, South Carolina. Mr. Dickson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1977.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Dickson.

Mr. Dickson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Dickson reported that he has not made any campaign expenditures.

Mr. Dickson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Dickson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Dickson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Dickson described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Criminal Law Update, Part 1 0	1/25/08;
(b) Ethics for Government Lawyers	11/09/07;
(c) Beginning Westlaw Training	09/17/07;
(d) SCIRF Law Enforcement Defense	11/17/06;
(e) SCARLA Seminar & Annual Meeting	09/22/06;
(f) Trial and Appellate Advocacy	01/28/06;
(g) 21st Annual Criminal Law Update	01/27/06;
(h) Fourth Annual Civil Law Update	01/27/06;
(i) Solutions to Most Common Ethical Challenges	12/19/05;
(j) Advanced Workers' Compensation	02/24/05;
(k) Trial & Appellate Advocacy	01/22/05;
(l) 20th Annual Criminal Law Update 250188	01/21/05;
(m) 20th Annual Criminal Law Update 250189	01/21/05;
(n) Revised Lawyer Oath CLE	11/05/04;
(o) ASCCA 222nd Annual Seminar	11/04/04;
(p) IP Law-What Every Gunfighter	02/27/04;
(q) Torts & Insurance Practices	01/24/04;
(r) 19th Annual Criminal Law Update	01/23/04;
(s) Practice Builder-Overview	10/06/03;
(t) SCTLA 2003 Annual Convention	08/07/03;
(u) SC Workers' Compensation Law	05/30/03;
(v) ASCCA 6th Annual Spring Seminar	05/02/03;
(w) 18th Annual Criminal Law Update	01/24/03."

Mr. Dickson reported that he has taught the following law-related courses:

"As attorney for the Second Injury Fund I taught a CLE on guidelines for recovery against the Fund. As attorney for CIO, I spoke at a State employee conference on employee ethics."

Mr. Dickson reported that he has published the following:

"I was a speaker at CLE program and provided an outline and case law on recovery against the Second Injury Fund in the late 1980's. The outline was included in the CLE materials."

(4) Character:

The Commission's investigation of Mr. Dickson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Dickson did not indicate any evidence of a troubled financial status. Mr. Dickson has handled his financial affairs responsibly.

The Commission also noted that Mr. Dickson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Dickson reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Dickson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Dickson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Dickson was admitted to the South Carolina Bar in 1977.

He gave the following account of his legal experience since graduation from law school:

"(a) 1977-1978: Georgaklis and Korn: mainly a real estate practice, loan closings and foreclosures in every county in this state; some domestic litigation;

(b) 1978-1982: Sole practitioner for a few months before creating a partnership of Clawson, Dickson and Wilson. We were a small general practice doing real estate and domestic and plaintiff's litigation;

(c) 1982-1985: Attorney General's office: Worked in the child support section. This involved litigation in Family Court. I averaged fifty hearings a week. Since HLA blood tests and DNA tests were not used when I began, paternity trials were commonplace;

(d) 1985-1987: The child support section was transferred to the Department of Social Services. I continued to try the same cases. Management duties were added and I was charged with coordinating child support collections for a number of assigned counties in the midlands;

(e) 1987-1991: General Counsel for the Second Injury Fund. I defended the Fund against claims of insurance carriers for reimbursement. Later I also defended the Uninsured Employer's Fund from the claims of injured workers. The cases began at a hearing before the a single commissioner and appeals continued from the full commission, to circuit court, to Court of Appeals and finally to the Supreme Court;

(f) 1991-2006: Charles H. Williams, P.A. in Orangeburg. This firm specializes in plaintiff's litigation and criminal defense. However practicing law in a small city required providing general legal services to our clients. I began handling real estate closings and litigation and claims of injured workers before the Workers' Compensation Commission. Additionally I tried cases in Family Court, and Circuit Court. In General Sessions, I defended and assisted in criminal defense cases and in Common Pleas I defended accident cases and assisted in plaintiff's cases;

(g) 2006: Attorney for the Chief State Information Officer: This involved contract preparation and negotiation in information technology and advising and participating in procurement hearings;

(h) 2006-present: Attorney and Assistant Director for General Services Division of the Budget and Control Board. I advise staff on legal matters and participate and monitor law suits involving General Services. I also manage all real estate owned or leased by the State of South Carolina and appear before the Joint Bond Review Committee and the Budget and Control Board."

Mr. Dickson further reported:

"In criminal cases I have been involved in all aspects of criminal litigation from the bond and preliminary hearings through the trial. I have assisted in the representation of people charged with murder and their pleas or trials. In the

last five years, I defended a man charged with burglary and he was found guilty. I defended a young man charged with distributing crack cocaine and he was found not guilty. I assisted in the defense of a young man charged with murder and he was found not guilty. During that time I was also appointed to defend other people with various charges including manslaughter that resulted in pleas. I was also appointed by the Court of Appeals to represent a young man convicted of bank robbery. The issue on appeal was the whether it was proper for the line-up to be introduced into evidence at the trial.

In civil cases I have likewise tried and represented clients in the variety of cases heard by a Circuit Court judge. I have argued for and against motions. I have argued appeals from the workers compensation commission, probate court and magistrate court. I have tried accident cases representing the defendants and assisted in trials representing plaintiffs. I have tried post conviction relief cases. My earliest civil trial experience was in Family Court representing the Attorney General's Office trying paternity cases and prosecuting rules to show cause hearings for non-payment of child support. Later as attorney for the Second Injury Fund I began trying and defending claims against the Fund. These cases usually involved appeals at least to the Circuit Court and often to the Court of Appeals or the Supreme Court."

Mr. Dickson reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: none;

(b) State: Before I began working for the State in 2006, I appeared at least twice a week in some level of courts. This estimate includes appearing in Magistrates Court, Probate Court, Equity Court, Family Court, Circuit Court, Court of Appeals, and Supreme Court;

(c) Other: N/A."

Mr. Dickson reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 80%;
(b) Criminal: 15%;
(c) Domestic: 5%."

Mr. Dickson reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 5 to 10%;
(b) Non-jury: 90 to 95%."

Mr. Dickson provided that he most often served as sole counsel.

The following is Mr. Dickson's account of his five most significant litigated matters:

"(a) I represented Ralph Ellison in his workers compensation claim for total disability. This case was significant because the decision established that claimants were entitled to benefits under SC Code Section 42-9-400. This code section allows for recovery for the combined effects of a pre-existing permanent impairment with a subsequent injury at work. Ellison v. Frigidaire Home Products, Inc., 371 S.C. 159, 638 S.E.2d 664, (S.C., 2006);

(b) I represented the Second Injury Fund in a case to establish the statute of limitations requirements in actions against the Fund. It was significant in that the decision defined the time in which actions could be brought against the Fund. Greenwood Mills v. Second Injury Fund, 315 S.C. 256, 433 S.E.2d 846, (S.C., 1993);

(c) I represented a young man charged with distribution of crack cocaine. Under considerable pressure by the Solicitor's office and the Court to accept a plea, my client maintained his innocence. The jury found him not guilty. The case was significant to me because it reaffirmed my faith in the jury;

(d) I assisted in the representation of a young man charged with murder. The State had some compelling evidence, but the young man maintained his innocence. It was significant to me because a murder case can be emotionally draining and time consuming but you have to remain calm and energetic throughout the trial;

(e) I was asked to sit as a Special Referee by two attorneys from different counties who had a case in Orangeburg. The case required at least two days of testimony. The case was significant to me because I appreciated the lawyers' reliance on my judgment and I experienced what it was like to manage a trial."

The following is Mr. Dickson's account of five civil appeals he has personally handled:

"(a) Ellison v. Frigidaire Home Products, Inc.; Supreme Court; November 20, 2006; 371 S.C. 159, 638 S.E.2d 664;

(b) Windham v. Riddle; Court of Appeals; August 7, 2006; 370 S.C. 415, 635 S.E.2d 558;

(c) Ulmer v. Ulmer; Supreme Court; July 3, 2006; 369 S.C. 486, 632 S.E.2d 858;

(d) United Technologies v. South Carolina Second Injury Fund; Supreme Court; April 3, 1995; 318 S.C. 213, 456 S.E.2d 901;

(e) Greenwood Mills, Inc. v. Second Injury Fund; Supreme Court; July 6, 1993; 315 S.C. 256, 433 S.E.2d 846."

The following is Mr. Dickson's account of the criminal appeal he has personally handled:

(The State v. Chancey; Court of Appeals; December 22, 2004; an unpublished opinion cited as 2004-UP-654."

(9) Judicial Temperament:

The Commission believes that Mr. Dickson's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry / Citizens Advisory Committee found Mr. Dickson to be:

"Constitutional Qualifications: Mr. Dickson meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Dickson is considered ethical. Professional and Academic Ability: The committee gave Mr. Dickson a good rating in this area. Character: The committee reported that Mr. Dickson's character is unquestionable. Reputation: Mr. Dickson enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Dickson is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Mr. Dickson's diverse legal experience. Judicial Temperament: The committee gave Mr. Dickson a good rating in this category."

Mr. Dickson is married to Lessie Gayle Floyd Dickson. He has two children.

Mr. Dickson reported that he was a member of the following bar associations and professional associations:

"(a) SC Bar Association;

(b) Orangeburg County Bar Association. President, Vice President and

Secretary-Treasurer. I held those offices in the 1990's;

(c) American Trial Lawyers (until 2006);

(d) Association of SC Claimant Attorneys for Workers' Compensation (until 2006);

(e) SC Trial Lawyers Association (until 2006)."

Mr. Dickson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) First Presbyterian Church, Orangeburg, S.C.: Presently and in the past I have been an Elder;

(b) Orangeburg Presbyterian Church Society. Presently I am the President and in the past was the Vice President;

(c) Medical Missions, Columbia S.C. I am on the Board of Trustees;

(d) Saint Andrews Society of Columbia, S.C.: I am the lawyer (honorary) for the society. It requires no duties other than to make a humorous report on the legal status of the members at the annual dinner;

(e) The Society of the High Hills of the Santee;

(f) Rotary (until 2006). I was on the Board and was Care and Concerns chairman."

(11) Commission Members' Comments:

The Commission commented that Mr. Dickson was very intelligent and had had diverse experiences. They noted he was straight forward in his presentation at the public hearing and was unpretentious, which would assist him well on the Circuit Court bench."

(12) Conclusion:

The Commission found him qualified and nominated him for election to the Circuit Court.

THURSDAY, JANUARY 15, 2009

D'Anne Haydel
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Haydel meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Haydel was born in 1958. She is 50 years old and a resident of Orangeburg, South Carolina. Ms. Haydel provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996. She was formerly licensed in the states of Texas (1986) and Georgia (1984) but resigned after her admittance to the SC Bar.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Haydel.

Ms. Haydel demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Haydel reported that she has not made any campaign expenditures.

Ms. Haydel testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Haydel testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Haydel to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Haydel described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) 2002 SCAC Attorneys Annual CLE 08/01/2002;
(b) Orientation for ATA to ODC 12/12/2002;
(c) Law Enforcement Defense Counsel 10/03/2003;
(d) 2003 SC Local Govt Attys Institute 12/12/2003;
(e) Lay GAL Training 03/04/2004;
(f) GAL Training 03/05/2004;
(g) 2004 SCAC Attorneys Annual CLE 08/05/2004;
(h) Revised Lawyer's Oath CLE 08/06/2004;
(i) A Primer on Economic Development 02/11/2005;
(j) Orientation Training for Local Planning/Zoning Officials & Employees; 05/12/2005
(k) 2005 SCAC Attorneys Annual CLE 08/04/2005;
(l) Orientation Training for Local Planning/Zoning Officials & Employees; 08/23/2005
(m) Eminent Domain 01/31/2006;
(n) Zoning & Land Use 11/29/2006;
(o) 2006 SC Local Govt Attys Institute 12/08/2006;
(p) 2007 SCAC Attorneys Annual CLE 08/02/2007;
(q) Training for Attys Appointed in DSS Abuse & Neglect Cases 08/17/2007;
(r) 2007 MASC Annual CLE 12/07/2007;
(s) 2008 SCAC Attorneys Annual CLE 07/31/2008"

Ms. Haydel has taught the following law-related courses:

"(a) 12/05/2008 Scheduled to speak at 2008 SC Muni. Attys. Assoc CLE Ethical Considerations: Confidentiality & Your City Council;

(b) 12/07/2007 Civility and Professional Responsibility for Lawyers Presented at the 2007 SC Municipal Attorneys Assoc. CLE;

(c) 06/22/2007 Professional Ethics: A Primer (or Will You Still Be Ethical in the Morning?) Presented at the SC Bar CLE Div. Government Law Update;

(d) 08/05/2004 County Issues Panel Member regarding ordinances vs. resolutions, public records on

the internet and dealing with elected officials Presented at 2004 SCAC Attorneys Annual CLE;

(e) 10/03/2003 Ethics 101; Presented at the 2003 SC IRF Law Enforcement Defense Counsel CLE;

(f) 08/01/2002 Professional Conduct for S. C. Lawyers: A Primer; (Presented at 2002 SCAC Attorneys Annual CLE."

Ms. Haydel reported that she has published the following:

"Bildisco: 'Are Some Creditors More Equal Than Others?' 35 S.C. Law Rev. (1984)."

(4) Character:

The Commission's investigation of Ms. Haydel did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Haydel did not indicate any evidence of a troubled financial status. Ms. Haydel has handled her financial affairs responsibly.

The Commission also noted that Ms. Haydel was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

A complaint was filed in opposition to Ms. Haydel's application to be elected as a Circuit Court judge. This complaint was filed by Ms. Mae Holman and was based upon a case in which Ms. Haydel served as Guardian *Ad Litem* (GAL) from 2002-2007 and which required removal of a minor child from his home. Ms. Holman is the minor child's grandmother, and she alleged that Ms. Haydel was to serve as the GAL and was to make a determination on the child's placement based on the best interest of the child. Ms. Holman argued that Ms. Haydel did not fulfill her duties as a GAL and, as such, gave an uninformed recommendation to the family court concerning the best interest of the minor child. Ms. Haydel responded that she conducted a normal investigation of the matter, including interviewing individuals with whom the minor child had contact, and she made all decisions based upon what she believed would be in the best interest of the minor child. Ms. Haydel asserts she met and exceeded all responsibilities placed upon her as the GAL in this case. The Commission heard testimony from Ms. Holman and Ms. Haydel and determined that Ms. Haydel's actions as a GAL were proper and raised no concerns with regard to Ms. Haydel's work ethic.

(5) Reputation:

Ms. Haydel reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Haydel appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Haydel appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Haydel was admitted to the South Carolina Bar in 1996.

She gave the following account of her legal experience since graduation from law school:

"(a) Judicial Law Clerk - 08/15/1984 – 08/15/1986

I served as the sole judicial law clerk to Judge Sol Blatt, United States District Court for the District of South Carolina, Charleston Division. Judge Blatt had the option to have two law clerks or one law clerk and a driver. He chose the latter. All other judges in the District of South Carolina operated with two judicial law clerks. I point this out, because I believe it is an objective indicator that by the time I completed the clerkship, I had been exposed to a wealth of pre-trial, trial and post trial matters from the perspective of the bench.

In sum, I was steeped in all judicial aspects of criminal and civil trial work during this time, including pre-trial matters, trial matters (evidence issues, drafting jury instructions, drafting findings of fact and conclusions of law, etc.), and post-trial matters. The highlight of my clerkship with Judge Blatt was assisting in a two-week trial that involved 16 defendants (each of which had his/her own legal counsel) in a criminal case arising from the importation and distribution of heroin and cocaine. At the time, I did not know that Judge Blatt was different than most judges.

After my clerkship concluded and I went on to a trial practice of my own, I awoke to the fact that Judge Blatt had a very special quality: an exemplary judicial presence. Surely, he exhibited every quality described in Canon 3B of the Code of Judicial Conduct, but he excelled as to those listed in (3): *always* patient, dignified and courteous

to litigants, jurors, witnesses, lawyers and others with whom he dealt in his official capacity. His judicial presence was an inspiration (1) to his staff to exhibit these same admirable qualities and (2) to those appearing before him to be confident in the court process. Especially in trial, he treated each matter as if it were his only matter of concern, never as if it was just the next case. To put a fine point on it, as to these honorable judicial qualities, Judge Blatt was the master from whom I learned everything I know.

(b) Associate - 08/1986 – 12/31/1992

After leaving Judge Blatt, I joined the law firm I had clerked for during law school, Porter & Clements, as an associate in the litigation section. Porter & Clements was a full-service law firm composed of approximately 40-50 lawyers, located in the 4th largest city in the United States, Houston, Texas. I was one of eight associates in my class, and the only one in that class to be voted into the partnership. At the time I became a partner, I was the second woman to be voted into the partnership.

During my 6 years as an associate, I handled general civil litigation matters. This experience included: legal research, writing and editing (legal memoranda, pleadings, motions, correspondence, settlement agreements, proposed orders); propounding and responding to written discovery; defending and taking depositions; acting as sole advocate and as a member of trial teams in hearings (including motion appearances), trials, mediations, and arbitrations.

My court experience included about two years of regular solo appearances in federal district court seeking injunctions in trademark infringement cases. The pinnacle of my court experience was being second chair in a two-month long jury trial arising from the longest, uncontrolled oil and gas well blowout in history. (The blow out was not brought under control for over 18 months.) The heart of the matter was persuading the jury as to the likely cause of the blow out, since the blow out itself left the structure in pieces.

(c) Partner - 01/01/1993 – 07/1993;

(d) Founding Partner - 07/1993 – 12/1994

Shortly after becoming a partner with Porter & Clements, a significant portion of the litigation section of the firm decided to split off from its full service roots and establish what was referred to at that time as a "litigation boutique." The movers of this action invited me to join them as a founding partner and I accepted. As a result, I became one of the eight founding partners of Clements, O'Neill & Pierce which was a law firm composed of approximately 25 trial lawyers located in Houston, Texas. I was the sole woman partner in the partnership.

The highlight of my court experience as a partner was my representation of General Electric (a materials supplier) in the Harris County toxic tort/products liability breast implant litigation. As a result of breast implants being developed in Houston, Texas, Harris County is where the first breast implant case was filed and the majority of breast implant cases ended up being filed until a couple of years later when a class action was certified in federal court in another state.

The first breast implant case was tried in Harris County. It was a two-week trial that culminated in a multi-million dollar verdict. At the time of that trial, I had obtained a non-suit for my client, and the case went to trial against the product manufacturer. Nonetheless, my client had many other breast implant cases pending against it, and so directed me to personally observe this first trial, including pre-trial and post-trial hearings. This experience exposed me to the practice of trial lawyers who already had notable national reputations.

Before I resigned my partnership to return to South Carolina with my husband, I was the attorney in charge of a large case load of breast implant cases (1,200+ plaintiffs in eight south Texas counties). After the cases were consolidated to Harris County, the presiding judge directed the plaintiffs' bar and the defense bar to name representatives to a liaison committee. This committee of attorneys would be included in all hearings on every procedural aspect of the consolidated litigation, and would be responsible for briefing non-committee lawyers. The defense liaison committee was composed of five (5)

attorneys. I was chosen as the supplier defendants' representative to the defense liaison committee.

(e) Sole Practitioner - 05/1996 to present

After my husband finished his Ph.D. and post-doctoral work, he wanted to return to South Carolina. We agreed to make that move together. As a result, I studied for and took the South Carolina Bar Exam, and upon completion of my Rule 413 requirements, I opened an office as a sole practitioner.

In May, 1998, Orangeburg County engaged me to act as the Orangeburg County Attorney. While I have other clients, the vast majority of my practice involves rendering legal services to Orangeburg County, Orangeburg County Council, the Orangeburg County Sheriff's Office, and the Orangeburg-Calhoun Regional Detention Center ("Orangeburg Clients"). These legal services include overseeing insurance defense counsel in a case load that, year-in and year-out, consistently numbers approximately 50 cases, representing the Orangeburg Clients in most of their uninsured case matters as lead counsel in court, and a great deal of work of a "General Counsel" nature.

As to my non-Orangeburg County clients, my services are solely related to court matters, including acting as sole legal counsel to parties in various lawsuits in Circuit and Family Court, and acting as guardian ad litem in Family Court matters to minor children or adults who have competency issues."

Ms. Haydel further reported:

"In addition, I would note that I am well-aware that I would need to immediately concentrate my efforts on re-familiarizing myself with criminal procedure if I become a Circuit Court judge. Given my experience as Judge Blatt's law clerk, I am ready, willing and confident that I am able to do that."

Ms. Haydel reported the frequency of her court appearances during the last five years as follows:

"(a) Federal: none;

(b) State: Several times a month in Family Court, including non-jury trials. Approximately 6 non-jury trials a year referred from Circuit Court to the Master-In-Equity, Infrequently in Circuit Court, Infrequently in Summary Court;

(c) Other: none."

Ms. Haydel reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: As to civil litigation matters, about 10% of my overall practice during the last five years;

(b) Criminal: None as to courtroom work (As County Attorney, I represent the Orangeburg County Sheriff's Office and the Orangeburg-Calhoun Regional Detention Center in non-criminal matters, but I do not act as the trial lawyer for either, except as to Summary Court matters.);

(c) Domestic: As to domestic matters, solely DSS abuse and neglect cases which represents about 10% of my overall practice during the last five years."

Ms. Haydel reported the percentage of her practice in trial court during the last five years as follows:

"(a) Jury: none;

(b) Non-jury: Civil (Circuit & Summary) - the majority of those served.

Family Court - approximately 10%."

Ms. Haydel provided that she most often served as sole counsel.

The following is Ms. Haydel's account of her five most significant litigated matters:

"(a) DSS v. Mary Smith, et al, 2008-DR-38-312

This is a termination of parental rights (TPR) case that followed a two-year proceeding concerning parental abuse and neglect of a minor child. After a trial of the TPR case, the court took the matter under advisement. The court ultimately issued an order that several grounds existed per parent for TPR; however, the court denied TPR on the ground that TPR was not in the best interest of the minor child. In reaching its decision, the court found that there was no proof of prospective adoption for the medically fragile minor child and, therefore, concluded that TPR would not ensure future stability for the minor child.

(b) DSS v. Deborah Livingston, et al, 2007-DR-09-0014

This was an intervention case in which the court bifurcated the case into a phase regarding intervention and

a phase regarding the mother's counterclaims. At the conclusion of the trial of the first phase, the court denied intervention on a "no evidence" basis. For the second phase, with the agreement of all counsel, the court took the matter under advisements, reviewed written briefs, and viewed evidence *in camera*. At the conclusion of the second phase, the court issued an order finding, *inter alia*, that (1) the computerized records of DSS contained an error that the court then ordered to be corrected and (2) that there was probable cause to believe that the original reporter acted maliciously or in bad faith in making the report. As a result, of the second finding, the court disclosed the identity of the reporter.

(c) Marin Properties, LLC v. Ministry of Reconciliation, et al, 2004-CP-38- 0581

This case arose from a delinquent tax sale. The court issued a final order including, *inter alia*, (1) a complete, step-by-step analysis of a charitable tax exemption application and resulting exemption in the context of a delinquent tax sale and (2) a finding that the defendant county's written settlement letter offered full compensation and, therefore, stopped pre-judgment interest from accruing against the county from the date of the letter forward.

(d) Orangeburg County v. Jimmie D. Fogle, 2007-CP-38-1074

This case arose from a landowner's self-help measure of erecting a barricade across a dirt road. The court issued a Rule to Show Cause and, at the conclusion of the hearing on the Rule, ordered the landowner to remove the barricade and temporarily enjoined the landowner from interfering with the status quo use of the road by the motoring public. In issuing its ruling, the court considered the landowner's assertion that he owned the land under the road and the county's evidence in support of implied dedication.

(e) Ex Parte Michael P. Horger and Stanley V. Kizer, Petitioners, In Re: Road Closing, 2002-CP-38-1177 ("Vincent Road Case")

Petitioners sought to close a particular portion of a road named Vincent Road ("Road"). At the conclusion of the

trial, the court denied Petitioners' request to close the Road, and ordered the Road to remain open for public use. In reaching those conclusions, the court found that, regardless of land ownership, the public acquired the right to use the Road by implied dedication, and that the private interests of the landowners did not outweigh the substantial public interest in keeping the Road open. The evidence detailed impairment of the rights of those with an interest in area residences, leased farm land, a private cemetery, and the adverse impact on the health (EMS response time), safety (fire protection and law enforcement response times) and educational rights (school bus route) of area residents."

The following is Ms. Haydel's account of the civil appeals she has personally handled:

"None (I was listed as counsel in the Vincent Road Case, but the briefing was handled by counsel for the school district.)."

(9) Judicial Temperament:

The Commission believes that Ms. Haydel's temperament would be excellent.

(10) Miscellaneous:

Constitutional Qualifications: Ms. Haydel meets the constitutional qualifications for the judicial position she seeks. Ethical Fitness: Persons interviewed by the committee indicated that Ms. Haydel is considered ethical. Professional and Academic Ability: The committee gave Ms. Haydel a good rating in this area. Character: The committee reported that Ms. Haydel's character is unquestionable. Reputation: Ms. Haydel enjoys a good reputation in the community and among her peers. Physical and Mental Health: There is evidence that Ms. Haydel is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Ms. Haydel's good legal experience in the civil arena. Judicial Temperament: The committee gave Ms. Haydel a good rating in this category.

Ms. Haydel is married to Donald K. Walter. She has two children.

Ms. Haydel reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar. No office held;

(b) South Carolina Association of County Attorneys ("SCACA"):

(i) President, Term;

(ii) President, Term;

(iii) Vice President, Term."

Ms. Haydel provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) The South Carolina Conference of the United Methodist Church, Certified Lay Speaker (approximately 2001 to present);

(b) Wesley Chapel, United Methodist Church, Calhoun County, SC:

(i) Church Lay Leader;

(ii) Adult Sunday School, teacher (approximately September 1998 through August, 2008);

(iii) Typist of weekly church worship bulletin (2006 to date);

(iv) Children's Church, Founder (approximately 2003), Leader (September, 2003 through May, 2006);

(v) Vacation Bible School (Joint Charge), Music Leader (2008, 2007);

(vi) Cookie Ministry (Joint Charge), volunteer;

(vii) Annual Spring beneficiaries – residents of Calhoun County

(viii) Convalescent Center;

(ix) Annual Winter beneficiaries - shut-ins of community;

Membership

(c) TOPS (Taking Off Pounds Sensibly) – Founding member of local chapter; Secretary 2008-2009.

(11) Commission Members' Comments:

The Commission commented that Ms. Haydel is intelligent and is well qualified for the Circuit Court seat she seeks. The Commission further noted that Ms. Haydel appeared to be a diligent attorney and was to be respected for her work with Orangeburg County.

(12) Conclusion:

The Commission found Ms. Haydel qualified, but not nominated, to serve as a Circuit Court judge.

THURSDAY, JANUARY 15, 2009

James B. Jackson
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Jackson meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Mr. Jackson was born in 1955. He is 53 years old and a resident of Santee, South Carolina. Mr. Jackson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1980.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Jackson.

Mr. Jackson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Jackson reported that he has not made any campaign expenditures.

Mr. Jackson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Jackson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Jackson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Jackson described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Representing Volunteer GALs in Family Court 03-14-08;

(b) 2007 Commercial Real Estate 12-14-07;
(c) Mortgage Fraud: Hidden Costs 12-06-07;
(d) Training for Attorneys appointed in Fam. Ct. 08-17-07;
(e) 2007 Legal Education 03-20-07;
(f) Civil Court Mediation Certification 08-11-05;
(g) Attorney ECF Training 06-30-05;
(h) See What's Cooking in 2005 04-04-05;
(i)Family Court Bench/Bar 12-03-04;
(j)Oath Seminar 11-17-04;
(k) Advanced Cross-Examination 05-14-04;
(l)Cool Tips from the Hottest Lawyers 04-25-03;
(m) Litigation under the SC Torte Claims Act 08-15-03;
(n) Ethical Handling of Conflicts 06-19-03;
(o) Hot Tips from the Best Domestic Lawyers 09-20-02;
(p) Basic and Advanced West Law 05-31-02;
(q) Tips from the Bench 12-13-02."

Mr. Jackson reported that he has taught the following law-related course:

"I spoke at a seminar put on by the National Business Institute on March 31, 2008 on the topic of Ethical Considerations in the practice of Family Law."

Mr. Jackson reported that he has published the following:

"I wrote an article for the seminar mentioned above, which was published in the written materials for the seminar on Ethical Considerations in the practice of Family Law."

(4) Character:

The Commission's investigation of Mr. Jackson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Jackson did not indicate any evidence of a troubled financial status. Mr. Jackson has handled his financial affairs responsibly.

The Commission also noted that Mr. Jackson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Jackson reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Jackson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Jackson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Jackson was admitted to the South Carolina Bar in 1980.

He gave the following account of his legal experience since graduation from law school:

"I first began working with Thomas O. Lawton, Jr. in Allendale, SC in Sept. 1980 after taking the bar examination, but prior to receiving my bar examination results. I continued to work for Mr. Lawton from October 1980-January 1983. This was a general practice of law in a small town where I did criminal work, civil work, and work in the family courts. I also had the opportunity to appear in the Magistrate's Court on numerous occasions during this time. In February of 1983, I opened my own office in Orangeburg, SC where I practiced by myself through December 1987. This was also a general practice of law in which I did work in the family courts, civil courts and criminal courts. From April 1984-December 1988, I was employed as a part-time Public Defender for Orangeburg County and continued in the private practice of law. On January 1, 1988 I became employed with the Office of the Solicitor for the First Judicial Circuit, where I worked full-time through December 1989. During this time, I tried numerous criminal cases ranging from driving under the influence cases to murder cases. On January 1, 1990 I entered into partnership with F. Hall Yarborough and Ronald E. Hutto in the firm of Yarborough, Hutto & Jackson where I practiced until September 30, 2007. During this time I continued to work in a general practice of law, which included all of the litigation that was done by this firm. I litigated cases in Civil Court, Probate Court, Magistrate's Court, General Sessions Court, and before the Master-in-Equity. On October 1, 2007, I entered into practice with Ronald L. Nester, Sr. in the firm of Nester & Jackson where I continue to practice law today. I continue to be involved in a wide variety of cases as a general practitioner. I continue to practice law in Civil Court, General Sessions Court, Family Court, Probate Court and before the Master-in-Equity."

Mr. Jackson further reported:

"I am a candidate for Circuit Court, and I believe that I am well qualified to be a Circuit Court Judge. Over the last five years, I have been involved in many cases in Civil Court, both as

plaintiff's attorney and as defendant's attorney. Most of my plaintiff's cases are automobile accident cases and other cases involving personal injury, and most of those cases have settled prior to going to a jury trial. However, I have been actively involved in the motions practice of handling civil litigation, and have been involved in several jury trials. The defense work that I do is mostly representing governmental agencies through the South Carolina Insurance Reserve Fund. Most of the cases that I have tried in the last five years have been Insurance Reserve Fund cases. As a result, I have been involved in the motions practice of law as a defense lawyer and have tried several of these cases to a jury verdict. In addition, I have been retained and have been appointed to numerous criminal cases. Again, most of these criminal cases are resolved prior to having a jury trial, and I do not believe that I have actually tried a criminal case to a jury verdict within the last five years. However, during my time as a public defender and as a prosecutor, I tried numerous cases before the Court of General Sessions back in the 1980's. In 1993 and 1996 I also trial a death penalty case involving a defendant named James Neal Tucker. The sentence in Mr. Tucker's first trial was reversed, and so a second sentencing hearing was held in Calhoun County, South Carolina. Therefore, I have experience in handling death penalty cases. Also, I tried a death penalty case in 1986 involving a defendant named Marvin Duggins, who ultimately received a death sentence. As a result, I have a wide and varied experience in both General Sessions Court and Common Pleas Court, which I believe would assist me in becoming a Circuit Court Judge."

Mr. Jackson reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: none;

(b) State: I appear frequently in Civil Court and General Sessions Court;

(c) Other: N/A."

Mr. Jackson reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 65%;

(b) Criminal: 10%;

(c) Domestic: 25%."

Mr. Jackson reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: Approximately 50% of my trial practice involves cases on the jury docket. However, all of these cases in the last five years have settled short of an actual jury verdict.

(b) Non-jury: 50%."

Mr. Jackson provided that he most often served as sole counsel.

The following is Mr. Jackson's account of his five most significant litigated matters:

"(a) The State vs. James Neal Tucker – original trial – 1993 – 320 S.C. 206, 464 S.E. 2d 105 (1995); this was a death penalty case where the sentence of death was reversed by the Supreme Court.

(b) The State vs. James Tucker – re-sentencing trial – 1996 – 334 S.C. 1, 512 S.E.2d 99(1999); this was the re-sentencing trial of Mr. Tucker.

(c) William Martin Joyner vs. South Carolina Department of Transportation, Bamberg County – 2006 – this case involved a single car accident where the car slid off the road due to excessive water thereon. The case was tried to a hung jury first and was later tried to a verdict for the Plaintiff.

(d) Taylor vs. South Carolina Department of Transportation, Orangeburg County, 1995, this case involved a small cave-in due to a cracked pipe under the ground and resulted in a verdict for the Department of Transportation.

(e) The State vs. Marvin Duggins, Orangeburg County – 1984 – this was a death penalty case in which the Defendant was convicted of murder and armed robbery and received a sentence of life in prison."

The following is Mr. Jackson's account of the civil appeals he has personally handled:

"(a) Ulmer v. Ulmer, 368 S.C. 486 (2006, 632 S.E. 2d 858;

(b) Howard v. South Carolina Department of Highways, 343 S.C. 149 (Ct. App. 2000), 538 S.E.2d 291;

(c) O'Cain v. O'Cain, 322 S.C. 551 (Ct.App. 1996), 473 S.E.2d 460;

(d) Varn v. SCDHPT., 311 S.C. 349 (Ct.App. 1993), 428 S.E.2d 895."

Mr. Jackson reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Jackson's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee reported the following regarding Mr. Jackson:

"Constitutional Qualifications: Mr. Jackson meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Jackson is considered ethical. Professional and Academic Ability: The committee gave Mr. Jackson a good rating in this area. Character: The committee reported that Mr. Jackson's character is unquestionable. Reputation: Mr. Jackson enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Jackson is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Mr. Jackson's diverse legal experience. Judicial Temperament: The committee gave Mr. Jackson a good rating in this category."

Mr. Jackson is married to Cynthia Martin Jackson. He has two children.

Mr. Jackson reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) Orangeburg County Bar Association, President 1987."

Mr. Jackson provided that he was a member of the following civic, charitable, educational, social, or fraternal organization: "Orangeburg Kiwanis Club, President 1996."

(11) Commission Members' Comments:

The Commission commented that Mr. Jackson has an outstanding understanding of the Circuit Court system. They noted that they are impressed with him and his legal experience as a candidate for the Circuit Court.

(12) Conclusion:

The Commission found Mr. Jackson qualified and nominated him for election to the Circuit Court.

Michael P. Horger
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Horger meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Horger was born in 1953. He is 55 years old and a resident of Orangeburg, South Carolina. Mr. Horger provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1977.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Horger.

Mr. Horger demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Horger reported that he has not made any campaign expenditures.

Mr. Horger testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Horger testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Horger to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Horger described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Joint Meeting	07/27/03;
(b) Ethics Roadshow	12/17/03;
(c) Annual Meeting	07/22/04;
(d) Revised Lawyer's Oath	08/16/04;
(e) Sophisticated Section 1031 Transactions in SC	11/16/04;
(f) Joint Meeting	07/28/05;
(g) Attorney ECF Trailing Online	08/03/05;
(h) Judges & Attorneys Substance Abuse and Ethics	12/02/05;
(i) Joint Meeting	07/27/06;
(j) The Probate Process from Start to Finish	12/20/06;
(k) Masters in Trial	11/16/07;
(l) Judges & Attorneys Substance Abuse	12/07/07;
(m) Annual Meeting	04/09/08."

Mr. Horger reported that he has taught the following law-related course:

"As a member of the S.C. Bar Ethics Advisory Committee, ethics issues were discussed before a class of Professor Nathan Crystal at the Law School."

Mr. Horger reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Horger did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Horger did not indicate any evidence of a troubled financial status. Mr. Horger has handled his financial affairs responsibly.

The Commission also noted that Mr. Horger was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Horger reported that his Martindale-Hubbell rating is AV.

(6) Physical Health:

Mr. Horger appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Horger appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Horger was admitted to the South Carolina Bar in 1977.

He gave the following account of his legal experience since graduation from law school:

"Horger, Horger & Barnwell 1977 – 1982
Horger, Horger & Nance 1982 – 7/-/1985
Horger, Horger, Nance & Lanier 7/-/1985 – 6/1/1991
Horger, Horger & Nance 6/1/1991 – 6/30/1992
Horger, Horger, Nance & Lanier 7/1/1992 – 11/6/1992
Horger, Horger & Lanier 11/6/1992 – 9/1/1996
Horger, Horger, Lanier & Culclasure 9/1/199 - 10/16/1996
Horger, Horger, Lanier, Culclasure & Knight, L.L.P. 10/16/1996 – 9/2/1997
Horger, Horger, Lanier & Knight, L.L.P. 9/2/1997 – 10/1/2000
Horger & Horger 10/1/2000 – 1/2/2003
Horger, Horger & Justice, L.L.C. 1/2/2003 – 12/31/2005
Horger & Horger 12/31/2005 – 2/8/2006
Michael P. Horger, P.A. 2/8/2006 - Present."

Mr. Horger further reported:

"Although, I have not routinely handled criminal matters in the last five years, I am familiar with criminal procedure and sentencing from my experiences in practice over 31 years and my service as an assistant city Judge for the city of Orangeburg. I recently represented a person charged with receiving stolen goods. In that process I coordinated my client's cooperation with the law enforcement investigation which resulted in the charges being dismissed. I believe the issues on evidence which would come up at trial in criminal cases would not be a problem because of my vast experience in regard to evidence issues in civil cases. There are statutory parameters for sentencing and sentencing guidelines which would assist when presiding over criminal matters.

I was certified by the S.C. Supreme as an as a Mediator on 3/13/96 and as an Arbitrator on 5/23/96. Although the amount of civil cases I have actually going to trial have decreased, my experience in mediation and my practice as a mediator has increased and I have still tried a number civil cases. I have been local counsel on several major cases with one trial lasting almost three weeks. Early on in my practice, my father, one other attorney

and I managed over 6,000 asbestos cases in three states. I believe I am particularly capable of handling the administrative responsibilities of a Circuit Court Judge and my 31 years experience in the court room afford me a vast experience to draw on when presiding over trials."

Mr. Horger reported the frequency of his court appearances during the last five years as follows:

"(a) federal: typically have a case per year which requires one actual appearance before the court per year;

(b) state: frequently appear in the Circuit Court several times per week.

On average I have one to three terms of court per week in four out of five weeks."

Mr. Horger reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 85%;
(b) Criminal: 5%;
(c) Domestic: 10%."

Mr. Horger reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 95%;
(b) Non-jury: 5%."

Mr. Horger provided that he most often served as sole counsel.

The following is Mr. Horger's account of his five most significant litigated matters:

"(a) Intersystems Design and Technology v. Manville Forest Products Corporation

Plaintiff ran a foam line assembly to produce panels and alleged the Defendant's paper product was defective resulting in production of panels with lack of flatness. I represented the Defendant which alleged the lack of flatness was due to the Plaintiff's failure to run the face material into the foam line assembly at the proper tension. After a week long trial in which the Plaintiff presented $2,059,637.00 in damages, the jury returned a verdict for the Defendant.

(b) Ayers v. First National Bank and Burgess

I represented the Plaintiff who alleged the Defendant assumed the duty to secure title to a mobile home when it made a loan and disbursed the proceeds

directly to the Seller to obtain the title to record its lien. The Seller did not provide the Title to the trailer to the Bank then the Bank denied it had any duty to the Plaintiff to secure the title to the trailer. During the trial of the case, the case was settled with the Bank releasing the Plaintiff from any obligation to repay the financed amount of $13,645.48.

(c) Lewis L. Grubbs, Jr., v. Johnny Atkinson, Carol Atkinson, and South Carolina Farm Bureau Insurance Company

The Plaintiff took a default judgment against the Defendants, Johnny and Carol Atkinson, in the amount of $155,050.75 for injury resulting from a boating accident then brought this action to determine whether the Defendant, South Carolina Farm Bureau Insurance Company, was obligated to pay the judgment under the Defendant Atkinson's Homeowner's Policy. I represented the Insurance Carrier, South Carolina Farm Bureau Insurance Company. After losing the case in a non-jury trial before the Master-In-Equity for Aiken County, an appeal was taken to the Court of Appeals. The Court of Appeals fully reviewed the law and the facts and decided the insurance carrier afforded no coverage for the occurrence under its policy.

(d) Gruber v. Santee Frozen Foods, Inc., et al

This action went to the jury on the theory of negligent misrepresentation. The Trial Judge initially directed a verdict against Webber Farms, whom I represented, however, during the evening the Judge reconsidered his ruling and the next day reversed himself directing a verdict in favor of Webber Farms with respect to all parties. The Plaintiff and the Co-Defendant, Santee Frozen Foods, appealed from the jury verdict. The verdict was sustained on Appeal thereby affirming the Lower Courts directed verdict in favor of Webber Farms with respect to all parties.

(e) Carroll v. Guess

I represented the Defendant Guess in an action brought against him and in the alternative an unknown driver, John Doe. The Lower Court denied the Defendant Guess Motion for Change of Venue to the

county of his residence. The Court of Appeals reversed affirming that the right of the Defendant to a trial in the county of his residence is a substantial right."

The following is Mr. Horger's account of five civil appeals he has handled:

"(a) Carroll v. Guess, 394 S.E.2d 707, 302 S.C. 175
Supreme Court of South Carolina, Decided August 6, 1990;

(b) Gruber v. Santee Frozen Foods, Inc., 419 S.E.2d 795, 309 S.C. 13
Court of Appeals of South Carolina, Decided May 26, 1992;

(c) Lewis L. Grubbs, Jr., v. Johnny Atkinson, Carol Atkinson, and South Carolina Farm Bureau Insurance Company
Court of Common Pleas Aiken County, Supreme Court of South Carolina, unpublished opinion;

(d) Teorges Farmer v. Vernon D. Rhone
Court of Common Pleas Colleton County, Supreme Court of South Carolina, unpublished opinion;

(e) Northwestern Mutual Life Insurance Company v. Arliss Diane Sharperson a/k/a Arliss Deputy Sharperson and Leslie Yvonne Sharperson
Eleventh Circuit Court of Appeals, unpublished opinion."

Mr. Horger reported that he has not personally handled any criminal appeals.

Mr. Horger reported that he has held the following judicial office:

"Appointed by the City Council to Assistant Municipal Court Judge, City of Orangeburg 1982-1983."

Mr. Horger provided the following list of his most significant orders or opinions:

"As Assistant Municipal Court Judge, I made determinations on probable cause for the issue of warrants, held bench trials, took guilty pleas and imposed sentences. I know of no appeals taken from any order or opinion which I issued."

Mr. Horger reported the following regarding his employment while serving as a judge:

"Appointed by City Council to Assistant Municipal Court Judge, City of Orangeburg, 1982-1983. The City Judge to whom I was an Assistant was The Honorable James D. Nance."

Mr. Horger further reported the following regarding unsuccessful candidacies:

"I ran for Seat 2, 1st Judicial Circuit in 1998. The election was won by Diane S. Godstein."

(9) Judicial Temperament:

The Commission believes that Mr. Horger's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee reported the following regarding "Mr. Horger:

"Constitutional Qualifications: Mr. Horger meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Horger is considered ethical. Professional and Academic Ability: The committee gave Mr. Horger a good rating in this area. Character: The committee reported that Mr. Horger's character is unquestionable. Reputation: Mr. Horger enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Horger is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Mr. Horger's good legal experience, mainly in the civil arena. Judicial Temperament: The committee gave Mr. Horger a good rating in this category."

Mr. Horger is married to Patricia Anne Nevils. He has two children.

Mr. Horger reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association Board of Governors 2008 to present House of Delegates 1991 to 2008;

(b) Orangeburg County Bar Association - President 1982 and 1983;

(c) South Carolina Defense Trial Attorneys Association, past member of the executive committee."

Mr. Horger provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) The Supreme Court of South Carolina Commission on Continuing Legal Education & Specialization Member July 1, 2000 to June 30, 2006. Appointed Secretary of the Commission by Order of the Court effective July1, 2004;

(b) Founder Member of the Sigma Alpha Epsilon Foundation;

(c) Downtown Orangeburg Revitalization Association."

(11) Commission Members' Comments:

The Commission commented that Mr. Horger is known as a solid attorney with 32 years of legal experience which would equip him well in serving on the Circuit Court bench. They noted that they were impressed by his presentation at the Public Hearing.

(12) Conclusion:

The Commission found Mr. Horger qualified, but not nominated, for election to the Circuit Court.

Pandora Jones-Glover
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Jones-Glover meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Jones-Glover was born in 1973. She is 35 years old and a resident of Orangeburg, South Carolina. Judge Jones-Glover provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Jones-Glover.

Judge Jones-Glover demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Jones-Glover reported that she has not made any campaign expenditures.

Judge Jones-Glover testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Jones-Glover testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Jones-Glover to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Jones-Glover described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a)	2003 SC Solicitor's Conference	09/28/2003;
(b)	Probate, Estate Planning & Trust	1/21/2005;
(c)	Real Estate Practices	1/21/2005;
(d)	Build the Foundation You Need to	02/03/2005;
(e)	SC Assoc of Probate Judges	02/28/2005;
(f)	New Judges' Orientation	03/18/2005;
(g)	2005 Probate Judges/Court	05/06/2005;
(h)	NCPJ 2005 Spring Conference	05/11/2005;
(i)	JCLE Seminar at SCAC	08/05/2005;
(k)	How To Draft Effective Wills	09/12/2005;
(l)	13th Annual Probate Bench Bar	09/16/2005;
(m)	SCAPJ Annual Conference	09/21/2005;
(n)	NCPJ Fall Conference	11/09/2005;
(o)	SCAPJ JCLE Seminar as part of SCAPJ	02/06/2006;
(p)	SCAPJ Annual Conference	05/12/2006;
(q)	Probate Bench Bar	09/15/2006;
(r)	SC Black Lawyers Retreat	09/28/2006;
(s)	Fundamental Issue in Elder Law	11/14/2006;
(t)	SCAPJ Legislative Conference	02/13/2007;
(u)	SCAPJ Legislative Conference	02/2008;
(v)	Grants in Courts Summit	04/22/2008;

(w) NCPJ Spring Conference 05/20/2008."

Judge Jones-Glover reported that she has taught the following law-related courses:

"(a) Constitutional Law, Fall 2008, First Session, Claflin University;

(b) Civil Liberties, Fall 2008, First Session, Claflin University."

Judge Jones-Glover further reported: "I made presentations on probate issues for the South Carolina Black Trial Lawyers Retreat in Santee (2004) and Charleston (2006), South Carolina."

Judge Jones-Glover reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Jones-Glover did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Jones-Glover did not indicate any evidence of a troubled financial status. Judge Jones-Glover has handled her financial affairs responsibly.

A complaint was filed against Judge Jones-Glover's candidacy by the Honorable James C. Williams, whose seat for which she is currently seeking election. In his affidavit, Judge Williams stated that in his capacity as a Circuit Court judge, he heard a petition filed by Mrs. Kimberly J. Coker, Guardian ad Litem for her son, Joseph Coker, for approval of a minor settlement. After approving the settlement, he sent Mrs. Coker to the Probate Court to be appointed conservator for her son. However, Mrs. Coker returned to him and stated that the Probate Court Staff would not give her the proper forms unless she was represented by an attorney. Judge Williams then accompanied Mrs. Coker to the Probate Court Office, but he was also unable to obtain the forms. He was told that Judge Jones-Glover gave explicit instructions that no forms were to be given to unrepresented persons and that no forms could be filed until Judge Jones-Glover returned from maternity leave. Judge Williams responded that these instructions denied Mrs. Coker access to the legal system. and demonstrated that she does not have an understanding of the obligations of our legal system as well as a lack of concern for the welfare of those in need. Judge Jones-Glover responded to the complaint by stating that she would never deny a person's right to the court system, and that this was

a misunderstanding in that a conservator cannot be appointed without a hearing. At the Public Hearing, the Commission heard testimony from Judge Williams, Judge Jones-Glover, and an employee in Judge Jones-Glover's Probate office. Judge Jones-Glover denied that her staff denied any paperwork to Mrs. Coker but stated that it was her understanding that since Ms. Coker did not have the proper paperwork, the summons, Ms. Coker chose not to file with the Probate Court. Judge Jones-Glover also explained that in "hind sight" she could have her staff make a blank summons form available to those wishing to file in Probate Court.

The Commission also noted that Judge Jones-Glover was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Jones-Glover reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Jones-Glover appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Jones-Glover appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Jones-Glover was admitted to the South Carolina Bar in 2001.

She gave the following account of her legal experience since graduation from law school:

> "(a) Law Clerk for the Honorable Clifton Newman (2000-2002);
>
> (b) Assistant Solicitor for the First Judicial Circuit (2002-2004);
>
> (c) First Assistant Solicitor for the First Judicial Circuit (1/2004-July2004);
>
> (d) Orangeburg County Probate Judge (July 2004 – Present)."

Judge Jones-Glover further reported:

While employed as an assistant solicitor for the First Judicial Circuit, I handled various criminal matters: assault and battery with intent to kill, assault and battery of a high and aggravated

nature, drug cases, sexual conduct, criminal domestic violence, forgeries, malicious injury to personal property, DUI, DUS, and failure to stop for blue light cases. I tried 5 cases and negotiated numerous plea agreements. I second chaired murder and sexual conduct cases and argued against motions to suppress evidence.

My civil experience was obtained during my work as a law clerk for the Honorable Clifton Newman of the Third Judicial Circuit. I worked closely with him during criminal, civil and non-jury terms of court. I observed civil trials and prepared they jury charge and verdict forms. I also reviewed pre-hearing briefs and assisted in preparing orders.

My experience as a law clerk, assistant solicitor and the past 4 years on the probate bench have prepared me to preside over circuit court matters. The civil and evidentiary rules of circuit court apply in the probate court. The probate and circuit court share concurrent jurisdiction in a few areas such as minor settlement approvals, wrongful death and survival actions. Like a circuit court judge, I interpret the law, make evidentiary rulings, prepare orders and manage a litigation docket.

The knowledge and invaluable hands-on experience that I have gained on the probate bench will compensate for any lack of civil experience.

Judge Jones-Glover reported the frequency of her court appearances prior to her election to the bench as follows:

"(a) federal: None;
(b) state: approximately two weeks per month as an Assistant Solicitor."

Judge Jones-Glover reported the percentage of her practice involving civil, criminal, and domestic matters prior to her election to the bench as follows:

"(a) civil: 5%;
(b) criminal: 95%;
(c) domestic: None."

Judge Jones-Glover reported the percentage of her practice in trial court prior to her election to the bench as follows:

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

Judge Jones-Glover provided that she most often served as sole counsel.

The following is Judge Jones-Glover's account of her five most significant litigated matters:

"(a) SC v. Willie Aiken Ind., #2002GS381976-2002GC38001978;
(b) SC v. Jasmine Anderson Ind., #2002GS38001743-1746;
(c) SC v. Chance Bennet Ind., #2002GS38001967-1968;
(d) SC v. William Carmichael Ind., #2003GS38001314-1315;
(e) SC v. Leon Jamison Ind., # 2002GS38001238-1241.

Each of these cases was significant. I disposed of them during my service with the First Circuit Solicitor's Office. I was pleased that I played a role in making those defendants accountable for their illegal activity in my community."

Judge Jones-Glover reported that she has not personally handled any civil or criminal appeals.

Judge Jones-Glover reported that she has held the following judicial office:

"I was appointed Probate Judge for Orangeburg County in July 2004. I was elected in June 2006. My jurisdiction includes marriage licenses, all matters concerning decedents' estates, minor settlements, wrongful death and survival actions, conservatorships, guardianships and commitment hearings."

Judge Jones-Glover provided the following list of her most significant orders or opinions:

"(a) Est. of Sara Weiss Crossman, 2004ES3800447, 2007CP3800599;
(b) Est. of James McLean, 2004ES3800255;
(c) Est. of George Haynes Jr., 2006ES3800279;
(d) Est. of Myra L. Rourk, 2004ES00428;
(e) Matter of Kesmond Legree, 2000GC380010."

Judge Jones-Glover reported the following regarding her employment while serving as a judge: "Adjunct Professor, Claflin University, September 2, 2008 – Present."

(9) Judicial Temperament:

The Commission believes that Judge Jones-Glover's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee reported the following concerning Judge Jones-Glover's Candidacy:

Constitutional Qualifications: Judge Jones Jones-Glover meets the constitutional qualifications for the judicial position she seeks. Ethical Fitness: Persons interviewed by the committee indicated that Judge Jones-Jones-Glover is considered ethical. Professional and Academic Ability: The committee gave Judge

Jones-Jones-Glover an adequate rating in this area Character: The committee reported that Judge Jones-Jones-Glover's character is unquestionable. Reputation: Judge Jones-Jones-Glover enjoys an adequate reputation in the community and among her peers. Questions were raised to the Committee concerning Judge Jones-Jones-Glover's professional reputation on the Probate Court Bench. Physical and Mental Health: There is evidence that Judge Jones-Jones-Glover is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Judge Jones-Jones-Glover's adequate legal experience and judicial experience. They noted that Judge Jones-Jones-Glover has limited criminal experience and lacks civil experience. However, they explained that she has a practice in the Probate arena. Judicial Temperament: The committee gave Judge Jones-Jones-Glover a good rating in this category. However, the committee noted that her temperament was questionable based on her dismissive and evasive answers before the committee."

Judge Jones-Glover is married to Kenneth Raye Glover. She has two children.

Judge Jones-Glover reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;
(b) American Bar Association;
(c) National Bar Association;
(d) South Carolina Association of Probate Judges;
(e) National College of Probate Judges."

Judge Jones-Glover provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Andrew Chapel Baptist Church (list recognitions);
(b) Delta Sigma Theta Sorority Incorporated
(i) Member Policies & Procedures Committee (1996-1998);
(ii) Member Auditing Committee (1996-1998);
(iii) Sergeant At Arms (1998-Present);
(iv) Chairperson Auditing Committee (1998-Present);

(c) Kiwanis Club of Orangeburg – Board Member 2006-2008."

(11) Commission Members' Comments:

The Commission commented that Judge Jones-Glover is a talented jurist with experience in criminal and probate matters. They noted her experience for four years as a Probate Judge for Orangeburg County.

(12) Conclusion:

The Commission found Judge Jones-Glover qualified, but not nominated, to serve as a Circuit Court judge.

Maite Murphy
Circuit Court, First Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Murphy meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Murphy was born in 1969. She is 39 years old and a resident of Summerville, South Carolina. Ms. Murphy provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Murphy.

Ms. Murphy demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Murphy reported that she has made $240.04 in campaign expenditures. She further reported:

"I had mailing costs in the amount of $68.04 and copying costs of $172.00 for a total of $240.04. These expenditures occurred during the month of September 2008."

Ms. Murphy testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Murphy testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Murphy to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Murphy described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Criminal Law Update	01/25/08;
(b) Sidebar Live	02/22/08;
(c) Criminal Law Update	01/26/07;
(d) SC Civil Procedure Update	02/16/07;
(e) Criminal Law Update	01/21/05;
(f) Attorney ECF Training	07/21/05;
(g) Avoiding Real Estate Malpractice Hazards	11/17/05;
(h) Annual Solicitors' Conference	09/26/04;
(i) Revised Lawyers Oath	09/27/04;
(j) Solicitor's Association	09/28/03."

Ms. Murphy reported that she has taught the following law-related courses:

"I taught business law courses at Midlands Technical College in Columbia in 1996 and 1997."

Ms. Murphy reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Murphy did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Murphy did not indicate any evidence of a troubled financial status. Ms. Murphy has handled her financial affairs responsibly.

The Commission also noted that Ms. Murphy was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Murphy reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Murphy appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Murphy appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Murphy was admitted to the South Carolina Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

"I began practicing law in Columbia as a partner with the law firm of Holler, Dennis, Corbett & Garner. I began with said practice in January of 2006 and my practice was a general practice. My practice at that time was primarily focused on civil litigation in the Courts of Common Pleas and General Sessions. I also handled domestic matters in Family Court and cases in Magistrate and Municipal Courts.

My husband and I then moved from Richland County to Dorchester County in March of 1998 and I was employed as an associate for Richard Wern in North Charleston where I handled civil litigation matters in State and Federal Court until I obtained a position at the First Circuit Solicitor's Office in October of 1998. During my tenure at the Solicitor's office I rose to the rank of Chief Deputy Solicitor for the First Judicial Circuit. I was second in command to the Solicitor for the entire circuit which is comprised of Calhoun, Dorchester and Orangeburg Counties. I operated under a grant dedicated to prosecuting crimes of violence against women. I was in charge of prosecuting all violent crimes against women and children. I successfully tried cases of murder, kidnapping, arson, armed robbery, burglary, criminal sexual conduct (all degrees), lewd act upon a child, unlawful conduct towards a child, felony child abuse, sexual exploitation of minors, assault and battery with intent to kill, assault and battery of a high and aggravated nature, drug and alcohol offenses and criminal domestic violence. I also assisted Solicitor Walter Bailey with the trials of four death penalty cases.

I left the Solicitor's Office in 2005 to join the practice of Quattlebaum & Murphy, L.L.P. where I am currently a partner.

Our firm is a general practice and I specialize in criminal and civil litigation matters in all courts and also handle domestic litigation."

Ms. Murphy further reported:

"My experience in the Court of General Sessions is extensive as described [above]. I have successfully tried many criminal cases involving complex evidentiary issues. I have handled these matters from the beginning stages of having a bond set through trial.

My experience as Chief Deputy Solicitor also gave me valuable experience in managing a docket which I believe is very important experience for a Circuit Court Judge to have considering the high volume of cases currently pending that need to be disposed of in an efficient and fair manner.

My ability to handle civil matters as well is clearly illustrated by my appointment to serve as the Special Referee in the Exxon class action suit which was filed in Orangeburg County Case Number 94-CP-38-118. As Special Referee I was responsible for reviewing all claims submitted and I was responsible for holding each claimant to the burden of establishing, by a preponderance of the evidence, that each claimant was a member of the class defined by the settlement agreement and that their property had been damaged by petroleum contamination attributable to ExxonMobil's underground storage tanks or service station operations. I was also responsible for holding ExxonMobil to its burden of establishing its affirmative defenses by a preponderance of the evidence. It was then my duty to make the findings of facts and conclusions of law as to each of the defenses raised and as to each of the claim submissions and issue a Final Report to the Court. These duties included the review of expert opinions and the necessary elements of causation and proof of each claim. The experience of serving as the Special Referee in a case of this magnitude proves my ability to handle complex civil litigation matters.

Private practice has further allowed me to gain valuable experience in handling effectively both criminal and civil matters. The civil litigation that I have been involved in while in private practice has involved work for both plaintiffs and defendants. The types of civil cases that I have had the opportunity to work on have involved personal injury cases for plaintiffs, contract conflicts and the representation of parties

involved in the dissolutions of partnerships and corporate entities. I am confident that my work experience in both private practice and the Solicitor's office has prepared me well to perform the duties of the Court impartially, fairly and competently."

Ms. Murphy reported the frequency of her court appearances during the last five years as follows:

"(a) Federal: 2%;
(b) State: 98%."

Ms. Murphy reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 30%;
(b) Criminal: 55%;
(c) Domestic: 15%."

Ms. Murphy reported the percentage of her practice in trial court during the last five years as follows:

"(a) Jury: 30%;
(b) Non-jury: 70%."

Ms. Murphy provided that she most often served as sole counsel.

The following is Ms. Murphy's account of her five most significant litigated matters:

"(a) One of my most significant litigated matters that I personally handled was the murder case of State v. Robinson in Dorchester County. This was a significant trial for several reasons. It was a significant accomplishment to obtain a just verdict of guilty due to the fact that the case was based purely on circumstantial evidence. The victim in the case was a young mother who was brutally murdered with a tire iron tool in her home. Her body was then taken to a neighboring county and dumped in the woods and her home was set on fire. I worked closely with law enforcement to piece together the evidence necessary to try the murder case. Although the murder weapon was never found, we were able to establish that the tire iron tool from the victim's car was missing. Through manufacturing records of the car companies I was able to obtain a tire iron tool from the car manufacturer which would have been like the one missing from the victim's car. I was then able to match

the skull fracture patterns to the missing tire iron tool shape through expert forensic testimony. I was able to establish the estimated time of death through expert testimony from analyzed larvae and the related growth stages of the larvae from the body at the autopsy. This testimony assisted in placing the defendant at the time and place of the murder. I worked with SLED arson and blood spatter experts to establish the manner in which she was murdered in the home and how the home was then set on fire in an attempt to destroy the evidence of the murder. There were many evidentiary and procedural issues in this trial which had to be handled effectively to ensure that the victim's killer was properly brought to justice.

(b) Another significant trial that I handled was felony child abuse trial involving a five year old developmentally delayed victim. The child was sent by helicopter to the Medical University of South Carolina in an unresponsive state with a significant bruise on his chest and another bruise on the side of his head behind his ear. The defendant was the child's father and he had called an ambulance and stated that the child had fallen in the bath tub. The child barely survived the brutal attack and upon receiving the case it was obvious that it would be a difficult case to get to a jury due to the fact that the child was only five years old, non-communicative and unable to testify as to the cause of his injuries. Further, his mother was not cooperative and protective of the defendant. I prosecuted her as well for failing to protect her child. I began preparing for this case by obtaining a complete medical history of the child and discovered by review of numerous scattered medical records that the child had been blinded in his right eye as an infant, and had suffered two broken femurs before the attack in question. I was able to obtain experts to review the previous injuries to establish a pattern of abuse and neglect by the defendants. It was determined that the eye injury was to a reasonable degree of medical certainly caused by violent shaking of the child as an infant and the two femoral breaks were not accidental in nature but were caused as a result of physical abuse to due to

the pattern of the breaks in question. Both parents of the child in question were convicted and the child was taken in by a relative and began to thrive and grow once being placed outside of an abusive environment.

(c) I successfully prosecuted another significant felony child abuse trial in which a three year old child's hand was submerged in scalding hot water as punishment for sucking his thumb. The child received third degree burns as a result of his injuries and was left in pain in his home without medical treatment until the following day when he was discovered by his aunt who then took him to the hospital. Unfortunately, by the time he was taken for medical treatment the severity of the burns had caused his fingers to become webbed together. The child's hand was at risk of having to be amputated but was saved. He had to undergo and will continue to have to undergo numerous surgeries throughout his life as a result of the burns inflicted on him. Due to his age and horrific justifiable fear of the defendant I had to prosecute the case without the testimony of the child and had to rely on the only other witness that placed the defendant in the bathroom with the victim. My corroborating witness was only seven years of age but was competent to testify and I was able to obtain and introduce at trial sufficient other medical and physical evidence which proved that the defendant was the one that inflicted the injuries on the child.

(d) I personally handled the trial of State v. Inman which resulted in a life sentence for the defendant in question. The defendant in this case was charged with kidnapping three young children at gunpoint and holding them hostage in his trailer. He locked two of the male victims in one room while he proceeded to sexually assault the young female in the living room of his home. The defendant had a prior record which included a violent, most serious offense and therefore I served him with notice to seek a life sentence at the trial of his case. I was able to successfully try the case with all three children being competent to testify as well as being able to successfully present the testimony of law enforcement

and other forensic experts to prove his guilt beyond a reasonable doubt.

(e) I tried another case that led to a 60 year sentence for a defendant that was convicted of sexually assaulting his own teenage daughter at knife point and he was also convicted of attempting to intimidate the potential witnesses that were subpoenaed to testify at the trial of his case in the trial of State v. Brown. This was a significant case as not only did I have to prove the criminal sexual conduct had occurred, but I also had to deal with witnesses that had been physically threatened and did not want to testify for fear of their safety. Procedurally, the rape case was difficult in that the assault was not immediately reported, thereby not giving us the opportunity of having physical forensic evidence to link the defendant to the crime. As is the case with many trials of criminal sexual conduct, it is necessary to know how appropriate expert testimony is presented to explain the potential lack of forensic evidence and one must also be able to understand procedurally how to present appropriate psychological testimony which can corroborate symptoms consistent with trauma caused by sexual and or physical abuse."

Ms. Murphy reported that she has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Murphy's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee found Ms. Murphy to be:

"Constitutional Qualifications: Ms. Murphy meets the constitutional qualifications for the judicial position she seeks. Ethical Fitness: Persons interviewed by the committee indicated that Ms. Murphy is considered ethical. Professional and Academic Ability: The committee gave Ms. Murphy a good rating in this area. Character: The committee reported that Ms. Murphy's character is unquestionable. Reputation: Ms. Murphy enjoys a good reputation in the community and among her peers. Physical and Mental Health: There is evidence that Ms. Murphy is physically and mentally capable of performing the duties

required of a judge of the Circuit Court. Experience: The committee recognized Ms. Murphy's diverse legal experience. Judicial Temperament: The committee gave Ms. Murphy a good rating in this category."

Ms. Murphy is married to Christopher John Murphy. She has two children.

Ms. Murphy reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar- 1995 to present;

(b) South Carolina Women's Bar- 1995 to present;

(c) Dorchester County Bar;

(i) Current President since 2006

(ii) Vice-President 2005

(iii) Treasurer 2003-2004."

Ms. Murphy provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) YMCA-Board of Directors, serve on executive committee and programs chair;

(b) Summerville Rotary Club- Programs chair;

(c) Summerville Meals on Wheels;

(d) Dorchester Children's Center- Development Committee;

(e) Summerville Republican Women's Club- past president and vice- president.

(11) Commission Members' Comments:

The Commission commented that Ms. Murphy is well versed in both sides of the law and she is also known for her analytical abilities. They noted her active involvement in her local community including the bar.

(12) Conclusion:

The Commission found Ms. Murphy qualified, but not nominated, to serve as a Circuit Court judge.

THURSDAY, JANUARY 15, 2009

G. Thomas Cooper, Jr.
Circuit Court, Fifth Judicial Circuit, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Cooper since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Cooper meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Cooper was born in 1940. He is 68 years old and a resident of Camden, South Carolina. Judge Cooper provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1967. Judge Cooper has also been licensed in the District of Columbia since 1967.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Cooper.

Judge Cooper demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Cooper reported that he has not made any campaign expenditures.

Judge Cooper testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Cooper testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Cooper to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Cooper described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) All JCLE Programs 2002 – 2008;

(b) Brookings Construction Law Seminar 2002;

(c) General Jurisdiction (NJC) 4/8 - 4/19/02;

(d) Handling Capital Cases (NJC) 3/16 - 3/21/03;

(e) Selected Criminal Evidence Issues (NJC) (Web Based) 1/26 - 3/12/04;

(f) Advanced Evidence (NJC) 9/26 - 9/29/05;

(g) Environmental Economics for State Officials (Free Institute) 10/26-10/30/05."

Judge Cooper reported that he has taught the following law-related courses:

"(a) 1981 - "Arbitration or Litigation", Lecturer, South Carolina Bar CLE;

(b) 1993 - "Alternative Dispute Resolution", Panelist;

(c) 1995 - "The Nuts and Bolts of a Construction Project", Program Coordinator, South Carolina Bar CLE;

(d) 1995 - "New Circuit Court Arbitration Rules", Panelist."

He further reported:

I was a member of the American Arbitration Association National Arbitration Training Faculty. From 1996-2000, I traveled around the United States giving one (1) day seminars to new AAA arbitrators. All of these seminars qualified for a CLE credit in the states where CLE is mandatory."

Judge Cooper reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Cooper did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Cooper did not indicate any evidence of a troubled financial status. Judge Cooper has handled his financial affairs responsibly.

The Commission also noted that Judge Cooper was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Cooper reported that his last available Martindale-Hubbell rating was AV.

Judge Cooper reported that he has held the following public office:

"Kershaw County Council, 1990 - 2000, Elected."

(6) Physical Health:

Judge Cooper appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Cooper appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Cooper was admitted to the South Carolina Bar in 1967.

He gave the following account of his legal experience since graduation from law school:

"(a) 1968-70 - Partner -- West, Holland, Furman & Cooper;

(b) 1971-74 - G. Thomas Cooper, Jr., Attorney at Law;

(c) 1971-74 - Assistant Solicitor, Kershaw County;

(d) 1974-76 - Associate Probate Judge, Kershaw County;

(e) 1975-77 - Partner - West, Cooper, Bowen & Smoot;

(f) 1977-85 - Senior Partner - Cooper, Bowen, Beard & Smoot;

(g) 1985-95 - The Cooper Firm;

(h) 2000-Present - Resident Judge, Fifth Judicial Circuit, Seat 3;

(i) 2002 - Chief Administrative Judge for Common Pleas;

(j) 2003, 2006, 2007 - Chief Administrative Judge for General Sessions."

Judge Cooper further reported:

"My practice began in 1967 as a general practice concentrating on real estate, family law and Plaintiff's work. When my partner, John

West, was elected Governor in 1970, the firm broke up and I went out on my own. I became an Assistant Solicitor for Kershaw County and continued my general practice. In the 1970's my practice involved corporate representation, personal injury and other forms of civil litigation. When John West left the Governor's office in 1974, we formed a new firm with the intention of establishing a statewide practice with offices in Camden, Columbia and Hilton Head. We started acquiring statewide work when John was named Ambassador to Saudi Arabia. After his departure, the firm continued into the 1980's and I eventually returned to a sole practice. About this time (1977), I started an active construction law practice."

Judge Cooper reported that he has held the following judicial office(s):

"(a) 1975-78 - Assistant Probate Judge for Commitments, Kershaw County, appointed January 1975;

(b) 2000 - Present - Resident Judge, Fifth Judicial Circuit, Seal 3;

(c) 2002 - Chief Administrative Judge for Common Pleas, Fifth Judicial Circuit;

(d) 2003 - Chief Administrative Judge for General Sessions, Fifth Judicial Circuit;

(e) 2006 - Chief Administrative Judge for General Sessions, Fifth Judicial Circuit;

(f) 2007 - Chief Administrative Judge for General Sessions, Fifth Judicial Circuit."

Judge Cooper provided the following list of his most significant orders or opinions:

"(a) QZO, Inc. v. Moyer, 358 S.C. 246, 594 S.E.2nd 541 (Ct.App.2004);

(b) Conner v. City of Forest Acres, 363 S.C. 460, 611 S.E.2nd 905 (2005);

(c) Overcash v. South Carolina Elec. And Gas Co., 364 S.C. 569, 614 S.E.2nd 619 (2005);

(d) Curtis Shell v. Richland County School Dist. One, 362 S.C. 408, 608 S.E.2d 428 (2005);

(e) Coggershall v. Reproductive Endocrine Associates of Charlotte, 376 S.C. 12, 655 S.E.2d 476 (2007)."

Judge Cooper further reported the following regarding unsuccessful candidacies:

"In 1984, I was an unsuccessful candidate for the South Carolina Senate; in 1992, I was an unsuccessful candidate for the South Carolina House of Representatives."

(9) Judicial Temperament:

The Commission believes that Judge Cooper's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee "found Judge Cooper to be a very highly qualified and a most highly regarded candidate, who would continue to serve on the Circuit Court bench in a most outstanding manner."

Judge Cooper is married to Hope Howell Cooper. He has three children.

Judge Cooper reported that he was a member of the following bar associations and professional associations:

"(a) Kershaw County Bar Association (1967 - Present) President 1970;

(b) South Carolina Bar Association (1976-Present);
Fee Dispute Committee (1978-84);
Legislative Affairs Committee (1986-90);

(c) American Bar Association (1997-2000)."

Judge Cooper provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Camden Country Club, President 1976-77;

(b) Congaree Land Trust, President 2000;

(c) Associated Charities, Director 1987-2000;

(d) Springdale Hall Club, Secretary and General Counsel 1990-2000;

(e) Camden Rotary Club, Paul Harris Fellow 1985-2000."

(11) Commission Members' Comments:

The Commission commented on Judge Cooper's devotion to public service and excellent reputation as a jurist for the past eight years on the Circuit Court. They noted his 41 years of legal experience in a wide range of civil and criminal matters.

(12) Conclusion:

The Commission found Judge Cooper qualified and nominated him for re-election to the Circuit Court.

THURSDAY, JANUARY 15, 2009

Bryan C. Able
Circuit Court, Eighth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Able meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Able was born in 1961. He is 47 years old and a resident of Laurens, South Carolina. Mr. Able provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1987.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Able.

Mr. Able demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Able reported that he has not made any campaign expenditures.

Mr. Able testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Able testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Able to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Able described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Blues, Bar-B-Q, and Bar C-L-E	07/11/08;

(b) Handling the Auto Injury Claim 06/20/08;
(c) Handling a Social Security Disability Case 06/17/08
(d) A Successful Law Practice 05/19/06;
(e) 2nd Annual Blues, Bar-B-Q and 07/14/06;
(f) 2006 Public Defenders Conference 09/25/06;
(g) Blues, Bar-B-Q, and Bar C-L-E 06/15/05;
(h) 2005 SC Public Defender Conference 09/26/05;
(i)South Carolina Family Ct. Bench/Bar 12/2/05;
(j)SCDSS-OGC CLE Seminar 9/17/04;
(k) Hot Tips from the Coolest Domestic 9/24/04;
(l)Greenwood County Bar Seminar 9/30/04;
(m) Revised Lawyers Oath CLE 9/24/04."

Mr. Able reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Able reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Able did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Able did not indicate any evidence of a troubled financial status. Mr. Able has handled his financial affairs responsibly.

The Commission also noted that Mr. Able was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Able reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Able appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Able appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Able was admitted to the South Carolina Bar in 1987.

He gave the following account of his legal experience since graduation from law school:

"(a) Culbertson, Whiteside & Turner–Associate 1987-1991 – General Practice;

(b) Culbertson, Whiteside, Turner & Able–Partner–1991-1996 General Practice;

(c) Contract Attorney for the South Carolina Department of Social Services - 1992 - September 2004;

(d) Turner & Able – Partner – 1996-1999 – General Practice;

(e) Turner, Able and Burney – Partner – 2000-2001 – General Practice;

(f) Bryan C. Able, Attorney at Law – 2001 to present – General Practice;

(g) Assistant Laurens County Public Defender - 2005 - 2006."

Mr. Able further reported:

"Over the past 21 years I have handled all aspects of criminal cases from beginning to jury verdict. I have attended preliminary hearings, negotiated with solicitors, prepared for trial, tried cases to jury verdicts and perfected appeals. In that time I have represented defendants charged with murder, assault and battering of a high and aggravated nature, unlawful carrying of a pistol, grand larceny more than $5,000.00, lynching, burglary, criminal domestic violence of high and aggravated nature, criminal sexual conduct, kidnapping, resisting arrest, possession of unlawful handgun, forgery, possession of illegal video gaming machine, operating a gaming house, unlawful conduct toward a child, unlawful neglect by a legal guardian, impersonating a law enforcement officer, financial transaction card theft, malicious damage to personal property, armed robbery, disseminating obscenity, contributing to the delinquency of a minor, pointing and presenting a firearm, breaking in vehicles, distribution of crack cocaine, distribution of crack cocaine within proximity of a school or park, criminal conspiracy, beach of trust with fraudulent intent, failure to stop for law enforcement officer, possession of a stolen vehicle, distribution of a controlled substance, presenting a forged document, possession with intent to distribute marijuana, passion with intent to distribute marijuana with in proximity of a school, filing a false police report, conspiracy to hunt turkeys, DUI 2nd offence and greater, possession of methamphetamines, receiving stolen goods, and arson. This list is representative and does not completely list all the types of cases I have handled in criminal court. Over the past

five years I have handled in excess of 100 General Sessions Court cases.

As for my experience in civil court I have handled cases from the filing of initial pleadings through appeal. While handling civil cases I have prepared and filed pleadings, filed and argued pretrial motions, engaged in every form of pretrial discovery, interviewed clients and witnesses, prepared cases for trial, researched the issues of the case, tried cases, researched appealed issues and prepared and filed appellate briefs. During that time I have handled civil cases involving slip and fall, actions to set aside foreign judgments, personal injury (accident claims), wrongful death, medical malpractice, fraud, negligent misrepresentation, unfair trade practices, malicious prosecution, unlawful arrest, intentional infliction of emotional distress, property line disputes, claim and delivery, assault and battery, collection of debts, action to set aside deeds, Probate Court Appeals, Zoning Board Appeals, Post Conviction Relief Applications and other issues. I have represented both Plaintiffs and Defendants in civil court."

Mr. Able reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: 0%;
(b) State: 100%;
(c) Other: 0%."

Mr. Able reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 5%;
(b) Criminal: 15%;
(c) Domestic: 80%."

Mr. Able reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 5%;
(b) Non-jury: 95%."

Mr. Able provided that he most often served as sole counsel.

The following is Mr. Able's account of his five most significant litigated matters:

"(a) State v. Howard Steven Davenport
94-GS-30-386; tried June 2, 1994 in the Laurens County Court of General Sessions.

Mr. Davenport was charged with unlawful possession of diazepam and possession with intent to distribute diazepam. The judge directed a verdict on the possession with intent to distribute diazepam charge and the jury returned a verdict of not guilty on the possession charge although Mr. Davenport admitted having diazepam in his possession that had not been prescribed to or for him;

(b) State v. Robert Jones

94-GS-30-629; tried in the Laurens County Court of General Sessions.

Mr. Jones was charged with committing or attempting a lewd act upon a child under fourteen. This case was significant because the defense moved to exclude a majority of the evidence introduced by the State pursuant to State v. Lyle;

(c) Johnson v. Flaugher

90-CP-39-180; tried in the Pickens County Court of Common Pleas on August 13 and 14, 1991.

The nature of this case was based in common law master-servant and negligence. Plaintiff was injured while employed by defendant but was not covered by workers compensation. As a result the action was brought on the common law theory of master-servant and negligence. At trial the jury returned a verdict for plaintiff. Upon appeal, the issues submitted for review were whether the issue of contributory negligence could be decided as a matter of law without being submitted to the jury, whether the issue of assumption of risk could have been decided as a matter of law without being submitted to the jury, if the judge had given a proper charge on the issue of contributory negligence, whether the judges charge on the issue of permanent injury and the use of life expectancy (mortuary) table was proper and whether the jury's verdict was excessive;

(d) Satterfield v. Dillard Department Stores, Inc.

97-CP-23-1431; tried in the Greenville County Court of Common Pleas on October 29, 1998.

This case was significant because the appellate court reviewed the issue of a party's right to amend pleadings pursuant to Rule 15 SCRCP and if allowing a late

amendment of pleading was prejudicial to the other party;

(e) In the case of Donnie L. Thacker

Claim for Period of Disability and Disability Insurance Benefits before the Social Security Administration.

I began representing Mr. Thacker on October 12, 1988 on his claim for Social Security Disability Benefits. After numerous hearings, reviews by the Appeals Council and an appeal to the United States District Court, Mr. Thacker was awarded his benefits by decision of the Administrative Law Court Judge on December 19, 2000."

The following is Mr. Able's account of five civil appeals he has personally handled:

"(a) Johnny Lee Johnson v. Phillip Flaugher – SC Supreme Court;

(b) Jennifer Satterfield, by her Guardian Ad Litem, Pam Satterfield v. Dillard Department Store – SC Court of Appeals;

(c) South Carolina Department of Social Services v. Jason Ihnatiuk et al. - SC Court of Appeals;

(d) South Carolina Department of Social Services v. Jacqueline D. Sims et al. - SC Court of Appeals;

(e) David A. Babb v. Betty Anne Scott et al. – SC Court of Appeals – Pending final decision."

Mr. Able reported that he has not personally handled any criminal appeals.

Mr. Able reported that he has held the following judicial office:

"Appointed - Laurens City Judge - March 1991 – 1994; Criminal Jurisdiction up to limit of statutory fine or Thirty (30) days in jail."

Mr. Able reported the following regarding his employment while serving as a judge:

"(a) 1987-1991 Culbertson, Whiteside & Turner– Associate/Attorney – General Practice – J. Mike Turner;

(b) 1991-1996 Culbertson, Whiteside, Turner & Able–Partner/Attorney General Practice;

(c) 1992–September 2004 Contract Attorney for the South Carolina Department of Social Services. Providing legal services to the SC. Dept. of Social Services, Eighth Judicial Circuit. – County Directors of Laurens,

Greenwood, Abbeville, Newberry Counties DSS offices."

Mr. Able further reported the following regarding an unsuccessful candidacy:

"Solicitor, Eighth Judicial Circuit – 2004."

(9) Judicial Temperament:

The Commission believes that Mr. Able's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee found "Mr. Able to be qualified. Eighty percent of his practice deals with domestic cases. He says he wants to see the Circuit Court start earlier and work a full day and get things done. We say 'Amen' to that."

Mr. Able is married to Esther Ruth Myers Able. He has three children.

Mr. Able reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) South Carolina Association of Criminal Defense Lawyers."

Mr. Able provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Laurens Exchange Club;

(b) Rosemont Society of Laurens."

(11) Commission Members' Comments:

The Commission commented that Mr. Able displayed a very strong work ethic. In addition, the Commission thought his excellent presentation at the public hearing displayed good knowledge of and familiarity with practice and procedure in the Circuit Court.

(12) Conclusion:

The Commission found Mr. Able qualified, but not nominated, to serve as a Circuit Court judge.

THURSDAY, JANUARY 15, 2009

Frank A. Addy
Circuit Court, Eighth Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Addy meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Addy was born in 1967. He is 41 years old and a resident of Greenwood, South Carolina. Judge Addy provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1993.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Addy.

Judge Addy demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Addy reported that he has made $266.70 in campaign expenditures for: "2 rolls of stamps – purchased in mid and late August - $84.00; 1 roll of stamps – purchased on September 18, 2008 - $42.00; 2 rolls of stamps – purchased in November - $84.00; 1 ream of paper and envelopes – purchased late August - $30.00; 1 ream of paper – purchased in November – 26.70."

Judge Addy testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Addy testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Addy to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Addy described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) 2003 SC Bar Convention 01/24/03;
(b) Probate Judges' Legislative Conference 03/25/03;
(c) SC Trial Lawyers Assoc. Conference 08/07/03;
(d) 11th Annual Probate Bench/Bar 09/12/03;
(e) 55th Annual SC Assoc. of Probate Judges Conf. 09/21/03;
(f) Probate Judges' Legislative Conference 02/02/04;
(g) SC Assoc. Probate Judges, SCAC Conf. 08/05/04;
(h) SC Trial Lawyers Assoc. Conf. 08/05/04;
(i) Judicial Oath of Office 08/19/04;
(j) 12th Annual Probate Bench/Bar 09/17/04;
(k) Greenwood Bar – Revised Oath and Bar CLE 09/30/04;
(l) 56th Annual SC Assoc. of Probate Judges Conf. 10/10/04;
(m) 2004 SC Bar Convention 01/21/05;
(n) Probate Judges' Legislative Conference 02/28/05;
(o) 2005 Probate Judges/Court 05/06/05;
(p) 13th Annual Probate Bench/Bar 09/16/05;
(q) 57th Annual SC Assoc. of Probate Judges Conf. 09/21/05;
(r) 2006 SC Bar Convention 01/27/06;
(s) SC Trial Lawyers Assoc. Conf. 08/03/06;
(t) SC Assoc. of Judges, SCAC Conf. 08/04/06;
(u) 14th Annual Probate Bench/Bar 09/15/06;
(v) 58th Annual SC Assoc. of Probate Judges Conf. 10/04/06;
(w) 2007 SC Bar Convention 01/25/07;
(x) Probate Judges' Legislative Conference 02/13/07;
(y) Orientation School for New Probate Judges 03/15/07;
(z) 59th Annual SC Assoc. of Probate Judges Conf. 09/09/07;
(aa) 15th Annual Probate Bench/Bar 09/14/07;
(bb) 2008 SC Bar Convention 01/25/08;
(cc) Probate Judges' Legislative Conference 02/05/08;
(dd) 16th Annual Probate Bench/Bar 09/14/08;
(ee) Judicial Selection in SC – SC Bar, SCWLA 09/17/08.

Judge Addy reported that he has taught the following law-related courses:

(a) "Dual Diagnosis" October 9, 2001; South Carolina Association of Probate Judges

Presentation addressing the problematic practical and procedural issues concerning stabilization and treatment of individuals who are mentally ill and also chemically dependent;

(b) "New Probate Judge's School"
SC Court Administration & SCAPJ, January 10, 2003 & March 15, 2007

Planned topics, organized speakers and materials, and moderated the 2003 New Probate Judge's School. Personally addressed the topics of ethics and estate taxation at the 2003 and 2007 schools;

(c) "Therapeutic Commitments – Jurisdictional Issues and Supplemental Proceedings" South Carolina Association of Probate Judges, August 6, 2004.

Lecture on the jurisdictional validity of commitment orders throughout the state and between states with additional discussion of supplemental proceedings when the person is non-compliant with the court's order;

(d) "General Probate Issues"
Greenwood County Bar, September 30, 2004

Presentation was geared to the general practice lawyer who only occasionally practiced in probate and addressed the procedural aspects of a variety of common problems. Lecture included a discussion of recent changes in the law, disclaimers, omitted spouse vs. elective share petitions, conservatorships, wrongful death settlements, limitations of actions, and other matters;

(e) "Creditor's Claim Presentment in the Probate Court"
SC Morticians Assoc., October 24, 2004

Presentation concerned the procedures law for presenting a claim against a decedent's estate;

(f) 13th Annual Probate Bench/Bar, Course Planner and Moderator SC Bar CLE Division, September 16, 2005

I planned and moderated the 2005 Bench/Bar and was subsequently told that the attendance for the event surpassed all previous probate bench/bar conferences;

(g) "Temporary and Emergency Measures in Probate Proceedings"

South Carolina Association of Probate Judges,
September 25, 2005
Procedural overview of Rule 65, SCRCP, governing temporary injunctions as compared to Section 62-3-607 governing emergency orders in the estate context and 62-5-310 governing appointment of emergency temporary guardians;

(h) "The Probate Process and Presentation of Creditor's Claim in South Carolina's Probate Courts"
South Carolina Oncology Association, May 18, 2006
Presentation was a procedural overview of the process for probating an estate, presenting claims against an estate, and explanation of the time limits involved in both;

(i) "Roundtable Discussion"
South Carolina Association of Probate Judges, August 4, 2006, Served as a panel member and discussed hypothetical situations applicable to the courts;

(j) "Recent Issues in the Probate Court"
Greenwood County Bar, February 23, 2007
Presentation discussed the recent *Franklin* and *Brown* opinions concerning the unauthorized practice of law in the probate context and also addressed competency issues when a lawyer feels is client may be suffering from Alzheimer's dementia;

(k) "Probate Potluck – Round Table Discussion"
South Carolina Association of Probate Judges,
September 12, 2007
Served as a panel member and discussed various probate topics and problems;

(l) "Involuntary Mental Illness Commitments"
SC Summary Court Judges Assoc., May 6, 2008
Presentation concerned the procedural and substantive law concerning involuntary commitments of persons suffering from mental illness and chemical dependency.

Judge Addy reported that he has published the following:

"The Probate Bench Book

This book is a monumental project in the final stages of editing by me with the final version due to be released to the Probate Judge's Advisory Committee and Court Administration next month. The book addresses all aspects of the court's jurisdiction and procedures as well as substantive law."

(4) Character:

The Commission's investigation of Judge Addy did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Addy did not indicate any evidence of a troubled financial status. Judge Addy has handled his financial affairs responsibly.

The Commission also noted that Judge Addy was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Addy reported the following regarding a rating in Martindale-Hubbell: "I am not rated in Martindale-Hubbell although there is a brief "Judge Profile" for me on their online listing. Having been a judge for the last ten years, I have never sought a Martindale-Hubbell rating since my current occupation does not depend upon client referral."

Judge Addy reported the following regarding holding a public office:

"I am currently a probate judge."

(6) Physical Health:

Judge Addy appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Addy appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Addy was admitted to the South Carolina Bar in 1993.

He gave the following account of his legal experience since graduation from law school:

(a) Eighth Circuit Solicitor's Office
September, 1993 – February, 1997

Prosecuted all types of felony and misdemeanor cases, including homicide and serious felonies.

Promoted to Deputy Solicitor for Abbeville County during my tenure and successfully reduced Abbeville's pending docket from roughly 20 pages to 6 over the course of approximately 2 ½ years;

(b) Sheek, Addy & Medlock, PA
March, 1997 – February, 1998

Upon passing of my father, I engaged in general private practice including personal injury, domestic, and criminal cases;

(c) Chief Public Defender for Greenwood and Abbeville Counties

February, 1998 – June, 1999

Responsible for defending clients charged in general sessions as well as juvenile court. Oversaw operation of the office and defended all manner of criminal cases;

(d) Probate Judge for Greenwood County

June, 1999 – Present

Responsible for contested civil hearings concerning all aspects of the court's jurisdiction: estates, trusts, protective proceedings, and therapeutic commitments. Managed the case docket and successfully reduced delinquency in pending cases.

Served as Special Referee over the years for common pleas matters concerning default judgments, damage hearings, contract matters and partition actions referred to me for trial or hearing;

(e) Greenwood County Clerk of Court

June, 2003 – August, 2003

Upon the retirement of Greenwood's clerk of court and pursuant to state law, I assumed the role of acting clerk of court until the Governor made his appointment;

(f) Acting Circuit Court Judge

September, 2006 – November, 2007

Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice while Greenwood's resident judge was recovering from cancer. Presided over jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as well. As special referee for common pleas matters, I have heard cases concerning default judgments, damages hearings, contract matters, and partition actions;

(g) Judge of the Eighth Circuit Drug Court

August, 2008 – Present

Appointed by the Chief Justice on August 18, 2008 to serve as judge for the Eighth Circuit Adult Drug Court program. Will preside over and supervise drug court

participants throughout their participation in the program, from accepting their guilty plea to completion of or termination from the program. Worked with Solicitor in establishing the program and crafting the model."

Judge Addy further reported:

"For the past two (2) years, I have served as circuit judge by order of special appointment while our resident circuit judge was recovering from cancer. In that time, I presided over guilty pleas, jury trials, motions, bond hearings, and probation revocations. In short, I have essentially handled same matters which come before a circuit judge on a daily basis. The unsolicited and discretely obtained feedback I received concerning my performance during this period was overwhelmingly positive.

Prior to my election to the bench, I was an assistant and deputy solicitor for roughly four (4) years and chief public defender for two (2) years. While serving as Deputy Solicitor, I successfully brought the pending case docket for the county I supervised down from over twenty (20) pages to fewer than six (6) pages. My desire and ability to move a backlogged docket, and then to keep the cases moving, would be of significant value on the civil side.

I have prosecuted and defended homicides, including death penalty, and I obtained a conviction on one if the first LWOP cases brought to trial. I have prosecuted or defended, in trial and via guilty plea, practically every criminal offense known, including rapes, drug offenses, assaults, robberies, and burglaries.

Concerning the civil matters which a circuit judge must hear and the civil docket which a circuit judge must administer, I have served as probate judge since 1999, and the trials in probate court require me to apply the same rules of evidence and procedure as are applied in the court of common pleas. Estate and trust matters involve application of the same principals of law and equity which apply in any civil case, and the stakes involved in most of the trials I hear are exceedingly high for the parties. In addition to complex and contested litigation concerning trusts and estates, I preside over often emotional cases concerning guardianships, conservatorships and involuntary commitments. I know that compassion is a necessary and invaluable characteristic for a judge, and I make every effort to render well-reasoned, thoughtful, and thorough decisions in all the cases I hear, regardless of the amount in controversy or the emotional context of the litigation.

Just as a circuit judge must run the civil docket, as judge for my court, I must also supervise my court's docket, keep cases moving, and ensure that matters under my supervision are addressed in a fair and procedurally correct manner. In short, as judge for my court, I have the same responsibility for case and docket management as circuit judges do for their court, and I will be able to immediately apply my ten (10) years of experience to management of the civil docket.

Additionally, I have served as special referee for non-jury matters and hearings referred to me from the circuit court docket. These hearings require application of the same rules of civil procedure and the same principals as are applied under the circuit court's civil jurisdiction.

I also served as acting clerk of court upon the retirement of Greenwood's clerk. Many might characterize this job as purely ministerial, but I gained an appreciation for the inner workings of that office and the incredible management skills necessary to keep that office running. Our clerks of court are an indispensable asset to our courts, and no aspect of the law would function without their efforts.

Like most lawyers, I have also been in private practice, so I appreciate the demands on a lawyer's time, the pressures of running an office, and the stresses and obligations that lawyers face on a daily basis. While in private practice, my firm's practice area could best be described as general practice, handling civil, criminal, family and summary court cases. Although circuit judges must sometimes be firm with attorneys so that a docket keeps moving, judges should also have an appreciation for the rigors, demands, and stresses of private practice.

I have a judicial philosophy which has served me well for the last ten (10) years. A good judge is one who remains firm, yet retains compassion and empathy for the parties. One of the benefits in working with the public throughout my legal career is that I understand and truly appreciate that every case is special, emotional, and unique for those involved. For example, what one might characterize as "a simple wreck case" may only involve a few thousand dollars of damages, but for most citizens, the outcome of such a case is of significant importance to them, regardless of whether they are plaintiff or defendant. I fully appreciate the emotional character involved in most litigation, and for courts to remain credible to the public, the parties must feel that

the court gave their side a full and fair hearing, decisions rendered must be correct and free of bias or political consideration, and most importantly, the court's verdict must represent a proper application of the law, as written, to the particular factual scenario. Judicial activism invites uncertainty for the parties and results in disparate application of the law from judge to judge.

I firmly believe that courts and judges face a public confidence problem when the law is not applied as written, when parties feel as if they did not have a full opportunity to be heard, or whenever a judge's decision appeared to be swayed by political considerations. Judges must also possess the demeanor necessary to treat all who come before them with patience and respect, and such character must be present, practiced, and demonstrated daily.

In conclusion, my varied judicial and professional experience and my judicial demeanor have prepared me well for this position."

Judge Addy reported the frequency of his court appearances prior to his service on the bench as follows:

"(a) Federal: 0%;
(b) State: 100%;
(c) Other: 0%."

Judge Addy reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

"(a) civil: 25%;
(b) criminal: 65%;
(c) domestic: 10%.

I answer this question based upon the general period before I was elected to the bench. In my current judicial office, all cases are civil. As acting circuit judge from 2006-2007, most of the matters I handled were criminal, although I did address some civil matters during this period. "

Judge Addy reported the percentage of his practice in trial court prior to his service on the bench as follows:

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

I answer this question based upon the general period before I was elected to the bench. Although many probate cases go to trial, they are usually non-jury, and the most recent jury trials I oversaw were conducted when I served as circuit judge by appointment."

Judge Addy provided that he most often served as sole counsel.

The following is Judge Addy's account of his five most significant litigated matters:

"(a) State v. Darvin Wayne Allen (1999 Death Penalty case) This was a death penalty case wherein I represented the defendant. This case was challenging from a defense point of view in that the homicide happened several years before Allen and his co-defendants were identified as suspects, and it was the co-defendants who gave inconsistent statements identifying Allen as the shooter. The police charged Allen subsequent to Allen being convicted of armed robbery of a Pizza Hut; that case involved several of the co-defendants who were alleged to be involved in the homicide.

Because of attorney-client privilege, I am not at liberty to discuss the factual information or legal preparation involved in this case. Suffice it to say, however, that our work in terms of investigation, research, and trial strategy was extensive and fruitful. I am certain that the first motion we made would have resulted in reversal on appeal had Allen been convicted.

Due to the strength of our preparation and despite previous resistance on the part of the victims and others to any plea which contemplated Allen's potential release from prison, we were able to obtain a favorable 20 year negotiated life plea for Allen early in the guilt phase, which was a positive result in light of the high potential for a verdict of death (assuming a conviction in the guilt phase).

(b) State v. Keith A. Scurry, 322 S.C. 514, 473 S.E.2d 61 (S.C. App. 1996) (Armed Robbery case – made new case law and resulted in statutory law change) Armed robbery case which I prosecuted with only a few hours of preparation time (the solicitor assigned the case had an unexpected death in the family). Defendant robbed a convenience store with a lug wrench which he hid under a towel. The victim testified that she thought the concealed lug wrench was a gun. The defendant testified he brought the lug wrench into the store in the event he had to pry the cash register open. The defendant was convicted of armed robbery. The trial judge, sua sponte, vacated the conviction and imposed a conviction for common law

robber under the justification that the defendant never intended to use the lug wrench as a deadly weapon. I sufficiently protected the record and appealed. The court's order was vacated and the sentence for armed robbery was imposed.

This case also resulted in my contacting my local legislator who, with my encouragement, filed a bill to address situations in the armed robbery statute whereby a defendant would use a fake gun or verbally inform the victim that the defendant is armed with a deadly weapon. This bill was introduced and ultimately signed into law which changed the definition of armed robbery to specifically include representations of a deadly weapon, by word or by appearance.

(c) Wallace v. Roach et al., In Re the Estate of John C. Wallace 01-ES-24-428 (Statute of Elizabeth, real property, and equitable issues) This case concerned an effort by judgment creditors to set aside a series of arguably defective deeds involving real property which the judgment creditors maintained had been executed in violation of the Statute of Elizabeth. The defendant had misappropriated proceeds from the consignment sale of several RV's from numerous defendants. The property he owned had been arguably held in a trust of questionable validity prior to the subsequent transfers. The case, therefore, required application of complex real property law and equitable principals because of the number and questionable character of the transactions, and the outcome turned upon whether an express or resulting trust had been created as well as application of principals of real property law and equitable doctrines.

(d) Carol Scurry v. R. Brooks Scurry, Jr. et al,, In Re the Estate of R. Brooks Scurry, Sr. 98-ES-24-357 (2000) (Complex estate litigation) This case concerned a $5 million federally taxable estate and a Will with a very complex funding formula for the various trusts. The issues surrounding the litigation concerned contractual duress, reformation of a Will, proper funding of generation skipping trusts, a marital deduction trust and the right to withdrawal, attorney's fees, right to contribution for a mortgage, removal of trustee, as well as other issues. This

matter could have been certified as "complex litigation" if such a designation existed in the estate context.

(e) State v. Willie James Ervin (One of the first applications of LWOP law) (1996) Co-counsel and I prosecuted this case which concerned the violent rape and kidnapping of a young woman by an individual who had a New Jersey conviction for rape, thereby making him eligible under the recently enacted LWOP statute. *See* Section 17-25-45. The charges arose shortly after South Carolina's adoption of the 2-3 Strike law which allows for the Solicitor to seek life imprisonment without parole for such defendants. This case was one of the first cases wherein this new penalty was applied, and a great deal of work was done both to obtain the conviction as well as to prove application of out-of-state law. The defendant remains in prison on the kidnapping charge. State v. Ervin, 333 S.C. 351, 510 S.E.2d 220 (S.C. App. 1998) (*CSC rev'd on other grounds*)"

Judge Addy reported that he has not personally handled any civil appeals.

The following is Judge Addy's account of the criminal appeal he has personally handled:

"Aside from filing the notice of appeal in State v. Scurry, I have not personally handled a criminal appeal."

Judge Addy reported that he has held the following judicial office(s):

"(a) Acting Circuit Court Judge

September, 2006 – November, 2007

Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice. As a court of general jurisdiction, I presided over general sessions jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as needed or requested; As special referee for common pleas matters, I have heard cases concerning default judgments, damages hearings, contract matters, and partition actions.;

(b) Probate Judge for Greenwood County

June, 1999 – Present

Appointed in June, 1999. Subsequently reelected without opposition in 2000, 2002, and 2006

Responsible for contested civil hearings concerning all aspects of the court's jurisdiction under Section 62-1-302 (Supp. 2005): decedent's estates, trusts, Article 5 protective proceedings, and therapeutic commitments under Title 44.

Served as Special Referee over the years for common pleas matters referred to me for trial or hearing. Jurisdiction was limited to deciding the issue pertaining to that particular matter referred to me;

(c) Drug Court Judge, Eighth Circuit Adult Drug Court

Appointed August, 2008

Responsible for accepting guilty pleas, supervising, and presiding over all participants in the adult drug court program.

Please note that I intend to continue serving as drug court judge regardless of the outcome of my candidacy for seat 2."

Judge Addy provided the following list of his most significant orders or opinions:

"(a) Wrenn, et al. v. Gillenwater, In Re the Estate of Janelle B. Smith, 06-ES-24-4 (September 12, 2008) This was a constructive trust case, and I provide it largely because it is the most recent example of my legal writing and because it clearly demonstrates the restraint a judge must exercise when hard facts invite a judge to question or misapply the law. This matter was a difficult case in that the facts cried out for a result which simply was not permitted under the law;

(b) Walker v. McLeod, et al. 03-CP-24-1513 (December 30, 2005) I provide this order as an example of an order from a matter I handled as Special Referee. The case concerned a motion to set aside default and a damages hearing. Defendants acted *pro se*, but the case is significant in that, after a full hearing at trial, it became apparent that the plaintiff had exaggerated the relief he was entitled to under a contract between himself and the defendants. This case represents a good example of how a disingenuous party may, at times, attempt to procedurally box-in a defendant, and courts should not permit a party to profit by their less than candid assertions prior to litigation;

(c) Matthews v. Bryan, et al., In Re the Estate of Kay Matthews, 02-ES-24-22 This case involved a partition action and a petition to set aside a deed. I heard this case both as special referee under the jurisdiction of common pleas and as probate judge under the court's Title 62 jurisdiction. The plaintiff was the second spouse of decedent. This was an emotional case for the parties, largely because of criminal accusations involving the plaintiff and one of the defendant's children. Defendants were seeking partition of property which had been deeded out of their mother's estate and held as tenants in common between plaintiff and defendants. Plaintiff sought to set aside the deed to pay estate administrative expenses. Also involved in this case were issues of personal property, accounting for expenses, and valuation of estate assets;

(d) Wallace v. Roach, et al., In Re the Estate of John C. Wallace This case concerned an effort by judgment creditors to set aside a series of arguably defective deeds involving real property which the judgment creditors maintained had been executed in violation of the Statute of Elizabeth. The defendant had misappropriated proceeds from the consignment sale of several RV's from numerous defendants. The property he owned had been arguably held in a trust of questionable validity prior to the subsequent transfers. The case, therefore, required application of complex real property law and equitable principals because of the number and questionable character of the transactions, and the outcome turned upon whether an express or resulting trust had been created as well as application of principals of real property law and equitable doctrines.

(e) State v. Jane Blackwell (2007) "Ware Shoals High Cheerleading Scandal" case concerned competing concepts of legal ethics, first amendment, and media access): This case was a very high profile case with a great deal of national media attention. Imposition of a gag order is rarely done. In this case, it was necessary to preserve the integrity of the process and to prevent one party from trying the case in the media to the detriment of the other parties and the court system.

Factually, the case concerned the cheerleading coach of Ware Shoals High School, Moore, who had allegedly provided alcohol to her cheerleaders and facilitated inappropriate sexual encounters between them and two National Guard recruiters. Blackwell was the principal who allegedly knew of the improprieties and attempted to cover them up.

Media attention on this case was very intense and lasted for several months after the story initially broke. Agents for the state and an attorney for Blackwell actively forwarded a great deal of information into the press concerning the allegations, subsequent investigations, and defenses. A member of Blackwell's defense team was arguably more active in allowing or encouraging media access to his client's case; he did have an arguable justification under Rule 3.6 (c) of Rule 407, SCACR. However, much of the recent information entering the media by Blackwell's counsel was very prejudicial to Moore, who had not been seeking media attention. In short, although the information was beneficial to one defendant, it was damaging to the other parties involved.

The solicitor ultimately moved for a gag order on the grounds that the information being circulated by counsel for Blackwell would prejudice the jury pool in both Moore's and Blackwell's case. Many members of the print and television media were present for the hearing, and several news organizations entered an appearance and intervened opposing the motion. After weighing the potential prejudice to the parties, applicable 1st Amendment rights, and the ethical obligation of counsel, I granted the motion finding that the pretrial publicity posed a substantial likelihood of prejudice to all concerned parties. (Note that only the parties and their counsel were prevented from speaking to the media; the media, of course, was not subject to the order.)

Aside from the *Allen* case mentioned above, this was the second high-profile case I have handled, although I neither seek nor relish such publicity."

(9) Judicial Temperament:

The Commission believes that Judge Addy's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee reported the following regarding Judge Addy: "We found Frank Addy to be very qualified. He has served as Probate judge of Greenwood Co. since June of 1999 and has also served as acting Circuit Court Judge during 2006 and 2007. He presided over eleven terms of Circuit Court by special appointment of the Chief Justice while the resident Greenwood judge was recovering from cancer. He also has experience presiding over the Eight Circuit Drug Court during 2008. We find Judge Addy to be a man of high moral character and well regarded in the community."

Judge Addy is married to Kelly Sprouse Addy. He has two children.

Judge Addy reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association, 1993 - present;

(b) President, SC Association of Probate Judges, 2005-2006;

(c) SC Association of Probate Judges, 1999 – present;

(d) Chairman, Advisory Committee to the Chief Justice, 2001-2003."

Judge Addy provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Cub Scout Pack 222, den leader since 2005;

(b) IAAP Executive of the Year, 2003;

(c) Greenwood Masonic Lodge AFM #91 (since 1998);

(d) High School Moot Court Coach;

(e) Links at Stoney Point (social and pool membership);

(f) Greenwood Country Club (social, pool and tennis membership)."

(11) Commission Members' Comments:

The Commission commented that Judge Addy is known for trying to reach the correct legal decision on the Probate bench. They noted that his valued experience as an Acting Circuit Court Judge will assist him in discharging his responsibilities on the Circuit Court.

(12) Conclusion:
The Commission found Judge Addy qualified and nominated him for election to the Circuit Court.

Eugene C. Griffith
Circuit Court, Eighth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Griffith meets the qualifications prescribed by law for judicial service as a Circuit Court judge.
Mr. Griffith was born in 1964. He is 44 years old and a resident of Newberry, South Carolina. Mr. Griffith provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.
(2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Griffith.
Mr. Griffith demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.
Mr. Griffith reported that he has not made any campaign expenditures.
Mr. Griffith testified he has not:
(a) sought or received the pledge of any legislator prior to screening;
(b) sought or been offered a conditional pledge of support by a legislator;
(c) asked third persons to contact members of the General Assembly prior to screening.
Mr. Griffith testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.
(3) Professional and Academic Ability:
The Commission found Mr. Griffith to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Griffith described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Rule 417 and The Bank	05/09/2002;
(b) Stewart Title TIPS Seminar	11/12/2002;
(c) Practical Refresher in Litigating S.C. Auto Injury Case	12/10/2002;
(d) Hot Tips From the Best	09/19/2003;
(e) Tips from the Bench	12/12/2003;
(f) Estate and Tax & Charitable	02/11/2004;
(g) S.C. Family Court Bench Bar	12/03/2004;
(h) Getting the Big Picture - History of Rules of Evidence	12/20/2004;
(i) Ethic and the Oath	12/21/2004;
(j) Getting the Big Picture - Part I	12/28/2004;
(k) Field Sobriety Tests in DUI	12/28/2004;
(l) Demonstrative Evidence in DUI - Part V	12/30/2004;
(m) Real Life Solutions for Small Firms	10/07/2005;
(n) Stewart Title TIPS Seminar	11/11/2005;
(o) Sop: Sec. 1031 Transactions	12/13/2005;
(p) SC Solicitors Association Conference - Prosecution Accountability	09/24/2006;
(q) SC Solicitors Conference – Partners in Prosecution	09/24/2007;
(r) SC Association for Justice – 2008 Summer Convention CLE	08/09/2008."

Mr. Griffith reported that he has taught the following law-related course:

"In 1999, I taught the Legal unit to the Volunteers for the Newberry County Guardian ad Litem program."

Mr. Griffith reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Griffith did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Griffith did not indicate any evidence of a troubled financial status. Mr. Griffith has handled his financial affairs responsibly.

The Commission also noted that Mr. Griffith was punctual and attentive in his dealings with the Commission, and the

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Griffith reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Griffith appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Griffith appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Griffith was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

> "(a) March 1991 thru July of 1991 – Clerk to the Honorable James E. Moore Circuit Court;
>
> (b) July 1991 thru June 1992 - Clerk to the Honorable John P. Gardner - S.C. Court of Appeals;
>
> (c) July 1992 thru February 1997: solo practice as Griffith Law Firm - general practice of law. My office has handled real estate transactions, mortgage closings, magistrate's trial work, criminal trial defense, civil trial work, domestic relations trial work, and estate and probate matters;
>
> (d) February 1997 thru present: In February of 1997, Rushing and Griffith, P. C. was formed by Eugene C. Griffith Jr. and Elizabeth R. Griffith. The scope and type of law practice did not change significantly and was operated as a general practice. Don S. Rushing bought into the corporation and opened an office in Lancaster, South Carolina. Don S. Rushing has operated a limited practice in the Lancaster office. Over the last several years, the scope and type of work performed in the Newberry office has changed slightly. In January of 2005, I agreed to work as a special prosecutor for the Eighth Judicial Circuit for the terms of General Sessions Court held in Newberry County. Since agreeing to act as special prosecutor, I have been unable to accept cases as a criminal defense attorney. In the last several years, I have handled numerous condemnation actions on behalf of the SCDOT.

Additionally, I have been appointed under Circuit Court rules in numerous civil cases to act as special referee for non-jury matters, such as partitions and foreclosures."

Mr. Griffith further reported:

"In regard to my experience in criminal matters, I have been fortunate to handle numerous cases in both the magistrate's court and the Court of General Sessions. I accepted representation and was appointed to many cases as a criminal defense attorney for more than thirteen years. My practice area was primarily Newberry County but I was retained by clients to appear in the counties tangent to Newberry County. Over the years, I have defended clients by plea or trail for various charges including: all drug offenses, burglaries of all levels, criminal domestic violence, driving offenses including felony DUI, Murder, assault and battery with intent to kill, assault and battery of high and aggravated nature, criminal sexual conduct, as well as a variety of other offenses.

In January of 2005, I agreed to accept the position of special prosecutor for the Eighth Judicial Circuit. My agreement with Solicitor Jerry Peace allows me to prosecute cases in Newberry County. As a prosecutor, I have had the opportunity to work closely with law enforcement and the victims of crimes in evaluation and preparation of cases for trials and pleas. The experience I have gained advocating as a prosecutor has given me a new perspective of the criminal justice system which I did not have prior to my taking the position as special prosecutor.

The experiences which I have gained as a prosecutor and defense attorney have taught me a great deal about the nature of people. First, I have learned that both victims and defendants want to be heard. Second, I have found that if one takes the time to listen to the whole story from a litigant, whether a victim or an accused, and let him or her explain his or her perspective of what happened, then most people will, in turn, listen to my advice as to how to proceed in prosecuting or defending the matter within the parameters of the law, its rules, and its procedures.

In regard to my experience in civil matters, I have handled a variety of matters, including condemnations, breach of contract, negligence, and other civil matters. I have had the opportunity to represent clients in personal injury/negligence cases as a plaintiff's attorney. I have handled several wrongful death actions, including a wrongful death of a 12 year old boy who was

electrocuted in shallow water next to a dock which had electricity improperly wired upon it. On behalf of the boy's parents, we brought a negligence action against both the dock-owner/landowner and SCE&G. We alleged negligence against the dock owner for improper installation and maintenance of the dock and also alleged negligence against SCE&G for improper licensing and inspection of the dock. The homeowner settled prior to the trial. SCE&G prevailed on the issue that it owed no express or implied duty of protection to a person such as the plaintiff

Additionally, I have had several cases which allowed me to act as defense counsel, representing insurance carriers against personal injury claims. I represented a boat dealer involved in a products liability action. The dealer and manufacturer were both sued by the estate of a customer who purchased a "used" boat and drowned shortly after taking delivery of the boat. The boat manufacturer settled. I defended the boat dealer along with his liability insurance carrier on the issues of failure to disclose and negligence. The case was tried twice: the first trial resulted in a hung jury and the second trial ended in a defense verdict.

I have acted as the City Attorney for the City of Newberry for the past thirteen years. In my capacity as City Attorney, I have litigated several cases which have involved annexation issues and electrical service territory disputes between the City and the local Rural Electrical Cooperative. I was involved in a very complex case involving the forced sale of facilities, equipment, and customers from the local Rural Electrical Cooperative to the City. This case was brought by the local Cooperative under a statute which states that a cooperative can force a municipality to purchase facilities, equipment, and customers after the customers and facilities had been annexed by the City over a period of years. This case presented some unusual factual, legal and procedural questions for both of the parties. The case was tried before an arbitration panel, and then appealed by both parties to the circuit court and the appellate court.

I have appeared as local counsel for the South Carolina Department of Transportation in condemnation matters which involved the relocation and widening of several bridges and roads in Newberry County. The actions involved damages as a result of the acquisition of land, easements and construction easements from the affected property owners.

I have acted as Special Referee for numerous cases involving non-jury matters. Most of these actions involved the partition of land among joint land-owners or the foreclosure of mortgages.

I believe that my civil court experience is broad and well-balanced between plaintiff and defense work. I believe that the breadth of experience has allowed me to gain a wide perspective by representing clients who had small claims as well as clients who had severe injuries or death. I have represented large entities, such as small businesses, large corporations and government entities, which are protecting the business interests, shareholders' interest, or citizens' interests. The practice of law is interesting and challenging in that it is an occupation and profession, particularly in a small town, where the clients choose the lawyer and not the converse. I have been fortunate in my practice because I have been able to represent and advocate a wide variety of cases. I have had the opportunity to advocate from both sides of the courtroom, so to speak, i.e. for plaintiffs and defendants, in both civil court and the criminal court. I believe this diversity of experience is important in that it should provide me a wealth and breadth of understanding the differing perspectives of the litigants who appear in court and the advocates who represent them."

Mr. Griffith reported the frequency of his court appearances during the last five years as follows:

"(a) federal: none;
(b) state: average 5-10 days per month."

Mr. Griffith reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 60% (25% civil trial work and 35% real estate-transactional work);
(b) criminal: 25%;
(c) domestic: 15%."

Mr. Griffith reported the percentage of his practice in trial court during the last five years as follows:

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

Mr. Griffith provided that he most often served as sole counsel.

The following is Mr. Griffith's account of his five most significant litigated matters:

"(a) Newberry Electric Cooperative v. City of Newberry, 2005 UP-585 (2005). This case was brought by the Newberry Electric Cooperative (Coop) against the City of Newberry (City) under a statute which allows a Cooperative to force a municipality to purchase its facilities, equipment, and customers when the facilities, equipment, and customers have been annexed by the City over a period of years. This case is significant because statute under which the action was brought has not been widely used in the past. The use of the statute by the Cooperative can have implications in the planning process of municipalities and electrical cooperatives in building facilities for future customers and in future annexations of areas;

(b) SCDOT v. Fretwell et al., C/A Nos. 2003 CP 36-049, 050, 051, 052. This multi-parcel condemnation case involved the widening of an overpass along Interstate 26. The condemnation involved many issues regarding economic loss, highest and best use, uneconomic remnants, and loss of access. This case is significant because of the large amount of land needed for the project as well as the variety of issues regarding damages to the landowner. This case was settled prior to trial;

(c) State v. Randall Scott Foster, 354 S.C. 614, 582 S.E.2d 426 (2003) Thomas H. Pope, III and I defended for Randall Scott Foster on charge of murder and use of a deadly weapon in the commission of a violent crime. After a three day trial, the Defendant was acquitted of murder but was found guilty of manslaughter by the jury. Mr. Pope and I did not represent Foster on appeal. His conviction was reversed on appeal because a prior consistent written statement of the eyewitness (16 year old daughter of the deceased) was allowed to be admitted into evidence by the State in an attempt to bolster her credibility after her cross examination. The Supreme Court reversed the conviction of Manslaughter and remanded the case for a new trial. Foster was recently allowed to plead to Manslaughter and received time served;

(d) State v. James Edward Wise, 98 GS 36 402. I was Court appointed counsel for Defendant on charge of

Burglary 1st and Escape from Custody. This case is significant in that it was the first case tried before a jury in Newberry County under the amended statute where, if the defendant was convicted, the judge had to sentence him to life without parole because of his prior criminal history.

(e) Thornhill v. SCE&G and Arnold, 99 CP 36- 421. I was co-counsel with Don Rushing and Samuel Price in this wrongful death action which involved the death of a 12 year old boy who was swimming in the edge of Lake Murray when he was electrocuted in the water near a dock. The action was brought alleging breach of multiple duties and negligence against the property owner, the tenant of the property and SCE&G. The Plaintiff alleged that SCE&G owed a duty under its FERC license to recreational users of the lake, the duty being to require any construction (docks) which it licensed within its property to be performed by a licensed contractor and under applicable building codes. The property owner and tenant settled with the plaintiff. The trial court granted SCE&G a directed verdict ruling that no duty was expressed or implied under the FERC license. The case was not appealed."

The following is Mr. Griffith's account of five civil appeals he has personally handled:

"(a) Newberry Electric Cooperative, Inc. v. City of Newberry

Court of Appeals, 2005 UP 585 (2005)

Co-counsel for appeal with Robert T. Bockman, Esquire;

(b) Betty J. Hancock v. Mid South Management Co. Inc.

Appealed from 2004-CP-36-171. Appeal still pending.

Co-counsel for appeal with Samuel M. Price, Jr., Esquire;

(c) City of Newberry v. Newberry Electric Cooperative, Inc.

Court of Appeals – January 6, 2003 Opinion No. 3589

Co-counsel for appeal with Robert T. Bockman, Esquire;

(d) City of Newberry v. Newberry Electric Cooperative, Inc. and Wal-Mart Stores, 2008 UP 200

Co-counsel for appeal with Robert T. Bockman, Esquire;

(e) Elizabeth Goodyear et al. v. Todd Clamp and Angie Drafts.

Court of Appeals – August 13, 1996, 96 UP 251"

Mr. Griffith reported that he has not personally handled any criminal appeals.

Mr. Griffith further reported the following regarding unsuccessful candidacies:

"(a) I was a candidate for House of Representatives District 40 in November 2002. I lost the general election to Walton J. McLeod;

(b) Yes, I was a candidate for the Circuit Court At-Large Seat No. 13 in February 2008. I withdrew to allow the Honorable Larry Hyman to be elevated unopposed to that seat."

(9) Judicial Temperament:

The Commission believes that Mr. Griffith's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee found "Mr. Eugene Griffith is also very qualified. He has extensive legal experience in civil, criminal, and domestic law. He is a man of high moral character and regarded highly in Newberry Co. His grandfather was also a judge."

Mr. Griffith is married to Elizabeth Rushing Griffith. He has three children.

Mr. Griffith reported that he was a member of the following bar associations and professional associations:

"(a) Newberry County Bar Association, Secretary/Treasurer 1992, 1993,

Vice-President 1994, 1995; President 1996, 1997, and 1998;

(b) South Carolina Bar Association, Member: 1991 to present;

(c) South Carolina Association for Justice (formerly SCTLA), Member: 1993 to present;

(d) American Association for Justice (formerly ATLA), Member: 1995 to present;

(e) American Bar Association, Member: 1991 to present;

(f) Newberry County Public Defender Corporation Board: 1994 thru 2004."

Mr. Griffith provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Central United Methodist Church. Administrative Board, Chair 1998, 1999, and 2000; Church Treasurer 2005, 2006, 2007 and 2008; MYF Youth Parents – 2008;

(b) Newberry Country Club Board of Directors 2000-2002;

(c) Prosperity Recreation Department

Dixie Youth Baseball, Assistant Coach 2005, 2006, and 2007

Head Coach 2008;

(d) Newberry County Chamber of Commerce- Member 1998 to Present;

(e) Piedmont Citizens Committee on Judicial Qualifications – September 18, 2004 thru March 6, 2006;

(f) Newberry County Tax Advisory Committee - 2006 to present."

(11) Commission Members' Comments:

The Commission noted that Mr. Griffith is an exceptionally intelligent, attorney who would offer his well balanced legal experience to the Circuit Court bench. They commented on his humble demeanor at the public hearing and his good work ethic.

(12) Conclusion:

The Commission found Mr. Griffith qualified and nominated to serve on the Circuit Court bench.

Donald Bruce Hocker
Circuit Court Eighth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Hocker meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Hocker was born in 1952. He is 56 years old and a resident of Laurens, South Carolina. Judge Hocker provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Hocker.

Judge Hocker demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hocker reported that he has made $205.22 in campaign expenditures for postage and stationary.

Judge Hocker testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Hocker testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hocker to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Hocker described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name		Date(s)
(a)	S.C. Association of Probate Judges	2/19/02;
(b)	S.C. Probate Bench/Bar	9/13/02;
(c)	Annual Judicial Conference	9/22/02;
(d)	S.C. Association of Probate Judges	3/25/03;
(e)	S.C. Association of Probate Judges	5/16/03;
(f)	FN-Real Estate	2/7/03;
(g)	S.C. Probate Bench/Bar	9/12/03;
(h)	Annual Judicial Conference	9/21/03;
(i)	S.C. Association of Probate Judges	2/2/04;
(j)	Judicial Oath of Office	10/11/04;

(k) S.C. Probate Bench/Bar 9/17/04;
(l) Annual Judicial Conference 10/10/04;
(m) Lawyer's Oath of Office 9/24/04;
(n) S.C. Association of Probate Judges 2/28/05;
(o) LandAmerica-Title Insurance 9/14/05;
(p) S.C. Probate Bench/Bar 9/16/05;
(q) Annual Judicial Conference 9/21/05;
(r) S.C. Association of Probate Judges 2/6/06;
(s) LandAmerica-Title Insurance 8/23/06;
(t) S.C. Probate Bench/Bar 9/15/06;
(u) Annual Judicial Conference 10/4/06;
(v) S.C. Probate Bench/Bar 9/14/07;
(w) S.C. Association of Probate Judges 2/13/07;
(x) Annual Judicial Conference 9/9/07;
(y) S.C. Probate Bench/Bar 9/14/07;
(z) S.C. Association of Probate Judge 2/5/08."

Judge Hocker reported that he has taught the following law-related courses:

"(a) 1999-Jury Trials in Probate Court;
(b) 2000-Basic Evidence in Probate Court;
(c) 2001-Order Writing;
(d) 2002-Contempt issues in Probate Court;
(e) 2003-Will Construction Cases;
(f) 2006-Awarding Attorney's Fees in Probate Court;
(g) 2007-Reopening the Record, Contempt Revisited, Pro Se Litigants, Brown v. Coe."

Judge Hocker reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Hocker did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Hocker did not indicate any evidence of a troubled financial status. Judge Hocker has handled his financial affairs responsibly.

The Commission also noted that Judge Hocker was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hocker reported that his Martindale-Hubbell rating is BV.

Judge Hocker reported that he has held the following public office: "Probate Judge. Since I am appointed by the elected Probate Judge, I have been required to file an Annual Report with the State Ethics Commission, and I have always been timely without penalty. (Note: Several weeks ago for the very first time in 24½ years, the State Ethics Commission said that I did not have to file a Report)."

(6) Physical Health:

Judge Hocker appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Hocker appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Hocker was admitted to the South Carolina Bar in 1981.

He gave the following account of his legal experience since graduation from law school: "May 15, 1981 to current: I have been a sole practitioner in Laurens, South Carolina. I have had a general practice with significant experience in Circuit Court-both criminal and civil. I have also been the Associate Probate Judge for Laurens County since March of 1984 which will be discussed later."

Judge Hocker further reported:

"Criminal: I would incorporate by reference my response regarding my experience with State of South Carolina vs Allenna Ward and State of South Carolina vs. Comest S. Allen. concerning two significant cases in General Sessions that I have handled. I have represented criminal clients in General Sessions (and even Magistrate's Court) my entire practice. I typically will receive 8-12 court appointments a year and approximately at least this same number of privately-paid cases annually. I have represented clients charged with a variety of offenses, i.e. murder, felony DUI, possession and distribution of drugs. The vast majority of criminal cases result in a guilty plea but I have had experience throughout my 27½ years in trying cases before a jury. A sampling of what I currently have pending in General Sessions Court practice is as follows: Assault and Battery of an High and Aggravated Nature, Resisting Arrest/CDV of an High and Aggravated Nature, Manufacturing Methamphetamine, and Lynching.

Civil: I would incorporate by reference my response regarding Charles Gray and Corey Gray vs Georgia Pacific Corp; Glen

Meadows , LLC, et. al vs The Palmetto Bank, et al; and Ernest Sullivan vs John Walk, et. al. and concerning three significant cases in Common Pleas that I have handled. I have extensive experience dealing with a wide variety of cases, both jury and non-jury. The two most recent cases that I have tried in Court were (1) A breach of contract/fraud case dealing with a sale of an antique automobile. I represented the Defendant. The case was tried before a jury with a verdict in favor of the Defendant. (2) A deed-set-aside case. I represented the Plaintiff. The case was tried non-jury with a verdict in favor of the Plaintiff. My practice has been more Plaintiff-oriented but I do represent Defendants. A sampling of what I currently have pending in my Common Pleas practice is as follows: Wrongful-death and Survival case representing the deceased's family, Mechanic's lien foreclosure case representing the contractor, and a Fraud action over the sale of a piece of property representing the purchaser. I also represent The Palmetto Bank and The City of Laurens Commission of Public Works which provides additional cases in the civil area."

Judge Hocker reported the frequency of his court appearances during the last five years as follows:

"(a) federal: None;
(b) state: Average of five times a week."

Judge Hocker reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 25%;
(b) criminal: 25%;

Judge Hocker reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 5%;
(b) non-jury: 95%."

Judge Hocker provided that he most often served as sole counsel.

The following is Judge Hocker's account of his five most significant litigated matters:

"(a) Charles Gray and Corey Gray vs. Georgia Pacific Corp., 97-CP-30-110, 111, 112.

I represented the Plaintiffs. This case involved a horrible vehicle accident with these two brothers. They both sustained severe 2nd and 3rd degree burns over most of their bodies. Suit was filed and a settlement was reached in

1997. This case is significant for several reasons. One, novel computer technology was used by the Plaintiff in the mediation process. Secondly, it is significant because the Plaintiffs were and are a living example of a true will to live and remain productive citizens which they are today. Thirdly, significant discovery took place.

(b) Glen Meadows, LLC, et. al. vs. The Palmetto Bank, et. al., 03-CP-23-4541

I represented the Defendant Palmetto Bank. This case involved a suit by the Plaintiff-employer against three Banks. The Plaintiff had an employee who stole $145,000.00 over several years by making out and endorsing numerous checks written on accounts with the Defendants. These checks were made payable to the Bank and each time a deposit was made to The Palmetto Bank. Extensive discovery took place. The case was significant because the law was very competitive between the UCC code and the requirements and duty of care placed upon a customer in contrast to the basic principals governing a banking institution's duty of care.

(c) State of South Carolina vs. Allenna Ward, 07-GS-30-359, 362, 364, 365,369

This criminal case dealt with a teacher charged with criminal sexual misconduct with five underage students. There was a tremendous amount of publicity nationwide. I was one of the two lawyers representing this Defendant. The case was significant for several reasons. One, the vast majority of teachers charged in this state and other states were only involved with one student and this case had five. Secondly, it was significant simply because of the media attention it had from the day of the arrest to the sentencing.

(d) State of South Carolina v. Comest S. Allen, 99-GS-30-661

I represented the Defendant who had been charged with armed robbery. He had been in jail/prison the majority of his life. He was accused of going into a Subway restaurant in Clinton, S.C. at midnight (closing time) and robbing the store. The robbery was on surveillance video. The Defendant was very accustomed to the legal system so he continuously filed Motions, briefs, objections, etc. contrary to my advice. This case was significant for several

reasons. First, he required me to file a Motion with the Court to allow a "re-enactment" of the crime wherein he would be allowed to wear what the "person" was wearing and would act out exacting as the person on the video in an attempt to offer the comparison of the videos as not being him. To the shock of everyone, the Court granted the Motion. The "re-enactment" was done but was never an issue. This is due to the fact the only real evidence that the State had (and it was not the video) was the identification by the store clerk. However, under legal principles, we were successful in getting the photo identification line-up and the resulting testimony/in-court identification suppressed. The trial Judge agreed with our defense that the identification was clearly tainted hereby justifying a suppression of the clerk's testimony. Consequently, a motion for directed verdict was made and granted.

(e) Ernest Sullivan vs. John Walk, et. al., 06-CP-30-890.
A lady died and left a significant life insurance policy naming, not her husband-the Plaintiff, but an uncle-the Defendant. This lady died of cancer and made the beneficiary change from the Husband to the uncle in the latter stages of her illness. I represented the Defendant uncle. He claimed that she made the change to him because she trusted him to insure that her three children (not all by the Husband) would be taken care of. The significant issue in the case was whether or not she had the mental capacity to effectuate the change of beneficiary. Significant also was the fact that we had to recreate the last months of this cancer-stricken lady's life on the issue of competency. The case was resolved with the Plaintiff receiving nothing and the Defendant receiving the entire policy proceeds (He agreed to put a portion of the money in trust for the children). Also, it should be noted that a companion Interpleader action was filed by the Insurance Carrier."

The following is Judge Hocker's account of five civil appeals he has personally handled:

"(a) Shorb v. Shorb, 372 S.C. 623 (Ct.App 2007)
I was the trial lawyer but associated another lawyer for the appeal. I was not shown as counsel but was copied with all correspondence from the Court of Appeals and I assisted

counsel with the appeal. The case was novel on the issue of equitable division of Walmart stock options in a divorce. I represented the Wife who was awarded 55% of the Husband's stock options along with a monetary award concerning these options. The Wife prevailed on the amount of stock options awarded her by the trial court.

(b) South Carolina Department of Social Services vs. Defendants, (Court of Appeals 2000-unpublished opinion) I represented the father of a teenage daughter who accused him of sexual abuse. The significance of this case was the Court's defining "sexual abuse" to the facts of the case. We were successful in obtaining a reversal and remand in the case.

(c) Hellams v. Harnist, 284 S.C. 256 (1985)
I represented the Defendants in this deed reformation case. I was successful in getting the Court to reverse the trial court's reformation of the subject deed. The case sets out good law with respect to deeds, mutual mistakes in deeds, and property descriptions. (Note: I had only been out of law school four years when the appeal was decided).

(d) Bobby Tucker vs. Debra Wasson, 90-759
This case was appealed by the mother in a visitation case. I represented the father. The issue being whether the father's previously ordered supervised visitation should be changed. The Lower Court ruled in favor of the father. The Court of Appeals affirmed. The case was significant for several reasons. During the time the case was tried, issues of visitation being supervised or unsupervised were fairly uncommon. Too, the Guardian ad Litem played a role in this case possibly somewhat differently than a Guardian ad Litem today.

(e) Flinn v. Crittenden, 287 S.C. 427 (1985)
I represented the Plaintiff in a nursing home liability suit against the Defendant nursing home. The Lower Court granted summary judgment in the Defendant's favor. The appellate court affirmed the ruling finding no liability. Justice Goolsby gave a strong dissent which is significant because it sets out a good review of nursing home liability."

Judge Hocker reported that he has not personally handled any criminal appeals.

Judge Hocker reported that he has held the following judicial office:

"I have been the Associate Probate Judge for Laurens County since March of 1984 (24½ years) and appointed by the elected Probate Judge. Probate Courts in South Carolina have jurisdiction over Estates, Mental Commitments, Conservatorships and Guardianships. During my tenure on the bench, I have presided over numerous cases not only in Laurens County but across the State. I have had the honor and privilege of being appointed by the Supreme Court to preside over many cases in other counties for a variety of reasons. I have had the opportunity to preside over jury trials as well as non-jury cases during my tenure. Even though non-jury cases are the most prevalent in Probate Court, I would like to give some of the following examples of jury trials I have presided over (non-exclusive list). (Note: Probate jury trials are identical to Circuit Court jury trials in all respects. A jury trial in Probate Court is conducted either in conjunction with a term of Common Pleas Court in Circuit Court or a special Probate jury term is authorized by the Supreme Court. In either situation, a Circuit Court jury pool is utilized).

Examples:

(1) Barnett Estate-Anderson County: Six day jury trial with five lawyers and numerous lay and expert witnesses. Since this was the only case for that week of Circuit Court, I did all of the initial jury pool qualification before the jury pool was voir dired for the particular case.

(2) Owings Estate-Laurens County: Four day jury trial with five lawyers and numerous lay and expert witnesses. The same is true in this case concerning jury pool qualification.

(3) Lester Estates-Scheduled in Newberry County for the end of September 2008. A special term of court is scheduled with a Circuit Court jury pool being summoned and used. As in the above cases, I will preside over all aspects of the trial including pre-trial and post-trial matters.

The point being to the above summary of jury trial judicial experiences is that I exercised the same role as that of a Circuit Court Judge and did everything that is required of a Circuit Court Judge presiding over a civil jury trial. It should also be noted that the Probate Court handles a wide variety of civil issues. The rules of evidence are the same in Probate Court as in Circuit Court. The

Probate Court follows the South Carolina Rules of Civil Procedure."

Judge Hocker provided the following list of his most significant orders or opinions:

"(a) Melvin Weathers v. Robert P. Bolt as Administrator of the Estate of Virginia B. Morris, 293 S.C. 486

The Primary issue in this case was whether the Plaintiff had a common-law marriage with the decedent thus allowing him to inherit from the Estate. I ruled against the Plaintiff and my Order was appealed to Circuit Court and then to the Court of Appeals. Both appellate Courts affirmed my ruling.

(b) Department of Health and Human Services vs. Moses L. Miller, Personal Representative of the Estate of Genobia Washington, 2005-UP-154

There were several issues in this case: 1. Jurisdiction of the DHHS claim; 2. The distinction between a Medicaid lien for nursing home services and a Medicaid lien for medical services provided as a result of an accident; 3. The right of the Court to sua sponte reopen the record. Both the Circuit Court and Court of Appeals affirmed my ruling.

(c) In the Matter of Mildred Williams, 97-ES-30-035

An emergency action was filed by a banking institution seeking a Protective Order and seeking a declaration as to the competency of Ms. Williams with respect to a very substantial investment account held by the bank. Several hearings were held in the case. At one time eight lawyers were involved. Ms. Williams also filed an extraordinary Writ of Prohibition in the S.C. Supreme Court (case number unknown) objecting to my jurisdiction over the case. This Writ action was ultimately dismissed. The merits of the case before my court were ultimately dismissed after the competency issue was resolved.

(d) In the Matter of Merrilee O. DeVinney, 01-GC-100/104

This case involved a very significant and somewhat novel issue related to the effect, if any, of a Trust on a spouse's claim to an elective share in the Estate. My Order was appealed to the Court of Appeals.

(e) In the Matter of the Estate of Bobby Gene Barnett, 03-ES-04-174
This case is ongoing which involves a large Estate and a substantial controversy among the family members along with a companion case involving two bonding companies which had bonds in place when a prior Personal Representative was in office. There have been 15-20 separate hearings along with a six day jury trial on the issue of the validity of the Last Will and Testament."

Judge Hocker reported the following regarding his employment while serving as a judge:

"Practicing attorney representing clients such as the City of Laurens Commission of Public Works and The Palmetto Bank."

(9) Judicial Temperament:

The Commission believes that Judge Hocker's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee found "Donald Bruce Hocker to be qualified. "He has over 24 years as assistant probate judge, and we believe he would do a fine job".

Judge Hocker is married to Susan Gayle Lindler Hocker. He has two children.

Judge Hocker reported that he was a member of the following bar associations and professional associations:

"(a) Laurens County Bar Association;
(b) South Carolina Bar Association;
(c) S.C. Trial Lawyers Association;
(d) S.C. Association of Probate Judges;
(e) Certified Circuit Court Mediator/Arbitrator (ADR)."

Judge Hocker provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"I am active in my church which is First United Methodist Church in Laurens. I serve as Chairman of the Church Council and I teach an adult Sunday school class. I have been active with the Boy Scouts serving as Troop Committee Chairman. I belong to the KAPPA ALPHA Order Court of Honor which is an elite organization of men across the State who are KAPPA ALPHA alumni. Finally, several years ago I received the South Carolina Pro Bono Service Award."

(11) Commission Members' Comments:

The Commission commented that Judge Hocker has a good reputation as an Associate Probate Court Judge. They noted Judge Hocker's positive attitude and good demeanor which would aid him in serving on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Hocker qualified, but not nominated, to serve as a Circuit Court judge.

Walter Rutledge Martin
Circuit Court, Eighth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Martin meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Martin was born in 1963. He is 45 years old and a resident of Greenwood, South Carolina. Judge Martin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1994. Judge Martin became a member of the California Bar in 1993.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Martin.

Judge Martin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Martin reported that he has made the following campaign expenditures: "$5.20 at the Post Office, $36.33 at Quick Copies, and $6.00 at Executive Services."

Judge Martin testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Martin testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Martin to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Martin described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name		Date(s)
(a)	SCSCJA Judges' Annual Conference	09/04/08;
(b)	Magistrates' Intensive Training	08/21/08;
(c)	Mandatory School for Magistrates	11/02/07;
(d)	Magistrates' Orientation School	07/23/07;
(e)	Annual SC Solicitors' Association Conference	09/24/06;
(f)	Annual SC Solicitors' Association Conference	09/25/05;
(g)	SC Drug Court Training Conference	02/25/05;
(h)	20th Annual Criminal Law Update	01/21/05;
(i)	Revised Lawyer's Oath CLE	08/20/04;
(j)	Real Estate Mortgage Fraud in SC	03/11/04;
(k)	19th Annual Criminal Law Update	01/23/04;
(l)	Happiness: Living with Ethics, Productivity and Stress Management	12/13/03;
(m)	18th Annual Criminal Law Update	01/24/03."

Judge Martin reported that he has taught the following law-related course:

"I presented a Continuing Legal Education seminar on DUI prosecution."

Judge Martin reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Martin did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Martin did not indicate any evidence of a troubled financial status. Judge Martin has handled his financial affairs responsibly.

The Commission also noted that Judge Martin was punctual and attentive in his dealings with the Commission, and the

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Martin reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Martin appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Martin appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Martin was admitted to the South Carolina Bar in 1994. He gave the following account of his legal experience since graduation from law school:

> "(a) 1990, Nelson, Mullins, Research and Writing in Products Liability;
>
> (b) 1990, Oakland, California Public Defender's Office, Legal Research Assistant;
>
> (c) 1994-1995 York County, SC Public Defender's Office, Assistant Public Defender;
>
> (d) 1995-1998 Greenwood/Abbeville Public Defender's Office, Deputy Public Defender;
>
> (e) 1998-2001 Eighth Judicial Circuit Solicitor's Office, Assistant Solicitor;
>
> (f) 2001-2005 SC Attorney General's Office, Assistant Attorney General, Criminal Appeals Division;
>
> (g) 2005-2007 Eight Circuit Solicitor's Office, Assistant Solicitor;
>
> (h) 2007- Present, Greenwood County Magistrate."

Judge Martin further reported:

"My experience in criminal law is vast and multi-faceted. As a public defender, I handled cases ranging in severity from driving under suspension to murder. As an assistant solicitor, I handled cases covering the same range. As an assistant attorney general in the criminal appeals division, I handled all types of criminal appeals to the SC Court of Appeals and the SC Supreme Court except for appeals from murder convictions.

I also have experience in civil law, due mainly but not exclusively to my tenure as a magistrate in Greenwood County. As an assistant

solicitor, I handled drug forfeitures. Doing so gave me a hands-on experience with the fundamentals of civil procedure: drafting and filing of summons and complaint, service of process, trial if necessary, and judgment.

In the magistrate's offices, I handle almost all the Civil Court. This responsibility has provided me experience with a multitude of contract and tort cases."

Judge Martin reported the frequency of his court appearances during the last five years as follows:

"(a) federal: None;
(b) state: Most.

While at the South Carolina Attorney General's office in the Criminal Appeal Division, I appeared approximately five to ten times a year in front of the South Carolina Supreme Court or the South Carolina Court of Appeals. While at the Eighth Circuit Solicitor's office, I appeared in court almost daily while General Sessions Court was in session."

Judge Martin reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 20%;
(b) criminal: 80%;
(c) domestic: 0%."

Judge Martin reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: less than 10%;
(b) non-jury: more than 90%."

Judge Martin provided that he most often served as sole counsel.

The following is Judge Martin's account of his five most significant litigated matters:

"(a) State v. Lawrence Moore, 343 S. C. 282, 540 S. E. 2d 445 (2000).

I was Mr. Moore's Public Defender.

This Case gives an example of an identification procedure that offended due process and lacked sufficient indicia of reliability for the identification to be admissible;

(b) In the Interest of Christopher P., 328 S. C. 545, 492 S. E. 2d 820 (S. C. App. 1997)

I was Christopher's public defender.

This case established that charring is an element of arson;

(c) State v. Ricky Prince, 335 S. C. 466, 517 S. E. 2d 229 (S. C. App. 1999)

I was Mr. Prince's public defender.

This case established that malicious injury to property can be an act of violence for the purpose of the stalking statute;

(d) State v. Marion Parris, 363 S. C. 477, 611 S. E. 2d 501 (2005)

I represented the state in the South Carolina Court of Appeals and the South Carolina Supreme Court.

This case reaffirmed that the existence of a fiduciary relationship between the perpetrator and the victim is an element of breach of trust;

(e) State v. Leroy Dupree, 354 S. C. 276, 583 S. E. 2d 437.

I represented the state in the South Carolina Court of Appeals. This case established that a properly conducted controlled drug buy can establish probable cause for a search warrant despite the affiant's lack of knowledge of the informant's history of reliability."

The following is Judge Martin's account of the civil appeal he has personally handled:

"Greenwood Urological v. Salter Circuit Court, May 27, 2008.

This was an appeal to Circuit Court from my decision as a magistrate. I of course drafted the magistrate's return. The issue in this case was whether Greenwood Urological's cause of action was legal or equitable."

The following is Judge Martin's account of five criminal appeals he has personally handled:

"(a) State v. Nicholson, 366 S. C. 568, 623 S. E. 2d 100 (S. C. 2005);

(b) State v. Thompson, 363 S. C. 192, 609 S. E. 2d 556 (S. C. App. 2005);

(c) State v. Flowers, 360 S. C. 360 S. C. 1,598 S. E. 2d (S. C. App. 2004);

(d) State v. Mathis, 359 S. C. 450, 597 S. E. 2d 872 (S. C. App. 2004);

(e) State v. Smith, 359 S. C. 481, 597 S. E. 2d 888 (S. C. App. 2004)."

Judge Martin reported that he has held the following judicial office:

"I am presently a full-time Magistrate Court Judge in Greenwood County. I began serving as such in May of 2007. My criminal jurisdiction is limited to crimes which do not carry possible penalties of more than thirty days in jail or a five hundred dollar fine. My civil jurisdiction extends to law cases in which neither party seeks more than seven thousand five hundred dollar in damages."

Judge Martin provided the following list of his most significant orders or opinions:

"(a) Richard Grooms v. Jessica Crawford;
(b) Clarence Young v. David Johnston;
(c) Oliver Baylor v. Coldwell Baker;
(d) Wynetta Hill v. Danita Goodman;
(e) Scott Buist v. Tommy Mc Cutsheon."

Judge Martin reported the following regarding his employment while serving as a judge:

"My job as a magistrate judge precludes me from other employment."

Judge Martin further reported the following regarding unsuccessful candidacies:

"I have never been an unsuccessful candidate for elective, judicial, or other public office."

(9) Judicial Temperament:

The Commission believes that Judge Martin's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee found "Judge Martin to be qualified for the office he is seeking."

Judge Martin is married to Cynthia Susan Martin. He has one child.

Judge Martin reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar;
(b) South Carolina Summary Court Judges' Association."

Judge Martin provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

"Lions Club."

(11) Commission Members' Comments:

The Commission commented on Judge Martin's excellent character and reputation. They noted his legal experience as a Deputy Public Defender, Assistant Solicitor, and Assistant Attorney General as well as a Magistrate for Greenwood County would assist him in serving on the Circuit Court bench.

(12) Conclusion:

The Commission found him qualified, but not nominated, to serve as a Circuit Court judge.

Joseph C. Smithdeal
Circuit Court, Eighth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Smithdeal meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Mr. Smithdeal was born in 1967. He is 41-years old and a resident of Greenwood, South Carolina. Mr. Smithdeal provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Smithdeal.

Mr. Smithdeal demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Smithdeal reported that he has made $193.23 in campaign expenditures for postage and copies.

Mr. Smithdeal testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Smithdeal testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Smithdeal to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Smithdeal described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) E-Discovery After 12/1/06 Changes	04/20/07;
(b) SCTLA Annual Convention	08/02/07;
(c) 25th SCIWA Conference	11/01/07;
(d) Title Insurance Claims and Underwriting	11/06/07;
(e) Fundamentals of Elder Law	11/27/07;
(f) SCCAWC Spring Seminar	05/12/06;
(g) SCACDL 2nd Annual Criminal Law	07/14/06;
(h) SCTLA Annual Convention	08/03/06;
(i) Attorney ECF Training	01/19/05;
(j) SCTLA Annual Convention	08/04/05;
(k) Newly Adopted Med Mal	10/14/05;
(l) Dove Shoot	11/21/05;
(m) Electronic Courtrooms	01/01/04;
(n) SCTLA Lunch and Learn (speaker)	01/30/04;
(o) Negotiating the Hazards Real Est	06/11/04;
(p) Winning with Multi-media	06/25/04;
(q) SCTLA Annual Convention	08/05/04;
(r) New Lawyer's Oath	08/06/04;
(s) SCCAWC Spring Seminar	05/02/03;
(t)SCTLA Annual Convention	08/07/03;
(u) ASCCAWC Annual Convention	11/06/03."

Mr. Smithdeal reported that he has taught the following law-related course:

"S.C. Bar – Law School for Non – Lawyers, Workers' Compensation – volunteer program that helps the general public understand various types of and aspects of the law."

Mr. Smithdeal reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Smithdeal did not reveal evidence of any founded grievances or criminal

allegations made against him. The Commission's investigation of Mr. Smithdeal did not indicate any evidence of a troubled financial status. Mr. Smithdeal has handled his financial affairs responsibly.

The Commission also noted that Mr. Smithdeal was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Smithdeal reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Smithdeal appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Smithdeal appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Smithdeal was admitted to the South Carolina Bar in 1992.

He gave the following account of his legal experience since graduation from law school:

> "(a) Judson Ayers & Associates, P.C. 1992-1995, practice focused on general civil litigation, Family Court, Workers Compensation, criminal defense, personal injury – plaintiff's, social security disability, real estate closings;
>
> (b) Ayers & Smithdeal, P.C. 1995-1997, practice areas substantially the same but fewer real estate closings;
>
> (c) Ayers, Smithdeal & Bettis, P.C. 1997-present, practice areas substantially the same although I have not done as much Family Court work over the past five years."

Mr. Smithdeal further reported:

"Criminal Experience –

Over the past five years and I have handled cases involving CSC with a minor, armed robbery, burglary, accessory before the fact to murder (death penalty notified), trafficking various drugs, forgery, DUI, ABHAN, ABWIK and many other types of cases. Most notably, I was appointed on the notorious State v. Rita Bixby case. The Solicitor filed notice that the State intended to seek the

death penalty. I therefore requested death penalty certified co-counsel to assist. I was the second or third attorney appointed to represent Rita Bixby as each of the previous attorneys claimed some sort of conflict. I took the case and fought for my client because I have taken an oath to protect and preserve the Constitution. I take that oath very seriously. I knew that the case would take a tremendous amount of time and that I may lose some friends in the law enforcement community as the victims in the case were a Sheriff's Deputy and a State Constable - both of whom were widely respected and loved in Abbeville County.

The most pressing issue in the case was the death penalty. Without precedent in South Carolina or in any other State, the question was whether a person charged as an accessory before the fact to murder was subject to the death penalty. Co-counsel and I filed a motion to dismiss and took the position that pursuant to the Death Penalty Statute, the answer was "no." The trial court agreed with the defense and the State took a direct appeal to the South Carolina Supreme Court. The Court affirmed the trial court (Toal dissent) and our client was no longer facing the death penalty if convicted.

My co-counsel and I filed and argued many other pre-trial motions including: reasonable bail; speedy trial (not granted but deadline given to State to try case); change of venue (granted with consent of State); exclusion of confessions or other inculpatory statements (several granted over objection); motions to compel discovery; various ex parte motions for costs and fees; and a motion to dismiss for insufficiency of the indictment. All motions were researched and argued by us.

The case was tried during the Fall of 2007 amidst a great deal of publicity. There were numerous witnesses called by the State including: fingerprint; firearms; crime scene; pathology; DNA and computer experts. There were also lay witnesses and police officers who were examined. Dozens of exhibits were entered into evidence and/or marked for identification. My co-counsel and I divided the trial equally between us. One of the more interesting issues that arose during the trial was the admissibility of statements made by a co-defendant that tended to incriminate our client. This is one of the issues from the case that is currently on appeal. The client was convicted and was sentenced to life in prison.

While some of the major issues in the Bixby case were new to me and to the State of South Carolina, many of the issues were the

same ones I look at on a regular basis in making decisions and advising clients. The vast majority of my criminal cases result in a plea, but anticipating issues such as those that arose in the Bixby case help me to provide the best representation I can offer.

Civil Experience –

The largest percentage of my practice involves civil matters. I represent people in the Court of Common Pleas most often however. At any given time I have 5-10 cases in litigation in Common Pleas. Currently, I am representing a lady who alleges that her OB/GYN stapled her ureter shut with resulting kidney loss. I am representing a gentleman who was injured when a drunk driver crossed the center line and into my client's path. The defendant's blood alcohol level was over three times the legal limit. I represent a lady who as undergone seven surgeries and has over three hundred thousand dollars in medical bills. She was rear ended and her vehicle totaled by a commercial vehicle. I represent a trustee who is being sued for breach of trust. My client has brought counter claims for declaratory relief. I represent a large national corporation in a zoning appeal. These are just a few examples of my civil practice.

Unlike criminal cases, civil trial work allows for extensive pre-trial discovery which gives all the parties a chance to fully evaluate their strengths and weaknesses. While this is time consuming and expensive, the justice system is usually the beneficiary of more settlements and fewer trials. Most of my cases utilize expert testimony in some form. From the very beginning of my career I have been in the courtroom trying predominantly civil cases. Issues range from pleading deficiencies, service problems, discovery abuse, expert qualifications, pretrial, evidentiary, in limine and dispositive motions to scheduling witness appearances, judge preferences, jury selection, and post trial motions and appeal. While most cases settle, all cases must be prepared as if a trial will be necessary.

I have represented clients at every stage of civil litigation from initial client/case evaluation to appeal to post judgment supplemental proceedings and collections. Besides the cases in which litigation is necessary, I have over one hundred active cases at any given time. I mostly represent plaintiffs. I have represented several past employees of the Clerk of Court's office, and also derive a fair portion of my practice from attorney referrals. These two sources are a point of pride for me as both referral sources have

the opportunity to interact with and observe many attorneys and select the one whom they consider most qualified."

Mr. Smithdeal reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: no federal ct appearances in last five years;

(b) State: Monthly;

(c) Other."

Mr. Smithdeal reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 75%;

(b) Criminal: 20%;

(c) Domestic: 5%."

Mr. Smithdeal reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 5% most criminal and civil matters settle before trial;

(b) Non-jury: 95%."

Mr. Smithdeal provided that he most often served as sole counsel.

The following is Mr. Smithdeal's account of his five most significant litigated matters:

"(a) Fisher, as Pers. Rep. v Fielder, MD, Baarcke, DMD, and Wallace Thompson Hospital. This was my first medical malpractice trial. Rodney Fisher was a 28 year old, poor, uninsured man who died from an improperly treated abscess tooth. The infection spread to his lower jaw and throat and he suffocated to death while in the hospital. He was unemployed and lived with his parents. He had no children. The defendants were a highly visible and popular family physician who had delivered and/or treated a large portion the population of the small county for forty years, a popular dentist and the county's sole hospital. The physician had been sued for malpractice in two prior cases. One jury was hung 11-1 in favor of the defendant and the other was a defense verdict hung by the trial judge under the 13th juror doctrine. The trial courts in each case later changed venue in these prior cases for an inability to find an impartial jury.

I moved for a change of venue in the Fisher case pre trial based upon the events of the previous trials, the popularity of the three defendants and the ex parte communications between the decedent's treating physicians and the defendants. I submitted dozens of affidavits from ordinary citizens of the county, newspaper articles extolling the good deeds of the defendants and a memorandum of law supporting my motion. The motion was denied.

One of the defense experts who was a local physician, in his deposition and again during the trial, testified that he had never heard of a particular medical term which was crucial to my theory of the case. Fortunately, during the discovery phase, I had located a woman whose home was in a very remote section of the county and who had suffered the same condition as my client and was also treated by this expert. I traveled to this woman's home, listened to her story and obtained a medical authorization for her records. I also subpoenaed this woman to trial. During the cross examination of this doctor, he stuck with his feigned ignorance of my "outlandish theory". I then presented him with his former patient and his own records showing clearly that this expert was not only aware of the medical condition and terminology but that he was willing to lie to the jury to protect his local buddy.

The trial lasted a week and the jury returned a verdict on Saturday afternoon. The issue was whether the defendants had deviated from the accepted standard of care in their respective professions and if so, whether those deviations were the direct cause of the decedent's death. The courtroom was full of local physicians who were there to lend moral and visible support to the defendants. The defense attorneys were much older and vastly more experienced than me. Despite the odds, the plaintiff's mom and dad prevailed in true David v. Goliath fashion and the jury's verdict was for the plaintiffs.

(b) Ukadike v SC Department of Corrections, Kenneth Ukadike had a PhD, two bachelor degrees and an associate's degree. He taught continuing education courses to the employees of the Department of Corrections.

He had an exemplary record of annual evaluations. Mr. Ukadike had been working in same job with the Department for over ten years. He had been passed over for promotion numerous times. He was even passed over for a job previously held by inmates. His problem? He was black and from Nigeria. He also spoke with an accent.

On behalf of my client, I filed a lawsuit in U.S. District Court for violation of Title VII of the 1964 Civil Rights Act. The case was of particular concern for my client because he was still employed by the Department at the time of the litigation and the main perpetrator of the illegal discrimination according to my client was the warden himself. He was therefore in a very precarious position.

Discovery was extensive with the plaintiff's deposition alone lasting three days. Both sides named numerous witnesses and the documentary evidence was voluminous. The case was put together with a mixture of direct and circumstantial evidence some of which was excluded by the trial judge. Mediation was attempted but the parties were apart by many thousands of dollars.

The trial lasted for three days. There were approximately twenty total witnesses called to testify. Some of the plaintiff's witnesses were current or former employees of the Department and were examined pursuant to Rule 611 SCRE. The testimony and evidence proved that Mr. Ukadike had been the subject of ridicule and humiliation at the hands of his supervisors in the Department. They had told him to "go back to Africa" and had mimicked the way he spoke to inmates and other employees. They had passed him over for junior, white employees with only high school diplomas. In the end the plaintiff prevailed and he broke down in tears in release of the tension and stress he had been through over the years. This was the first and only time the Department of Corrections had been sued and lost on a nation of origin claim. Mr. Ukadike was able to go back to work with his head held high. He still works in the same job today.

(c) State v Bixby – a brief description of this case is set forth above.

(d) North Carolina Mutual Life Insurance Company v Effie Gant - Effie Gant had purchased a whole life insurance policy on her daughter's life through the plaintiff corporation. The daughter passed away at an early age and the insurance company sued Ms. Gant requesting a declaratory judgment that the policy was void because she had defrauded the company by failing to inform the company that the daughter had diabetes among other conditions. Ms. Gant came to our office with the lawsuit and we started investigating the allegations. We discovered that the application for insurance was actually completed and forged by the insurance agent. A counter claim was filed for breach of contract, breach of contract accompanied by a fraudulent act and fraud. The insurance company defaulted and after giving it ample time to remedy the problem, an entry of default was granted and the case was set for a damages hearing.

The jury verdict was and continues to be one of the largest in Greenwood County history. Issues in the case included: Rule 55 SCRCP set aside of entry of default; admissibility of the plaintiff's net worth; election of remedies; post trial motions for new trial absolute and remittur; and then the appeal. The case was ultimately settled while the appeal was pending.

(e) Rainey v SC Department of Transportation – This was the case that nobody wanted. A young girl and her friends were traveling back to the Governor's School in Greenville after having visited a Lander University art exhibit. They were driving on Highway 25 North at Ware Shoals, SC when they ran head on into a south bound car driven by a Greenwood lady and her friends returning home from a shopping trip in Greenville. Three people were killed and the rest were seriously injured. The young girl was charged with failure to yield after she ran through a "Y" configured intersection into oncoming traffic. The young girl and her family went to several attorneys before finding one who would take her case.

The case took many months to investigate pre-suit. My partners and I went to the intersection and surveyed it carefully. We determined that the intersection was dangerous as Highway 25 which was two lanes coming

from Greenwood split with one lane crossing Highway 25 Southbound like an "y" and going into Ware Shoals and the second lane continuing north towards Greenville. A person who happened to be in the left lane was forced to exit across Highway 25 Southbound towards Ware Shoals.

The yield sign facing traffic going into Ware Shoals resembled an onramp yield sign except the traffic being yielded to was oncoming instead of going in the same direction as is the situation with an onramp. There were no signs to indicate in which direction to expect traffic. There were no signs informing a driver that the left lane would take him off of Highway 25. The young girl, having never driven in the area was in the left hand lane. The road veered off to the left and she spotted the yield sign. The oncoming lane was at such an acute angle that instinctively she looked over her left shoulder for traffic with which she may have been merging. She saw no cars coming and continued for an instant when a she ran head on into the other car which was topping the hill coming south. The results were catastrophic.

Because of the severity of the collision and injuries the young girl was charged criminally in Family Court. My firm and I knew however that this child was not at fault. We started digging. Through our research and investigations we were able to determine that there had been numerous wrecks and even fatalities at the same intersection in the years preceding this wreck. Without exception, the person charged in these prior wrecks was heading north and was forced into Ware Shoals by the split in the highway and failed to yield. Even more interesting was the fact that the prior "at fault" drivers were all from out of town and unfamiliar with the intersection.

As a result of the investigation we were asked to act as lead counsel for all the people in both cars. We proceeded with discovery involving dozens of depositions of out of state witnesses, local witnesses, physicians and experts of various types. The individual cases were consolidated and prepared for trial. Pretrial motions were extensive. A special term was set in Greenwood County as we had over fifty witnesses subpoenaed and prepared to testify. The case settled for well in excess of the statutory

caps on the day the trial was scheduled to begin. The young girl was vindicated and shortly after that the highway was reconfigured with simple remedial measures. To my knowledge there has not been another accident in that location since. That means more than any verdict."

The following is Mr. Smithdeal's account of the civil appeals he has personally handled:

"(a) Schenk v National Health Care, 322 S.C. 316, 471 S.E.2d 736, S.C.App., April 29, 1996;

(b) Vaughn v Salem Carriers and Virginia Surety Co., Court of Appeals decided November 30, 2005, unpublished;

(c) Young v S.C. Department of Corrections, 333 S.C. 714, 511 S.E.2d 413, S.C.App., February 01, 1999."

In regards to criminal appeals, Mr. Smithdeal reported: "I have only assisted with two criminal appeals, was not lead counsel on the appeals and did not argue either of them."

(9) Judicial Temperament:

The Commission believes that Mr. Smithdeal's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee found Mr. Smithdeal to "be very qualified. He looks younger than his age of 41 years. By all accounts he is level headed and is capable of doing a good job."

Mr. Smithdeal is married to Elizabeth Clark Smithdeal. He has five children.

Mr. Smithdeal reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) South Carolina Association for Justice, Board of Governors 2001-present;

(c) South Carolina Injured Workers' Advocates;

(d) South Carolina Association of Criminal Defense Lawyers;

(e) American Association for Justice."

Mr. Smithdeal provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Greenwood Chamber of Commerce, General Counsel, 2006-present;

(b) Citadel Alumni Association – life member;

(c) HospiceCare of the Piedmont, Board of Directors, 1997-2005;

(d) Boy Scout Troop 220 – Greenwood, SC, Treasurer, 2005-present;

(e) Greenwood Abbeville Little League, Vice President, 2007-2008;

(f) Our Lady of Lourdes Catholic Church, Sunday school teacher;

(g) Lakelands Baseball League and Greenwood Parks and Rec., baseball coach;

(h) Knights of Columbus Council 7129-fraternal/charitable organization;

(i) Long Cane Hunt Club;

(j) Our Lady of Lourdes, softball team;

(k) Healthy Learners, Advisory Board, 2006-present;

(l) Fire Tower Hunt Club."

(11) Commission Members' Comments:

The Commission commented that they were very impressed with Mr. Smithdeal and his diverse legal experience, which would serve him well on the Circuit Court bench. They noted he was the kind of lawyer other attorneys call when they have legal questions.

(12) Conclusion:

The Commission found Mr. Smithdeal qualified and nominated him for election as a Circuit Court Judge.

Roger M. Young, Sr.
Circuit Court, Ninth Judicial Circuit, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Young meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Young was born in 1960. He is 48 years old and a resident of Charleston, South Carolina. Judge Young provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1983.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Young.

Judge Young demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Young reported that he has not made any campaign expenditures.

Judge Young reported he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Young reported that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Young to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Young described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Technology Comm. Meeting 01/23/03;

(b) 18 Annual Criminal Law Update 01/24/03;

(c) 2003 S.C. Circuit Judges' Meeting 05/07/03;

(d) The Civil Jury in America 08/07/03;

(e) 2003 Annual Convention 08/07/03;

(f) Litigation Under the SC Tort 08/15/03;

(g) Judicial Conference 08/21/03;

(h) 19th Annual Criminal Law Update 01/23/04;

(i) 2nd Annual Civil Law Update 01/23/04;

(j) 2004 S.C. Circuit Judges' Meeting 05/05/04;

(k) Judicial Conference 08/19/04;

(l) Judicial Oath of Office 08/19/04;

(m) General Jurisdiction 10/11/04;

(n) Seminar for Chief Judges 12/10/04;
(o) Criminal Seminar 01/07/05;
(p) 20th Annual Criminal Law Update 01/21/05;
(q) Preparing Communities for Public 03/18/05;
(r) 2005 Circuit Judges Meeting 05/11/05;
(s) 2005 Circuit Judges Meeting 05/13/05;
(t) Handling Capital Cases 06/13/05;
(u) 2005 Annual Judicial Conference 08/24/05;
(v) 2005 Annual SC Solicitors' Conference 09/25/05;
(w) Annual Meeting 11/03/05;
(x) Confidentiality in the Courts 12/05/05;
(y) 4th Annual Civil Law Update 01/27/06;
(z) 21st Annual Criminal Law Update 01/27/06;
(aa) Bridge the Gap 03/06/06;
(bb) 20th Circuit Court Judges' Meeting 05/10/06;
(cc) 2006 Annual Judicial Conference 08/23/06;
(dd) Annual Meeting 11/09/06;
(ee) 22nd Annual Criminal Law Update 01/26/07;
(ff) 5th Annual Civil Law Update 01/26/07;
(gg) Sentencing Issues 03/19/07;
(hh) Judges Conference 05/16/07;
(ii) Case Management Order 06/15/07;
(jj) Nuts and Bolts of Sexually 07/27/07;
(kk) 2007 Annual Judicial Conference 08/22/07;
(ll) Skeet Shoot 11/16/07;
(mm) 23rd Annual SC Criminal Law Update 01/25/08;
(nn) 6th Annual Civil Law Update 01/25/08;
(oo) Circuit Judges Conference 05/14/08;
(pp) 2008 Annual Meeting 07/24/08;
(qq) 2008 Annual Convention 08/07/08;
(rr) Annual Judicial Conference 08/20/08."

Judge Young reported that he has taught the following law-related courses:

"(a) Panelist, 'Expert Opinions: "The Amistad Case: A Spoleto at the Avery Event,' May 31, 2008.

(b) Speaker/panelist, 'Tips for Trying a Complex, Multi-Party Case,' South Carolina Bar Convention, January, 25, 2008.

(c) Speaker/panelist, 'Mental Health Evidence as Mitigation,' South Carolina Public Defender's Conference, September 25, 2007.

(d) Speaker, 'Professionalism: The Ethics of Competence in the Courtroom,' South Carolina Administrative and Regulatory Law Association Annual Meeting, September 21, 2007

(e) Speaker, 'A Doctor's Duty to Warn,' Forensic Psychiatry Grand Rounds, University of South Carolina School of Medicine, August 3, 2007

(f) Speaker, Panelist and Coordinator, 'Nuts and Bolts of Handling a Sexually Violent Predator Case,' South Carolina Bar CLE, July 27, 2007.

(g) Speaker, 'Ethical Considerations for the Municipal Attorney,' South Carolina Municipal Association CLE, December 1, 2006.

(h) Speaker, 'Using Technology in the Courtroom,' Charleston County Bar CLE, December 16, 2005.

(i) Panelist/Speaker, 'Recent Decisions,' South Carolina Solicitor's Conference, September 26, 2005.

(j) Speaker, 'So You're Trying Your First Case,' South Carolina Bar CLE video publication.

(k) Speaker/panelist, 'Ethics and the New Code of Professionalism,' South Carolina Public Defender's Conference, September 27, 2004.

(l) Speaker, Law and Society Class, The Governor's School of South Carolina, July 1, 2003.

(m) Speaker, 'Tips from the Bench: Non-Jury Trials,' South Carolina Bar Continuing Legal Education Division, December 13, 2002.

(n) Speaker, 'SUEM: A Discussion on Equitable Principles in Their Application to the Law,' South Carolina Bar Continuing Legal Education Division, October 11, 2002.

(o) Speaker, 'Practice Before Masters-in-Equity,' Bridge the Gap, South Carolina Bar Continuing Legal Education Division and the Supreme Court of South Carolina, May 14, 2002.

(p) Speaker, 'Six by Six' CLE, Charleston County Bar Association, December 13, 2001.

(q) Speaker, 'Recent Judicial Decisions Update on Tax Sales in South Carolina,' South Carolina Bar Continuing Legal Education Division, October 12, 2001.

(r) Speaker, 'Recent Judicial Decisions Update on Tax Sales in South Carolina,' 34th South Carolina Association of Counties Annual Conference, July 26, 2001.

(s) Speaker, 'Practice Before Masters-in-Equity,' Bridge the Gap, South Carolina Bar Continuing Legal Education Division and the Supreme Court of South Carolina, March 13, 2001.

(t) Speaker, 'Recent Judicial Decisions Involving Tax Sales,' County Auditors, Treasurers and Tax Collectors Academy, February 8, 2001.

(u) Moderator, 'Business Torts, Accounting & Damages,' South Carolina Bar Continuing Legal Education Division CLE, October 13, 2000.

(v) Speaker, 'Practice Before Masters-in-Equity,' Bridge the Gap, South Carolina Bar Continuing Legal Education Division and the Supreme Court of South Carolina, May 23, 2000.

(w) Speaker, 'Law of Tax Sales,' Charleston County Bar Association Real Estate Section, March 7, 2000.

(x) Speaker, 'Recent Judicial Decisions Involving Tax Sales,' County Auditors, Treasurers and Tax Collectors Academy, February 3, 2000.

(y) Speaker, 'Twelve by Twelve' CLE, Charleston County Bar Association, December 16, 1999.

(z) Speaker, 'Equitable Remedies,' South Carolina Bar Continuing Legal Education Division CLE, October 8, 1999.

(aa) Moderator, 'Mechanic's Liens,' South Carolina Bar Continuing Legal

(bb) Speaker, 'Practice Before Masters-in-Equity,' Bridge the Gap, South Carolina Bar Continuing Legal Education Division and the Supreme Court of South Carolina, March 9, 1999, May 18, 1999.

(cc) Speaker, 'Law on Tax Sales,' Practice Before Masters-in-Equity and Special Referees CLE, South Carolina Bar Continuing Legal Education Division, October 9, 1998.

(dd)Speaker, 'Law on Tax Sales,' Practice Before Masters-in-Equity and Special Referees CLE, South Carolina Bar Continuing Legal Education Division, October 18, 1996."

Judge Young reported that he has published the following:

"(a) *Tax Sales of Real Property in South Carolina*, 1999 (South Carolina Bar-Continuing Legal Education Division).

(b) *The Law of Real Estate Tax Sales*, South Carolina Lawyer, September/October 1999.

(c) Master's Thesis, *Using Social Science to Assess the Need for Jury Reform in South Carolina*, published in 52 South Carolina Law Review 135, Fall 2000.

(d) 'Sexually Violent Predator Acts,' Issues in Community Corrections chapter note, *Community Based Corrections*, (4th ed. Wadsworth-Thomason Learning 2000).

(e) *Law, Economics, the Constitution and Pink Flamingos*, Post and Courier, August 10, 2001

(f) How Do You Know What You Know?': A Judicial Perspective on Daubert and Council/Jones Factors in Determining the Reliability of Expert Testimony in South Carolina, South Carolina Lawyer, November, 2003."

(4) Character:

The Commission's investigation of Judge Young did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Young did not indicate any evidence of a troubled financial status. Judge Young has handled his financial affairs responsibly.

The Commission also noted that Judge Young was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Young reported that prior to his service on the bench he was not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Young appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Young appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Young was admitted to the South Carolina Bar in 1983.

He gave the following account of his legal experience since graduation from law school:

"I was in private practice from 1983 to 1995 as a sole practitioner. I was associated with a lawyer named Howard Chapman in Charleston from 1983 until his death in late 1984. After that I was on my own with a general practice, mostly civil."

Judge Young reported that he has held the following judicial office(s):

"1988-90 appointed Municipal Court judge for North Charleston. Misdemeanors only.

1995-2003 elected Master in Equity for Charleston County, civil non-jury

2003-present, elected Circuit Court 9th Judicial Circuit, anything except family court and probate"

Judge Young provided the following list of his most significant orders or opinions:

"(a) Kuznick v. Bees Ferry Associates, 96-CP-10-4495, affirmed in part, reversed in part, 342 SC 579, 538 SE2d 15 (SC App 2000), cert. granted 7-3-01.

(b) LowCountry Open Land Trust v. SC, 96-CP-10-1933, affirmed 347 SC 96, 552 SE2d 778 (SC App 2001).

(c) S.C. DNR v. Town of McClellanville, 96-CP-10-367, affirmed 345 SC 617, 550 SE2d 299 (SC 2001).

(d) Campsen v. City of Isle of Palms, 99-CP-10-4554, affirmed No. 2001-UP-281 (SC App 2001)

(e) NorthPointe HOA v. G & B Homes, LLC, 99-CP-10-932, affirmed No. 2001-UP-059 (SC App 2001)"

Judge Young reported the following regarding his employment while serving as a judge:

"I have received an adjunct faculty appointment to the USC School of Medicine Department of Neuropsychiatry for 2007 and 2008. I receive no pay and lecture when my schedule permits."

Judge Young further reported the following regarding an unsuccessful candidacy:

"I ran unsuccessfully for the circuit court in 2001 for the seat now held by Judge Deadra Jefferson."

(9) Judicial Temperament:

The Commission believes that Judge Young's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Lowcountry Citizen's Committee Report reported the following regarding Judge Young: "Constitutional Qualifications: Judge Young meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Judge Young is considered ethical. Professional and Academic Ability: The committee gave Judge Young an exceptional rating in this area. Character: The committee reported that Judge Young's character is unquestionable. Reputation: Judge Young enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Judge Young is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Judge Young's good legal experience and judicial experience. Judicial Temperament: The committee gave Judge Young an excellent rating in this category."

Judge Young is not married. He has two children.

Judge Young reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar 1983-present

(b) Charleston County Bar 1983-present

(c) American College of Business Court Judges 2007-present."

Judge Young provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

(11) Commission Members' Comments:

The Commission commented that Judge Young is a dedicated, hard working, and exceptionally intelligent judge. They noted he has been a valuable asset to the Circuit Court bench for the past five years.

(12) Conclusion:

The Commission found Judge Young qualified and nominated him for re-election to the Circuit Court.

THURSDAY, JANUARY 15, 2009

Carmen Tevis Mullen
Circuit Court, Fourteenth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Mullen since her candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Mullen meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Mullen was born in 1968. She is 40 years old and a resident of Hilton Head Island, South Carolina. Judge Mullen provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995. Judge Mullen has also been a licensed attorney in Illinois since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Mullen.

Judge Mullen demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Mullen reported that she has not made campaign expenditures.

Judge Mullen testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Mullen testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Mullen to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Mullen described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) 2008 Annual Judicial Conference,	8/21/08;
(b) 2008 Judges Conference,	5/15/08;
(c) 6th Annual Civil Law Update,	1/25/08;
(d) 3rd Annual SC Criminal Law Update,	1/25/08;
(e) 2007 Annual Judicial Conference,	8/22/07;
(f) National Judicial College, General Jurisdiction,	7/15 - 26/2007;
(g) 2007 Judges Conference,	5/16/07;
(h) Seminar for Chief Judges for Administrative Purposes,	2/22/07;
(i) 5th Annual Civil Law Update,	1/26/07;
(j) 22nd Annual Criminal Law Update,	1/26/07;
(k) 2006 Annual Judicial Conference,	8/23/06;
(l) 2006 Orientation for New Circuit Court Judges,	7/10/06;
(m) 20th Circuit Court Judges' Conference,	5/10/06;
(n) Solo & Small Firm Practitioners,	1/28/06;
(o) Torts and Insurance Practice,	1/28/06;
(p) Construction for Construction Lawyers,	9/30/05 - 10/1/05;
(q) Hot Topics in Construction,	12/3/04;
(r) U.S. Sentencing Guidelines Training	7/22/03;
(s) S.C. Trial Lawyers Association Annual Convention,	8/7/03;
(t) South Carolina Bar 'Litigation Technology'	11/6/03."

Judge Mullen reported, "I spoke at the Solicitor's Conference on September 29, 2008 on 'Recent South Carolina Judicial Decisions.' I also spoke at the South Carolina Association of Defense Lawyers at Amelia Island on November 14, 2008 on the newly created Multi-Week Trial Docket."

Judge Mullen reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Mullen did not reveal evidence of any founded grievances or criminal allegations made

against her. The Commission's investigation of Judge Mullen did not indicate any evidence of a troubled financial status. Judge Mullen has handled her financial affairs responsibly.

The Commission also noted that Judge Mullen was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Mullen reported that her last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Mullen appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Mullen appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Mullen was admitted to the South Carolina Bar in 1996.

She gave the following account of her legal experience since graduation from law school:

"(a) Law Clerk to Honorable L. Casey Manning, Circuit Court Judge for the Fifth Judicial Circuit, April 1995 - August 1996. Assisted Judge in all research, writing orders, scheduling, etc.;

(b) Charleston County Public Defender's Office, Assistant Public Defender, August 1996 - December 1997. Handled caseload of 250+ criminal defendants for misdemeanor and felony crimes including Murder, CSC 1st, Burglary 1st, and ABHAN;

(c) South Carolina House of Representatives, Labor, Commerce & Industry Committee, Staff Attorney, December 1997 - October 1998. Duties include researching legal affect of pending bills before legislature and instructing Members on law and drafting some legislation when requested by Members;

(d) Uricchio, Howe, Krell, Jackson, Toporek & Theos, Associate, October 1998 - April 2000. Criminal and civil litigation practice in state and federal courts. Case types: Plaintiffs tort actions, contract disputes, criminal defense;

(e) Berry, Tevis & Jordan, Partner, April 2000 - May 2001. Tort litigation including automobile accidents and some criminal defense;

(f) Carmen M. Tevis, LLC, Solo Practitioner, May 2001 - June 2006. Tort litigation, construction litigation, contract litigation, fraud litigation, and criminal defense in state and federal courts."

Judge Mullen reported that she has held the following judicial office:

"July 17, 2006 to present. Circuit Court. Elected. General Civil and Criminal Jurisdiction."

Judge Mullen provided the following list of her most significant orders or opinions:

"(a) Willie Homer Stephens, Guardian ad Litem for Lillian Colvin, a minor v. CSX Transportation, Inc. and South Carolina Department of Transportation, Hampton County. Car versus train wreck wherein a car collided with a train and 12 year old passenger suffered traumatic brain injury. Significant in length of trial (3 weeks), extensive pre-trial matters, 60+ witnesses and a defense verdict in Hampton County!!;

(b) State v. Charles McCormick, Beaufort County. Defendant charged with Murder, Arson 2nd degree, Possession of a Weapon during a Violent Crime. Estranged husband allegedly shot wife and then attempted to burn house down. Significant for extent of circumstantial evidence and media coverage;

(c) Harbour Ridge Homeowners Association, Inv. v. North Harbour Development Corporation, Inc., et al., Horry County. Non-Jury Trial involving condominium project. Homeowner's Association suing Developer and General Contractor for negligent construction of 8 condominium buildings. Awarded $1,908,354.00. Issues involved: statute of limitations and individual contractor liability. Significant as to the competing measure of damages and that all parties agreed to allow me to try it non-jury;

(d) State v. Paris Avery, Beaufort County. Charged with Homicide by Child Abuse. Mother allegedly gave 15 month old child six times the prescribed amount of prescription eczema medication culminating in death. To

convict, jury must find extreme indifference to human life. Again, extensive pre-trial media coverage given nature of charge;

(e) State v. Lloyd Isaac, Jasper County. Prison rape case wherein employee of Ridgeland Correctional Institute was held hostage and repeatedly raped by an inmate serving a fifty (50) year sentence. Significant in the need for heightened security due to violent tendencies of the Defendant and sensitivity of the case."

(9) Judicial Temperament:

The Commission believes that Judge Mullen's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee found: "Constitutional Qualifications: Judge Mullen meets the constitutional qualifications for the judicial position she seeks. Ethical Fitness: Persons interviewed by the committee indicated that Judge Mullen is considered ethical. Professional and Academic Ability: The committee gave Judge Mullen an exceptional rating in this area. Character: The committee reported that Judge Mullen's character is unquestionable. Reputation: Judge Mullen enjoys a good reputation in the community and among her peers. Physical and Mental Health: There is evidence that Judge Mullen is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Judge Mullen's good legal experience and judicial experience. Judicial Temperament: The committee gave Judge Mullen an excellent rating in this category."

Judge Mullen is married to George Edward Mullen, Sr. She has four children.

Judge Mullen reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Women Lawyers Association;
(b) Association of Trial Lawyers of America;
(c) National Association of Women Judges;
(d) Beaufort County Bar Association."

Judge Mullen provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Hilton Head Heroes;
(b) Hilton Head High School Booster Club;

(c) Providence Presbyterian Church."

(11) Commission Members' Comments:

The Commission commented on Judge Mullen's able service on the Circuit Court bench for the past 2 years.

(12) Conclusion:

The Commission found Judge Mullen qualified and nominated her for re-election to the Circuit Court.

Benjamin H. Culbertson
Circuit Court, Fifteenth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Culbertson since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Culbertson meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Culbertson was born in 1959. He is 49 years old and a resident of Georgetown, South Carolina. Judge Culbertson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1984.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Culbertson.

Judge Culbertson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Culbertson reported that he has not made any campaign expenditures.

Judge Culbertson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Culbertson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Culbertson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Culbertson described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) 2008 Judicial Conference 08/20-22/2008;
(b) SC Circuit Judge Assn. Annual Meeting 05/14-16-2008;
(c) Tips from the Bench 02/15/2008;
(d) 6th Annual Civil Law Update 01/25/2008;
(e) 23rd Annual Criminal Law Update 01/25/2008;
(f) 2007 Judicial Conference 08/22/2007;
(g) Orientation School for New Judges 07/11/2007;
(h) Master-In-Equity Annual Meeting 02/23/2007;
(i) Master-In-Equity Bench/Bar Seminar 10/13/2006;
(j) Horry County Bar Family Court Seminar 12/09/2005;
(k) Master-In-Equity Bench/Bar Seminar 10/14/2005;
(l) Master-In-Equity Annual Meeting 02/25/2005;
(m) Judicial Oath of Office (Supreme Court) 12/10/2004;
(n) Master-In-Equity Bench/Bar Seminar 10/15/2004;
(o) New Lawyer Oath (SCTLA Annual Convention) 08/06/2004;
(p) Master-In-Equity Annual Meeting 02/06/2004;
(q) Title Insurance Claims (Chicago Title Ins. Co.) 11/18/2003;
(r) Master-In-Equity Bench/Bar Seminar 10/17/2003;
(s) SCTLA Annual Convention 08/07/2003."

Judge Culbertson reported that he has taught the following law-related courses:

"(a) At the Horry County Family Court seminar on 12/09/2005, I gave a lecture on 'Writing Domestic Orders';

(b) At the Tips from the Bench seminar on 02/15/2008, I gave a lecture on civil trials from a circuit judge's perspective."

Judge Culbertson reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Culbertson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Culbertson did not indicate any evidence of a troubled financial status. Judge Culbertson has handled his financial affairs responsibly.

The Commission also noted that Judge Culbertson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Culbertson reported that his last available Martindale-Hubbell rating was BV.

Judge Culbertson reported that he has held the following public office:

"From 2004 to 2006, I was chairman of the Georgetown Election Commission. I have not held any other public office other than a judicial office."

(6) Physical Health:

Judge Culbertson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Culbertson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Culbertson was admitted to the South Carolina Bar in 1984.

He gave the following account of his legal experience since graduation from law school:

"(a) From 1/14/1985 until 12/31/1990, I was an associate attorney and, then, a partner with the law firm of Schneider and O'Donnell, P.A. I maintained a general practice in all areas of law except tax law.

(b) From 1/1985 until 4/1996, I served as Assistant Municipal Court Judge for the City of Georgetown, SC. I

presided over criminal cases occurring in the city where the penalties for convictions were a fine of not more than $500.00 and/or imprisonment of not more than 30 days. I also conducted preliminary hearings and set bond for defendants charged with General Sessions offenses, except for capital murder cases and charges with a penalty of life imprisonment.

(c) From 1/1/1991 until 6/30/2007, I was a sole practicing attorney with the firm of Benjamin H. Culbertson, P.A. I maintained a general practice in all areas of law except bankruptcy, tax law and social security claims.

(d) From 4/1996 until 6/30/2007, I served as Master-In-Equity for Georgetown County, SC. I presided over non-jury civil cases that were referred to me and had the same jurisdiction and authority as a Circuit Court Judge presiding over the case.

(e) From 7/2001 until 6/30/2007, I served as Special Circuit Court Judge under appointment from The Honorable Jean Toal, Chief Justice of the South Carolina Supreme Court. I had the same jurisdiction and authority as a Circuit Court Judge over matters pending in Georgetown County, except for presiding over trials in General Sessions Court.

(f) From 7/5/2007 to the present, I have been a circuit court judge, elected as resident circuit judge for the 15th judicial circuit, seat number 2."

Judge Culbertson reported that he has held the following judicial office(s):

"(a) From 1/1985 until 4/1996, I served as Assistant Municipal Court Judge for the City of Georgetown, SC. I was appointed by Georgetown City Council and I presided over criminal cases occurring in the city where the penalties for convictions were a fine of not more than $500.00 and/or imprisonment of not more than 30 days. I also conducted preliminary hearings and set bond for defendants charged with General Sessions offenses, except for capital murder cases and charges with a penalty of life imprisonment;

(b) From 4/1996 until 6/30/2007, I served as Master-In-Equity for Georgetown County, SC. I was appointed by

the Governor of South Carolina, with the advice and consent of the South Carolina General Assembly. I presided over non-jury civil cases that were referred to me and had the same jurisdiction and authority as a Circuit Court Judge presiding over the case;

(c) From 7/2001 until 6/30/2007, I served as Special Circuit Court Judge under appointment from The Honorable Jean Toal, Chief Justice of the South Carolina Supreme Court. I had the same jurisdiction and authority as a Circuit Court Judge over matters pending in Georgetown County, except for presiding over trials in General Sessions Court;

(d) From 7/5/2007 to the present, I have been a circuit court judge. I was elected by the South Carolina General Assembly as resident circuit judge for the 15th judicial circuit, seat number 2."

Judge Culbertson provided the following list of his most significant orders or opinions:

"(a) Power Products and Services Company, Inc. v. Robert A. Kozma, et al., (S.C. Court of Appeals, Opinion No. 4417, Filed 6/20/2008). In this case, the appellate court affirmed my granting the defendants' motion to dismiss for lack of personal jurisdiction;

(b) Stella Sue Roland, et al. vs. Heritage Litchfield, Inc., et al., 372 S.C. 161, 641 S.E.2d 465 (S.C. App.2007). In this case, eleven condominium owners sued the developer and general contractor for numerous causes of action after discovering mold in the firewall areas of their condominiums. I granted the plaintiffs partial summary judgment as to liability. The developer and general contractor appealed, claiming that disputed issues of material fact existed and that the plaintiffs had no standing for damages to the common areas since they did not own the common areas. On appeal, the South Carolina Court of Appeals affirmed my order granting summary judgment;

(c) Martha Geathers vs. 3V, Inc. and EBI Companies and Liberty Mutual Insurance Company, 371 S.C. 570, 641 S.E.2d 29 (S.Ct.2007). This case involves a dispute between two workers compensation carriers. EBI Companies (EBI) claims that Liberty Mutual Insurance Company (Liberty) is solely liable for injuries sustained by

the plaintiff during the course of her employment with 3V, Inc., a company previously insured by EBI but currently insured by Liberty. Liberty claims that the liability should be apportioned between the two carriers. Liberty asserts that the plaintiff sustained her injury during the time that 3V, Inc. was insured by EBI and, then, aggravated that injury during the time 3V, Inc. was insured by Liberty. The full commission apportioned liability between the two carriers. On appeal to the Circuit Court, as Special Circuit Court Judge, I reversed the full commission and held Liberty solely liable. My ruling was based upon a finding that the employee had reached maximum medical improvement from her first injury and was released from her medical provider. Therefore, the second claim was not related to the first but, rather, a new claim based upon a second accident. My decision was reversed by the South Carolina Court of Appeals. However, the South Carolina Supreme Court reversed the South Carolina Court of Appeals and affirmed my decision;

(d) Patrick M. Siau, et al. vs. Kal Kassel, et al., 369 S.C. 631, 632 S.E.2d 888 (S.C.App.2006). In this case, the South Carolina Court of Appeals affirmed my decision, as Master-In-Equity, holding that the defendant had violated set-back restrictions under the county zoning ordinance and subdivision restrictive covenants when building his house. The defendant claimed that he had not violated set-back restrictions because he owned tidal property which adjoined his property and, thus, created the necessary set-backs. I found that the defendant did not own the tidal property but, rather, that the tidal property was owned by the state under the "public use" doctrine;

(e) Richard Rife vs. Hitachi Construction Machinery Co., Ltd., et al., 363 S.C. 209, 609 S.E.2d 565 (S.C.App.2005). In this case, the South Carolina Court of Appeals affirmed my decision, as Special Circuit Court Judge, granting the defendant's motion for summary judgment. This is a products liability case wherein the plaintiff sued the defendant for the manufacturing of a defective product. The defendant was granted summary judgment because it manufactured the product in question abroad and sold it in a foreign market. The product was

never intended for distribution in the United States but, the plaintiff's employer purchased the product on the secondary market and imported it into the United States."

Judge Culbertson reported the following regarding his employment while serving as a judge:

"(a) From 1/14/1985 until 12/31/1990, I was an associate attorney and, then, a partner with the law firm of Schneider and O'Donnell, P.A. I maintained a general practice in all areas of law except tax law;

(b) From 1/1/1991 until 6/30/2007, I was a sole practicing attorney with the firm of Benjamin H. Culbertson, P.A. I maintained a general practice in all areas of law except bankruptcy, tax law and social security claims."

Judge Culbertson further reported the following regarding unsuccessful candidacies:

"In 1998, I filed for Resident Seat #2, 15th Judicial Circuit, vacated by the retirement of Judge David Maring. I withdrew as a candidate when Judge Paula Thomas (who was an at-large judge) filed for the resident seat. When Judge Thomas was elected to the resident seat, I filed for her vacated at-large seat, as well as 2 other vacated at-large seats. Though I was found to be one of the three most qualified candidates in one of the at-large seat races, I withdrew voluntarily because Judge Buddy Nichols was the obvious candidate for election. On another occasion, I filed for an Administrative Law judgeship. Though I was found qualified by the JMSC, I was not one of the top three candidates."

(9) Judicial Temperament:

The Commission believes that Judge Culbertson's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee "found Judge Culbertson to be a well-regarded candidate who would ably serve on the Circuit Court bench."

Judge Culbertson is married to Renee Kinsey Culbertson. He has three children.

Judge Culbertson reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Circuit Court Judges Association (2007 to present);

(b) South Carolina Bar Association (1985 to present);
(c) Georgetown County Bar Association (1985 to 2007);
President (2007); Secretary (1985-1986, 1989-1990);
(d) American Bar Association (1985-1992)."

Judge Culbertson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) The Citadel Alumni Association;
(b) The Citadel Brigadier Club;
(c) Georgetown Cotillion Club;
President (2000-2001);
Vice President (1999-2000);
Secretary/Treasurer (1998-1999);
Executive Committee (1995-1998);
(d) Winyah Indigo Society;
(e) Duncan Memorial United Methodist Church."

(11) Commission Members' Comments:

The Commission commented that Judge Culbertson has continued to be a good and fair judge. They noted that several complex cases he has presided over have been affirmed by the appellate courts.

(12) Conclusion:

The Commission found him qualified and nominated him for re-election to the Circuit Court.

David Craig Brown
Circuit Court, At-Large, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Brown meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Brown was born in 1969. He is 39 years old and a resident of Florence, South Carolina. Mr. Brown provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1998.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Brown.

Mr. Brown demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Brown reported that he has made the following campaign expenditures:

"09-02-08 $257.04 S/W Printing– Biographical Information Sheet;
09-02-08 $170.00 Postage;
09/18/08 $76.68 PrintImage (Business Cards);
10/23/08 $21.60 The Trophy Co. (Name Tags);
10/21/08 $424.53 1 Brookhollow Cards (Christmas Cards)."

Mr. Brown testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Brown testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Brown to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Brown described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Criminal Justice Act Mini-Seminar	08/01/08;
(b) 17th Annual Criminal Practice	10/05/07;
(c) Mandatory ADR Training	09/08/06;
(d) 2006 Public Defender Conf.	09/25/06;
(e) 20th Annual Criminal Law Update	01/21/05;
(f) Federal Sentencing Guidelines	03/03/05;
(g) Attorney EOF Training	03/08/05;

(h) How to Successfully Resolve Automobile Accidents in S.C. 12/02/05;
(i) Workers' Compensation in S.C. 12/07/05;
(j) Examining and Resolving Title Issues in S.C. 12/14/05;
(k) Federal Criminal Practice 2004 05/13/04;
(l) Blakely v Washington Seminar 07/21/04;
(m) Revised Lawyer's Oath 10/19/04;
(n) Accident Litigation: Trying a Wreck 03/21/03;
(o) 2003 SC Tort Law Update 09/26/03;
(p) 5th Annual Spring Seminar 05/03/02;
(q) Auto Torts 12/06/02."

Mr. Brown reported that he has taught the following law-related courses:

"(a) Francis Marion University – Adjunct Professor – Business Law August 1999 – May 2005;

(b) Florence-Darlington Technical College – Adjunct Professor – Business Law – March 7, 2000 – May 11, 2000."

Mr. Brown reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Brown did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Brown did not indicate any evidence of a troubled financial status. Mr. Brown has handled his financial affairs responsibly.

The Commission also noted that Mr. Brown was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Brown reported that his Martindale-Hubbell rating is BV.

Mr. Brown reported that he has held the following public office:

" Florence County Voter Registration and Election Commission; Appointed March 2007 and resigned on February 5, 2008."

(6) Physical Health:

Mr. Brown appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Brown appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Brown was admitted to the South Carolina Bar in 1998.

He gave the following account of his legal experience since graduation from law school:

"(a) Judicial Law Clerk, for the Honorable M. Duane Shuler, South Carolina Circuit Court. Aug. 1997 – Summer 1998;

(b) Bridges, Orr, Derrick & Ervin – Aug. 1998 – April 2001 Engaged in the practice of civil litigation, primarily defense;

(c) The Law Office of D. Craig Brown, P.C. – May 2001 – present
Engaged in the practice of civil litigation, (plaintiff and defense) and criminal defense, (state and federal);

(d) Florence County Public Defender – (Part-time) – July 2006 – August 2007. Engaged in the practice of criminal defense in the South Carolina Court of General Sessions;

(e) Marion County Public Defender – (Part-time) – July 2006 – present. Engaged in the practice of criminal defense in the South Carolina Court of General Sessions."

Mr. Brown further reported:

"Throughout my legal career, I have tried civil and criminal cases. My experience as a criminal trial attorney includes defending such minor offenses as "unlawful possession of a weapon", which carries a sentence of up to one year. I have also tried complex felony cases such as murder.

The most recent murder case that I tried was in June of 2008. The case was initially ruled a suicide. Approximately four months later, the case was ruled a homicide based upon gunshot residue found on my client, his mother, and the decedent. The trial of the case involved numerous evidentiary and scientific issues related to gunshot residue, location of the wound, and statements given by my client prior to his arrest. After a week long trial, the jury convicted my client of voluntary manslaughter, rather than murder, and he received a sentence of eight years.

My experience in civil matters goes back to the fall of 1998, when I began practicing law. The primary types of matters handled

by me include personal injury cases (plaintiff and defense). The primary issues involved have been liability on behalf of the defendant, and damages on behalf of the plaintiff. One case I tried in Marlboro County, wherein I represented the defendant, involved the legal issue of intoxication of the defendant and whether his intoxication was the proximate cause of the accident. The defense of the case required me to argue the facts and law related to the defendant's intoxication. The trial resulted in a favorable verdict for the defendant."

Mr. Brown reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: Approximately 5 times a month;
(b) State: Approximately 5 times a month;
(c) Other: N/A."

Mr. Brown reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 40%;
(b) criminal: 55%;
(c) domestic: 5%."

Mr. Brown reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 2-5%;
(b) non-jury: 1%."

Mr. Brown provided that he most often served as co-counsel, lead counsel, and sole counsel. "I have served in each capacity probably an equal amount of time."

The following is Mr. Brown's account of his five most significant litigated matters:

"(a) State v. Brockington – I represented the defendant who was charged with attempted lewd act. The case went to trial. In defending the case, one important legal issue involved statements given by unavailable witnesses which were exculpatory. The statements were admitted and the case ended in a mistrial after the jury could not reach a verdict. The case has never been called again for trial.

(b) State v. McKenzie – I represented the defendant who was charged with and convicted of murder based upon DNA evidence and testimony of the State's expert witness. The case was significant because of evidentiary issues related to DNA and their expert's scientific opinion.

(c) Keels v. Poston - Unpublished Opinion No. 2005-UP-039. I represented the defendant, who was sued for negligence. The case was tried and the defendant was found liable in the amount of $35,000.00. This case was significant because the defendant was charged with failure to yield the right-of-way. The plaintiff had medical bills totaling approximately $7,000.00 and only obtained a verdict of $35,000.00 in Williamsburg where verdicts are typically higher.

(d) Ray v. Radford – I represented the defendant who was sued for negligence. The defendant was intoxicated at the time of the accident. The case was significant because of the issues relating to the defendant's intoxication and whether or not his intoxication was cause of the accident. At the conclusion of the trial, a defense verdict was returned, wherein the jury determined that the defendant's intoxication was not the proximate cause of the accident.

(e) State v. Joshua Weatherford – I represented the defendant who was charged with murder. This was a case that was initially ruled a suicide. Approximately four months after the decedent's death, the defendant was one of two individuals charged with murder due to gunshot residue tests performed on the defendant and his co-defendant on the night of the decedent's death. The case was significant due to legal issues pertaining to gunshot residue which were presented by the State's expert during their trial and by the defense. The jury convicted the defendant after a week long trial of voluntary manslaughter, rather than murder, and he received a sentence of eight years."

The following is Mr. Brown's account of the civil appeals he has personally handled:

"(a) Amerson v. Ervin, et. al., Appealed from the South Carolina Court of Common Pleas. Decision filed in S.C. Court of Appeals on January 18, 2006.

Unpublished Opinion No. 2006-UP-044;

(b) Keels v. Poston, Appealed from the South Carolina Court of Common Pleas. Decision filed in S.C. Court of Appeals on January 14, 2005.

Unpublished Opinion No. 2005-UP-039."

The following is Mr. Brown's account of five criminal appeals he has personally handled:

(a) State v. James Rogers, 368 S.C. 529, 629 S.E.2d 679 (2006). S.C. Court of Appeals, March 13, 2006;

(b) State v. Christopher Earl Lane – S.C. Court of Appeals, June 8, 2007.

Unpublished Opinion No. 2007-UP-302;

(c) U.S. v. Barry Wayne Griggs, U.S. Court of Appeals.

Unpublished Opinion July 30, 2007, 241 Fed. Appx. 155 (2007);

(d) U.S. v. Rodney Barner, U.S. Court of Appeals.

Unpublished Opinion, August 29, 2007, 238 Fed. Appx. 970 (2007);

(e) U.S. v. Charles Jamal Huggins, U.S. Court of Appeals.

Unpublished Opinion, April 20, 2006, 176 Fed. Appx. 420 (2006).

See attached copies of briefs."

Mr. Brown further reported that he has not had any unsuccessful candidacies.

(9) Judicial Temperament:

The Commission believes that Mr. Brown's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found "Craig Brown to be a good candidate who would ably serve on the Circuit Court bench."

Mr. Brown is married to Kay Hunt Brown. He has three children.

Mr. Brown reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) Florence County Bar Association."

Mr. Brown provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Pee Dee Area Citadel Club – President 2005;

(b) Florence YMCA – Lend-A-Hand Contributor;

(c) Florence County T-Ball Baseball Coach;

(d) Upward Soccer Coach."

(11) Commission Members' Comments:

The Commission commented that Mr. Brown had a broad breath of practice. They noted that he is known in the community as a highly ethical and a solid attorney who would be an asset to the Circuit Court bench.

(12) Conclusion:

The Commission found him qualified and nominated him for election to the Circuit Court.

Allen O. Fretwell
Circuit Court, At-Large, Seat 1

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Fretwell meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Fretwell was born in 1974. He is 34 years old and a resident of Greenville, South Carolina. Mr. Fretwell provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Fretwell.

Mr. Fretwell demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Fretwell reported that he has "made $456.82 in campaign expenditures for cards, stationary, envelopes, ink, printing, and postage." Specifically, he "reported the following expenditures:

FROM TO	DESCRIPTION	RUN TOTAL
8/20/08	Pens	$20.99 *Rptd
9/5/08 9/17/08	Cards/Postage, Discards (Cards) *Rptd	TOTAL $33.41
9/19/08 9/30/08	Cards/Postage, Discards (Cards) *Rptd	TOTAL $40.06
9/19/08	Paper, Postage/Mailer *Rptd	TOTAL $47.63

9/23/08		Printing (Res)	$143.03	*Rptd
9/23/08	9/28/08	Stationery, Envelopes Ink, Stamps *Rptd Discards (Stnry), Discards (Env), Discards (Ink)	TOTAL	$236.88
9/30/08		Paper, Envelopes, Ink, Stamps *Rptd	TOTAL	$238.91
10/5/08	12/2/08	Paper, Envelopes, Ink, Stamps	TOTAL	$252.73
10/7/08	10/31/08	Cards/Postage, Discards (Cards)	TOTAL	$298.28
10/20/08	10/20/08	Cards, Discards (Cards)	TOTAL	$319.62
10/23/08	12/2/08	Stationery, Stationery (Old) Envelopes, Ink, Stamps	TOTAL	$324.82
11/4/08	11/26/08	Cards (II)/Postage, Discards (Cards)	TOTAL	$456.82"

Mr. Fretwell testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Fretwell testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Fretwell to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Fretwell described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Death Penalty Update	08/21/08 to 8/22/08;
(b) Technology in Prosecution	05/11/08;
(c) 2007 Annual Conference	09/23/07;
(d) 7th Annual Meeting	05/13/07;
(e) 2006 Annual SC Solicitors'	09/24/06;
(f) Cross Examination	08/28/06;
(g) 13th Circuit Solicitor's Office	05/06/06;

(h) Avoiding Errors in Closing 09/27/05;
(i) Ethics & P.R. Training Tracks 09/26/05;
(j) Prosecution of Ted Bundy 09/25/05;
(k) 13th Circuit Solicitor's Office 05/08/05;
(l) Revised Lawyer's Oath CLE 09/27/04;
(m) 2004 Annual Solicitor's 09/26/04;
(n) 4th Annual Retreat 05/03/04."

Mr. Fretwell reported that he has taught the following law-related courses:

"(a) Guest Speaker, Bob Jones University Criminal Justice Class [3/7/08]

Topic: Answering Pre-submitted Questions about Criminal Prosecution;

(b) CLE Speaker, Thirteenth Judicial Circuit Conference

Topic: Applicability of the Fifth and Sixth Amendments Right to Counsel;

(c) Guest Speaker, Bob Jones University Criminal Justice Association

Topic: A Prosecutor's Role;

(d) Guest Speaker, Bob Jones University Criminal Justice Camp

Topic: The Courts;

(e) Judge, We The People: Project Citizen (7/14/06);

(f) Attorney Coach, Bob Jones Academy Mock Trial Team (2000–Present);

(g) Judge, Greenville County Youth Court;

(h) Presiding Judge, American Mock Trial Association Regional Tournament;

(i)Scoring Judge, American Mock Trial Association Regional Tournament;

(j)Scoring Judge, National High School Mock Trial Competition (2005);

(k) Attorney Coach, Bob Jones University Mock Trial Team (2004 – 2005)."

Mr. Fretwell reported that he has published the following:

"'Growing up With Grandparents' Today's Christian Senior (Spring 2007) **Article title may reflect editorial alteration."

(4) Character:

The Commission's investigation of Mr. Fretwell did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Fretwell did not indicate any evidence of a troubled financial status. Mr. Fretwell has handled his financial affairs responsibly.

The Commission also noted that Mr. Fretwell was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Fretwell reported that he is not rated by Martindale-Hubbell.

Mr. Fretwell reported that he has held the following public office:

"Aside from being appointed Assistant Solicitor and as Law Clerk to the Chief Legal Counsel to Governor David Beasley, I have not held any public office."

(6) Physical Health:

Mr. Fretwell appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Fretwell appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Fretwell was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

"Assistant Solicitor, Thirteenth Judicial Circuit, 08/99 to Present."

Mr. Fretwell further reported:

"Although I am assigned to the Violent Crimes Unit, drug cases have comprised the majority of my prosecutorial workload over the past five years. Common issues involved in drug cases include: (1) evaluating the credibility of undercover informants; (2) identifying police conduct implicating the Fourth Amendment right against unreasonable searches & seizures; (3) determining the propriety of police-citizen encounters and interrogation of suspects within the Fifth Amendment framework; (4) verifying proper chain of custody for all fungible items and (5) responding to these and other suppression motions through oral argument.

I am also responsible for handling many arson cases made in Greenville County. Common issues in arson cases include: (1) evaluating the process employed by law enforcement and arson investigators in determining cause and origin; (2) reviewing the thoroughness of the investigation to rule out accidental and natural causes; and (3) learning the scientific process utilized by analysts to determine the presence of ignitable liquids and fuel loads in preparation for presenting this evidence at trial.

Serving as the liaison for law enforcement Cold Case Units, I am responsible for evaluating the sufficiency of evidence and providing an alternate perspective for pursuing leads and uncovering additional evidence. I have also had the opportunity to secure convictions in a double homicide that had been cold for over four years prior to arrest and have served as co-counsel in other murder cases. I previously assisted in a capital prosecution for which I conducted the preliminary hearing that resulted in the case being bound over for Grand Jury action.

Although I have not handled matters of a civil nature since I was a law clerk and in law school, I have been responsible for knowing and applying the rules that apply to civil practice. A prosecutor can aptly be described as a criminal law "specialist." I am responsible for knowing and applying the Rules of Evidence in the same manner as those whose practice is restricted to the civil arena. Moreover, I must know and apply the Rules of Criminal Procedure in addition to the Rules of Civil Procedure. Not only must I comply with the Rules of Professional Conduct that govern the behavior of all lawyers, I must also follow the additional rules of conduct that govern prosecutorial behavior.

In the same manner that a general practice attorney will study and become conversant in an area of law with which he or she is not familiar, a criminal lawyer can apply case evaluation and trial strategy skills in becoming conversant in the civil arena.

Additionally, I have been involved in the mock trial program in South Carolina for eight years. The cases considered by the mock trial programs are evenly divided between civil and criminal subject matter and require an understanding of the distinction between civil and criminal cases such as burdens of proof and legal presumptions.

I have served as the attorney coach for the Bob Jones Academy team who, during my tenure, twice won the State Championship and, in 2004, won the National Championship. I

have also served as an attorney coach at the middle school and collegiate levels. I have served as a judge, both presiding and scoring, on the high school and collegiate level, and have most recently served as a presiding judge in multiple rounds at the American Mock Trial Association's District Competition hosted by Furman University. I served as a judge for the National High School Mock Trial Championship in Charlotte, North Carolina, in 2005. I participated in the creation of Greenville County's school-based Youth Court Program and have served as a judge in this program many times. I have served as a judge for the South Carolina Bar's 'Project Citizen' program hosted by Clemson University and was, for a number of years, a judge in competitions presented by the National Forensic League."

Mr. Fretwell reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: None;

(b) State: In court 2-3 weeks out of every month; A portion of those 2 or 3 weeks was spent making appearances for guilty pleas and occasional suppression motions; 1 or 2 of these weeks each month was spent in trial court—I am required to submit 1 to 2 trials for the docket each month and 2 to 5 cases went to trial each year (the others were resolved in a guilty plea or a bench warrant for failure to appear)."

Mr. Fretwell reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 0%;
(b) Criminal: 100%;
(c) Domestic: 0%."

Mr. Fretwell reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 0.1%;
(b) Non-jury: 99.9%."

Mr. Fretwell provided that he served "[p]rimarily [as] sole counsel or chief counsel; associate counsel in some instances as a mentor or assisting another prosecutor in a complicated murder case."

The following is Mr. Fretwell's account of his five most significant litigated matters:

"(a) State v. Carla Taylor, 260 S.C. 18, 598 S.E.2d 735 (Ct. App 2004)—Overruled State v. Chisolm, 355 S.C. 175, 584 S.E.2d 401 (Ct. App 2003), and established the current test for establishing chain-of-custody for drug cases in South Carolina.

(b) State v. Jomer Hill—This was one of the initial cold case arrests, since the Greenville Police Department started its Cold Case Unit several years ago. The defendant was arrested on November 30, 2004, four years after his crime, and was convicted of double-murder at trial in May of 2006.

(c) State v. Gustavo Alvarado, AP 2005-UP-120 (Ct. App 2005)—Defendant was convicted of Trafficking in Marijuana and was sentenced to 18 years. Defendant appealed on the basis that the stop was pretextual and not supported by probable cause. The Court of Appeals disagreed and the conviction was affirmed. A significant aspect of this case was that the passenger, Gallegos, testified that the drugs were his and the defendant, Alvarado, didn't know anything about them. The case on appeal focused on the element of the defendant's ability to exercise dominion and control over the drugs or over the premises upon which the drugs were found.

(d) State v. Jermaine Hawkins—Defendant was convicted *in absencia* of two counts each of Armed Robbery and Assault and Battery of a High and Aggravated Nature. This case is significant to me because of the profound effect these crimes had on the victims involved and the fact that an identification of the defendant was strong enough to convict the defendant in his absence. The defendant petitioned for post-conviction relief (PCR) and his application was granted since the trial judge did not specifically advise the jury panel that the defendant's absence should not be held against him, although I advised the jury of this responsibility during closing arguments. Following the granting of the defendant's application for PCR, this case was resolved by way of a guilty plea.

(e) State v. Jeffrey Motts—Handled the preliminary hearing where this capital-murder case was bound over

for grand jury action. The defendant was subsequently convicted and sentenced to death."

Mr. Fretwell reported that he has not personally handled any civil or criminal appeals.

Mr. Fretwell reported that he has held the following judicial office:

"Aside from the quasi-judicial office Assistant Solicitor, I have never held a judicial office."

Mr. Fretwell further reported the following regarding an unsuccessful candidacy:

"I have never before been a candidate for elective or any other public office besides a judicial office. I ran as a candidate for the Circuit Court, At-Large Seat 13 in 2007-08 and was found qualified and nominated by the South Carolina Judicial Merit Selection Commission. Once I learned that a candidate in that race had secured enough pledges to be elected, I immediately withdrew from the race."

(9) Judicial Temperament:

The Commission believes that Mr. Fretwell's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found no additional information that would alter their report on Mr. Fretwell from 2007. The 2007 Upstate Citizens Committee reported that "Mr. Fretwell's qualifications meet and exceed the expectations set forth in the evaluative criteria."

Mr. Fretwell is married to April Elaine Fretwell. He does not have any children.

Mr. Fretwell reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar

Member, SC BAR Nominating Committee 2007 – Present;

Member, House of Delegates2002-03; 2006 – Present;

Member, Law Related Education Committee 2004 – Present;

(b) Greenville Bar Association

Member, 2008 – Present."

Mr. Fretwell provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Colonel Elias Earle Historic District Association
President 2008 – Present
Vice President 2008
Neighborhood Liaison to the City of Greenville 2008
Member 2007 – Present
(b) Roper Mountain Science Center Association*
Member 2001 – Present
President 2007 – 2008;
(c) Center for Developmental Services Children's Carnival
Volunteer 2004 – 2007;
(d) Hampton Park Baptist Church
Member 1986 – Present.

*The RMSCA is a non-profit, eleemosynary "friends" group that supports the Roper Mountain Science Center (RMSC) through fundraising, volunteer recruitment and community involvement. The RMSC is a facility dedicated to the education of school-aged children and young people in the sciences and is owned and operated by the School District of Greenville County."

(11) Commission Members' Comments:

The Commission commented that Mr. Fretwell is thought of as a fair and even tempered prosecutor with the Thirteenth Judicial Circuit Solicitor's office. They noted that he is regarded as a man of integrity and known for his contributions to the state bar through his service on several key committees.

(12) Conclusion:

The Commission found Mr. Fretwell qualified, but not nominated, to serve as a Circuit Court judge.

William B. von Herrmann
Circuit Court, At-Large, Seat One

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. von Herrmann meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. von Herrmann was born in 1969. He is 39 years old and a resident of Conway, South Carolina. Mr. von Herrmann provided in his application that he has been a resident of South

Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1998.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. von Herrmann.

Mr. von Herrmann demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. von Herrmann reported that he has not made any campaign expenditures.

Mr. von Herrmann testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. von Herrmann testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. von Herrmann to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. von Herrmann described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Criminal Law Update	01/26/01
(b) DNA Basic	06/04/01
(c) S.C. Solicitor's Conference	09/30/01
(d) Criminal Law Update	01/25/02
(e) Prosecuting Violent Crimes	02/25/02
(f) Cross Examination	08/26/02
(g) S.C. Solicitor's Conference	09/29/02
(h) S.C. Solicitor's Conference	09/28/03
(i) Criminal Law Update	01/23/04
(j) Arson Prosecution	04/19/04
(k) S.C. Solicitor's Conference	09/26/04

(l)	Revised Lawyers Oath CLE	09/27/04
(m)	How to Manage Work	10/08/04
(n)	S.C. Solicitor's Conference	09/30/05
(o)	Trial Advocacy	03/03/06
(p)	S.C. Solicitor's Conference	09/24/06
(q)	S.C. Solicitor's Conference	09/27/07"

Mr. von Herrmann reported that he has taught the following law-related courses:

"Horry Georgetown Technical College speaker on recent prosecutions;

S.C. Criminal Justice Academy Department of Public Safety instructor."

Mr. von Herrmann reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. von Herrmann did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. von Herrmann did not indicate any evidence of a troubled financial status. Mr. von Herrmann has handled his financial affairs responsibly.

The Commission also noted that Mr. von Herrmann was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. von Herrmann reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. von Herrmann appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. von Herrmann appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. von Herrmann was admitted to the South Carolina Bar in 1998.

He gave the following account of his legal experience since graduation from law school:

"May 1997- June 1998 / Kenneth G. Goode & Associates law clerk;

August 2, 1998–August 2, 1999 /The Honorable John L. Breeden, Jr. law clerk;

August 3, 1999 – July 7, 2008 / Solicitor's Office 15th Judicial Circuit

July 8, 2008 – current / Law office of William B. von Herrmann

I currently am in private practice specializing in criminal defense and civil plaintiff's work."

Mr. von Herrmann further reported:

"I have practiced primarily in General Sessions Court over the past five years as the First Assistant Solicitor until recently. As a Senior Solicitor, Deputy Solicitor and the First Assistant Solicitor, I represented the State in over 20 trials involving the prosecution of felony charges. Of the last 20 cases I tried while at the Horry County Solicitor's Office, over 15 involved either murder or homicide by child abuse. My position typically required that the cases I was assigned involved unique and sometimes complex issues.

Prior to going into private practice in July of this year, I was also tasked with the responsibility of supervising approximately 20 other lawyers who prosecute criminal cases at various trial court levels. Over the course of my career, I have appeared before every level of trial court. While employed with the Horry County Solicitor's office, I tried in excess of 40 criminal cases before a jury and was successful in all but two of those cases. I would estimate that I have been involved in resolving approximately 5000 cases by plea, trial or dismissal.

As earlier stated, I have just gone into private practice within the last couple of months. I did represent the State on several occasions in an effort to have businesses that were involved in activities not desirable in our area to be declared public nuisances while with the Horry County Solicitor's Office. Moreover, I was employed by a firm in law school that primarily represented plaintiffs in civil litigation and was exposed to civil court. As a law clerk for The Honorable John Breeden, I was exposed to Common Pleas court, both jury and non-jury, on a regular basis and learned much from being in the courtroom during those particular terms of court. Currently, I have several civil cases pending in my private practice that I am working on. I am very familiar with the Rules of Evidence used in both criminal and civil court in South Carolina."

Mr. von Herrmann reported the frequency of his court appearances during the last five years as follows:

"(a) federal: none;
(b) state: approximately seven times per month."

Mr. von Herrmann reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 30%;
(b) Criminal: 70%;
(c) Domestic: 0%."

Mr. von Herrmann reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 25%;
(b) Non-jury: 75%."

Mr. von Herrmann provided that he most often served as sole counsel.

The following is Mr. von Herrmann's account of his five most significant litigated matters:

"(a) State v. McKnight 352 SC 635, 576 SE2d 168, SC 2003. This case was the first homicide by child abuse case in the nation successfully prosecuted whereby a mother was held criminally responsible for killing her unborn child by ingesting drugs;

(b) State v. White-McCollough currently on appeal. This was the first homicide by child abuse case successfully prosecuted without ever locating the victim's body. In addition, it was only the 4th 'no body' case prosecuted in the State of South Carolina;

(c) State v. Wanda Haithcock 2007 UP 444, decided Feb.23, 2007. This murder case involved the death of the Defendant's former boyfriend and involved serious domestic violence issues;

(d) State v. Donald Roberts 2003 UP 444, decided June 26, 2003. This case involved the rape and kidnapping of the Defendant's girlfriend. The Defendant in this case had been terrorizing the community for many years and had a violent background. I received several phone calls after his conviction from other women who had been raped by this Defendant, but indicated they were too scared to come forward.

(e) State v. James E. Johnson 2005 UP 166, March 7, 2005. This case was mistakenly investigated as an automobile accident and the Defendants were charged with minor crimes. Once the Horry County Solicitor's office became involved in the case, we initiated another Defendant for murder. Thereafter, two co-defendants pled guilty to related charges."

Mr. von Herrmann further reported the following regarding unsuccessful candidacies:

"The Horry/Georgetown Resident Circuit Court seat – withdrew from race in 2007; and the At-Large Circuit Court Seat 13 – 2008 – found qualified, but not nominated."

(9) Judicial Temperament:

The Commission believes that Mr. von Herrmann's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee found "William B. Von Herrmann to be a well-regarded candidate who would ably serve on the Circuit Court bench."

Mr. von Herrmann is not married. He has two children.

Mr. von Herrmann reported that he was a member of the following bar associations and professional association:

"Horry County Bar."

Mr. von Herrmann provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Ducks Unlimited;

(b) National Turkey Federation."

(11) Commission Members' Comments:

The Commission commented that Mr. Von Herrmann is certainly qualified, and makes for a young, enthusiastic candidate. They noted that his diverse criminal experience would be an asset to the Circuit Court."

(12) Conclusion:

The Commission found Mr. von Herrmann qualified, but not nominated to serve as a Circuit Court Judge.

THURSDAY, JANUARY 15, 2009

Andrew Hodges
Circuit Court, At-Large, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Hodges meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Hodges was born in 1970. He is 38 years old and a resident of Greenwood, South Carolina. Mr. Hodges provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Hodges.

Mr. Hodges demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Hodges reported that he has made $104.20 in campaign expenditures for: a South Carolina Legislative Manual, paper, envelopes, inkjet printer cartridge, and postage.

Mr. Hodges testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

He has testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Hodges to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions exceeded expectations.

Mr. Hodges described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) 2003 Annual Solicitor's Conference 09/28/03–10/01/03;
(b) 2004 Annual Solicitor's Conference 09/26/04–09/29/04;
(c) 2005 Annual Solicitor's Conference 09/25/05–09/28/05;
(d) 2006 Capital Litigation Seminar 05/08/06–05/10/06;
(e) 2006 Annual Solicitor's Conference 09/24/06–09/27/06;
(f) The Career Prosecutor Course 06/03/07–06/13/07;
(g) 2007 Annual Solicitor's Conference 09/23/07–09/26/07."

Mr. Hodges reported that he has taught the following law-related courses:

"(a) At the 2002 Annual Solicitor's Conference, I participated as a lecturer on the topic of pretrial hearings involving the admissibility of confessions, including issues relating to Miranda v. Arizona and Jackson v. Denno.

(b) In 2004, I taught a multi-week course on a variety of legal issues including Constitutional Law, search and seizure, and the laws of arrest to a group of Abbeville Police Department reserve police officer candidates who were preparing to be tested on those subjects.

(c) On March 20, 2007, I spoke to the Leadership Greenwood Class of 2007 about the role of the Solicitor's Office in the court process. Sponsored by the Greenwood Chamber of Commerce, Leadership Greenwood focuses on "developing future leaders through a year-long series of monthly full day sessions addressing a variety of issues, opportunities, and challenges facing Greenwood County."

(d) On March 23, 2007, I participated as a panel speaker at the Governor's seminar on Compliance: Best Practices for Implementing the Victims' Bill of Rights. I spoke specifically about the challenges faced by prosecutors in maintaining contact with transient victims,

and ideas about how to keep them notified about and involved in the court process.

(e) On September 13, 2007, I spoke to about six hundred student athletes, coaches, fraternity and sorority members, and faculty on The Consequences of Hazing at Lander University. I stressed the dangers of hazing, and the potential for criminal and civil liability, through the use of examples from both local and national incidents. Lander University has requested that I repeat my address to another group of students on September 24, 2008.

(f) On September 26, 2007, I spoke at the 2007 Annual Solicitor's Conference Death Penalty Update regarding a novel issue involving the admissibility of wiretap tapes on which I had submitted a brief to the South Carolina Court of Appeals during a capital trial earlier that year."

With regard to published articles, Mr. Hodges reported the following: "I wrote an article entitled 'The First Challenge to South Carolina's Wiretapping Law' that was published October 15, 2008 in Volume I, Issue 3 of *The Higher Standard: A Quarterly Newsletter on Emerging Advocacy, Investigative, Legal, and Prosecution Issues and Trends."*

(4) Character:

The Commission's investigation of Mr. Hodges did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Hodges did not indicate any evidence of a troubled financial status. Mr. Hodges has handled his financial affairs responsibly.

The Commission also noted that Mr. Hodges was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Hodges reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Hodges appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hodges appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hodges was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

> "(a) Sept. 1996 – Jan. 2005 Assistant Solicitor, Eighth Circuit Solicitor's Office.
>
> As an Assistant Solicitor I prosecuted a wide variety of cases in General Sessions Court in Abbeville, Greenwood, Laurens and Newberry Counties. I benefited from working in a small office where I was quickly given the opportunity to handle significant cases. I had my first jury trial within two weeks of being sworn into the bar and was assigned my first homicide within a year. For five years I was the office drug prosecutor and tried countless drug-related offenses across the Eighth Circuit. As drug prosecutor, my duties also included the resolution of a considerable number of civil asset forfeiture actions.
>
> (b) Jan. 2005 – Present Deputy Solicitor, Eighth Circuit Solicitor's Office.
>
> In January of 2005 I was promoted to Deputy Solicitor for Greenwood County. I supervise five Assistant Solicitors, a Court Administrator, a Victim/Witness Advocate and an Investigator. I advise the Assistant Solicitors on charging decisions and plea agreements, and often sit with them in trial to provide training and guidance. I coordinate the scheduling of all trials, pleas, hearings, and appearances for approximately twenty weeks of General Sessions Court per year. I also personally prosecute the majority of the violent crimes that occur in Greenwood County."

Mr. Hodges further reported:

"With regard to my experience in criminal matters, I have been a prosecutor for nearly twelve years. I have handled thousands of criminal cases, from the simplest DUI to the most complicated capital murder. I spend about twenty weeks a year in General Sessions Court. After spending that much time, and handling that volume of cases, I believe that I have developed an excellent barometer for appropriate criminal sentencing. The sheer number of cases that are processed through General Sessions Court requires that most be disposed of through plea negotiations, and I have presented countless pleas to Circuit Judges who have accepted my

negotiations and recommendations. I have also participated in a significant number of jury trials, thereby gaining a firm grip on the rules of evidence and the body of case law related to criminal practice.

My experience as a criminal prosecutor has provided few opportunities for practice in Common Pleas Court. During my time as a drug prosecutor, I did file and pursue a fair number of civil forfeiture actions but all were settled short of trial. I have also pursued a couple of nuisance actions, one of which involved some litigation before it ultimately settled. My background in managing a large criminal docket and ensuring that cases are processed in a timely manner would, I think, help prepare me to manage a civil docket. The skills I have gained in bringing parties together to settle cases short of trial would also be an asset to a Circuit Judge presiding over civil matters. However, I do recognize that my limited experience in civil matters is a weakness and I have been working diligently to compensate for that lack of experience. I always read the advance sheets, and I have been re-reading and briefing the advance sheets from the last year. Further, I intend to study The South Carolina Law of Torts by Professors Hubbard and Felix.

Finally, I would plan to attend CLEs on additional civil topics to help compensate for my lack of experience in those areas."

Mr. Hodges reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: none;
(b) State: about ten full days per month."

Mr. Hodges reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 0.01%;
(b) criminal: 99.9%;
(c) domestic: 0%."

Mr. Hodges reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 2%
(b) Non-jury: 98%"

Mr. Hodges provided that he most often served as sole counsel.

The following is Mr. Hodge's account of his five most significant litigated matters:

"(a) State v. Steven Bixby, Rita Bixby and Arthur Bixby. On December 8, 2003, Deputy Danny Wilson went to the Bixby residence in Abbeville County to attempt to settle a dispute between the Bixbys and construction workers who were engaged in a highway widening project in front of their residence. Steven Bixby shot Deputy Wilson with a high-powered rifle, cuffed him with his own handcuffs and dragged him inside the home where he died of his wounds. Bixby also shot and killed Constable Donnie Ouzts who had responded to a report that Wilson had been shot. After a fourteen-hour standoff with local and state law enforcement a gun battle erupted between the Bixbys and SLED. Former SLED Chief Robert Stewart said it was "more gunfire than I've ever experienced in over 30 years." Steven and Arthur Bixby ultimately surrendered and were charged with the murder of the two law enforcement officers. Rita Bixby was charged with Accessory Before the Fact to Murder because of her prior knowledge and encouragement of the plan to kill the officers.

The State sought the death penalty against Steven Bixby. I was one of three lawyers on the prosecution team that tried the case in February of 2007. Because of extensive pre-trial publicity we selected and sequestered a jury from Chesterfield County. Concerns over the Bixbys' ties to a militia group in New Hampshire led to extreme security measures including a law enforcement perimeter around the courthouse and an armed convoy to transport the prosecution team to and from court.

A case of first impression arose when the defense moved to suppress a tape of the gun battle that was generated through the use of a SLED wiretap. The applicable statute, that had never been tested, requires the motion to suppress be decided by a panel of three judge of the South Carolina Court of Appeals. I filed a brief on the issue and the Court of Appeals ruled that the statute was constitutional and that the tapes were admissible. Steven Bixby was ultimately convicted and sentenced to death.

The State also sought the death penalty against Rita Bixby. The trial court granted the defendant's motion to dismiss the State's notice of intention to seek the death penalty. The State appealed and the South Carolina Supreme Court ruled that a charge of Accessory Before the Fact to Murder does not render a defendant eligible for the death penalty. State v. Bixby, 373 S.C. 74 (2007).

I was again one of three attorneys on the prosecution team that brought Rita Bixby to trial in October of 2007. She was convicted and sentenced to life imprisonment.

Arthur Bixby has been found incompetent and is currently in the custody of the Department of Mental Health.

(b) State v. Lentigus Floyd. This case is personally significant because it was my first murder case to go to a jury verdict. In this case, the defendant's brother got into an altercation with the victim, Kiki Miller, at a local car show. During the altercation, Floyd shot the victim in the back of the head in front of numerous witnesses. The case went to trial in July of 2004. Floyd was convicted of murder and the Court sentenced him to life imprisonment. Sadly, Miller's brother was murdered in an unrelated incident. That case remains unsolved;

(c) State v. Joey Haymes. In November of 2004 the family of Billy Ray Adams reported him missing. A deputy found his body in a wooded area behind his house. A BOLO was issued for the victim's missing vehicle. The defendant was stopped in Spartanburg County while driving the victim's car. I had prosecuted Haymes earlier that year for a Breach of Trust where Adams was the victim, and there was some animosity by Haymes about the restitution that he was ordered to pay to the victim. At trial on the murder charge, the defendant claimed that he had shot the victim in self defense. Through the testimony of a forensic pathologist, and successful cross examination of the defendant, I was able to disprove the defendant's claims of self defense. The defendant was convicted of murder and sentenced to life imprisonment;

(d) State v. Freddie Edwards. On July 16, 2005, Freddie Edwards, a fairly prominent business owner in Greenwood, shot and killed George Freeman during a dispute over a two dollar bet during a poker game at the defendant's residence. I called the case to trial in August of 2006. The defendant was convicted of murder and received a thirty year sentence. An interesting footnote to this case is that the defendant is the father of Armani Edwards, the star quarterback of Appalachian State University. It is encouraging to see that he has continued to be successful despite the mistakes of his father;

(e) Eighth Circuit Solicitor v. Club Weekend. Club Weekend, a Greenwood nightclub, was the site of ongoing crowding, noise, violent crime and drug activity. Following a murder (that I subsequently prosecuted) in the parking lot, I filed a nuisance action in 2002 against the owner of the building and the proprietors of the nightclub. After an evidentiary hearing in December of 2002, the Court issued an Order for Temporary Injunction that effectively closed the nightclub's doors. A settlement in January of 2003 terminated Club Weekend's lease and placed restrictions on any future use of the property. This case was significant because it eliminated an establishment that posed a serious safety threat to both the public and local law enforcement."

Mr. Hodges reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Hodges' temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee reported the following regarding Mr. Hodges: "Mr. Hodges appears to be in good health and a person of good moral character. We find him qualified for the office he is seeking."

Mr. Hodges is married to Dawn Puderbaugh Hodges. He has one child.

Mr. Hodges reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;
(b) Greenwood County Bar Association."

Mr. Hodges provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Ancient Free Masons of South Carolina – Past Master of Mathews Lodge No. 358. (Steward 2003, Senior Deacon 2004, Junior Warden 2005, Senior Warden 2006, Worshipful Master 2007);

(b) Volunteer for United Way Day of Caring, yearly 1998-2003;

(c) Volunteer for Kiwanis Kids' Triathlon, yearly 2006-2008;

(d) Greenwood Community Theater – acted the part of Sir Lionel in a production of Camelot in June of 2002, and acted the part of The Guard in a production of Twelve Angry Jurors in March of 2008."

(11) Commission Members' Comments:

The Commission commented that Mr. Hodges' criminal experience would assist him in his service as a Circuit Court judge. They noted that Mr. Hodges' score on the practice and procedure exam was impressive, as it was the highest score among all of the individuals who applied to serve as a Circuit Court judge during this screening.

(12) Conclusion:

The Commission found Mr. Hodges qualified and nominated him for election as a Circuit Court judge.

W. Jeffrey Young
Circuit Court, At-Large, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Young meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Young was born in 1955. He is 53 years old and a resident of Sumter, South Carolina. Judge Young provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Young.

Judge Young demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Young reported that he has not made any campaign expenditures.

Judge Young testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Young testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Young to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Young described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) SC Trial Lawyers Convention	08-02-03;
(b) Family Court Judges Conference	04-28-04;
(c) 2004 Orientation School for New Judges	07-12/14-04;
(d) SCTLA	08-05-04;
(e) South Carolina Judicial Conference	08-2004;
(f) SC Family Court Bench/Bar	12-03-04;
(g) Family Court Section Seminar	01-21-05;
(h) Family Court Judges Conference	04-27-05;
(i) South Carolina Judicial Conference	08-2005;
(j) General Jurisdiction, National Judicial College	10-17/27-05;
(k) Family Court Bench/Bar	12-02-05;
(l) New Tools for the Alimony Cases	01-27-06;
(m) Family Court Judges Conference	04-26-06;
(n) SCTLA	08-03-06;
(o) SC Judicial Conference	08-22/25-06;

(p) SC Family Court Bench/Bar 12-2006;
(q) SC Bar Association Family Court 01-2007;
(r) Family Court Judges Conference 04-2007;
(s) SC Trial Lawyers Conference 08-2007;
(t) SC Judicial Conference 08-2007;
(u) SC Bar Association Family Court Issues 01-2008;
(v) Family Court Judges conference 04-2008;
(w) SC Judicial Conference 08-25/27-08."

Judge Young reported that he has taught the following law-related courses:

"(a) USC - Sumter, 1988-1996, Business Law Adjunct Faculty;
(b) Central Carolina Technical College, 1987-1992, Paralegal Instructor."

Judge Young reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Young did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Young did not indicate any evidence of a troubled financial status. Judge Young has handled his financial affairs responsibly.

The Commission also noted that Judge Young was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Young reported that his last available Martindale-Hubbell rating was BV.

Judge Young reported the following military service:

"(a) USAF - Active Duty, October 1977 - September 1982, Honorable Discharge;
(b) USAF - Reserve, September 1982 - May 2007 Retired Honorably."

Judge Young reported that he has held the following public office:

"I was elected to the SC House of Representatives to represent District #67. I served from 1994-1998 and 2000-2002. I always filed reports properly and timely."

(6) Physical Health:

Judge Young appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Young appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Young was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

"(a) Kenneth R. Young, Sumter, SC: May 1985-June 1986, General Practice;

(b) Young & Young, P.A., Sumter, SC: June 1986-December 1990, General Practice;

(c) Young, Young & Reiter, P.A., Sumter, SC: Jan 1991-Dec 1997, General Practice;

(d) W. Jeffrey Young, P.A., Sumter SC: January 1998-June 2004, General Practice;

(e) Young & Graham, P.A., Sumter, SC: January 2004-June 2004, General Practice;

(f) Family Court Judge, Third Judicial Circuit: July 2004-Present."

Judge Young further reported:

"While in private practice I handled numerous criminal and civil matters at the circuit court level. Many of the cases in General Sessions court related to drug offenses, DUIs, and white collars crimes such as embezzlement. I also handled several felonies such as Criminal Sexual Conduct and Armed/ Strong-armed robbery. In the Court of Common Pleas I was primarily a plaintiff's attorney but occasionally defended when hired to do so. If I am deficient in areas of experience I will study as necessary to be proficient as I am in Family Court matters. I also believe my skills as a judge give me confidence and knowledge in running a courtroom in a solemn and judicial atmosphere."

Judge Young reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: 1%;
(b) State: 99%;
(c) Other: N/A."

Judge Young reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 20%;
(b) Criminal: 10%;
(c) Domestic: 70% "

Judge Young reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 10%;
(b) Non-jury: 90%."

Judge Young provided that he most often served as sole counsel.

The following is Judge Young's account of his five most significant litigated matters:

"(a) Hemming (v) Hemming, 1998-DR-43-1630

This case involved virtually all aspects of divorce litigation. The issues concerned divorce, highly contested custody, psychological experts, equitable division and attorney fees. This case was tried over a 3 day period. Subsequent contempt actions were also required for enforcement of the Order issued by the Court.

(b) Tiffault (v) Tiffault, 1987-DR-43-1630

This case concerned separation, equitable distribution and support. This case is the landmark case of equitable division of military retirement in South Carolina.

(c) Telford (v) Schwab, et al., 2001-DR-43-2020

This case involved a surrogate mother's pregnancy that involved the implantation of the Plaintiff's (biological parents) zygote into the surrogate mother. This was the first case in South Carolina where an original birth certificate was issued, to the biological parents, without the birth mother's name being shown on the birth certificate;

(d) Godfrey (v) Green, 2000-DR-43-250

This was significant because it involved custody, visitation, support and out-of-state moving by the mother during the litigation. The parents of the child were never married, which added a variant to the situation.

(e) Ursula Draper (v) Draper, 1998-DR-43-2375

This was significant because it involved the issue of grandparent visitation, while the father of the child was away on military duty."

The following is Judge Young's account of the civil appeals he has personally handled:

"(a) Tiffault v Tiffault, 303 S.C. 391, 401 S.E. 2d 157 (1991)

This is the landmark case on equitable division of military retirement. Although my client prevailed at the trial, the case was reversed by the Court of Appeals. The Supreme Court granted cert. and the case was affirmed.

(b) Clyburn v Sumter School District #17, 317 S.C. 50 (1993)

The issue in this case was whether or not the school district had committed gross negligence concerning the injury of a student in its care. At trial the court granted summary judgment on the issue of liability. The case was appealed to the Court of Appeals and the circuit court was affirmed."

Judge Young reported that he has not personally handled any criminal appeals.

Judge Young reported that he has held the following judicial office:

"Family Court Judge, 3rd Judicial Circuit, Seat 2
July 1, 2004 – Present."

Judge Young provided the following list of his most significant orders or opinions:

"(a) Jozwiak v Carberry, 2005-DR-43-1156, Sumter County

This was a highly contested change of custody matter with parents in different states.

(b) Richardson v. Sires, 2006-DR-10-334, Charleston County

This highly contested grandparent / parent custody matter that was tried over a nine month period involving numerous mental health and fitness questions.

(c) Hetzel v Hetzel, 2004-DR-40-1773, Richland County

This was a divorce and equitable division case where the parties had been separated for 18 years and the bulk of the assets were acquired during the separation.

(d) DSS v Wolfinger, 2004-DR-43-856, 2007-OR-031, Sumter County

This was a Termination of Parental Rights case where DSS had not done all they could do, but the child had been in DSS foster care for over 4 years. This case was appealed to the Court of Appeals and I was affirmed in Opinion.

(e) Mr. T v Mrs. T, Ct of Appeals Op. 4369

This was a case that was appealed and I was reversed. The issue was whether the paternity of children could be reversed five years after the paternity had been established in an un-appealed order. I did not feel that I had the authority to bastardize the children and that only either the appellate courts or the legislature could change what I thought was the settled law of South Carolina."

Judge Young reported the following regarding his employment while serving as a judge:

"USAF Reserves, Shaw AFB, SC Contracting Officer, 1990-2007

Supervisor was Lt Col Dan Jenkins. I was utilized as a special projects officer and was dispatched to numerous bases in the Middle East to present briefings, conduct Commander Directed Investigations, and conduct staff assistance visits to the contracting squadrons under Ninth Air Force command. I traveled extensively throughout Iraq on four different missions since the execution of Operation Iraqi Freedom."

Judge Young further reported the following regarding unsuccessful candidacies:

"In 1998 I was not re-elected to the House of Representatives; however, in 2000 I was re-elected to represent House District #67. In 2002, I resigned as a result of the Federal Court redrawing of the district lines which placed my statehouse desk mate and I in the same district."

(9) Judicial Temperament:

The Commission believes that Judge Young's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found "Judge Young to be a well-regarded candidate who would ably serve on the Circuit Court bench."

Judge Young is married to Sharon Steele Young. He has four children.

Judge Young reported that he was a member of the following bar associations and professional associations:

"(a) Sumter County Bar Association;
(b) South Carolina Bar Association."

Judge Young provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Sumter Sunrise Rotary Club - Honorary Member;
(b) Sumter Sertoma Club, Past President – Resigned;
(c) Sumter Citadel Club, Past President;
(d) Air Force Association;
(e) Camellia Ball Dance Club, Past President;
(f) American Legion Post #15;
(g) First Presbyterian Church - Sumter, Clerk of Session;
(h) Sunset Country Club;
(i) Riverside Hunt Club."

(11) Commission Members' Comments:

The Commission commented that Judge Young has an outstanding reputation as a Family Court Judge. They noted he is known for his common sense and his good temperament which would serve him well on the Circuit Court.

(12) Conclusion:

The Commission found Judge Young qualified and nominated him for election to the Circuit Court.

Rupert Markley Dennis, Jr.
Circuit Court, At-Large, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Dennis since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Dennis meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Dennis was born in 1947. He is 61 years old and a resident of Charleston, South Carolina. Judge Dennis provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1973.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Dennis.

Judge Dennis demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Dennis reported that he has not made any campaign expenditures.

Judge Dennis testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Dennis testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Dennis to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Dennis described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Annual Civil Law Update	1/25/08;
(b) Annual Criminal Law Update	1/25/08;
(c) 2007 Judicial Conf.	8/22/07;
(d) Nuts & Bolts on Sexually	7/27/07;
(e) Orientation School for Judges	7/11/07;
(f) Judges Conference	5/16/07;
(g) Annual Criminal & Civil Law	1/26/07;
(h) 2006 Judicial Conf	8/23/06;
(i) 2006 Orientation for New Judges	7/10/06;

(j) Annual Criminal & Civil Law 1/27/06;
(k) Annual Civil Law Update 1/27/06;
(l) 2005 Judicial Conf. 8/25/05;
(m) Orientation School for Judges 7/11/05;
(n) Circuit Court Judges School 5/12/05;
(o) Annual Criminal & Civil Law 1/21/05;
(p) Judicial Conference 8/04;
(q) Judges Conference 5/04;
(r) Criminal & Civil Law Update 1/04."

Judge Dennis reported that he has taught the following law-related courses:

"(a) For the last five (5) years, I have taught the Civil Law portion of the South Carolina New Judges School;

(b) I also spoke on the 'Inherent Powers of the Court';

(c) In 2008, I spoke to the SC Bar Young Lawyers concerning 'Observations from the Bench.'"

Judge Dennis reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Dennis did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Dennis did not indicate any evidence of a troubled financial status. Judge Dennis has handled his financial affairs responsibly.

The Commission also noted that Judge Dennis was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Dennis reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Dennis appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Dennis appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Dennis was admitted to the South Carolina Bar in 1973.

He gave the following account of his legal experience since graduation from law school:

"Upon graduation from law school in 1973 and admission to the Bar, in November 1973, I practiced law in Moncks Corner, South Carolina. My practice was of a general nature dealing primarily in litigation in family court, civil court, criminal court, probate court, and some administrative agencies, primarily Workers' Compensation. I represented the Berkeley County School District for seven years and was retained counsel for it. My representation resulted in my having to handle various legal matters, including issues involving school law and employment law. I handled several matters in the Court of Appeals in this State and was associate counsel in a matter heard by the SC Supreme Court. During my practice in Moncks Corner, I also had occasions to handle several matters in the Federal Court, including an association in case which resulted in an appeal to the Fourth Circuit Court Court of Appeals. In addition to litigation, I have been involved in real estate work, ranging from suits to remove clouds on title, to simple loan closings. My practice also involved occasions for minor estate planning as well as some corporate work."

Judge Dennis reported that he has held the following judicial office:

"I was elected Circuit Court Judge, At-Large, Seat #2, in February 1994 to fill the unexpired term of The Honorable William T. Howell, and have been serving continuously since that date."

Judge Dennis provided the following list of his most significant orders or opinions:

"(a) State v. Sapp, 366 S.C. 283, 621 S.E. 2d 883 (2005).

This is a Death Penalty Case tried by me in Berkeley County;

(b) Hospitality Management Associates, Inc. vs. Shell Oil Co., 356 S.C. 644, 591 S.E. 2d 611 (2004). This is an Appeal from an Order granting Summary Judgment, giving full faith and credit to Orders recognizing and affirming a National Class Action settlement;

(c) Jamison vs. Ford Motor Co., 373 S.C. 248, 644 S.E.2d 755 (S.C. App. 2007). This is an Appeal taken from a Product Liability case involving allegations of a safety defective restraint system in a Ford automobile;

(d) Plyler v. Burns, 373 S.C. 637, 647 S.E.2d 188 (2007). This case involves an Appeal taken from a Summary Judgment granting defendants Motion to Dismiss based on judicial immunity;

(e) Wilson vs. Style Crest Products, Inc., 367 S.C. 653, 627 S.E.2d 733 (2006). This case involves an Appeal from Order granting Motion dismissing claims brought against manufacturer for a soil anchor tie down system.

(9) Judicial Temperament:

The Commission believes that Judge Dennis' temperament has been and will continue to be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee found the following regarding Judge Dennis: "Constitutional qualifications: Judge Dennis meets the constitutional qualifications for the judicial position he seeks. Ethical fitness: Persons interviewed by the committee indicated that Judge Dennis is considered ethical. Professional and Academic Ability: The committee gave Judge Dennis a good rating in this area. Character: The committee reported that Judge Dennis's character is unquestionable. Reputation: Judge Dennis enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Judge Dennis is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Judge Dennis's good legal experience in the civil arena. Judicial Temperament: The committee gave Judge Dennis a good rating in this category."

Judge Dennis is married to Janis Sherrill Gailbreaith. He has three children.

Judge Dennis reported that he was a member of the following bar associations and professional associations:

"(a) American Bar Association;
(b) South Carolina Bar Association;
(c) South Carolina Circuit Judges Association
  (i) Circuit Judges Advisory Committee
  (ii) Judicial Council of the State of South Carolina."

Judge Dennis provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) USC Gamecock Club;
(b) The Hibernian Society."

(11) Commission Members' Comments:

The Commission commented that Judge Dennis is considered by many to be an excellent Circuit Court judge where he has ably served for 14 years.

(12) Conclusion:

The Commission found Judge Dennis qualified and nominated him for re-election to the Circuit Court.

Clifton Newman
Circuit Court, At-Large, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Newman meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Newman was born in 1951. He is 57 years old and a resident of Kingstree, South Carolina. Judge Newman provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981. Judge Newman was admitted to the Ohio Bar in 1976.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Newman.

Judge Newman demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Newman reported that he has not made any campaign expenditures.

Judge Newman testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Newman testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Newman to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

A complaint was filed against Judge Newman by Mr. Marion L. Driggers. Mr. Driggers had a sublease of real property that ultimately was held invalid. During the pendency of Mr. Driggers' litigation, a temporary restraining order was filed against him. The temporary restraining order was later extended as a consent order. Mr. Driggers complained that Judge Newman inaccurately interpreted the consent order and forced him to testify against himself after he asserted his Fifth Amendment right at a hearing to determine whether the consent order had been violated. Mr. Driggers, representing himself pro se, had questioned other witnesses concerning whether his actions had violated the consent order and had expressed the opinion that they had not. When Mr. Driggers was placed under oath to testify, Judge Newman required that he answer questions concerning his conduct. No criminal penalty attached to this testimony. After hearing the testimony of Mr. Driggers and Judge Newman at the Public Hearing, as well as reviewing the documents accompanying Mr. Drigger's affidavit, the Commission found the complaint filed against Judge Newman to be meritless.

Judge Newman described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name		Date(s)
(a)	General Jurisdiction	07/14/03;
(b)	Science for Judges	03/26-27/04;
(c)	Creating an Active Learning Environment	09/13-16/04;
(d)	Economic Institutes for Judges	02/00/04;
(e)	Critical Issues in Toxic Torts Litigation	04/28-29/05;
(f)	Planning and Presenting Effective Presentations	01/10-13/05;
(g)	Critical Issues in Construction Defects Litigation	01/27-28/05;

(h) Economic Institutes for Judges 10/4-8/04;
(i) Critical Issues in Construction Defects Litigation 03/30-31/04;
(j) Handling Capitol Cases 06/10-15/06;
(k) Insurance and Risk Allocation in America 09/20-22/06;
(l) Critical Issues in Construction Defects Litigation 03/7-9/07;
(m) Scientific Evidence in the Courts 06/20-24/07;
(n) Critical Issues in Construction Defects Litigation 03/2-4/08;
(o) Mentoring the Future of the Profession 03/27-28/08;
(p) Emerging Issues in Neuroscience 05/6-7/08."

Judge Newman reported that he has taught the following law-related courses:

"(a) Association of Trial Lawyers of America, Boston, Mass. -July 1996
Presentation on the prosecution of DUI cases;
(b) South Carolina Solicitor's Conference – October 2000
Presentation and panel discussion regarding developments in the law of search and seizure;
(c) South Carolina New Judges School – 2002, 2003, 2004, 2006, 2007, 2008;
Presentation to new judges on criminal law;
(d) Chief Administrative Judge Seminar – 2004
Presentation on *Ex Parte* communications;
(e) ABA Superior Direct and Cross Examination- April 4, 2008
Presentation on direct and cross examination;
(f) National Business Institute Seminar – September 19, 2008
Presentation on what civil court judges want you to know;
(g) Richardson Plowden Monthly Attorney Luncheon – September 24, 2008
Presentation on construction defects litigation."

Judge Newman reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Newman did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Newman did not indicate any evidence of a troubled financial status. Judge Newman has handled his financial affairs responsibly.

The Commission also noted that Judge Newman was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Newman did not report his last available Martindale-Hubbell rating.

(6) Physical Health:

Judge Newman appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Newman appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Newman was admitted to the South Carolina Bar in 1981.

He gave the following account of his legal experience since graduation from law school:

"(a) 1976-1977
Associate Attorney
Law Office of Elliott Ray Kelley
Cleveland, Ohio
(General law practice concentrating on the representation of plaintiffs in civil matters and defendants in criminal matters);

(b) 1977-1982
Partner
Belcher and Newman
Cleveland, Ohio
(General law practice; civil and criminal);

(c) 1982-1994
Law Office of Clifton Newman
Kingstree and Columbia, South Carolina
(General law practice; civil and real estate);

(d) 1994-2000

Managing Attorney
Newman and Sabb, P.A.
Kingstree, Lake City and Columbia, South Carolina
(General law practice; civil and real estate);

(e) 1983-2000
Assistant Solicitor
Third Judicial Circuit
(Criminal Prosecution);

(f) 2000-Present
Circuit Court At-Large Seat 3."

Judge Newman reported that he has held the following judicial office:

"Circuit Court At-Large Seat 3. Elected June 2000-Present."

Judge Newman provided the following list of his most significant orders or opinions:

"(a) State v. Gary James Long, Jr.,
Review by Supreme Court Opinion No. 25955;

(b) Rudolph Barnes, as Personal Representative of the Estate of Doris Ann Barnes v. Cohen Dry Wall, et al.,
Review by Supreme Court Opinion No. 26036;

(c) Franklin Lucas v. Rawl Family Limited Partnership et al.,
Review by Supreme Court Opinion No. 25817;

(d) The Beach Company v. Twillman, Ltd., d/b/a The Washington Pen Company,
Review by Court of Appeals Opinion No. 3532;

(e) State v. Mikal Deen Mahdi
Death Penalty Order
Automatic Review by Supreme Court."

(9) Judicial Temperament:

The Commission believes that Judge Newman's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found "Judge Newman to be a highly regarded candidate who would ably serve on the Circuit Court bench."

Judge Newman is married to Patricia Lynette Blanton Newman. He has four children.

Judge Newman reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) Ohio Bar Association (inactive);
(c) John Belton O'Neal Inns of Court;
(d) American College of Business Court Judges"

Judge Newman provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) I. DeQuincey Newman United Methodist Church, Member, Board of Trustees and Administrative Council;
(b) Kappa Alpha Psi Fraternity."

(11) Commission Members' Comments:

The Commission commented that Judge Newman has an excellent demeanor and he has ably served on the Circuit Court bench for eight years. They noted that he exhibits a good, level-headed disposition and fine work ethic.

(12) Conclusion:

The Commission found Judge Newman qualified and nominated him for re-election to the Circuit Court.

Edward W. Miller
Circuit Court, At-Large, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Miller since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Miller meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Miller was born in 1952. He is 56 years old and a resident of Greenville, South Carolina. Judge Miller provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Miller.

Judge Miller demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Miller reported that he has not made any campaign expenditures.

Judge Miller testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Miller testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Miller to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Miller described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Orientation School for New Judges	7/8/02;
(b) SC Trial Lawyers Convention	8/1/02;
(c) Judicial Conference	8/22/02;
(d) Circuit Judge's Conference	5/7/03;
(e) Judicial Conference	8/21/03;
(f) Criminal Law Update	1/23/04;
(g) Civil Law Update	1/23/04;
(h) Circuit Judge's Conference	5/5/04;
(i) Judicial Conference	8/19/04;
(j) Judicial Oath of Office	8/19/04;
(k) Seminar for Chief Judges	12/10/04;
(l) Criminal & Civil Law Update	1/21/05;
(m) Circuit Judge's Conference	5/11/05;
(n) Judicial Conference	8/24/05;
(o) Criminal & Civil Law Update	1/27/06;
(p) Circuit Judge's Conference	5/10/06;
(q) Judicial Conference	8/23/06;
(r) Criminal & Civil Law Update	1/26/07;

(s) Circuit Judge's Conference 5/07;
(t) Judicial Conference 8/22/07."

Judge Miller reported that he has taught the following law-related courses:

"(a) I have participated on an Ethics Course panel at the 2005 Public Defender Conference;

(b) I have participated on a Panel Discussion concerning the Business Court Pilot Program at the SC Defense Trial Lawyers Conference in July of 2008;

(c) I participated in the September of 2008 at an Ethics Course panel at the 2008 Public defender Conference."

Judge Miller reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Miller did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Miller did not indicate any evidence of a troubled financial status. Judge Miller has handled his financial affairs responsibly.

The Commission also noted that Judge Miller was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Miller reported that his last available Martindale-Hubbell rating was AV.

(6) Physical Health:

Judge Miller appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Miller appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Miller was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

"(a) November, 1978 - April, 1980 Southern Bank & Trust Company
Federal Regulations Compliance Officer;

(b) April, 1980 - June, 1981 Assistant Public Defender for Greenville County;

(c) June 1981 - June, 1982, Sole Practitioner - General Practice;

(d) June, 1982 - July, 2000, Miller & Paschal, General Practice

Concentration in Civil & Criminal Litigation;

(e) July 2000 - August 2002, Sole Practitioner - General Practice"

Judge Miller reported that he has held the following judicial office:

"Circuit Court At-Large, Seat No. 4 since August 29, 2002."

Judge Miller provided the following list of his most significant orders or opinions:

"(a) State v. Evins, 373 S.C. 404, 645 S.E. 2d 904 (2007). This was a death penalty case in Spartanburg County of significant local notoriety. The Defendant was convicted by a jury of murder, criminal sexual conduct in the first degree, and grand larceny. The Defendant was sentenced to death. The case involved issues related to pretrial publicity, juror disqualification, and judicial discretion with respect to admission of evidence;

(b) Watson, et. al. v. Ford Motor Company, et. al. This was a significant products liability case involving severe injuries to the plaintiffs. The case was designated as complex litigation and involved numerous complicated evidentiary issues. The trial lasted for three weeks and included testimony from numerous experts. The Plaintiffs obtained a large verdict against one of the Defendants. It was broadcast in its' entirety on a live webcast by Court TV. It is currently on appeal;

(c) Mitchell, et. al. v. City of Greenville. This was a governmental takings case of significant local import. The city government condemned three downtown residences which were located in the center of a major redevelopment in the heart of Greenville's West End, immediately adjacent to the Reedy River. The case aroused intense interest pitting personal property rights advocates against community benefit advocates. The plaintiffs obtained a large verdict. The case was settled after the appeal was filed;

(d) Koutsogiannis v. BB&T, 365 S.C. 145, 616 S.E.2d 425 (2005). This case involved counterclaims

against a bank filed in response to a collection action initiated by the bank against the plaintiff. The trial on the counterclaims was conducted after the case was remanded by the South Carolina Court of Appeals for failure of the original trial court to allow the plaintiff to argue the merits of the counterclaims. Plaintiff was awarded a verdict on a gross negligence claim, which the Supreme Court affirmed. Issues involved in the case included jury instructions and attorney-client/agent-principal relationships and liability there under;

(e) State v. Inman. This is a capital case involving the murder and sexual assault of a Clemson University student by a previously convicted sex offender who had been released from a foreign state on parole. This case was reported by the national media and was followed intensely by the local area media. The Defendant tendered a guilty plea to all charges: murder, criminal sexual conduct in the first degree, armed robbery and kidnapping. Over the Defendant's constitutional objections, the sentencing phase is being conducted without a jury. The sentencing proceeding has been suspended, after four days of testimony, because a defense witness alleges that she has been intimidated by comments made by the Solicitor to the Court, in her voir dire, relating to criminal sanctions for social workers, unlicensed in South Carolina, testifying as an expert witness. This case will resume when the defense has had an opportunity to either rehabilitate this witness or find a replacement."

Judge Miller further reported the following regarding unsuccessful candidacies:

"(a) Circuit Court, Thirteenth Circuit: February, 2000;

(b) Circuit Court At-Large, Seat No. 3: May, 2000."

(9) Judicial Temperament:

The Commission believes that Judge Miller's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found that Judge Miller "meets and exceeds the qualifications as set forth in the evaluative criteria. He is a most competent and excellent jurist."

Judge Miller is married to Martha Walker Albrecht Miller. He has two children.

Judge Miller reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) Greenville County Bar Association (1993 Board of Directors);

(c) South Carolina Association of Criminal Defense Lawyers;

(d) National Association of Criminal Defense Lawyers;

(e) South Carolina Trial Lawyers;

(f) Greenville County Criminal Defense Lawyers Association."

(11) Commission Members' Comments:

The Commission commented on Judge Miller's outstanding reputation as an intelligent and fair jurist. They noted his excellent work ethic and experience in criminal law, which have served him well for six years on the Circuit Court.

(12) Conclusion:

The Commission found Judge Miller qualified and nominated him for re-election to the Circuit Court.

Honorable J. Mark Hayes II
Circuit Court, At-Large, Seat 5

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Hayes since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Hayes meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Hayes was born in 1958. He is 50 years old and a resident of Spartanburg, South Carolina. Judge Hayes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1984.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Hayes.

Judge Hayes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hayes reported that he has not made any campaign expenditures.

Judge Hayes testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Hayes testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hayes to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Hayes described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) 6th Annual Civil Law Update	1/25/08;
(b) 23rd Criminal Law Update	1/25/08;
(c) 2007 Annual Judicial Conference	8/22/07;
(d) 2007 Circuit Judges Conference	5/16/07;
(e) Fifth Annual Civil Law Update	1/26/07;
(f) 22nd Annual Criminal Law Update	1/26/07;
(g) 2006 Annual Judicial Conference	8/23/06;
(h) 20th SC Circuit Judges' Conference	5/10/06;
(i) 21st Annual Criminal Law Update	1/27/06;
(j) 4th Annual Civil Law Update	1/27/06;
(k) 2005 Annual Judicial Conference	8/24/05;
(l) 2005 SC Circuit Judges Conference	5/11-13/05;
(m) 20th Annual Criminal Law Update	1/21/05;
(n) Seminar for Chief Judges	12/10/04;
(o) General Jurisdiction	10/11/04;
(p) Judicial Oath of Office	8/19/04;
(q) Judicial Conference	8/19/04;

(r) 2004 SC Circuit Judge's Conference 5/5/04;
(s) 2nd Annual Civil Law Update 1/23/04;
(t) 19th Annual Criminal Law Update 1/23/04;
(u) Judicial Conference 8/21/03;
(v) 2003 SCTLA Annual Convention 8/7/03;
(w) 2003 Orientation for Judges 7/7/03;
(x) 2003 SC Circuit Judges' Conference 5/7/03;
(y) Tips from the Bench III 12/13/02;
(z) Auto Torts XXV 12/6-7/02."

Judge Hayes reported that he has taught the following law-related courses:

"(a) March 2008: Spartanburg Methodist College, School Law presenter;

(b) November 2007: University of South Carolina Upstate, Criminal Justice Class presenter;

(c) September 2007: Host and presenter for the Wofford College Judicial Symposium on The Constitution: The Third Branch of Government, an Insider's View. Individual Topic: The Judiciary and the Media;

(d) 2006: S.C. Budget and Control Board/Insurance Reserve Fund Law Enforcement Defense Counsel Seminar. Topic: S.C. Lawyer Disciplinary Process/Ethics;

(e) 2005: S.C. Budget and Control Board/Insurance Reserve Fund Law Enforcement Defense Counsel Seminar. Topic: Legislative Update; Med/mal reform legislation;

(f) 2004: Solicitors' Annual Conference, panel discussion on recent judicial decisions;

(g) 2003: S.C. Worker's Compensation Claimant's fall meeting, legal update and panel discussion;

(h) 1999: Instructor through the Lorman Institute on the educational issue of "Hot Topics in South Carolina School Law", focusing on search and seizure issue in schools and drug testing."

Judge Hayes reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Hayes did not reveal evidence of any founded grievances or criminal allegations made

against him. The Commission's investigation of Judge Hayes did not indicate any evidence of a troubled financial status. Judge Hayes has handled his financial affairs responsibly.

The Commission also noted that Judge Hayes was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hayes reported that his last available Martindale-Hubbell rating was AV.

Judge Hayes reported that he has held the following public office:

> "(a) Commission Member - Spartanburg Memorial Auditorium.
>
> Appointed approx. 1994;
>
> (b) Chairman - Spartanburg Memorial Auditorium Commission. 2000-2003. Appointed by Spartanburg County Council."

(6) Physical Health:

Judge Hayes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Hayes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Hayes was admitted to the South Carolina Bar in 1984.

He gave the following account of his legal experience since graduation from law school:

> "(a) August 1984 to July 1985: judicial clerk to the Hon. E.C. Burnett III, then Circuit Court Judge for the Seventh Judicial Circuit of the State of South Carolina;
>
> (b) August 1985 to December 1990: associate with the general practice firm of Burts, Turner, Hammett, Harrison, and Rhodes; after eighteen months, full partner. Duties included general trial work in both civil and criminal matters. Shortly after becoming associated with the firm, specialty area became education-related law;
>
> (c) January 1, 1991: partner in the firm of Harrison and Hayes. The character of my practice became more

focused on education law, appellate practice, and complex civil litigation;

(d) In January 2000, the law firm of Harrison, White, Smith, Hayes & Coggins was formed. Partner until May 2003. My primary focus in the practice was complex civil litigation, complex insurance coverage cases, appellate practice, education law, and assistance with complex criminal litigation;

(e) 1991-2003: performed appellate work arguing numerous times in South Carolina Supreme Court and Court of Appeals;

(f) 2003-present: State of South Carolina Circuit Court Judge, At-Large Seat #5."

Judge Hayes reported that he has held the following judicial office:

"Elected by the South Carolina General Assembly on April 9, 2003 to fill unexpired term of Gary Clary as South Carolina Circuit Judge At-Large Seat #5. Oath administered on May 22, 2003. State-wide jurisdiction over criminal, civil jury, and civil non-jury matters."

Judge Hayes provided the following list of his most significant orders or opinions:

"(a) S.C. Electric & Gas Co. v. Aiken Electric Cooperative, Inc. and the S.C. Public Service Commission

This case involved a review of a decision of the PSC to allow an electrical cooperative the right to provide electricity to a newly constructed school even though only part of the property upon which the school facility was located was within the cooperative's geographic area. Legally, this case required an examination of the role of the PSC in deciding statutory construction and the circuit court's proper role in reviewing a decision made by the PSC. The case was affirmed by the Court of Appeals in an unpublished opinion, S.C. Jud. Dept. – Opinion Number 2005-OP-292; a copy is attached.

(b) McSherry v. Spartanburg County Council

This case involved the Court reviewing a politically charged issue of a $25.00 road maintenance fee adopted by a county council. Legally, the case dealt

with a review of the County's procedure used in adopting the fee and the County's compliance with provisions of the Home Rule Act. Even though the Court and the Supreme Court's affirmation were expressly or implicitly critical of the method used by the County at its first reading, the adoption of the fee was upheld as legally sufficient. Interesting note as referenced in the Supreme Court's opinion, the County has since changed its implementation procedures. The Supreme Court's affirmation was issued on February 5, 2007 and can be found in Westlaw at McSherry v. Spartanburg County Council, S.E.2d, 2007 WL415677.

(c) Cracker Barrel Old Country Store, Inc. v. J.C. Faw, Denny's, Inc., 2005-CP-42-604

The 17-page order issued in this case came after a non-jury hearing that involved the interpretation and application of deed restrictions to a commercial area developed by the plaintiff in 1992. The defendant sought to use the property to establish a competing business in violation of the plaintiff's deed restrictions. Even though titled as a Summary Judgment Order, the case was factually intensive and the attorneys conducted a full trial on the issues. The order, therefore, reflects both a factual and legal analysis. In an unpublished opinion, No. 2007-UP-053, the Court of Appeals affirmed the order on February 7, 2007.

(d) Smith v. NCCI, Inc. and Liberty Insurance Corp.

This case involved a complex fact pattern where a white-collar employee sought Worker's Compensation benefits for both a back injury and a mental injury due to an injury back accident that occurred doing his job as an auditor for an organization related to the Worker's Compensation industry. Legally, the case required the application of the substantial evidence standard of review and application of S.C. Administrative Procedures Act to the decision made by the full Commission. The significance of the case, outside of the usual fact scenario for a Worker's Compensation case, lies with the mental injury claim. The case presented an extraordinary opportunity to revisit the law as it relates to recovery of benefits for mental injuries and the factual

burden which must be met by the person claiming these types of injuries. The Court of Appeals affirmed the order in its opinion located at Smith v. NCCI, Inc., 369 S.C. 236, 631 S.E.2d 268 (S.C. App. 2006).

(e) Turner v. City of Spartanburg, William Barnett, III, et al

This matter was designated as complex and specially assigned to me. The factual allegations of the case stem from a development project partly undertaken by the City of Spartanburg and private developers. When certain payments to the general contractor failed to be paid, a lis pendens was filed against the City and others for payment. My order dated June 19, 2006 (attached) supplemented my order of February 10, 2005 (also attached). These two orders dismissed, initially, various individual defendants and, subsequently, the City of Spartanburg. The plaintiff had attempted to assert private cause of action against the City based upon S.C. Code section 29-6-250 which pertains to governments' construction projects and bonding requirements."

Judge Hayes further reported the following regarding unsuccessful candidacies:

"In the spring of 2007, I was a candidate for the Supreme Court but was not screened out of committee. In the fall of 2007, I was qualified and nominated by the Screening Committee for Court of Appeals Seat #6 but was not elected. In the spring of 2008, I was qualified and nominated by the Screening Committee for Court of Appeals Seat #9 but was not elected."

(9) Judicial Temperament:

The Commission believes that Judge Hayes' temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found "Judge Hayes to be a most competent and excellent jurist. The Committee noted that his qualifications greatly exceed the expectations set forth in the evaluative criteria."

Judge Hayes is not married. He does not have any children.

Judge Hayes reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) American Bar Association;

(c) State Trial Judges Division of the American Bar Association; Vice-Chair, Committee on Judicial Independence."

Judge Hayes provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Spartanburg Memorial Auditorium.
Chairman, Board of Commissioners;

(b) Commission on Lawyer Conduct (Grievance Board);

(c) Supreme Court Commission on Continuing Legal Education and Specialization."

(11) Commission Members' Comments:

The Commission commented that Judge Hayes has an outstanding reputation as a jurist. They noted on his great intellect, which has ably served him in discharging his responsibilities for the past five years on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Hayes qualified and nominated him for re-election to the Circuit Court.

Daniel Francis Blanchard III
Circuit Court, At-Large, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Blanchard meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Blanchard was born in 1967. He is 41 years old and a resident of Charleston, South Carolina. Mr. Blanchard provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Blanchard.

Mr. Blanchard demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Blanchard reported that he has no campaign expenditures other than postage for the application.

Mr. Blanchard testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Blanchard testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Blanchard to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Blanchard described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name		Date(s)
(a)	Ethics Seminar with Chief Justice Toal at Joe Riley Stadium	07/10/08;
(b)	Trucking Litigation & DOT Regulations	04/10/08;
(c)	S.C. Trial Lawyers Annual Convention	08/02/07;
(d)	Ethics Seminar with Chief Justice Toal at Joe Riley Stadium	07/12/07;
(e)	NC/SC Labor & Employment Law	10/27/06;
(f)	S.C. Trial Lawyers Annual Convention	08/03/06;
(g)	Video Replay of Ethics 2001	02/17/05;
(h)	The Unforgiving Minute—Ethics	12/10/05;
(i)	Family Court Bench/Bar Update	12/02/05;
(j)	This is the Year That Was—Ethics	01/05/05;
(k)	Attorney Federal Court Electronic Filing Training	03/23/05;
(l)	New Lawyers Oath CLE	08/02/04;
(m)	MCLE Night at The Joe	08/02/04;
(n)	Helping Lawyers Stay in the Game—Ethics	05/25/03;
(o)	Employment Discrimination	05/08/03;
(p)	The Faragher-Elerth Affirmative Defense in Employment Cases	05/15/03;
(q)	Third Annual Practical Legal Ethics	12/11/02;
(r)	Ethics Luncheon—Judge Patrick Duffy	12/04/02;

(s) Appellate Practice in S.C. 10/11/02;
(t) Employment Law Update 09/12/02."

Mr. Blanchard reported that he has taught the following law-related courses:

"(a) Lectured on the topic of "medical malpractice" as part of National Association of Legal Secretaries (NALS) Advanced Legal Training Course (Oct. 1997);

(b) Lectured on the topic of "workplace violence" as part of Council on Education in Management Personnel Law Update 1999 Seminar (Feb. 1999);

(c) Spoke on the topic of "lemon law/consumer warranties" as part of Charleston Association of Legal Assistants (CALA) Legal Training (Mar. 1999);

(d) Spoke on the topic of "advanced legal writing" as part of Institute for Paralegal Education (IPE) Seminar (Dec. 2000);

(e) Spoke on legal aspects applicable to apartment managers as part of a seminar sponsored by the National Apartment Association Education Institute (NAAEI) (Dec. 2006)."

Mr. Blanchard reported that he has published the following:

"(a) Co-authored chapter with Richard S. Rosen entitled '<u>Interference with Contractual and Business Relations</u>' published by S.C. Bar Association's Continuing Legal Education Division as part of treatise on South Carolina Damages (2004);

(b) Authored article entitled '<u>The Faragher-Ellerth Affirmative Defense as Implied Waiver of Privileges: Is the Defense a Shield or Double-Edged Sword?</u>' 14 S.C. LAW. 38 (May 2003);

(c) Authored article entitled "<u>South Carolina Evidence Rule 703: A Backdoor Exception to the Hearsay Rule?</u>" 13 S.C. LAW. 14 (May/June 2002);

(d) Authored article entitled "<u>Supervisor Liability for Sexual Harassment Under Title VII in the Fourth Circuit: Continued Uncertainty After Lissau v. Southern Food Service, Inc.</u>," 13 S.C. LAW. 36 (Nov./Dec. 2001);

(e) Co-authored article with Susan C. Rosen entitled "<u>Controlling Person Liability for Motor Vehicle Dealer Violations of the South Carolina Motor Vehicle Unfair</u>

Trade Practices Act: A Proposal for Reform," 47 S.C. L. REV. 349 (1996);

(f) Co-authored seminar materials with Susan C. Rosen entitled "South Carolina Automobile Dealers Law," published by the S.C. Bar Association's Continuing Legal Education Division (1994)."

(4) Character:

The Commission's investigation of Mr. Blanchard did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Blanchard did not indicate any evidence of a troubled financial status. Mr. Blanchard has handled his financial affairs responsibly.

The Commission also noted that Mr. Blanchard was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Blanchard reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Blanchard appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Blanchard appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Blanchard was admitted to the South Carolina Bar in 1992.

He gave the following account of his legal experience since graduation from law school:

"Rosen, Rosen & Hagood, LLC (formerly known as Rosen, Rosen & Hagood, P.A. and Rosen, Goodstein & Hagood, LLC)134 Meeting Street, Suite 200 Charleston, South Carolina 29401

Law Clerk: May 1991-August 1991;

Associate: Aug. 1992-Dec. 1999;

Non-Equity Member/Shareholder: Jan. 2000-December 2007;

Equity Member/Shareholder: Jan. 2008-present)."

Mr. Blanchard further reported:

"Since 1992, I have had the privilege of working for and with some of the most talented trial attorneys our State has to offer and for a law firm that holds its attorneys to the highest standards of performance, conduct, and character. I have been actively involved in civil litigation and trial work for the past 16 years involving a diverse range of cases with primary emphasis in employment, civil rights, personal injury, consumer law, governmental, commercial litigation, and business litigation cases. I have experience handling cases from both the plaintiff and defense perspectives. The clients in these cases have included personal injury victims, malpractice victims, victims of discrimination and civil rights violations, employees, employers, consumers, automobile dealerships, partnerships, businesses, small business owners, investors, professionals, trucking firms, schools, school districts, governmental entities, landowners, homeowners, and real estate developers.

I have practiced before many county magistrate's courts, municipal courts, county Circuit Courts, the South Carolina Court of Appeals, the South Carolina Supreme Court, the Federal District Court for the District of South Carolina, the Fourth Circuit Court of Appeals, and numerous administrative agencies (including the Equal Employment Opportunity Commission, the S.C. Human Affairs Commission, the S.C. Employment Security Commission, and the S.C. Department of Labor, Licensing & Regulation). I have also participated in numerous alternative dispute resolution matters including mediations and arbitration hearings.

During the first half of my experience as an attorney, my case load primarily involved employment, personal injury, professional malpractice, governmental, education, and consumer cases. These cases included civil litigation arising from motor vehicle accidents, slip and fall accidents, products liability, wrongful termination, employment discrimination/sexual harassment under Title VII of the Civil Rights Act of 1964, civil rights violations under 42 U.S.C. § 1983, medical malpractice, accounting malpractice, contract disputes, defamation, whistleblower act violations, "lemon law" claims, motor vehicle warranties, teacher discipline hearings, student expulsion hearings, Payment of Wages Act violations, and claims under various statutes including the S.C. Unfair Trade Practices Act and the S.C. Motor Vehicle Unfair Trade Practices Act.

Mr. Blanchard reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: Approximately 10 appearances per year (including trials, motion hearings, pretrial conferences, etc.);

(b) State: Approximately 60-75 appearances per year (including trials, motion hearings, pretrial conferences, etc.)"

Mr. Blanchard reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 95%;
(b) Criminal: 0%;
(c) Domestic: 5%."

Mr. Blanchard reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 85%;
(b) Non-jury: 15%."

Mr. Blanchard provided that he most often served as co-counsel.

The following is Mr. Blanchard's account of his five most significant litigated matters:

"(a) Served as sole trial counsel for the Charleston County School District in a lawsuit alleging that the school district was grossly negligent in allowing a participant in a youth football game to wear golf spikes, which player later "cleated" and severely and permanently injured another player's knee and leg. I was able to win a complete defense verdict for the school district at the jury trial. Colten P. Ryals v. Charleston County Parks & Recreation and Charleston County School Dist., 2002-CP-10-3742 (Charleston County Ct. Common Pleas).

(b) Served as chief trial counsel for a trucking company that was sued in a wrongful death action. The suit alleged that the trucking company's driver was operating his truck in excess of the posted speed limit in foggy and dark conditions without his headlights activated, thereby resulting in a collision that caused the death of the other driver. The deceased's family members were seeking actual and punitive damages in excess of the company's insurance limits. The case largely centered on

the testimony of accident reconstruction experts. I was able to successfully negotiate a settlement for well below the plaintiff's pretrial settlement demands after three days of trial testimony. Alfred Franklin Hartzog, as Personal Representative of the Estate of Sophie C. Hartzog v. Double B Trucking Company, Inc., and Ronny Bennett, 2003-CP-25-24 (Colleton County Ct. Common Pleas)

(c) Served as primary junior counsel for the plaintiff in a lawsuit involving a brain injury resulting from a bicycle accident on Kiawah Island. The plaintiff was injured when the front fork on the bicycle he had rented from a Kiawah Island Golf & Tennis Resort bike shop suddenly snapped and sent him over the handle bars, causing him to hit his head on the packed beach sand. We were able to win a $1.75 million settlement for the plaintiff. Christopher A.L. Cox v. Kiawah Island Inn Co., 2:00-1199-18 (U.S. District Court, District of South Carolina, Charleston Division).

(d) Served as primary junior counsel for the defendants in a case involving a question of first impression under S.C. law. The case centered on the issue of whether a written disclaimer or "non-reliance clause" in a real estate sales contract, under which the buyers agreed that they were not relying on any pre-contract oral statements of the seller, barred the buyers from later suing the sellers for negligent misrepresentation and fraud based on alleged pre-contract oral misstatements made by the sellers' real estate agent involving the existence of a sewer line easement across the property. The case was eventually decided by the S.C. Supreme Court. Slack v. James, 364 S.C. 609, 614 S.E.2d 636 (2005).

(e) Served as primary junior counsel in a case involving a question of first impression under S.C. law. The case centered on the issue of whether a decision issued by an arbitrator in an arbitration hearing conducted at a location outside of S.C. may be modified or vacated by a S.C. court when the underlying events occurred in this state, but the parties executed a written contract giving exclusive jurisdiction to the courts of another state. The case was eventually decided by the S.C. Court of Appeals.

Ashley River Properties I, LLC v. Ashley River Properties, II, LLC, 2007 WL 1816369 (S.C. Ct. App. 2007)."

The following is Mr. Blanchard's account of five civil appeals he has personally handled:

"(a) Sundown Operating Company, Inc. et al. v. BFPE International, Inc., Op. No. 2007-UP-091 (S.C. Ct. App., Feb. 23, 2007) (prepared briefs and made oral argument);

(b) Ashley River Properties I, LLC v. Ashley River Properties, II, LLC, 2007 WL 1816369 (S.C. Ct. App. 2007) (prepared briefs);

(c) Slack v. James, 364 S.C. 609, 614 S.E.2d 636 (2005) (prepared briefs);

(d) Gene Reed Chevrolet, Inc. v. Farmers & Merchants Bank of South Carolina, Op. No. 2002-UP-477 (S.C. Ct. App., June 26, 2002) (prepared briefs; no oral argument held);

(e) Delmar N. Rivers, Jr. v. American Ultraviolet Company, Inc., Op. No. 97-UP-137 (S.C. Ct. App., Feb. 12, 1997) (prepared briefs and made oral"

Mr. Blanchard reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Blanchard's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee found Mr. Blanchard to: Constitutional Qualifications: Mr. Blanchard meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Blanchard is considered ethical. Professional and Academic Ability: The committee gave Mr. Blanchard an exceptional rating in this area. Character: The committee reported that Mr. Blanchard's character is unquestionable. Reputation: Mr. Blanchard enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Blanchard is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Mr. Blanchard's good legal experience in the civil arena. Judicial

Temperament: The committee gave Mr. Blanchard a good rating in this category."

Mr. Blanchard is not married. He does not have any children.

Mr. Blanchard reported that he was a member of the following bar associations and professional associations:

"(a) Charleston County Bar Association (1992 to present);

(b) South Carolina Bar Association (1992 to present);

(c) American Bar Association (1992 to present);

(d) United States Supreme Court Historical Society (past member);

(e) American Association for Justice, formerly Association of Trial Lawyers of America (past member 1993-97);

(f) South Carolina Association for Justice, formerly South Carolina Trial Lawyers Association (past member 1993-97);

(g) South Carolina Bar, Young Lawyers Division, Charleston County (Member and co-chair of various subcommittees from 1994 to 2002);

(h) South Carolina Bar, House of Delegates, Circuit Delegate for Ninth Circuit (July of 2008 to present);

(i) Member of Primerus Defense Institute (2007 to present);

(j) Member of Charleston Motor Carriers Association (2008 to present)."

Mr. Blanchard provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Graduate of Charleston Metro Chamber of Commerce "Leadership Charleston" Class of 2002;

(b) Play softball with the Citadel Square Baptist Church men's softball team;

(c) Attend church services and social events at Grace Episcopal Church in Charleston and Circular Congregational Church in Charleston, but am not a member of either church."

(11) Commission Members' Comments:

The Commission commented that Mr. Blanchard is an extremely knowledgeable and competent lawyer. The

Commission noted that Mr. Blanchard would make a fine Circuit Court judge.

(12) Conclusion:

The Commission found Mr. Blanchard qualified, but not nominated, to serve as a Circuit Court judge.

Phillip S. Ferderigos
Circuit Court, At-Large, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Ferderigos meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Ferderigos was born in 1973. He is 35 years old and a resident of Charleston, South Carolina. Mr. Ferderigos provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Ferderigos.

Mr. Ferderigos demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Ferderigos reported that he has not made any campaign expenditures.

Mr. Ferderigos testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Ferderigos testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Ferderigos to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Ferderigos described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) CLE at Riverdogs presented by Chief Justice Toal	7/10/08;
(b) What You Need to Know About SC Workers' Compensation Law	5/9/08;
(c) SC Workers' Compensation Law: Evolving Issues 2007	9/7/07;
(d) Workers' Compensation Hearings	5/10/07;
(e) Anatomy for Lawyers	2/23/07;
(f) 30th Annual Educational Conference – SCWCEA	10/22/06;
(g) Achieving Successful Outcomes	8/25/05;
(h) SILICA Medicine	7/16/05;
(i) HIPAA	6/5/05;
(j) Advanced Workers' Compensation	2/24/05;
(k) Workers' Compensation	1/12/05;
(l) MCLE Night at the Joe	8/2/04;
(m) Silica Medicine – The Gold	6/10/04;
(n) Commercial Real Estate Financing	3/31/04;
(o) Admissibility of Evidence & Expert Testimony in SC	2/3/04;
(p) Family Law in South Carolina	12/15/03;
(q) Fundamentals of Real Estate Closings in SC	12/10/03;
(r)Successful Judgment Collections in SC	12/9/03;
(s) Bad Faith Litigation in SC	10/30/03."

Mr. Ferderigos reported that he has taught the following law-related courses:

> "(a) As a CLE instructor, I instructed a CLE course and prepared a Compendium for a CLE Seminar, "Law in Motion: A South Carolina Paralegal's Guide to Effective Motion Practice," March, 2003.
>
> (b) In addition, I also taught as a Legal Writing & Research Adjunct Professor at the Charleston School of Law from 2004-2006 while practicing law at Barnwell Whaley Patterson & Helms."

Mr. Ferderigos reported that he has not published any books or articles.

He further reported: "However, I prepared a Compendium for a CLE Seminar, 'Law in Motion: A South Carolina Paralegal's Guide to Effective Motion Practice,' in March, 2003."

(4) Character:

The Commission's investigation of Mr. Ferderigos did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Ferderigos did not indicate any evidence of a troubled financial status. Mr. Ferderigos has handled his financial affairs responsibly.

The Commission also noted that Mr. Ferderigos was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Ferderigos reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Ferderigos appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Ferderigos appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Ferderigos was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

"(a) Barnwell Whaley Patterson & Helms, LLC, 134 Meeting St, Associate, 1999- 2005;

(b) Barnwell Whaley Patterson & Helms, LLC, 885 Island Park Dr., Special Counsel, 2005-2007;

(c) Charleston School of Law, 81 Mary Street, Adjunct Professor, 2004-2006;

(d) Barnwell Whaley Patterson & Helms, LLC, 885 Island Park Dr., Partner, 2007 – present.

(e) General civil defense litigation and appellate practice with emphasis on personal injury, products liability, professional negligence, toxic torts, workers' compensation, business and commercial litigation.

Typical clients include insurance carriers, government entities and private businesses and individuals."

Mr. Ferderigos reported the frequency of his court appearances during the last five years as follows:

"(a) federal: 10%;
(b) state: 90%."

Mr. Ferderigos reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 95%;
(b) criminal: 0%;
(c) domestic: 5%."

Mr. Ferderigos reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 10%;
(b) non-jury: 0% By definition, non-jury cases do not go to the jury."

Mr. Ferderigos provided that he most often served as sole counsel.

The following is Mr. Ferderigos's account of his five most significant litigated matters:

"(a) Davidson v. Tidal Wave 23, LLC, et al., Court of Appeals, Case No. 2006-CP-07-2683 and 2006-CP-07-2683. This matter is presently before the Court of Appeals from a grant of summary judgment against the Plaintiffs. The appeal is significant because the underlying case deals with the common law liability of a commercial landlord and a commercial landlord's duties to either licensees or trespassers for the foreseeable criminal activities of third parties (an issue which the Court of Appeals or Supreme Court has not yet squarely addressed). Under the previous Jackson v. Swordfish Investments, LLC., 365 S.C. 608, 620 S.E.2d 54 (2005) decision, the Supreme Court suggested that, under the appropriate facts, a commercial landlord may in fact have a duty to protect an invitee against the foreseeable criminal activities of a third party if the commercial landlord "controls" the subject property. In the present case, setting aside the issue of whether or not the commercial landlord had "control" of the subject property, the trial court granted a dismissal because the

plaintiffs were found to be either licensees or trespassers as a matter of law. Accordingly, as the Jackson decision purports to require a person to be classified as an invitee in order to have a corresponding duty of the commercial landlord to protect against foreseeable criminal activity of third parties, this case will squarely place the issue of whether or not a commercial landlord has any such duty to a licensee or trespasser before the appellate courts and will determine whether or not the appellate courts will be more restrictive or expansive in applying legal duties and responsibilities to commercial landlords in the context of foreseeable criminal activities of third parties that occurs on the commercial landlord's premises.

(b) McLaughlin v. Williams, S.C., 665 S.E.2d 667 (Ct. App. 2008). This case was an appeal from a grant of summary judgment against the plaintiff, a purchaser of a home who alleged that the seller of the home was liable for fraud and negligent misrepresentation based on the seller's residential property condition disclosure statement pursuant to S.C. Code Ann. § 27-50-10, et seq. (the Residential Property Condition Disclosure Act). This case and appeal was significant for two reasons. First, it was the first case interpreting the then recently adopted Residential Property Condition Disclosure Act. Second, the McLaughlin decision represents a continuing slight swing-back of the pendulum for the Court of Appeals concerning whether or not the issue of "justifiable reliance" for a fraud claim should be submitted to the jury. Although "issues of reliance and its reasonableness, going as they do to subjective states of mind and applications of objective standards of reasonableness, are preeminently factual issues for the triers of facts," the Court of Appeals' Schnellman v. Roettger, 368 S.C. 17, 627 S.E.2d 742 decision in a much more restrictive manner than previous decisions such as Reid v. Harbinson Development Corp., 285 S.C. 557, 330 S.E.2d 532 (Ct. App. 1985). The McLaughlin decision signifies a continuing pullback from the Court of Appeals' previous expansive interpretation which found that virtually all "reasonable reliance" issues should be submitted to the jury. Accordingly, the

McLaughlin decision reflects an ever-so-slight swing-back of the pendulum from previous Court of Appeals cases which reflected a more liberal application for the submission of reasonable reliance to a jury.

(c) Badillo v. Mejia, Supreme Court, Case No. 2005-CP-10-04795, is an appeal from the Workers' Compensation which was initially appealed to the Court of Appeals but then the Supreme Court divested the Court of Appeals of jurisdiction indicating that it would like to make a decision on the merits of the case. The appeal dealt with the issue of whether or not a North Carolina workers' compensation assigned risk policy would provide any benefits in South Carolina, despite the fact that the parties stipulated that the purported insured employed four or more employees at the time of the injury (thereby arguably requiring the employer to obtain separate South Carolina coverage which, in turn, failed to satisfy prong two of the Limited Other States Endorsement provisions which, thereby negated coverage under the policy). In addition, a related issue before the Supreme Court was whether or not a North Carolina producer's issuance of a certificate of insurance to a general contractor in South Carolina could create coverage under the aforementioned North Carolina assigned risk policy, despite the endorsement language of the policy. At the initial hearing, the single Commissioner held that no coverage existed under the North Carolina assigned risk policy because the Limited Other States Endorsement provisions were not satisfied. However, the Full Commission reversed the single Commissioner and found coverage existed under the North Carolina assigned risk policy. The trial court later affirmed the Full Commission's decision, finding the Limited Other States provisions were satisfied and, alternatively, under common law agency principles, the Certificate of Insurance estopped the carrier from denying coverage. Although the case was slated to be heard by the Supreme Court, the parties were able to achieve an amicable global settlement, and the Supreme Court will likely be required to decide these insurance construction and agency issues some other day as these

issues often arise and are hotly debated in the workers' compensation arena, but also have application for general insurance and agency law which permeates through every facet of the legal profession.

(d) Grant v. City of Folly Beach, 346 S.C. 74, 551 S.E.2d 229 (S.C. 2001) is a significant case because the Supreme Court held that S.C. Code Ann. § 6-7-760 (1977) does not require agencies to prepare a transcript of proceedings when an issue is appealed. This was a hotly debated issue as it affected how zoning boards across the State had to preserve evidence. Further, the Grant decision is pivotal to understanding the applicability of equitable estoppel to a governmental entity. As a general rule, estoppel does not lie against the government to prevent the due exercise of its police power or to thwart the application of public policy. However, in Abbyville Arms vs. City of Abbyville, 273 S.C. 491, 257 S.E.2d 716 (1979), and Landing Dev. Corp. vs. City of Myrtle Beach, 285 S.C. 220, 329 S.E.2d 425 (1985), the appellate courts did apply the doctrine of equitable estoppel so as to estop the governmental entity in those cases. The Grant decision is significant because the Supreme Court clearly articulated the legal reasoning underlying both the Abbyville and Landing decisions and set forth why those two cases were different than other cases following the general rule. In Grant, the Supreme Court found that the City of Folly Beach should not be estopped (i.e., the City could not be estopped from enforcing its zoning/flood ordinance which precluded residential use of the downstairs floor of the appellants property). The Supreme Court reasoned that one of the keys to applying equitable estoppel to a governmental entity is whether or not the plaintiff has knowledge or the means of knowledge so that the plaintiffs in both the Abbyville and Landing decisions did not have the means of knowledge to discovery the truth (thereby justifying the application of equitable estoppel), whereas the appellant in the Grant case did have the means of knowledge, thereby not justifying the application of equitable estoppel). In the Grant decision, the Supreme Court

clearly articulates the legal reasoning behind the Abbyville and Landing decisions to provide guidance to future trial court judges on how to deal with equitable estoppel as it applies to the government. The Grant decision is even more significant nowadays because of the apparent tension reflected in two more recent Court of Appeals' decisions which seem to contradictorily deal with the application of equitable estoppel in the context of zoning. The McCrowey v. Zoning Bd. of Adjustment of the City of Rock Hill, 360 S.C. 301, 599 S.E. 2d 617 (Ct. App. 2004) decision appears to represent a more restrictive interpretation and application of equitable estoppel against a governmental entity, whereas the more recent Quail Hill, LLC v. County of Richland, S.C., 665 S.E.2d 194 (Ct. App. 2008) decision appears to take a more expansive interpretation and application of equitable estoppel as it applies to a governmental entity. The Supreme Court's Grant decision is the key to understanding the apparent inconsistency behind the Court of Appeals' McCrowey and Quail Hill decisions which, once explained in the context of how the Supreme Court applied equitable estoppel in the Grant decision, reveals that no inconsistency may actually exist between the two Court of Appeals cases.

(e) Herring v. Home Depot, Inc., 350 S.C. 373, 565 S.E.2d 733 (Ct. App. 2002), originated in small claims court concerning an approximate $3,000 lawn mower. Nevertheless, the small claims trial court was appealed to the trial court and then the appellate court which issued its decision. This decision is significant because it impacts UCC jurisprudence in this State. Whether an individual is dealing with a $3,000 lawn mower or a Three Hundred Million Dollar piece of equipment, the UCC applies in both instances. In this case, the Court of Appeals held that the revocation of acceptance is a separate claim and not a remedy which may be limited by the limited repair or replacement clause. Specifically, the jury had found that the plaintiff was entitled to revoke acceptance, but the jury also found that there was no breach of warranty. On appeal, the defendants argued that revocation of acceptance was a remedy and not a

separate cause of action so that the finding of "no breach of warranty" prohibited the plaintiff from availing himself of the remedy of revocation of acceptance. The Court of Appeals, however, summarily dismissed the argument that revocation of acceptance is a remedy and held that revocation of acceptance is a separate cause of action which is independent and is not limited by the repair or replacement clause. Presumably, under the Court of Appeals decision, a purchaser of a product can revoke acceptance of a product irrespective of whether or not there is a breach of warranty and irrespective of whether or not the purchaser complies with the limited repair or replacement clause. The decision was not appealed to the Supreme Court and perhaps someday a similar issue will arise in another context. From a defendant's point of view, the decision turns the UCC on its head and exposes the manufacturer to liability for revocation of acceptance unabated by the limited repair or replacement clause (while the majority of jurisdictions around the country hold that revocation of acceptance is a remedy which necessitates the limited repair or replacement clause to fail its essential purpose before a purchaser can revoke acceptance)."

The following is Mr. Ferderigos's account of five civil appeals he has personally handled:

"(a) Home Port Rentals, Inc. v. Moore, 359 S.C. 230, 597 S.E.2d 810 (Ct. App. 2004), certiorari granted, 369 S.C. 493, 632 S.E.2d 862 (S.C. 2006);

(b) Grant v. City of Folly Beach, 346 S.C. 74, 551 S.E.2d 229 (S.C. 2001) and still continuing in the current Court of Appeals appeal concerning consolidated cases No. 96-CP-10-1827 and 02-CP-10-1595;

(c) Boone v Boone, 345 S.C. 8, 546 S.E.2d 191 (S.C. 2001);

(d) Herring v. Home Depot, Inc., 350 S.C. 373, 565 S.E.2d 733 (Ct. App. 2002);

(e) Snyder v. Berkeley County School District, Ct. App. Unpublished Opinion No. 2001-UP-531 (2001)."

Mr. Ferderigos reported that he has not personally handled any criminal appeals.

Mr. Ferderigos further reported the following regarding an unsuccessful candidacy:

"I applied for federal magistrate judgeship vacancy in 2008. Of over 50 applicants, I was one of ten who were interviewed for the position, but did not progress to the top five spots."

(9) Judicial Temperament:

The Commission believes that Mr. Ferderigos's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee reported the following regarding Mr. Ferderigos: "Constitutional Qualifications: Mr. Ferderigos meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Ferderigos is considered ethical. Professional and Academic Ability: The committee gave Mr. Ferderigos an exceptional rating in this area. Character: The committee reported that Mr. Ferderigos' character is unquestionable. Reputation: Mr. Ferderigos enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Ferderigos is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Ferderigos' good legal experience in the civil arena. Judicial Temperament: The committee gave Mr. Ferderigos a good rating in this category."

Mr. Ferderigos is married to Lauren Russell Ferderigos. He has one child.

Mr. Ferderigos reported that he was a member of the following bar associations and professional associations:

"(a) Charleston County Bar;
(b) SC Workers' Comp. Education Association;
(c) American Bar Association;
(d) Charleston Area Claims Association;
(e) National Association of College and University Attorneys."

Mr. Ferderigos provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Earlybirds (formerly Toastmasters) President, 2006;
(b) Pi Kappa Phi Alum. Association;
(c) AHEPA."

(11) Commission Members' Comments:

The Commission commented that Mr. Ferderigos is a great candidate who is very intelligent. They noted that he has a good temperament, which would serve him well on the Circuit Court bench.

(12) Conclusion:

The Commission found Mr. Ferderigos qualified, but not nominated, to serve as a Circuit Court judge.

Daniel Dewitt Hall
Circuit Court, At-Large, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Hall meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Hall was born in 1954. He is 54 years old and a resident of York, South Carolina. Mr. Hall provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988. He also passed the North Carolina Bar in 1988.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Hall.

Mr. Hall demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Hall reported that he has not made campaign expenditures.

Mr. Hall testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Hall testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Hall to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Hall described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Evidence for Prosecutors, Tucson, Arizona November 4-8, 2007;
(b) 2007 Annual Solicitor's Association Conference September 23-26, 2007;
(c) 2006 Annual Solicitor's Association Conference September 24-27, 2006;
(d) 2005 Annual Solicitor's Association Conference September 25-28, 2005;
(f) 2004 Annual Solicitor's Association Conference September 26-29, 2004;
(g) Focus on Sexual Assault Victims National Advocacy Center August 2-6, 2004;
(h) 2003 Annual Solicitor's Association Conference September 29- Oct 1, 2003."

Mr. Hall reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Hall reported that he has published the following:

"Clergy Confidentiality: A Time to Speak and a Time to Be Silent, by Lynn Buzzard and Dan Hall, 1988 Christian Management Association."

(4) Character:

The Commission's investigation of Mr. Hall did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Hall did not indicate any evidence of a troubled financial status. Mr. Hall has handled his financial affairs responsibly.

The Commission also noted that Mr. Hall was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Hall reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Hall appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hall appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hall was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

"(a) Sixteenth Judicial Circuit Solicitor's Office Assistant Solicitor, 1988 - 1990

(b) Sole Practitioner 1991-1999 General practice with focus on personal injury, worker's compensation and criminal defense;

(c) Sixteenth Judicial Circuit Solicitor's Office Assistant Solicitor, 1999-present."

Mr. Hall further reported:

"I have been an Assistant Solicitor for the past nine years. I currently prosecute class A, B, or C felonies. I am employed as an assistant solicitor. I have no experience in civil matters in the past five years. I was in private practice from 1991 – 1999 and had a limited experience in the court of common pleas. My practice included criminal defense, personal injury, probate and some limited litigation in common pleas. I believe that I have the intellectual ability to quickly develop the necessary skills to preside in common pleas."

Mr. Hall reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: 0%;
(b) State: 100%;
(c) Other: N/A."

Mr. Hall reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 0 %;
(b) Criminal: 100%;
(c) Domestic: N/A."

Mr. Hall reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 10%;
(b) Non-jury: 90%."

Mr. Hall provided that he most often served as sole counsel.

The following is Mr. Hall's account of his five most significant litigated matters:

"(a) State v. Russell Holley, 2002 GS 46 0698, Murder trial in which boyfriend stabbed girlfriend to death in a rage of domestic violence. Defendant was sentence to life without parole;

(b) State v. Aaron Williams, 2003 GS 46 2745, Burglary First Degree trial in which a seventy year old widow's home was invaded while she was alone. Victim was physically attacked. Defendant was sentence to a thirty year prison sentence;

(c) State v. Sakima McCullough, 2006 GS 46 0110, Burglary First Degree, Armed Robbery and Kidnapping trial in which the defendant was involved in a home invasion, robbery and assault on the victim. Defendant was sentence to a thirty year prison sentence;

(d) State v. Edward Miller, 2003 GS 46 0557, Defendant was charged with murder. The case was trued billed by the grand jury. In preparing for trial and investigating this case evidence was discovered absolving this defendant of the murder. The defendant had been wrongfully charged. I dismissed this case;

(e) State v. Penny Sue Price, 1994 GS 46 2784, I defended at trial an indigent, mentally handicapped defendant charged with threatening public housing officials. The defendant was found not guilty at trial."

Mr. Hall reported he has not personally handled any civil or criminal appeals.

Mr. Hall reported that he has held the following judicial office:

"Municipal Judge – City of York, South Carolina – appointed by York City Council. January, 1993 – May, 1999. Signed criminal warrants, set bonds and held preliminary hearings for General Sessions criminal matters occurring in the city limits. Presided over plea court, bench trials and jury trials for criminal or traffic charges in the City of York in which the statutory penalty was no greater than 30 days in jail or the fine was not more than $200."

Mr. Hall reported the following regarding his employment while serving as a judge:

"Self employed attorney – sole practitioner 1991-1999. My position as York Municipal Judge required 8-10 hours per week of municipal court duties in addition to my private practice."

Mr. Hall further reported the following regarding unsuccessful candidacies:

"(a) Republican Primary candidate for Solicitor, Sixteenth Judicial Circuit, June, 1996;

(b) Candidate for Judge, Sixteenth Judicial Circuit Family Court, 1998, withdrew;

(c) Candidate for Judge, Circuit Court At-Large, Seat 9, March, 2006; Qualified but not nominated."

(9) Judicial Temperament:

The Commission believes that Mr. Hall's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee reported the following regarding Mr. Hall: "Mr. Hall appears to be in good health. The majority of the Committee finds Mr. Hall to be very qualified for the office he is seeking; however, one member expressed reservations about his lack of civil law experience and gave him a qualified rating."

Mr. Hall is married to Cathleen McCreight Hall. He has four children.

Mr. Hall reported that he was a member of the following bar associations and professional associations:

"(a) York County Bar Association Treasurer, 1992;
(b) South Carolina Bar Association;
(c) North Carolina Bar."

Mr. Hall provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Filbert Presbyterian Church Clerk of Session;
(b) York County Beekeepers Association;
(c) Palmetto Pregnancy Center, Board Member;
(d) National Cutting Horse Association."

(11) Commission Members' Comments:

The Commission commented on Mr. Hall's good demeanor and diverse criminal experience. They noted his strong work ethic, which would be an asset as a Circuit Court judge.

(12) Conclusion:

The Commission found him qualified and nominated him for election to the Circuit Court.

Roger E. Henderson
Circuit Court, At-Large, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Henderson meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Henderson was born in 1949. He is 59 years old and a resident of Chesterfield, South Carolina. Judge Henderson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Henderson.

Judge Henderson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Henderson reported that he has spent a total of $243.41 in campaign expenditures. Specifically he reported the following:

"07/28/08	Postage	$142.00
07/28/08	Envelopes	$ 22.72
07/28/08	Paper	$ 2.27
07/28/08	Photo-Paper	$ 25.42
07/28/08	Web Page	$ 15.00
07/28/08	Printing Costs	$ 36.00
TOTAL		$243.41."

Judge Henderson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Henderson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Henderson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Henderson described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Family Law Mid-Year Meeting 01/24/2003;
(b) Family Court Judge's Conference 04/30/2003;
(c) Annual Judicial Conference 08/21/2003;
(d) Family Law Section Meeting SC Bar Convention 01/23/2004;
(e) 31st National Conf. on Juvenile Justice 03/28/2004-03/31/2004;
(f) Family Court Judge's Conference 04/28/2004;
(g) Annual Judicial Conference 08/19/2004;
(h) Judicial Oath of Office 08/19/2004;
(i) Seminar for Chief Judges 12/10/2004;
(j) Orientation School for New Judges 07/12/2004;
(k) Juvenile Drug Court Training 01/11/2005-01/14/2005;
(l) Family Law Section Meeting SC Bar Convention 01/21/2005;
(m) Fundamentals of Juvenile Drug Court Training 04/19/2005-04/22/2005;
(n) 2005 Family Court Judge's Conference 4/27/2005;
(o) 2005 Orientation School for New Judges 07/13/2005;
(p) 2005 Annual Judicial Conference 08/24/2005;
(q) Juvenile Drug Court Training 09/20/2005-09/23/2005;
(r) South Carolina Family Court Bench 12/02/2005;

(s) Family Law Section – SC Bar Convention 01/27/2006;
(t) Family Court Judge's Conference 04/26/2006;
(u) Planning Your Juvenile Drug Court Training 08/07/2006-08/11/2006;
(v) Mini-Summit on Justice for Children 08/22/2006;
(w) 2006 Annual Judicial Conference 08/23/2006;
(x) Family Court Bench/Bar 12/01/2006;
(y) Family Law Section – SC Bar Convention 01/26/2007;
(z) 2007 Annual Judicial Conference 08/22/2007;
(aa) Family Court Bench/Bar 04/23/2008;
(bb) Family Court Judge's Conference 04/23/2008;
(cc) SC Association for Justice Convention 08/07/2008;
(dd) Annual Judicial Conference 08/20/2008."

Judge Henderson reported that he has taught the following law-related courses:

"(a) I lectured at a CLE seminar on October 21, 1994 on the subject of jury selections as part of the "Successful Civil Litigation; Hot Tips from the Experts" program;

(b) I lectured at the 1997 Conference of Chief Judges for Administrative Purposes and the 1997 Annual Judicial Conference on the subjects of Civil and Criminal Contempt and Courtroom Security;

(c) I was a co-presenter of the Family Law Update at the 2000 Annual Judicial Conference;

(d) I was a co-lecturer at the 2000 Orientation School for New Family Court Judges, concerning the areas of Court Rules, Alimony and Equitable Division;

(e) I lectured on new issues in Family Court at the 2001 Family Court Judge's Conference;

(f) I was co-lecturer at the 2001 Orientation School for New Family Court Judges, concerning the areas of Court Rules, Alimony and Equitable Division;

(g) I was co-lecturer at the 2002 Orientation School for New Family Court Judges, concerning the areas of Pendent Lite, Domestic Abuse cases, and Pro se litigants;

(h) I was co-lecturer at the 2004 Orientation School for new Family Court Judges concerning Temporary Hearings & Equitable Distribution;

(i) I was a panel member at the 2004 South Carolina Bar Convention concerning Conversations Between the Bench and Bar;

(j) I was co-lecturer at the 2004 Seminar for Chief Judges for Administrative Purposes of the Circuit and Family Courts concerning Pre-Trial Status Settlement conferences."

Judge Henderson reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Henderson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Henderson did not indicate any evidence of a troubled financial status. Judge Henderson has handled his financial affairs responsibly.

The Commission also noted that Judge Henderson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Henderson reported that his last available last available Martindale-Hubbell rating was AV.

Judge Henderson reported the following military service:

"May 1971-May 1977, United States Army Reserves, Specialist Fourth Class, XXX-XX-XXX, Honorable Discharge."

Judge Henderson reported that he has held the following public offices:

"(a) October 29, 1979 - January 23, 1984 Chairman, Chesterfield County Election Commission – appointed;

(b) June 27, 1986 - July 23, 1993 Member, South Carolina Commission on Higher Education – appointed;

(c) April 6, 1995 - May 25, 1995 Member, Chesterfield County District Board of Education, - elected."

(6) Physical Health:

Judge Henderson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Henderson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Henderson was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

"In 1978, I returned to Chesterfield and began the general practice of law with my father-in-law, the late Edward McIver Leppard. He retired in 1982, and I continued a solo general practice until 1985, when I formed a partnership with William O. Spencer, Jr. We continued a general practice of law until I was elected to the bench in May of 1995. During this period of time, we added an associate, Mary Thomas Johnson, in May of 1983. In 1985, I began to concentrate my practice in the areas of Family Law, Criminal Law and Personal Injury."

Judge Henderson further reported:

"Prior to becoming a Family Court Judge in 1995, I had a general practice of law that included a substantial amount of criminal work. I represented clients in both state and federal court. The types of cases I handled ranged from traffic offenses in magistrate's court to drug cases in federal court. The bulk of my criminal practice was in the Court of General Sessions where I represented individuals charged with DUI, Assault and Battery, Assault and Battery of a High and Aggravated Nature, Assault and Battery with Intent to Kill, Armed Robbery, Sex Offenses, Drug Offenses, Arson, Burglary, Breaking and Entering and Murder (one of which was a death penalty case). Many of the cases I handled were disposed of by way of guilty pleas, however, a significant number of them went through the trial process.

On occasion I was privately employed to help prosecute individuals. In addition to my criminal defense work, I also handled post conviction relief matters and parole hearings.

As for my civil practice, I represented clients in state and federal courts with personal injury claims, which were mostly automobile accident and slip and fall type cases. I handled several medical malpractice cases individually and in association

with other counsel. In addition, I represented individuals in condemnation cases, partition actions, probate matters and numerous workers' compensation claims."

Judge Henderson reported the frequency of his court appearances prior to his election to the bench as follows:

"(a) Federal: Twice a year;
(b) State: 15-20 times per month;
(c) Other: N/A."

Judge Henderson reported the percentage of his practice involving civil, criminal, and domestic matters prior to his election to the bench as follows:

"(a) Civil: 40% (Personal injury cases, 20% - Probate, Workers' Compensation and non-jury matters, 20%);
(b) Criminal: 20%;
(c) Domestic: 40%."

Judge Henderson reported the percentage of his practice in trial court prior to his election to the bench as follows:

"(a) Jury: 25%;
(b) Non-jury: 75%."

Judge Henderson provided that he most often served as sole counsel.

The following is Judge Henderson's account of his five most significant litigated matters:

"(a) Chesterfield County Rural Water Company, Inc., v. Town of Cheraw, South Carolina: This matter was significant in that we obtained an Order in Federal Court prohibiting the Town of Cheraw from entering the Rural Water Company's service areas. Additionally, I represented the Rural Water Company in law suits against the Town of Pageland and Chesterfield, South Carolina, and obtained out-of-Court settlements which resulted in agreements establishing permanent service territories for the Rural Water Company and the towns;

(b) Danny Lee Rainwater v. Donna Kay Wolfe Rainwater: This matter was significant in that it involved custody of the Rainwater's four children which was originally split by the Family Court, but through our continued efforts we managed to obtain custody of all four children for Mr. Rainwater. After custody was obtained for Mr. Rainwater, Mrs. Rainwater kidnapped

all four children and took them to Germany; however, Mrs. Rainwater was arrested and the children were returned to Mr. Rainwater upon their return to the United States;

(c) Mary C. Crawley v. Robert Taylor: This matter was significant in that we obtained a jury verdict of $2,000.00 actual damages for Mrs. Crowley and $40,000.00 in punitive damages due to the fact that Mr. Taylor was operating an automobile in flagrant violation of the law in that he was driving under the influence of alcohol, while being pursued at a high rate of speed by a police officer. The jury saw fit to punish Mr. Taylor with a sentence commensurate with the offense;

(d) James H. Dixon v. Nucor Steel Corporation: 368 SE 2d 680, 295 SC 387 (1988). This matter was significant in that we were successful in proving before the Workers' Compensation Commission that Mr. Dixon was permanently disabled from materials he breathed during his employment;

(e) STATE v. John Parks: This matter was significant in that Mr. Parks, who was charged with criminal sexual conduct with his eight year old step-daughter, was acquitted after we were able to convince the jury that the child's testimony was without feeling and emotion due to her having been coached by her mother, who was separated from Mr. Parks."

The following is Judge Henderson's account of the civil appeals he has personally handled:

"(a) Leaton E. Jenkins vs. Marjorie E. Jenkins - South Carolina Supreme Court - No decision was rendered as the Appellant died after briefs had been filed and the matter was dismissed the Court;

(b) James H. Dixon v. Nucor Steel Corporation - South Carolina Court of Appeals, May 9, 1988, 368 SE 2d 680, 295 SC 387 (1988);

(c) Kate G. Laney vs. Bi-Lo, Inc. - South Carolina Court of Appeals, June 22, 1992, 419 SE 2d 809, 309 SC 37 (1992)."

Judge Henderson reported that he has not personally handled any criminal appeals.

Judge Henderson reported that he has held the following judicial offices:

"(a) 1978 - 1982 Assistant Recorder and Recorder for the Town of Chesterfield, appointed by the Mayor. This Court handled all traffic and criminal offenses in which the punishment did not exceed 30 days or a $200.00 fine;

(b) July 1, 1995 to Present - Family Court Judge for the Fourth Judicial Circuit, Seat No. 1, Elected by the South Carolina General Assembly. Statewide jurisdiction to hear all domestic relations matters."

Judge Henderson provided the following list of his most significant orders or opinions:

"(a) 95-DR-16-0712 - Leslie Douglas Stewart vs. Susan Fellows Van Epps;

(b) 97-DR-42-1170 - Charles Tyrone Courtney vs. Carol Lynn W. Courtney;

(c) 03-DR-16-0593 - Karen Allen-Hines vs. Franklin Hines- Unpublished Opinion No. 2008-UP-198;

(d) 05-DR-34-340 - Ronald H. Stanton vs. Tracy P. Stanton;

(e) 07-DR-16-0487 - Alice Ball Fitzwater vs. Lloyd A. Fitzwater."

Judge Henderson reported the following regarding his employment while serving as a judge:

"1978 - 1982 Assistant Recorder and Recorder for the Town of Chesterfield, supervised by the Mayor and Town Council. Major responsibilities were to issue warrants and preside over Recorder's Court."

(9) Judicial Temperament:

The Commission believes that Judge Henderson's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found "Judge Henderson to be an outstanding candidate who would ably serve on the Circuit Court bench."

Judge Henderson is married to Sarah Jane Leppard Henderson. He has three children.

Judge Henderson reported that he was a member of the following bar associations and professional associations:

"(a) Chesterfield County Bar Association;
(b) South Carolina Bar;
(c) South Carolina Conference of Family Court Judges, Treasurer – August 2001-August 2002; Vice President - August 2002-August 2003; President, August 2003-August 2004."

Judge Henderson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) American Legion Post Number 74;
(b) Chesterfield High School Athletic Booster Club;
(c) Chesterfield Touchdown Club;
(d) Chesterfield Marlboro Technical College Hall of Fame."

(11) Commission Members' Comments:

The Commission commented that Judge Henderson has an outstanding reputation as a Family Court jurist for 13 years. They noted that he has a great demeanor and work ethic, which would assist him on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Henderson qualified, but not nominated, to serve as a Circuit Court judge.

William Henry Seals, Jr.
Circuit Court, At-Large, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Seals meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Seals was born in 1961. He is 47 years old and a resident of Marion, South Carolina. Judge Seals provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Seals.

Judge Seals demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Seals reported that he has not made any campaign expenditures.

Judge Seals testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Seals testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Seals to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Seals described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) S.C. Summary Court Judge's Staff Convention	02/13/08;
(b) First American Title Insurance Company	10/12/07;
(c) S.C. Summary Court Judge's Annual Convention	09/06/07;
(d) Domestic Violence and the Criminal	07/27/06;
(e) Mandatory ADR Training	09/08/06;
(f) S.C. Summary Court Judge's Staff Convention	02/14/07;
(g) Revised Lawyers Oath	11/12/04;
(h) Judicial Oath of Office	09/09/04;
(i) Judicial Oath of Offie	09/09/04;
(j) S.C. Summary Court Judge's Annual Convention	09/09/04;
(k) Legislative Reception and Seminar	03/09/05;
(l) First American Title Insurance Company	10/30/03;
(m) 13th Annual Criminal Practice for Magistrates	11/21/03;

(n) Hot Topics in Civil Practice for Magistrates 06/18/04;
(o) 13th Annual Criminal Practice in S.C. 10/24/04;
(p) Criminal Law Hot Tips 05/16/03;
(q) First American Title Insurance Company 10/11/02;
(r) 12th Annual Criminal Practice in S.C. 11/08/02."

Judge Seals reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs. However Judge Seals reported that he has "taught classes to the City of Marion Police Department on Constitutional Law. The courses covered the Constitution and how it applied to local law enforcement and the daily functioning of their job. I have assisted Magistrates and Municipal Court Judges with training on how to conduct jury trials with an emphasis on civil trials. I also have made legal education presentations to various community groups on requested topics."

Judge Seals reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Seals did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Seals did not indicate any evidence of a troubled financial status. Judge Seals has handled his financial affairs responsibly.

The Commission also noted that Judge Seals was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Seals reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Judge Seals appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Seals appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Seals was admitted to the South Carolina Bar in 1990.

He gave the following account of his legal experience since graduation from law school:

"My father was an attorney in Marion practicing with Ralph Gasque and Norwood Gasque. After Norwood became a Family Court Judge and Ralph retired, my father hired Jim Brogdon as a partner. My father died in 1989, when I was a senior in law school. Upon graduation I went to work with Jim Brogdon. At the time I was practicing all areas of the law necessitated by living in a small town. This consisted of Family Court, Magistrates Court, General Sessions, and Common Pleas. In 1993, I opened my own firm and maintained a general practice of the law. In 1996 I became Marion's Municipal Court Judge, thus was required to limit my criminal practice so as to not conflict with my judicial office. I then retired from Family Law and concentrated more on my practice in Common Pleas and on my judicial duties. However, in a small town, I was still required to maintain somewhat of a general practice to serve the public."

Judge Seals further reported:

"From 1990 to 1993, I frequently represented criminal defendants on retainer as well as by appointment and through the Pro Bono program. I also represented many criminal defendants for the Public Defender's office when the Public Defender had conflicts. In 1996 I was appointed Marion's Municipal Court Judge, and have served in that capacity since. Thus, from 1996 to date I have had to limit my criminal practice in order to avoid conflicts. In Municipal Court I issue arrest warrants, hold bond hearings, and preside over all preliminary hearing in Marion. I also on a weekly basis preside over all bench trials in Marion as well as jury trials when requested. Furthermore, my duties as Municipal Court Judge require that I prepare returns when cases are appealed and take pleas when cases are remanded from General Sessions. I have also served the City of Mullins as Municipal Court Judge when needed as well as substituted for Magistrates on complex cases or conflicts.

In Common Pleas I primarily practice as a defense attorney in Marion and Dillon County. In this regard, these cases represent a sizable portion of the rosters in Dillon and Marion and sometimes in Florence, Horry and Darlington County. Regarding my defense work, I commonly represent defendants involved in automobile accidents. These cases normally involved personal injury, property damage, and loss of consortium claims. I have also represented parties in declaratory judgment actions. As previously mentioned, the logistics of a small town necessitated that I also represent

individuals as plaintiffs in personal injury claims largely stemming from automobile accidents. Furthermore, I have had experience in litigation involving contract disputes, slip and falls, restraining orders, violations of restrictive covenants and medical malpractice as well as other areas of civil practice. I have represented both the defendants as well as plaintiffs."

Judge Seals reported the frequency of his court appearances during the last five years as follows:

"(a) federal: none;
(b) state: 75 times."

Judge Seals reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 50%;
(b) criminal: (Municipal Court Related) 50%;
(c) domestic: None."

Judge Seals reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 98%;
(b) non-jury: 2%."

Judge Seals provided that he most often served as sole counsel.

The following is Judge Seals's account of his five most significant litigated matters:

"(a) Phyllis Davis vs. Julia Woodberry – This case was tried in Common Pleas. A verdict was returned for an amount less than the Defendant's offer to settle. Said offer had been made pursuant to a Rule 68, Offer of Judgment. After trial, I moved on behalf of the Defendant for cost pursuant to same. The Plaintiff's attorney moved to set aside same, as the verdict was less than the Plaintiff medical bills. The issue for the court was what costs were allowed under the Rule 68, and whether the Circuit Court Judge was required to enforce the Rule.

(b) Kenneth Jackson vs. Pernell Dozier – Prior to trial a $22,000.00 offer had been made to settle. The jury returned a verdict for approximately $1,700.00. This case was significant because it demonstrated the importance of a Circuit Court Judge's clear explanation of the jury charge regarding the "reasonable and necessity of the medical bills under the circumstances." Motions were made after the

trial to set aside the verdict arguing that the charge was not made clearly by the Circuit Judge.

(c) John Kent vs. Imer S. Monge – This case was tried in Common Pleas. A rather substantial verdict was returned in favor of the Plaintiff. One of jurors mentioned in the voir dire that she knew the Plaintiff. However, when the judge asked if she could be "fair and impartial" she answered "yes". The judge allowed the juror to serve. The issue was how far should a Circuit Court Judge go in questioning a potential juror in voir dire; and, should a judge dismiss a juror even when the juror answers that they can be fair and impartial, but the judge and attorneys suspect otherwise. It was suspected that the juror was the plaintiff's girlfriend.

(d) Don Collins vs. John Doe – This case was tried and a nominal verdict was returned for the Plaintiff. Motions were made afterwards by the Plaintiff for an additure due to the large amount of medical bills sustained by the Plaintiff in the accident. The issue was when is it appropriate for a Circuit Court Judge to add to a jury's award, and if so how should same be calculated.

(e) Sheila Green and Ronald Green vs. SCDOT and Ireather Graves – This was a very complex case involving a multitude of expert witnesses. Significant issues arose regarding the Circuit Court Judge's discretion in declaring a witness an expert."

Judge Seals stated that he has not personally handled any civil or criminal appeals.

Judge Seals reported that he has held the following judicial office:

"Marion Municipal Court Judge held consecutively since August of 1996. I was appointed by the City Council of Marion. My jurisdiction covers traffic violations and crimes in the city limits of Marion. In this position I issue arrest warrants, search warrants, hold bond hearings, and preliminary hearings. I also preside over bench and jury trials. The Court is limited to sentences of no more than thirty (30) days or a fine. Only in very limited circumstances can a sentence be more than thirty (30) days and mandatory, such as Driving Under Suspension offenses 2nd or greater or Driving Under Suspension DUI Related."

Judge Seals reported the following with respect to his significant orders or opinions: "Orders in Municipal Court are not formal."

Judge Seals reported the following regarding his employment while serving as a judge:

"None other than my normal duties as an attorney outside the scope of municipal job."

(9) Judicial Temperament:

The Commission believes that Judge Seals's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found "William H. Seals, Jr. to be a well qualified candidate who would ably serve on the Circuit Court bench."

Judge Seals is married to Phoebe Anderson Richardson Seals. He has one child.

Judge Seals reported that he was a member of the following bar association and professional associations:

"Marion County Bar Association."

Judge Seals provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) United Way Marion County;
(b) Marion County Historical Society, Chairman;
(c) Marion County Commission on Drug and Alcohol;
(d) Marion County Hospital Ethics Commission;
(e) Marion Rotary Club;
(f) House of Delegates for the South Carolina Bar;
(g) Toastmasters International;
(h) Marion County Chamber of Commerce Board of Directors;
(i) Marion Arts Council Board of Directors;
(j) Board of Governors to the South Carolina Bar;
(k) Pee Dee Academy Board of Directors."

(11) Commission Members' Comments:

The Commission commented that Judge Seals has an outstanding work ethic which would equip him well in handling the back log of cases in the Circuit Court. They noted his active involvement in his local community and that he is well respected there.

(12) Conclusion:

The Commission found Judge Seals qualified and nominated him for election to the Circuit Court.

William J. Thrower
Circuit Court At-Large, Seat 6

Commission's Findings: QUALIFIED BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Thrower meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Mr. Thrower was born in 1962. He is 46-years old and a resident of Charleston, South Carolina. Mr. Thrower provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Thrower.

Mr. Thrower demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Thrower reported that he has not made any campaign expenditures.

Mr. Thrower testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Thrower testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Thrower to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Thrower described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Practical Legal Ethics	12/11/02;
(b) 20/20 View of 2002	12/20/02;
(c) Criminal Practice Seminar	02/21/03;
(d) Chas Bar CLE	12/05/03;
(e) Chas Bar CLE	12/12/03;
(f) Criminal Practice Seminar	11/17/04;
(g) Oath and Ethics Seminar	12/21/04;
(h) Criminal Practice Seminar	11/18/05;
(i) What Works For Me	12/09/05;
(j) What Works For You	12/16/05;
(k) What Works For Me	12/01/06;
(l) What Works For You	12/15/06;
(m) Evidence Law Update	12/27/06;
(n) Criminal Law Update	01/25/08;
(o) Federal Sentencing Update	02/01/08;
(p) SC Ethics Update 2007	02/28/08;
(q) Graphoanalysis and Voir Dire	09/19/08.

Mr. Thrower reported that he has taught the following law related courses:

> "I have appeared as a panel member at the Public Defender Conference due to my law enforcement background and extensive trial experience."

Mr. Thrower reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Thrower did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Thrower did not indicate any evidence of a troubled financial status. Mr. Thrower has handled his financial affairs responsibly.

The Commission also noted that Mr. Thrower was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Thrower reported that he is not rated by Martindale-Hubbel.

(6) Physical Health:

Mr. Thrower appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Thrower appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Thrower was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

"I was hired by the Charleston County Public Defender's Office in 1991. I handled a variety of cases in General Sessions Court until 1993. I was hired by the Dallis Law Firm in 1993 to handle real estate matters along with civil and criminal litigation. I became a solo practitioner in 1995 and focused on civil and criminal litigation. In 2005, I joined the Harrell Law Firm and I handled all civil and criminal litigation for the firm until March 2008 when I joined the Stuckey Law Offices."

Mr. Thrower reported the frequency of his court appearances during the last five years as follows:

"(a) federal: I appear approximately ten times a year in Federal Court;

(b) state: I appear almost every week in Circuit Court."

Mr. Thrower reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 45%;
(b) criminal: 50%;
(c) domestic: 5%."

Mr. Thrower reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 20%;
(b) non-jury: 80%."

Mr. Thrower provided that he most often served as sole counsel.

The following is Mr. Thrower's account of his five most significant litigated matters:

"(a) Kenneth McCullough v. Dollar General and the Lake City Police Department

This was a civil rights violation case wherein Mr. McCullough was wrongly accused of theft from a Dollar General

store in Lake City. This case was significant because we were able to prove through extensive discovery, that the District Manager for Dollar General directed the investigation and encouraged the arrest of Mr. McCullough. The case was settled very favorably for the plaintiff.

(b) United States of America v. Victoria Yaitsky

I defended Ms. Yaitsky for murder for hire charge in Federal Court. The case was interesting due to the cultural and language differences. The trial of the case lasted a week and most of the witnesses testified through translators. There were several significant issues dealing with taped conversations translated for the trial and expert witnesses challenging the validity of the tapes themselves. I learned a great deal from Judge Duffy and was impressed with his rulings on some very difficult issues.

(c) City of North Charleston v. Sonny Bell

This is a case where I was appointed a Special Prosecutor for the City of North Charleston. Mr. Bell was accused of vandalizing two vehicles owned by a city councilman. There was a videotape of one of the incidents that was released to the media prior to my appointment. I felt it was important to resolve the matter without undue publicity and I did that. I was able to secure full restitution for the victim and keep the matter from receiving excess publicity. I feel I handled a volatile situation in a dignified manner.

(d) Gaskins v. The Department of Transportation

I represented the Department of Transportation for an automobile accident where one of their employees rear ended an individual driving a pickup truck. The plaintiff claimed debilitating back injuries. This case was significant because I was able to show the plaintiff had serious preexisting injuries that more likely than not contributed to his present condition. While conceding fault for the accident, I was able to convince the jury to find for the Department of Transportation.

(e) State of South Carolina v. Dennis Hiott

I represented Mr. Hiott for the charge of criminal sexual conduct with a Minor. The trial lasted five days and resulted in a mistrial due to a hung jury (6-6). The charge was later dismissed. The case was significant because I conducted an exhaustive investigation and found impeachment evidence on a key prosecution witness. I was able to show a deep bias by the medical examiner against not only the individuals accused of this

crime, but also their attorneys. Once her severe bias was exposed, her opinion was refutable."

Mr. Thrower reported that he has not personally handled any civil or criminal appeals.

Mr. Thrower further reported the following regarding an unsuccessful candidacy:

"In 2007, I ran for Circuit Court Judge for Charleston County. I withdrew from the race in January of 2008."

(9) Judicial Temperament:

The Commission believes that Mr. Thrower's temperament would be excellent.

(10) Miscellaneous:

The Low Country Citizens Advisory Committee found that Constitutional Qualifications: Mr. Thrower meets the constitutional qualifications for the judicial position he seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Thrower was considered ethical. Professional and Academic Ability: The committee gave Mr. Thrower an exceptional rating in this area. Character: The committee reported that Mr. Thrower's character is unquestionable. Reputation: Mr. Thrower enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Thrower is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Mr. Thrower's good legal experience. Judicial Temperament: The committee gave Mr. Thrower a good rating in this category.

Mr. Thrower is married to Cynthia Pettersen Thrower. He has two children.

Mr. Thrower reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) Charleston County Bar Association;

(c) National Association of Criminal Defense Lawyers."

Mr. Thrower provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Ashley Hall Parents Association;

(b) Stono Ferry Neighborhood Association;

(c) Woofemdowndogbiscuits.com."

(11) Commission Members' Comments:

The Commission commented on Mr. Thrower's strong intellect and his good demeanor. The Commission also noted Mr. Thrower's outstanding abilities as an attorney which would equip him well for the Circuit Court.

(12) Conclusion:

The Commission found Mr. Thrower qualified, but not nominated, to serve as a Circuit Court judge.

Sarah Elizabeth Wetmore
Circuit Court, At-Large, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Wetmore meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Wetmore was born in 1974. She is 34 years old and a resident of Charleston, South Carolina. Ms. Wetmore provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Wetmore.

Ms. Wetmore demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Wetmore reported that she has made less than $2 in campaign expenditures for postage.

Ms. Wetmore testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Wetmore testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Wetmore to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Wetmore described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Forum on Judicial Selection 9/17/2008;
(b) ABOTA Hot Topics in Trial Practice 12/14/2007;
(c) Charleston Lawyers Club Annual CLE 11/12/2007;
(d) Construction Law Fundamentals 10/10/07;
(e) NC/SC Construction Law Update 2/2007;
(f) Sidebar: Evidence Law Update 2/2007;
(g) Mediation Powerpoint 2/2007;
(h) Charleston Lawyers Club Ethics 12/7/2006;
(i) SCDTAA Annual Meeting 11/9/2006;
(j) 20/20 Optimal View of 2005 12/16/2005;
(k) ABOTA Masters in Trial 11/11/2005;
(l) What it is, was, shall be 12/17/2004;
(m) Updating Advocacy Skills 12/10/2004;
(n) Beyond the Bar, Evidence and Advocacy 11/7/2003;
(o) SC Women Lawyers 4/11/2003."

Ms. Wetmore reported that she has taught the following law-related courses:

"(a) Educational Lecture for the Charleston Area Paralegal Association: Preparing the Trial Notebook;

(b) Educational Lecture for Claims Representatives: The Use of Biomechanical Engineering Experts in Automobile Injury Cases."

Ms. Wetmore reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Wetmore did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Wetmore did not indicate any evidence of a troubled financial status. Ms. Wetmore has handled her financial affairs responsibly.

The Commission also noted that Ms. Wetmore was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Wetmore reported that her Martindale-Hubbell rating is BV.

(6) Physical Health:

Ms. Wetmore appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Wetmore appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Wetmore was admitted to the South Carolina Bar in 2000.

She gave the following account of her legal experience since graduation from law school:

"(a) Clawson & Staubes, LLC, August 1999 – February 2005;

(b) Milligan Law Firm, February 2005 - March 2006;

(c) Carlock, Copeland & Stair, LLC, March 2006 – Present.

With all of these law firms, the general character of my practice has been civil defense litigation."

Ms. Wetmore further reported:

"From 2000 until 2005, while practicing with Clawson & Staubes, I had the opportunity to serve as a prosecutor for the City of Goose Creek. As such, I handled municipal court matters regarding traffic offenses, such as reckless driving and driving under the influence. These matters required that I work closely with the City of Goose Creek police department, review the evidence regarding each case, conduct legal research, prepare for trial, work with defense counsel, and try cases in the municipal court. I prosecuted cases opposite some of the most talented members of the Charleston and Berkeley County criminal defense bars. I dealt with difficult issues, including the use of in-car cameras and the admissibility of the testimony of alleged eye witnesses.

One of my more memorable municipal trials involved prosecuting an absent defendant. The record was clear that the defendant had been given sufficient notice, on multiple occasions,

of the trial of his driving under the influence charges, and the same was noted by the presiding Judge before he instructed me to call the case. Prior to trying this case, I thought a trial where the defendant fails to appear would be a relatively simple endeavor. This trial proved me wrong. It proved difficult for the jury to understand how the City could prosecute an individual who was not there to answer for his charges, and they deliberated for several hours. I remember it well because these Goose Creek trials were scheduled in the evenings and as the night wore on and the jury deliberated I realized that this was no easy case. It was difficult to prosecute an empty chair. The jury eventually came back with a guilty verdict, but I did not leave the municipal complex that night feeling any more settled about the case or about the result. What I did gain was a significant understanding that no case should be taken lightly, that no case is insignificant and that no result is ever assured.

During this same time (approximately 2000-2005), I was also on the criminal appointment list. I remember one case that I handled that involved a young man who was charged in an armed robbery and kidnapping. He was not alleged to be the gunman nor was he alleged to be the 'mastermind' behind the crime but, under the "hand of one is the hand of all" rule, he was facing serious charges and subject to incarceration. The young man was a high school student, he was a football player and he did not have a criminal record. His brother was also charged in the crime. His parents were hard-working and loving parents who were upset about these charges allegedly involving their sons.

The State agreed to recommend a sentence to the Youthful Offenders program (YOA) if my client pled to his charges. After careful consideration of the evidence the State would present to convict him, my client decided to enter a plea of guilty to the charges. I outlined the supporting mitigating factors and several of my client's family members and community leaders testified at his sentencing hearing. The Honorable Victor Rawl was presiding and sentenced my client to serve his time in the YOA program. I kept in contact with my client and with his family while he served his sentence, and I still clearly remember the day he was released. It was just before Thanksgiving and his mother was so excited that he was coming home. She called me in a panic because there was a mix-up at the Department of Corrections and they did not have the paperwork authorizing his release. I spent much of that day on

the telephone until his relieved family called to tell me that they were heading home with him. The case was finally concluded for me that day, but I have often wondered what ever became of that young man. Our legal system has such a significant impact on our community. I can only hope that my former client was impacted in a positive way in the long term, and that his sentence in the YOA program is his last encounter with the criminal system.

The majority of my professional experience has involved civil cases and, in the majority of these matters, I have represented the defendant. I could write for paragraphs about my civil experience. I have tried at least fifty civil cases to verdict in our state and magistrate's courts. Many of these trials have been personal injury cases. In more recent years, my cases have become more complex and my practice has included more construction defense work. Many of my cases now resolve at mediation. I enjoy a good relationship with our judges and with my colleagues in the practice of law. I believe in the value and the honor of the profession and I thoroughly enjoy my civil practice. My extensive experience in civil practice will serve me well as a Judge."

Ms. Wetmore reported the frequency of her court appearances during the last five years as follows:

"(a) Federal: 0%;
(b) State: 100%;
(c) Other: N/A"

Ms. Wetmore reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 95%;
(b) Criminal: 1%;
(c) Domestic: 4%."

Ms. Wetmore reported the percentage of her practice in trial court during the last five years as follows:

"(a) Jury: 98%;
(b) Non-jury: 2%."

Ms. Wetmore provided that she most often served as lead counsel or sole counsel.

The following is Ms. Wetmore's account of her five most significant litigated matters:

"(a) Hinds v. Elms, April 5, 2004, Opinion No. 3770
The plaintiff filed suit alleging personal injuries arising from an automobile accident with my client, Peggy

Elms. I still remember how nervous my client was to testify at trial. She admitted that she was the at-fault driver in the accident, but disputed that plaintiff was injured in the wreck.

The plaintiff had sought significant medical treatment and, as such, the case required numerous discovery depositions of plaintiff's physicians throughout North and South Carolina. As discovery continued, we began to uncover that plaintiff had been involved in a series of automobile accidents and that his physicians were having a difficult time testifying as to a causal relationship between his alleged injuries solely to the particular accident with my client. It was becoming clear that plaintiff's physicians were not able to establish proximate cause, to a reasonable degree of medical certainty, most probably.

Despite the problems with the evidence that were unfolding, the plaintiff was a stubborn young man and his attorney and I were unable to engage in any meaningful settlement negotiations and trial was inevitable. At trial, after several days, I argued the law of proximate cause to the jury in our closing argument. I was still surprised, as I will continue to be by every verdict entered in jury trials, when my client and I heard the news that we had been successful and had received a defense verdict. Plaintiff appealed and the case was decided on brief by the Court of Appeals on April 5, 2004. As Judge Kittredge concluded in his opinion, "a determination of negligence, standing alone, does not entitle a plaintiff to a favorable verdict as a matter of law." After the decision was filed, the case was reported in South Carolina Lawyers Weekly, Volume 3, Number 32.

This was the first appeal that I had handled, aside from conducting legal research for other attorneys as a younger associate and drafting briefs. I learned a significant amount about my area of practice and about handling an appeal. I felt so passionately about the evidence in that case, and I was so pleased that the verdict and the decision of the Court of Appeals upheld our defense position in the case. It was also nice to see the satisfaction that my client, Peggy, felt when all was

resolved. She and her husband were lovely people and it made me feel so fulfilled to have been successful on her behalf.

(b) Soileau v. Mack, 2000-CP-10-5168

This trial was particularly interesting and challenging for me. There were a number of evidentiary issues that we argued in pretrial and during the course of the trial. The case was tried before the Honorable Daniel F. Pieper and the legal arguments alone that came before the Court made for an interesting and educational trial experience for me. Beyond the legal challenges, the testimony over the course of the trial unfolded in a bit of an unexpected way and taught me that it only takes one witness to change the face of a case. I called the emergency room doctor to testify as to the complaints of the plaintiff in an effort to attack plaintiff's credibility as to the severity of her injuries. Little did I know that the ER doctor would not only establish the minor nature of plaintiff's complaints, he testified that she exhibited "drug seeking" behavior. This led for an exciting trial and some heated closing arguments. This case definitely came down to a battle of the experts, and I have always been struck by how that one witness shaped the outcome.

The case resulted in a defense verdict, and I will always remember how surprised and genuinely hurt the plaintiff appeared as we left the courtroom. I always make it a point to speak kindly to litigants and attorneys, no matter the result. I was taught early by my mentors about the importance of civility and I believe it is also something that comes naturally to me. I have often wondered if the plaintiff believed in the sincerity with which I had wished her well as we left the courthouse that day.;

(c) Lecque v. Ellison and Papa John's Pizza, 2003-CP-10-1202

This case did not result in a defense verdict for my client, but it did result in a lot of lessons learned for me. Long before trial, the parties dealt with some insurance policy language and outside attorneys were involved in some coverage issues. I learned a lot about insurance policies outside of any courtrooms. Back inside the courthouse, I learned a lot during that trial when the

plaintiff, a young mother of two, testified as to the damages she suffered because of injuries to her two young children who were also in the car during the automobile accident. I quickly saw the sympathy that plaintiff was evoking from the jurors and I had a tough battle at trial as I tried to combat the emotion in the room. The case did not involved serious injuries, but I learned a lot of trial practice and strategy and came to understand that, even when the damages are not significant figures, a trial lawyer must capitalize wherever his or her strengths in the case can be found. I had probably tried more than fifty cases during my career, including magistrate court trials, by the time this case was tried, but I discovered that I would always have a lot to learn from every case, the small and the not-so-small.

(d) Patrick Walker v. State of South Carolina, 2004-CP-08-169

A Post Conviction Relief case is challenging and this was no different. I was appointed and Mr. Walker was a demanding client. I spent a lot of time, pro bono, preparing for the hearings and the trial regarding his application. The grounds for his PCR regarding the sufficiency of the indictment were at issue in the law at the time he filed his application, but had been much settled by case law by the time of the hearing. Nevertheless, I conducted a good deal of legal research in that case to educate myself on the law in the area of PCR cases and to intelligently argue the grounds at trial. Despite a good effort, we were unsuccessful. I was impacted by the Court's patience with the subject matters before it. There were many PCR's scheduled on the day that we were heard. Most seemed to me to be without merit, however, I took from that experience that every litigant gets his or her day in Court. Additionally, I took from my experiences in that case that every litigant deserves diligent and competent counsel.

(e) Crystal Fowler, 2006-DR-08-369

I was court appointed to defend Ms. Fowler in a Termination of Parental Rights action in Berkeley County. I had been involved in family court cases that had eventually become TPR actions, but usually as the GAL

for the children and never had I handled one that went to trial. The Department of Social Services filed the TPR Complaint, I received the Notice of Appointment from the Clerk of Court's Office and, after a few phone calls, I learned that my client was incarcerated. My research quickly revealed that my client certainly didn't have much of a defense to the statutory grounds for termination.

I went to visit my client at the Goodman Correctional Facility just outside of Columbia. Despite the knowledge that the evidence was clearly against her, she begged me to help her fight for her children. I remember her explaining that she knew that she would never defeat the TPR in all likelihood, but that it was important to her that her children always know that she fought it and fought for them. With that, we set out to try to defeat the odds. We struggled to get her enrolled in parenting classes, in a drug abuse program, in counseling with a minister at the correctional facility. She began writing to the children, despite the fact that we were never sure if the Department of Social Services would allow the children to receive the correspondence. Crystal and I did everything we could in our limited ability. She was not going to be released any time soon and her track record as a mother was dismal, but I knew she needed to try. We were not successful at the trial and it hurt, but I got one of the most rewarding notes of my career; a note from a non-paying client, a note from a client for whom I had not been able to prevail, thanking me for believing in her and for trying so hard."

The following is Ms. Wetmore's account of the civil appeal she has personally handled:

"Hinds v. Elms, April 5, 2004, Opinion No. 3770"

Ms. Wetmore reported that she has not handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Wetmore's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee reported the following on Ms. Wetmore: Constitutional Qualifications: Ms. Wetmore meets the constitutional qualifications for the judicial position she seeks. Ethical Fitness: Persons interviewed by the

committee indicated that Ms. Wetmore was considered ethical. Professional and Academic Ability: The committee gave Ms. Wetmore a good rating in this area. Character: The committee reported that Ms. Wetmore's character is unquestionable. Reputation: Ms. Wetmore enjoys a good reputation in the community and among her peers. Physical and Mental Health: There is evidence that Ms. Wetmore is physically and mentally capable of performing the duties required of a judge of the Circuit Court. Experience: The committee recognized Ms. Wetmore's adequate legal experience. Judicial Temperament: The committee gave Ms. Wetmore a good rating in this category."

Ms. Wetmore is married to Burns Malone Wetmore. She has one child.

Ms. Wetmore reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;
(b) Charleston Bar Association;
(c) South Carolina Women Lawyers Association;
(d) South Carolina Defense Trial Lawyers Association;
(e) Charleston Lawyers Club
(i)Secretary – 2006;
(ii) Treasurer – 2007;
(iii) Vice President – 2008."

Ms. Wetmore provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) South Carolina Department of Social Services Christmas Gift Drive;
(b) Charleston Lawyers Club
(i) Secretary – 2006;
(ii) Treasurer – 2007;
(iii) Vice President – 2008;
(c) WFU Alumni Network."

(11) Commission Members' Comments:

The Commission commented that Ms. Wetmore presented herself well and was very impressive at the public hearing. They noted her good work ethic that she would bring to the Circuit Court bench.

(12) Conclusion:

The Commission found her qualified and nominated her for election to the Circuit Court.

Jesse Cordell Maddox, Jr.
Circuit Court, At-Large, Seat 7

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Maddox since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Maddox meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Maddox was born in 1958. He is 50 years old and a resident of Anderson, South Carolina. Judge Maddox provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1983.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Maddox.

Judge Maddox demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Maddox reported that he has not made any campaign expenditures.

Judge Maddox testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Maddox testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Maddox to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Maddox described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a)	Annual Judicial Conference	08/20/08;
(b)	Annual Civil Law Update	01/25/08;
(c)	Hot Topics in Trial Practice	12/14/07;
(d)	Skeet Shoot	11/16/07;
(e)	Annual Judicial Conference	08/22/07;
(f)	Nuts & Bolts	07/27/07;
(g)	Seminar for Chief Judges	02/22/07;
(h)	Annual Civil Law Update	01/26/07;
(i)	Annual Criminal Law Update	01/26/07;
(j)	Annual Judicial Conference	08/23/06;
(k)	Circuit Court Judges Conference	05/10/06;
(l)	Annual Criminal Law Update	01/27/06;
(m)	Annual Civil Law Update	01/27/06;
(n)	Annual Meeting	11/30/05;
(o)	Annual SC Solicitors Conference	09/25/05;
(p)	Annual Judicial Conference	08/24/05;
(q)	Circuit Court Judges Conference	05/13/05;
(r)	Circuit Court Judges Conference	05/12/05;
(s)	Judicial Oath of Office	08/19/04;
(t)	Judicial Conference	08/19/04;
(u)	Circuit Court Judges Conference	05/05/04;
(v)	Annual Civil Law Update	01/23/04;
(w)	Annual Criminal Law Update	01/23/04

Judge Maddox reported that he has taught the following law-related courses:

"(a) 2008 - Harvard Law School, Self Represented Litigant Course;

(b) 2008 - 2 Hour CLE Major Complex Cases for S.C. Bar."

Judge Maddox reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Maddox did not reveal evidence of any founded grievances or criminal

allegations made against him. The Commission's investigation of Judge Maddox did not indicate any evidence of a troubled financial status. Judge Maddox has handled his financial affairs responsibly.

The Commission also noted that Judge Maddox was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Maddox reported that his last available Martindale-Hubbell rating was BV.

Judge Maddox reported that he has held the following public office:

"SC House of Representatives - 1996 to 2000. Report was timely filed."

(6) Physical Health:

Judge Maddox appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Maddox appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Maddox was admitted to the South Carolina Bar in 1983.

He gave the following account of his legal experience since graduation from law school:

> "(a) From 1983 - 1986 I practiced as an associate and partner with Charles Welborn, Jr. in a two-man office in Anderson, SC. My practice was predominantly Civil in nature and involved exposure to collection work, civil matters of all nature and general real estate practice;
>
> (b) From 1986 - 1992 I was an Associate and then Partner at Jones, Sptiz, Moorehead, Baird & Maddox in Anderson SC. My practice was predominantly a Civil Practice with some small amounts of real estate and criminal matters;
>
> (c) From 1992 - 2001, I was a Partner with the Law Firm of Glenn, Haigler, Maddox & McCLAIN. My practice continued to be predominantly a civil practice with some criminal work;

(d) From 1996 - 2000, in addition to practicing law, I served in the South Carolina House of Representatives representing District 9 in Anderson County;

(e) I have served as a Circuit Court Judge since February 6, 2002 to present.

Judge Maddox reported that he has held the following judicial office:

"Circuit Court At-Large Seat #7 - 2002 to present."

Judge Maddox provided the following list of his most significant orders or opinions:

"(a) McCall v. State Farm Mutual.Auto.Ins.Co, 359 S.C.372 (2004);

(b) Webb v. CSX Transportation Inc, 364 S.C. 639 (2005);

(c) State v. Tindall, 665 S.E.2d 188 (SC Ct. App. 2008);

(d) State v. McCluney, 361 S.C. 607 (2004);

(e) State v. Roberts, 361 S.C. 1 (2004)."

(9) Judicial Temperament:

The Commission believes that Judge Maddox's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee reported, "based on the investigation of this committee, we find that Judge Maddox meets and exceeds the qualifications as set forth in the evaluative criteria. He is a most competent and excellent jurist. The interviews and other sources utilized led us to determine that he is well qualified for the position he seeks."

Judge Maddox is not married. He has three children.

Judge Maddox reported that he was a member of the following bar associations and professional associations:

"SC Bar - Member House of Delegates in the 1990's"

Judge Maddox provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"S.C. Circuit Court Judges Association."

(11) Commission Members' Comments:

The Commission commented on Judge Maddox's able service for six years as a Circuit Court judge.

(12) Conclusion:

The Commission waived Judge Maddox's requirement and found him qualified and nominated him for re-election to the Circuit Court.

THURSDAY, JANUARY 15, 2009

Kenneth G. Goode
Circuit Court, At-Large, Seat 8

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Goode meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Goode was born in 1950. He is 58 years old and a resident of Winnsboro, South Carolina. Judge Goode provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1976.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Goode.

Judge Goode demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Goode reported that he has not made any campaign expenditures.

Judge Goode testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Goode testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Goode to be intelligent and knowledgeable. Although his performance on the Commission's practice and procedure questions failed to meet expectations, Judge Goode explained at the Public Hearing that he had scheduled his wedding for the same day he took the practice and procedure test and that he was very nervous.

Judge Goode described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) S.C. Criminal Law Update	01/23/04;
(b) Annual Judicial Conference	08/18/04-08/20/04;
(c) S.C. Criminal Law Update	01/21/05;
(d) Annual Judicial Conference	08/24/05-08/26/05;
(e) S.C. Criminal Law Update	01/27/06;
(f) Annual Judicial Conference	08/23/06-08/25/06;
(g) S.C. Criminal Law Update	01/26/07;
(h) Chief Administrative Judge Seminar	02/22/07;
(j) Annual Judicial Conference	08/22/07-08/24/07;
(j)S.C. Criminal Law Update	01/25/08;
(k) Annual Judicial Conference	08/20/08-08/22/08."

Judge Goode reported that he has taught the following law-related courses:

"I addressed the S.C. Bankruptcy Attorneys on the new attorneys' oath and administered the oath to a large number of bankruptcy attorneys. I also lectured the Young Lawyer's Division on matters involving the judiciary."

Judge Goode reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Goode did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Goode did not indicate any evidence of a troubled financial status. Judge Goode has handled his financial affairs responsibly.

The Commission also noted that Judge Goode was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Goode reported his last available Martindale-Hubbell rating was AB.

(6) Physical Health:

Judge Goode appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Goode appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Goode was admitted to the South Carolina Bar in 1976.

He gave the following account of his legal experience since graduation from law school:

"(a) 1976 December 31, 1977, associate with Columbia law firm of Hyatt Elliott;

(b) January 1, 1978 - June 28, 1999, general trial practice in Winnsboro, SC;

(c) July 23, 1980 - June 28, 1999, Fairfield County Attorney."

Judge Goode reported that he has held the following judicial office(s):

"I was elected to the Circuit Court bench June 2, 1999, and sworn in June 28, 1999. I was re-elected to this seat in 2002. The Circuit court is a trial court of general jurisdiction, both criminal and civil."

Judge Goode provided the following list of his most significant orders or opinions:

"(a) 99-CP-25-214 - Alfred Middleton et al vs. Cooper Tire & Rubber Company and Audon Ontiveros;

(b) 99-CP-40-4530 - Rick's Amusements, et al vs. State of South Carolina;

(c) 01-CP-12-189 - Chester County Council, et al vs. Dan Peach, et al.;

(d) 02-CP-20-397 - George A. Kennedy, Jr. vs. Oscar B. Kennedy and Douglas A. Kennedy;

(e) 05-CP-20-286 - Fairfield County Recreation Commission vs. Fairfield County Council."

(9) Judicial Temperament:

The Commission believes that Judge Goode's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Piedmont Citizens Advisory Committee found Judge Goode to be "very qualified and an asset to the judicial system. We also interviewed him personally recently and we hope he can continue his present position."

Judge Goode is married to Katherine Carruth Goode. He has three children.

Judge Goode reported that he was a member of the following bar associations and professional associations:

"(a) S.C. Bar Association, November 1976 - present; House of Delegates 1994;

(b) S.C. Trial Lawyers Association, 1976 – present;

(c) American Trial Lawyers Association, 1980 – present;

(d) S.C. Association of County Attorneys, 1980 -- 1999; Vice President approximately 1992;

(e) S.C. Criminal Defense Attorneys Association, 1997 - present."

Judge Goode provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"Recipient of 2007 portrait presented by South Carolina Trial Lawyers' Association."

(11) Commission Members' Comments:

The Commission commented that Judge Goode has exhibited an excellent work ethic. The Commission noted that Judge Goode for the past nine years on the Circuit Court bench seeks to serve the interests of fairness and justice.

(12) Conclusion:

The Commission found Judge Goode qualified and nominated him for re-election to the Circuit Court.

J. Michelle Childs
Circuit Court, At-Large, Seat 9

Commission's Findings: QUALIFIED AND NOMINATED

Pursuant to S.C. Code Ann. § 2-19-40, the Commission waived the public hearing for Judge Childs since her candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Childs meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Childs was born in 1966. She is 42-years old and a resident of Columbia, South Carolina. Judge Childs provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Childs.

Judge Childs demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Childs reported that she has not made any campaign expenditures.

Judge Childs testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Childs testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Childs to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Childs described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) 6th Annual Civil Law Update	01/25/08;
(b) 23rd Annual Criminal Law Update	01/25/08;
(c) National Judicial College General Jurisdiction Course	10/14 - 10/24/07;
(d) Annual Judicial Conference	08/22-8/23/07;
(e) SC Trial Lawyers' Association Conference	08/02-08/04/07;
(f) SC Circuit Court Judges' Association Conference	05/16-05/18/07;
(g) 5th Annual Civil Law Update	01/26/07;
(h) 22nd Annual Criminal Law Update	01/26/07;
(i) SC Defense Attorneys Association Annual Meeting	11/09-11/11/06
(j) South Carolina Black Lawyers' Association Conference	09/28/06;
(k) SC Solicitors' Association Conference	09/24/06;

(l) ABA Annual Meeting 08/05/06;
(m) SC Defense Attorneys' Association Joint Meeting 07/27/06;
(n) Orientation for New Circuit Court Judges 07/10/06;
(o) Spring Seminar 05/12/06;
(p) New Court Developments 02/21/06;
(q) 21st Annual Criminal Law Update 01/27/06;
(r) Fourth Annual Civil Law Update 01/27/06;
(s) Bar Examiner Credit 01/01/06;
(t) 15th Annual Criminal Practice in SC 11/18/05;
(u) 29th Annual Conference on Workers' Compensation 10/23/05;
(v) The Promise of Voter Equality 10/21/05;
(w) South Carolina Legal History 09/20/05;
(x) Workers' Compensation Update 08/26/05;
(y) SC Workers' Compensation Law 08/05-08/06/05;
(z) SC Workers' Compensation Law 07/28/05;
(aa) Ethics 05/19/05;
(bb) Annual Spring Seminar 05/06/05;
(cc) Medical Seminar 02/26/05;
(dd) Tort Reform or Torts Deformed: A Primer on Pending Legislation and Its Possible Effects 02/22/05;
(ee) Torts & Insurance Practice 01/22/05;
(ff) Bar Examiner Credit 01/01/05;
(gg) SC Workers' Compensation Law 11/5-11/6/04;
(hh) Revised Lawyers' Oath CLE 11/05/04;
(ii) SC Workers' Compensation Law 08/05-08/08/04;
(jj) New Lawyer's Oath CLE 08/05/04;
(kk) Young Lawyers Division Meeting 08/05/04;
(ll) SC Workers' Compensation Law 07/23-07/24/04;
(mm) SC Workers' Compensation Law 07/16/04;
(nn) Pros and Cons of TORT Reform 01/20/04;
(oo) Bar Examiner Credit 01/01/04;
(pp) SC Workers' Compensation Law 10/20/03;
(qq) SC Workers' Compensation Law 07/25/03;
(rr) SC Workers' Compensation Law 05/30/03;
(ss) Equal Employment Opportunity Seminar 03/19-03/20/03;
(tt) Ethical Considerations 02/25/03;
(uu) Legal Jeopardy 01/28/03;

(vv) Bar Examiner Credit 01/01/03."

Judge Childs reported that she has taught the following law-related courses:

"During my employment at Nexsen, Pruet, Jacobs & Pollard, LLP, I routinely spoke to various organizations and groups and lectured at several CLEs and seminars on a variety of employment law issues (the Civil Rights Act of 1991, the Family and Medical Leave Act, Title VII, Age Discrimination, Sexual Harassment, Workers' Compensation, the Fair Labor Standards Act, employment at-will, employment policies and procedures, general employment law issues) and have written materials on various employment law topics. I have also assisted in the preparation of two employment-related manuals (1) 'The South Carolina Employer's Legal Reference Manual' and (2) 'The South Carolina Public Employer's Legal Reference Guide.' (Center for Governance-Institute of Public Affairs).

I have also taught seminars on the applicability of the Civil Rights Act of 1991, sexual harassment law, and interviewing skills in the Practical Legal Training Schools in Capetown, Johannesburg, and Pretoria, South Africa in September 1998 and March 2001.

Additionally, both as a Workers' Compensation Commissioner and Circuit Court Judge, I have served on panels and lectured at several CLEs on Workers' Compensation, trial and professional responsibility issues."

Judge Childs reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Childs did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Childs did not indicate any evidence of a troubled financial status. Judge Childs has handled her financial affairs responsibly.

The Commission also noted that Judge Childs was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Childs reported that her last available Martindale-Hubbell rating was AV.

Judge Childs reported that she has held the following public office

"(a) I was elected to the position of Circuit Court Judge in August 2006 and still currently serve in this position. I also have additional responsibilities as Chief Administrative Judge of General Sessions for Richland and Kershaw Counties and as Chief Administrative Judge for Business Courts for Richland County. I have always timely filed ethics reports while in this position.

(b) I was a board member of the Midlands Authority for Conventions, Sports, and Tourism from 1996 to 2006. I was appointed to the Board as representative for the City of Columbia and was elected to the position of secretary by the Board. I did not have to file any ethics reports for this position.

(c) I received a gubernatorial appointment to the position of Deputy Director of the South Carolina Department of Labor, Licensing and Regulation's Division of Labor in 2000 to finish a term that expired in 2002. I always timely filed ethics reports while in this position."

(6) Physical Health:

Judge Childs appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Childs appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Childs was admitted to the South Carolina Bar in 1992.

Because Judge Childs is seeking re-election to her current judicial seat, she was not required to give an account of her legal experience since graduation from law school.

Judge Childs reported that she has held the following judicial offices:

"I was elected to the position of Circuit Court Judge in May 2006 and have served in this position since August 2006. I also have additional responsibilities as Chief Administrative Judge of General Sessions for Richland and Kershaw Counties and as Chief Administrative Judge for Business Courts for Richland County.

I formerly served as a Commissioner with the South Carolina Workers' Compensation Commission. I received a gubernatorial appointment in 2000 to serve a six year. The Workers'

Compensation Commission handles matters involving on-the-job injuries. The Workers' Compensation Commission is not part of South Carolina's unified judicial system."

Judge Childs reported that she has held the following judicial offices:

> "(a) I was elected to the position of Circuit Court Judge in August 2006 and still currently serve in this position. I also have additional responsibilities as Chief Administrative Judge of General Sessions for Richland and Kershaw Counties and as Chief Administrative Judge for Business Courts for Richland County. I have always timely filed ethics reports while in this position.
>
> (b) I was a board member of the Midlands Authority for Conventions, Sports, and Tourism from 1996 to 2006. I was appointed to the Board as representative for the City of Columbia and was elected to the position of secretary by the Board. I did not have to file any ethics reports for this position.
>
> (c) I received a gubernatorial appointment to the position of Deputy Director of the South Carolina Department of Labor, Licensing and Regulation's Division of Labor in 2000 to finish a term that expired in 2002. I always timely filed ethics reports while in this position."

Judge Childs provided the following list of her most significant orders or opinions:

> "(a) Brown v. Greenwood Mills, Inc. 366 S.C. 379, 622 S.E. 2d 546 (Ct. App. 2005) - (Served on Full Commission Panel of Workers' Compensation Commission) The claimant developed byssinosis while working with cotton at Greenwood Mills, but was also a long-term cigarette smoker. The Single Commissioner awarded benefits for an occupational lung disease. The Full Commission affirmed the decision. The Circuit Court also affirmed the decision, but declared the Full Commission should have allocated a portion of the claimant's disease to his long history of cigarette smoking, a non-compensable cause of his lung disease. The Court of Appeals affirmed the compensability of the occupational lung disease but reversed the Circuit Court's finding that the Full Commission should have apportioned the benefits since the award was supported by the record.

(b) Pitts v. McCormick School District WCC # 0208104, Civil Action No. 04-CP-24-1612 (Richland County Circuit Court) - (Served as Single Commissioner of Workers' Compensation Commission) The claimant had pre-existing conditions of chronic post-traumatic stress syndrome ("PTSD"), obsessive compulsive personality disorder, and mania. Claimant was employed as a middle school teacher. He alleged that his PTSD was aggravated from incidents by students disrupting the classroom and, in particular, while he was teaching in the classroom and a child screamed after seeing a spider. This event reminded him of a prior incident leading to the onset of his PTSD. As a Single Commissioner, I determined that the claimant's job duties and the incident alleged were not extraordinary or unusual in comparison to the normal conditions of his employment as a teacher. The Full Commission and the Circuit Court affirmed the decision.

(c) State v. Fletcher 379 S.C. 17, 664 S.E.2d 480 (2008) (Served as Acting Associate Justice)

(d) Lakefhia McCrea v.Jafer Gheraibeh. No. 4577, slip op. (S.C. --), *aff'g* No. 2006-UP-072, slip. op. (Ct. App. Feb.2, 2006).

(e) State of South Carolina v. Antonio Mobley

(State Grand Jury of South Carolina - Indictment # 2008-GS-47-01) (Served as Circuit Court Judge) The State Grand Jury indicted the defendant for the crime of murder. The indictment included a jurisdictional allegation stating that such conduct arose out of "a crime involving criminal gang activity or a pattern of criminal gang activity pursuant to the provisions of Article 3 of Chapter 8, Title 16," an amendment to the State Grand Jury Act effective June 12, 2007. The defendant filed a motion to reconsider [the venue order] and motion to quash the indictment on the ground that the State Grand Jury lacked subject matter jurisdiction to indict him. The State presented evidence related to criminal gang activity to the State Grand Jury. However, during the deliberations, the jury asked numerous questions regarding the criminal gang activity allegation in the indictment. The attorney for the State answered those

questions in such a way as to indicate that it was not necessary to support the State Grand Jury's subject matter jurisdiction or to consider the issue at all. I determined that the State Grand Jury was required to determine that it had subject matter jurisdiction over the matter. Although evidence was presented from which the State Grand Jury could have concluded that Defendant was involved in criminal gang activity, the State's responses to the State Grand Jury's questions concerning its jurisdiction led the State Grand Jury to believe that it was not necessary to consider such information for purposes of issuing the indictment or establishing subject matter jurisdiction. I held the indictment was insufficient as a matter of law since the defendant's due process guarantees under the State Constitution had been violated by the issuance of an indictment not supported by a proper finding of the allegations of gang-related activity and such finding was necessary to confer jurisdiction upon the State Grand Jury."

(9) Judicial Temperament:

The Commission believes that Judge Childs's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Judge Childs to be "a very eminently qualified and a most highly regarded candidate who would ably continue to serve on the Circuit Court bench in a more outstanding manner."

Judge Childs is married to Dr. Floyd Lancelot Angus. She does not have any children.

Judge Childs reported that she was a member of the following bar associations and professional associations:

"American Bar Association

(a) Fellow, American Bar Foundation (2001-present);

(b) Member, National Conference of State Trial Judges (2007-present);

(c) Member, Judicial Division (2006-Present);

(d) Member, Government and Public Sector Division (2004-present);

(e) Commissioner, Comm. on Mental & Physical Disabilities (2003-06).

American Bar Association Young Lawyers Division

(a) Fellow, ABA Labor and Employment Law Section, EEO Committee (2001-03);

(b) Liaison, Commission on Racial & Ethnic Diversity (2002-03);

(c) Chair, Minorities in the Profession Committee (2001-02);

(d) Vice Chair, Minorities in the Profession Committee (2000-01);

(e) ABA/YLD Diversity Team (2001-02);

(f) Chair, Awards of Achievement Committee (1999-00);

(g) Beyond and Boundaries Team (1998-99);

(h) Planning Board for Minorities in the Profession Committee (1997-99);

(i) National Conferences Committee (1997-98).

Columbia Lawyers Association

(a) Secretary (1994);

(b) President (1992-93).

John Belton O'Neall Inn of Court

(a) President, (2002-03);

(b) Program Chair (1999-01);

(c) Member (1996-present).

Richland County Bar Association

(a) Board of Directors, Public Defender's Office (1997-99);

(b) Chair, Law Week Committee (1995-97);

(c) Advisory Committee (1995-97);

(d) Long Range Planning Committee (1997-99).

South Carolina Bar

(a) Board of Governors (2002-04);

(b) House of Delegates (1996-2000; 2006-present)

(c) Enhancement Task Force for Young Lawyers Division (2007- present).

South Carolina Black Lawyers Association - Secretary (1995-97).

South Carolina Liberty Fellowship Program (2008)

South Carolina Women Lawyers Association

(a) Board of Directors (1999-01);

(b) Co-Chair, Nominating Committee (1999-00);

(c) Planning Board for Annual CLE (1997-98).

South Carolina Circuit Court Judges Association (2006-present)

(a) Committee Member, South Carolina Circuit Court Judges';

(b) Conference (May 2007-present);

(c) Nominating Committee Regional Vice Chair (2007).

SC Supreme Court - Associate Member, Board of Law Examiners (2003- 06)."

Judge Childs provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Benjamin E. Mays Academy for Leadership Development Program Coordinator (1991-2006);

(b) Columbia Urban League

(i)Board of Directors (2000-04);

(ii) Member, Nominating Committee (2003-04);

(iii) Committee Member, Equal Opportunity Dinner (2001);

(c) Merit Selection Panel, United States District Court, District of South Carolina, Member (2000);

(d) Midlands Authority for Conventions, Sports & Tourism Member, Board of Directors (1999-2006);

(e) South Carolina Governor's Executive Institute Student (2001-02);

(f) South Carolina Industry Liaison Group

(i) President (2000-01);

(ii) Second Vice-President (1998-99);

(iii) Board of Directors (1997-2002);

(g) South Carolina Workers' Compensation Educational Association Member, Board of Directors (2002-06);

(h) Southern Association of Workers' Compensation Administrators Member, Executive Committee (2002-06);

(i) St. Martin de Porres Catholic Church Board Member (2002-present);

(j) University of South Carolina School of Law Alumni Association Board (1998-2007) (President, 2005-06).

Honors and Award

(a) The State Newspaper's "Top 20 under 40" Award (2005);

(b) University of South Carolina Moore School of Business Outstanding Young Alumni Award (2005);

(c) Benjamin E. Mays Leadership Academy John M. McFadden Award (2005);

(d) American Bar Assn. Young Lawyers Div. Affiliate Leader Award (2002);

(e) National Bar Association Junius W. Williams Young Lawyers Division Award (2002);

(f) Columbia Urban League SHEROES Award (2002);

(g) University of South Carolina Outstanding Alumni Award (2000);

(h) Richland County Bar Civic Star Award (1999);

(i) American Bar Association Young Lawyers Division Star of the Quarter Award (1999);

(j) South Carolina Bar Compleat Lawyer Award, Silver Medallion (1997)."

(11) Commission Members' Comments:

The Commission noted Ms. Childs' outstanding academic record and her dedicated commitment to as well as her leadership in professional and civic organizations in this state and nationally. They commented that she has ably served on the Circuit Court for the past two years.

(12) Conclusion:

The Commission found Judge Childs qualified and nominated her for re-election to the Circuit Court.

James R. Barber III
Circuit Court, At-Large, Seat 10

Commission's Findings: QUALIFIED AND NOMINATED FOR RE-ELECTION

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Barber meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Barber was born in 1943. He is 65 years old and a resident of Columbia, South Carolina. Judge Barber provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1969.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Barber.

Mr. Adrian Hammond filed an affidavit in opposition to Judge Barber's candidacy. The affidavit alleged that Judge Baber had received and was influenced by improper ex parte communications in a civil matter brought by Mr. Hammond, which Judge Barber subsequently dismissed.

At the Public Hearing, the Commission heard testimony from Mr. Hammond, Judge Baber, and the lawyer alleged to have initiated the improper contact. The Commission also thoroughly reviewed all documents contained in the case file in question and produced by Mr. Hammond and found no evidence that Judge Barber had even received an improper ex parte communication, let alone been influenced by its content.

Judge Barber demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Barber reported that he has not made any campaign expenditures.

Judge Barber testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Barber testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Barber to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Barber described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name	Date(s)
(a) SCB 6th Annual Civil Law Update	1/25/08;
(b) SCB 23rd Annual SC Criminal Law Update	1/25/08;
(c) JBOIC The Future of Legal Education	11/13/07;
(d) SCCA 2007 Annual Judicial Conference	8/22/07;

(e) SCCJC Judges Conference 5/16/07;
(f) SCB 22nd Annual Criminal Law Update 1/26/07;
(g) SCB 5th Annual Civil Law Update 1/26/07;
(h) JBOIC History of the Inns of Court 9/19/06;
(i) SCCA 2006 Annual Judicial Conference 8/23/06;
(j) JBOIC New Court Developments 2/21/06;
(k) SCB 21st Annual Criminal Law Update 1/27/06;
(l) SCB 4th Annual Civil Law Update 1/27/06;
(m) JBOIC Highlights of the 2005 Revision to 11/15/05;
(n) JBOIC South Carolina Legal History 9/20/05;
(o) SCCA 2005 Annual Judicial Conference 8/24/05;
(p) SCCJC 2005 Circuit Court Judges Conference 5/11/05;
(q) SCB 20th Annual Criminal Law Update 1/21/05;
(r) SCP 20th Annual Civil Law Update 1/21/05;
(s) CCA Seminar for Chief Judges 12/10/04;
(t) NJC Advanced Evidence 11/14/04;
(u) SCB How to Manage Work in the 10/08/04;
(v) SupCt Judicial Oath of Office 8/19/04;
(w) JBOIC Revised Lawyer's Oath 9/21/04;
(x) SCCA Judicial Conference 8/19/04;
(y) CB Cruise - Eminent Domain 7/3/04;
(z) SCACJ 2004 Circuit Judges Conference 5/05/04;
(aa) SCB 2nd Annual Civil Law Update 1/23/04;
(bb) SCB 19th Annual Criminal Law Update 1/23/04;
(cc) SCB 2nd Annual Civil Law Update 1/23/04;
(dd) SCCA Judicial Conference 8/21/03;
(ee) SCAJC 2003 SC Circuit Judges Conference 5/07/03;
(ff) JBOIC Ethical Considerations 2/25/03;
(gg) BOIC Legal Jeopardy 1/28/03;
(hh) SCB 18th Annual Criminal Law Update 1/24/03."

Judge Barber reported that he has taught the following law related courses:

"(a) I was an instructor at the University of South Carolina College of Applied Science;

(b) I taught Business Law to undergraduate students which primarily covered contracts;

(c) I have participated in a number of legal seminars as a speaker on various topics."

Judge Barber reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Barber did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Barber did not indicate any evidence of a troubled financial status. Judge Barber has handled his financial affairs responsibly.

The Commission also noted that Judge Barber was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Barber reported that his Martindale-Hubbell rating is AV.

Judge Barber reported that he has held the following public office:

(a) Richland County Council - 1977-1986 (Elected);

(b) Richland Memorial Hospital Board of Trustees - 1990-1994 (Appointed by Governor Carroll Campbell).

(6) Physical Health:

Judge Barber appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Barber appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Barber was admitted to the South Carolina Bar in 1969.

He gave the following account of his legal experience since graduation from law school:

"(a) 2/70-10/72 United States Department of Justice, Internal Security Division, Washington, DC

Initially I was employed in the Foreign Agents Registration Section which had the responsibility for enforcing the Foreign Agents Registration Act. The work was primarily administrative and regulatory.

I then moved to the Special Litigation Section. The work involved grand jury, United States District Court and Circuit Court of Appeals practice throughout the United

States. It was primarily a criminal practice arising out of anti-Vietnam war criminal activities by various individuals and groups. I also handled Selective Service evasion cases in various courts.

(b) 10/72-8/77 Law Office of Henry H. Edens, Columbia, South Carolina

This was a two-person office which was primarily engaged in civil litigation practice, a substantial portion of which was workers' compensation, personal injury and domestic practice. We did practice some criminal law.

(c) 8/77-6/97 Todd & Barber, PC, Columbia, South Carolina (successor to the firm of Marchant, Bates, Todd & Barber)

I have engaged in a practice of administrative, domestic, corporate, real estate and workers' compensation law.

(d) 7/97-present SC Court Administration, Circuit Court Judge, Columbia, South Carolina."

Judge Barber reported that he has held the following judicial office:

"Circuit Court Judge; July, 1997-present; The highest general jurisdiction trial court in South Carolina."

Judge Barber provided the following list of his most significant orders or opinions:

"(a) Susan Olson v. Faculty House of Carolina, Inc.
354 S.C. 161, 580 S.E.2d 440 (S.C. 2003);

(b) Sharon B. Koon v. Soraya Farid Fares and Dr. Marie A. Faltas
2008 WL 3821314;

(c) The State v. Gary A. White
372 S.C. 364, 642 S.E.2d 607 (Ct. App. 2007);

(d) Linda Gail Marcum v. Donald Mayon Bowden
372 S.C. 452, 643 S.E.2d 85 (S.C. 2007);

(e) City of Camden v. Fairfield Electric Cooperative, Inc.
372 S.C. 543, 643 S.E.2d 687."

Judge Barber further reported the following regarding unsuccessful candidacies:

"(a) I ran unsuccessfully in the Democratic Primary for the office of Lt. Governor in 1986;

(b) I ran unsuccessfully for At-Large Circuit Court Seat No. 13 in 1996."

(9) Judicial Temperament:

The Commission believes that Judge Barber's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Judge Barber to be "a most highly qualified and a most highly regarded candidate, who would continue to serve on the Circuit Court bench in a most outstanding manner."

Judge Barber is married to Susan Preston Foster Barber. He has three children, one of whom is deceased.

Judge Barber reported that he was a member of the following bar associations and professional associations:

"(a) Richland County Bar Association;

(b) South Carolina Bar Association."

Judge Barber provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

"University of South Carolina Alumni Association."

(11) Commission Members' Comments:

The Commission commented that Judge Barber is a highly respected Circuit Court Judge. They also noted that he has very ably served for 11 years on the bench.

(12) Conclusion:

The Commission found Judge Barber qualified and nominated him for re-election to the Circuit Court.

Edgar H. Long
Family Court, Tenth Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Long meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Long was born in 1954. He is 54 years old and a resident of Anderson, South Carolina. Mr. Long provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Long.

Mr. Long demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Long reported that "I have spent about $4 in campaign expenditures for postage, mailing out letters of introduction and a copy of my professional biography to members of the Anderson County legislative delegation. I did not solicit or request their support in this letter."

Mr. Long testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Long testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Long to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Long described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Ethical Consideration & Pitfalls for the Family Law Lawyer	12/23/2002;
(b) 5th Annual Children's Law	05/16/2003;
(c) Family Law Ethics	12/06/2003;
(d) SCDSS Legal Training	12/12/2003;
(e) SCDSS– OGC CLE Seminar	05/21/2004;
(f) Revised Lawyer's Oath CLE	05/21/2004;
(g) Ethics Update	10/26/2005;
(h) 2005 Annual TIPS Seminar	11/11/2005;
(i) SC Family Court Bench/Bar	12/02/2005;
(j) Hot Tips from the Coolest Family Law Practitioners	09/22/2006;
(k) Rules, Rules, Rules! SC Civil	

Procedure Update 02/16/2007;
(l) Training for Attorneys Appointed as Guardian ad Litem 05/18/2007;
(m) Family Court Bench/Bar 12/07/2007;
(n) Year End CLE 02/08/2008."

Mr. Long reported that he has taught the following law-related course:

"Law and Banking through the American Institute of Banking, in 1994 and 2000."

Mr. Long reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Long did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Long did not indicate any evidence of a troubled financial status. Mr. Long has handled his financial affairs responsibly.

The Commission also noted that Mr. Long was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Long reported that his Martindale-Hubbell rating is BV.

Mr. Long reported that he has held the following public office:

"I have served as chairman of the Anderson Housing Authority Board of Directors since 1990. This is a local board appointed by the City Council of Anderson, SC, and does not require filing of ethics reports."

(6) Physical Health:

Mr. Long appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Long appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Long was admitted to the South Carolina Bar in 1981.

He gave the following account of his legal experience since graduation from law school:

"(a) Legal Services Agency of Western Carolina (Staff Attorney) 1982-1983. I was one of two staff attorneys in

the Anderson office of Legal Services. My primary areas of practice were divorce and child custody;

(b) Tenth Circuit Solicitor's Office (Assistant Solicitor) 1983-1985, I was responsible for representing the state in prosecuting all juvenile cases in Anderson County, and also representing the Anderson County Department of Social Services in all court cases in which they were a party;

(c) Chapman, King & Byrholdt (Attorney) 1985-1993, I was an associate attorney at a small law firm that primarily did litigation. I was given primary responsibility for family court cases, and I handled all aspects of family court practice, including divorce, child custody, equitable distribution, adoption, abuse and neglect and juvenile justice cases;

(d) Law Offices of Long & Smith (Partner) 1993-2003, See below.

(e) Law Offices of Long, Smith & Burrell (Partner), 2003-2006, See below.

(f) Law Offices of Edgar H. Long (Sole Practitioner) 2007 to present.

Since 1993, first as a partner in a firm, and then as a sole practitioner, I have focused on domestic relations and family law. I have emphasized child custody and divorce, including equitable distribution of property and all other issues that arise in the dissolution of a marriage. I have also done a great deal of work as court appointed Guardian ad Litem in cases involving custody of children. For about eight of the last ten years, I have also worked as a contract attorney for the Department of Social Services, handling all types of cases involving D.S.S., including termination of parental rights, abuse and neglect of children, and vulnerable adult cases."

Mr. Long reported the frequency of his court appearances during the last five years as follows:

"(a) federal: None;

(b) state: 3-4 times a week."

Mr. Long reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 1%;

(b) criminal: 1%;
(c) domestic: 98%."

Mr. Long reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 0%;
(b) non-jury: 100%."

Mr. Long provided that he most often served as sole counsel.

The following is Mr. Long's account of his five most significant litigated matters:

"(a) Sheila Jean Eubanks v. Homer Dale Eubanks, Docket No. 1999-DR-39-567.

This was a highly contested divorce, with all issues being contested, including child custody and equitable distribution of assets. After a two day trial, my client (Plaintiff) was awarded sole custody, attorneys' fees, and an equitable share of the marital estate;

(b) Terry Vernon v. Susan Vernon, Docket No. 2001-DR-04-679

This was a contested divorce on the grounds of physical cruelty, with significant issues of transmutation of property from nonmarital to marital. After a two day trial, my client (Defendant) prevailed on the issue of transmutation of the marital residence and was awarded attorney's fees;

(c) Eric Cohen v. Deborah L. Cohen, Docket No. 2001-DR-04-296

This was a contested divorce, with contested issues of equitable distribution and valuation involving my client's (Plaintiff) textile manufacturing plant. After extensive discovery and utilization of experts for valuation, the case was tried for one half day, and the parties then agreed upon a settlement resolving all issues;

(d) Rebecca S. Freeman v. Forrest Freeman, Jr., Docket No. 2004-DR-04-1752

This was a contested divorce, with complex legal issues involving the Defendant's pension earned as an Ohio Highway patrolman. After significant legal research and utilizing a financial expert from Ohio, the parties were able to settle the case on the eve of trial. (I represented Plaintiff);

(e) Barbara Maddox v. Raymond R. Maddox, Docket No. 2004-DR-04-2213

This was a contested divorce, primarily on the issue of equitable distribution of property. Plaintiff actively failed to respond to discovery requests, requiring extensive discovery to identify and value marital assets. On the morning of trial, the parties were able to settle the case, with my client (Defendant) receiving an equitable portion of the marital estate."

The following is Mr. Long's account of the civil appeal he has personally handled:

"William E. Fields and Martha L. Fields, Respondents v. Yarborough Ford, Inc., Appellant, 307 S.C. 207, 414 SE2d 164 (1992).

This was an appeal from a jury verdict and award in favor of my clients, the Fields, on issues of fraud and unfair trade practices. The award was reversed on appeal by the Supreme Court."

Mr. Long reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Long's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found Mr. Long meets "the qualifications set forth in the evaluative criteria. The interview and other sources utilized have led us to determine that he is well qualified for the position he seeks."

Mr. Long is married to Amy (Hunt) Tripp Long. He has two children.

Mr. Long reported that he was a member of the following bar associations and professional association:

"South Carolina Bar."

Mr. Long provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Greater Anderson Musical Arts Consortium (Chairman of Board of Directors);

(b) Anderson Cancer Association (Director);

(c) Anderson Roadrunners (Club President and Board member);

(d) American Cancer Association (Anderson County Chairman)."

(11) Commission Members' Comments:

The Commission commented that Mr. Long had very good ideas for handling the backlog of cases in Family Court. They noted that he also possessed a vision for handling child enforcement matters while still putting the child's interest first.

(12) Conclusion:

The Commission found him qualified and nominated him for election to the Family Court.

M. Scott McElhannon
Family Court, Tenth Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. McElhannon meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. McElhannon was born in 1962. He is 46 years old and a resident of Anderson, South Carolina. Mr. McElhannon provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. McElhannon.

Mr. McElhannon demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. McElhannon reported that he has not made any campaign expenditures.

Mr. McElhannon testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. McElhannon testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. McElhannon to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. McElhannon described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Annual Solicitor's Conference	09/23-26/07;
(b) Annual Solicitor's Conference	09/24-27/06;
(c) Annual Solicitor's Conference	09/25-28/05;
(d) Annual Solicitor's Conference	09/26-29/04;
(e) Annual Solicitor's Conference	09/27-30/03;
(f) Capital Litigation Seminar	08/21-22/08."

Mr. McElhannon reported that he has taught the following law-related courses:

"(a) Spoke at a juvenile crime seminar in Biloxi, Mississippi;

(b) Panel Member for juvenile prosecution seminar at Solicitor's Conference."

Mr. McElhannon reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. McElhannon did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. McElhannon did not indicate any evidence of a troubled financial status. Mr. McElhannon has handled his financial affairs responsibly.

The Commission also noted that Mr. McElhannon was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. McElhannon reported, "I am not listed in Martindale-Hubbell. I have never attempted to be listed."

(6) Physical Health:

Mr. McElhannon appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. McElhannon appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. McElhannon was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

> "(a) Dowling, Sanders, Dukes, Svalina & Williams; Beaufort, South Carolina, August 1988 – April 1989 - Associate attorney practicing in Family Court, General Sessions, Common Pleas;
>
> (b) Svalina, Richardson & Smith, April 1989 – November 1990 Beaufort, South Carolina- Associate attorney practicing in Family Court, General Sessions, Common Pleas;
>
> (c) M. Scott McElhannon, Attorney at Law, Honea Path, South Carolina, January 1991 – March 1992 - Sole practitioner practicing in Family Court, General Sessions, Common Pleas;
>
> (d) Law Office of Raymond MacKay, Anderson, South Carolina, April 1992 –June 1995 - Associate attorney practicing in Family Court, General Sessions, Common Pleas;
>
> (e) M. Scott McElhannon, Attorney at Law, Anderson, South Carolina, July 1995 – December 1999 - Sole practitioner practicing in Family Court, General Sessions, Common Pleas. During this period I was also a contract Public Defender handling juvenile cases in Family Court;
>
> (f) 10th Circuit Solicitor's Office, Assistant Solicitor, Anderson, South Carolina, January 2000 – Present - From January 2000 to June 2005 I handled all juvenile cases in Family Court;
>
> (g) From June 2005 to the present, I have handled General Sessions cases and filled in for Juvenile Court when needed."

Mr. McElhannon further reported:

> "(a) Divorce and equitable division of property: While in private practice from 1988 to 2000 I handled divorce cases in which equitable division of property was

an issue. In most cases, a property settlement agreement was reached. In some cases this issue was contested and tried before a Family Court judge;

(b) Child custody: I have handled numerous cases in which child custody was an issue. I have also been the guardian ad litem for children in numerous custody cases;

(c) Adoption: I have represented parents adopting children. I have served as guardian ad litem for children in adoption cases;

(d) Abuse and neglect: I have represented parents in abuse and neglect cases, and have served as attorney for the guardian ad litem in these cases;

(e) Juvenile justice: I have extensive experience in Juvenile Court. I have defended juveniles in private practice as well as contract Public Defender for two [2] years. I prosecuted juveniles as Assistant Solicitor for five and a half [5 ½] years. I have handled virtually every type of case in Juvenile Court, including two cases in which the juvenile was waived to General Sessions Court on the charge of murder. In 2001, I was awarded the Ernest F. Hollings Award for Excellence in State Prosecution in Family Court."

Mr. McElhannon reported the frequency of his court appearances during the last five years as follows:

"(a) federal: none;

(b) state: While handling all Juvenile Court matters as an Assistant Solicitor was in Court several times a week, including almost every Wednesday which was Juvenile Court day in Anderson County. I prosecuted in Juvenile Court for five and a half [5 ½] years. As an Assistant Solicitor handling General Sessions matters I am in Court every term of Court which is normally two [2] weeks each month. I have been doing this in excess of three [3] years."

Mr. McElhannon reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 2% [civil forfeitures];
(b) Criminal: 98%;
(c) Domestic: 0%."

Mr. McElhannon reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 2%;
(b) Non-jury: 98%."

Mr. McElhannon provided that he most often served as sole counsel.

The following is Mr. McElhannon's account of his five most significant litigated matters:

(a) State v. Braxton J. Bell , 374 S.C. 136, 646 S.E. 2nd 888

This was a murder case in which the defendant attempted to have the 10th Circuit Solicitor's Office disqualified from prosecuting on the basis of a conflict of interest. The Court found that there was no conflict of interest. The defendant also appealed because the Court refused to dismiss a juror. The South Carolina Court of Appeals affirmed the conviction. The

South Carolina Supreme Court denied the Petition for Writ of Certiorari on July 23, 2008;

(b) State v. Kristopher M. Miller – 363 S.C. 635, 611 S.E. 2nd 309

This was a murder case in which the defendant was a juvenile. After a waiver hearing the Family Court issued an order waiving jurisdiction to Circuit Court. The Court of Appeals affirmed the Family Court's waiver order. The juvenile was convicted in Circuit Court;

(c) State v. Jesse Newton

This was a murder case in which the defendant was a juvenile. After a waiver hearing the Family Court issued an order waiving jurisdiction to Circuit Court. The juvenile was convicted in Circuit Court;

(d) State v. Leroy Archie

This was a murder case in which the State was seeking life without parole based on defendant's prior conviction. After a trial in Circuit Court the defendant was convicted and sentenced to life without parole;

(e) State v. Barry Lollis

This was a case that I defended in 1994. After a trial the jury found the defendant not guilty. This was a

significant case for me because it shows that I have successfully defended in Circuit Court."

Mr. McElhannon reported that he has not handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. McElhannon's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found that Mr. McElhannon "meets the qualifications as set forth in the evaluative criteria. The interviews and other sources utilized, have led us to determine that he is well qualified for the position he seeks."

Mr. McElhannon is married to Shirley Hull McElhannon. He has one child.

Mr. McElhannon reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;
(b) Anderson County Bar Association;
(c) American Bar Association."

Mr. McElhannon provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"Inn of Court."

(11) Commission Members' Comments:

The Commission commented that Mr. McElhannon has a good work ethic which would serve him well on the Family Court bench. They noted that Mr. McElhannon had a tremendous amount of knowledge about the running of the family court.

(12) Conclusion:

The Commission found Mr. McElhannon qualified and nominated him for election to the Family Court bench.

THURSDAY, JANUARY 15, 2009

David Earl Phillips
Family Court, Tenth Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Phillips meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Phillips was born in 1970. He is 38 years old and a resident of Williamston, South Carolina. Mr. Phillips provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1997.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Phillips.

Mr. Phillips demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Phillips reported that he has not made any campaign expenditures.

Mr. Phillips testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Phillips testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Phillips to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Phillips described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Hot Tips From the Coolest Domestic

	Practitioners	09/19/08;
(b)	Prosecuting Cases in Family Court	08/20/08;
(c)	2007 Annual Conference	09/23/07;
(d)	2006 Annual SC Solicitors	09/24/06;
(e)	Spring Seminar - one day	05/12/06;
(f)	Title Insurance Seminar	09/14/05;
(g)	Revised Lawyer's Oath CLE	10/05/04;
(h)	7th Annual Workers' Compensation	07/05/04;
(i)	Employment Law Update	06/04/04;
(j)	Criminal Law Hot Tips	05/16/03;
(k)	6th Annual Spring Seminar	05/02/03;
(l)	Family Law Litigation in SC	04/22/03.

Mr. Phillips reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Phillips reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Phillips did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Phillips did not indicate any evidence of a troubled financial status. Mr. Phillips has handled his financial affairs responsibly.

The Commission also noted that Mr. Phillips was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Phillips reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Phillips appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Phillips appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Phillips was admitted to the South Carolina Bar in 1997.

He gave the following account of his legal experience since graduation from law school:

"Chapman, Byrholdt & Yon, LLP: I began my law practice with this law firm in August 1997, shortly after having taken the bar exam. Upon being admitted to the bar, I was very fortunate to work for three excellent attorneys on a wide variety of cases including family law, workers' compensation, personal injury, and criminal defense. I was lead counsel in ninety (90%) percent of the cases I handled at this firm. I worked for this firm until August 31, 2004.

David E. Phillips, Attorney at Law, LLC: I opened my own law practice September 1, 2004. I continued to practice in the same areas in which I had gained experience at Chapman, Byrholdt & Yon. In August 2006, I was asked to be the juvenile prosecutor for the Anderson County Solicitor's Office on a part-time, contract basis. Despite the "part-time" nomenclature, this contractual employment has been significant in terms of the time it has demanded from my private practice; however, it has also been rewarding, as I truly feel that I have contributed to helping steer young people in the right direction."

Mr. Philips further reported:

"(a) Divorce and equitable division of property:

I have represented perhaps hundreds of individuals in these types of cases. The vast majority of these cases were settled prior to trial particularly after the advent of mandatory mediation in our circuit. I was sole counsel in all of these cases.

(b) Child custody:

I have represented a large number (not hundreds) of individuals in these types of cases both incident to divorce and as separate actions where custody was the primary issue. The paramount and controlling interest in each of these cases is the best interest of the child or children. These cases almost always required consideration of issues incident to custody including visitation, child support, and all too often, restrictions regarding parental conduct. In many of these cases, the court was assisted by a guardian ad litem.

(c) Adoption:

I have represented a handful of families in adoptions. These have been some of the most emotionally rewarding cases of my life. Although I have handled far fewer of these cases than divorce or custody cases, the

adoption case have been spread out such that I remain familiar with this area of law on an ongoing basis.

(d) Abuse and neglect:

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

(e) Juvenile justice:

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

Mr. Phillips reported the frequency of his court appearances during the last five years as follows:

"(a) federal: Once in the last five years;
(b) state: On average two to three times per week."

Mr. Phillips reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 20%;
(b) criminal: 40%;
(c) domestic: 40%."

Mr. Phillips reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 2%;

(b) non-jury: 98%."

Mr. Phillips provided that he most often served as sole counsel.

The following is Mr. Phillips's account of his five most significant litigated matters:

"(a) In the Interest of Jermal R.2006-JU-04-539-543, 2007-JU-04-409-420. This was a juvenile waiver case where I served as prosecutor. In a waiver case, the State is seeking to transfer jurisdiction over a juvenile to the Court of General Sessions to be tried as an adult. These cases are often considered to be among the most serious of cases tried in Family Court;

(b) State v. Holder, 2003-GS-23-1307. This was a high profile, four day trial in which co-counsel and I defended a mother accused of homicide by child abuse. The experience was significant because of the volume of evidence I was required to evaluate;

(c) Perrin v. Health Management Resources, SCWCC File No. 0124951.This was a workers' compensation case in which I was sole counsel at the hearing commissioner level and appellate panel level. The case was significant because it was a difficult case, and it was the first case in which I was able to obtain permanent and total disability benefits for my client as the result of a trial;

(d) South Carolina Department of Social Services v. Pettis, et al, 95-DR-04-2076. This was one to the first family court cases I tried. I defended a mother in a termination of parental rights action;

(e) Rogers v. Tipton, 2007-DR-39-1079. This was a termination of parental rights and adoption case where the mother and step-father of a ten year old child sought to terminate the parental rights of the child's birth father so that his step-father could adopt him. The step-father had assumed the role of father in the child's life for many years due to the difficult circumstances in which the birth father found himself. Ultimately, the termination of parental rights and adoption were granted by the court. The case is special to me because of the personal friendship I have with the plaintiffs and the child.

Mr. Phillips reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Phillips's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee reported the following regarding Mr. Phillips: "Based on the investigation of this committee, we find that Mr. Phillips meets the qualifications as set forth in the evaluative criteria. The interviews and other sources utilized, have led us to determine that he is well qualified for the position he seeks."

Mr. Phillips is married to Maryanne Evington Phillips. He has two children.

Mr. Phillips reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar;
(b) Anderson County Bar;
(c) Anderson Inn of court;
(d) Pickens County Bar."

Mr. Phillips provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Mount Pisgah Baptist Church–Body of Deacons; Sunday School Teacher;
(b) Anderson Sunshine House – Boards of Directors."

(11) Commission Members' Comments:

The Commission commented that Mr. Phillips is a great candidate for the judicial seat he seeks based on his diverse experience in Family Court. They noted his active involvement with the local bar and in his community.

(12) Conclusion:

The Commission found Mr. Phillips qualified and nominated him for election to the Family Court

Catherine C. Christophillis
Family Court, Thirteenth Judicial Circuit, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Christophillis meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Christophillis was born in 1954. She is 54 years old and a resident of Greenville, South Carolina. Ms. Christophillis provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Christophillis.

Ms. Christophillis demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Christophillis reported that she has made "$243.04 in campaign expenditures ($100 in clerical time; $14.30 for an ink cartridge; $63.42 for stamps; $19.63 for overhead; $28.69 for envelopes; and $17 in printing)."

Ms. Christophillis testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Christophillis testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Christophillis to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Christophillis described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Tips from the Bar	02/15/08;
(b) Greenville County Bar Year-end CLE	02/08/08;
(c) Non-Profit	02/09/07;
(d) Civil and Criminal Law Update	12/08/06;
(e) Family Court Bar/Bench	12/01/06;
(f) Hot Tips from the Coolest	09/23/05;
(g) Children's Issues in Family Court	03/18/05;

(h) Family Court Bar/Bench 12/03/04;
(i) Ethics and the Oath 11/16/04;
(j) Hot Tips from the Coolest Domestic 09/24/04;
(k) Family Court Bar/Bench 12/05/03;
(l) Smart Practice, Not Malpractice 11/06/03;
(m) Trial Preparation and Practice 11/12/02;
(n) Circuit Court/Family Court 10/11/02;
(o) Hot Tips from the Best Domestic 09/20/02."

Ms. Christophillis reported that she has taught the following law-related courses:

"(a) Taught Family Law course at Greenville Technical College;

(b) Taught Legal Research course at Greenville Technical College;

(c) Lectured on child abuse and neglect to South Carolina Bar seminar;

(d) Lectured on child abuse and neglect to social service workers, mental health workers and law enforcement conferences;

(e) Lectured on child abuse and neglect to National Association of State Legislators conference in Nashville, Tennessee;

(f) Trained Guardian Ad Litems in Greenville, SC, for Governor's Lay Guardian Program;

(g) Instructed teachers of Greenville County School District on child abuse issues;

(h) Trained prosecutors, legal service attorneys, law enforcement, medical personnel, social and mental health workers, drug treatment personnel and others regarding protocol for drug-impaired infants throughout all South Carolina judicial circuits;

(i) Lectured on insurance fraud at South Carolina Bar seminars, Association of South Carolina Claimants Attorneys for Workers' Compensation conference, and various conferences of insurance industry personnel;

(j) Trained prosecutors, law enforcement, social service and mental health workers and others regarding investigation and prosecution of violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits;

(k) Lectured on vulnerable adult exploitation under the Omnibus Adult Protection Act to annual conference of Probate Court Judges at Fripp Island."

Ms. Christophillis reported that she has published the following:

"Authored article on the right of children to be free from harm in *South Carolina Jurispurdence"*

(4) Character:

The Commission's investigation of Ms. Christophillis did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Christophillis did not indicate any evidence of a troubled financial status. Ms. Christophillis has handled her financial affairs responsibly.

The Commission also noted that Ms. Christophillis was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Christophillis reported that her Martindale-Hubbell rating is BV.

Ms. Christophillis reported that she has held the following public office:

"I was elected to Greenville City Council At-Large, 1993-1995. I timely filed my report with the State Ethics Commission during that time period."

(6) Physical Health:

Ms. Christophillis appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Christophillis appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Christophillis was admitted to the South Carolina Bar in 1978.

She gave the following account of her legal experience since graduation from law school:

"(a) Christophillis Law Offices, 1978-1985 – handled primarily private cases in family court and small percentage of cases in criminal court and civil court;

(b) Solicitor's Office of the 13th Judicial Circuit, 1985-1992 – ran child abuse and neglect case unit, which involved handling child abuse and neglect cases for SC DSS in family court and prosecuting all child abuse and neglect cases in general sessions court; started domestic violence protocol and handled domestic violence prosecutions;

(c) Culbertson, Christophillis & Sauvain, PA, 1992-1995 – handled private cases in family court exclusively;

(d) SC Attorney General's Office, 1995-2000 – started first insurance fraud prosecutions for the state of South Carolina and handled insurance fraud prosecutions throughout South Carolina; wrote and trained prosecutors, legal service attorneys, law enforcement, medical personnel, social and mental health workers, drug treatment personnel and others regarding protocol for drug-impaired infants throughout all South Carolina judicial circuits; director of elder abuse division, prosecuted violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits, and trained prosecutors, law enforcement, social service and mental health workers and others regarding investigation and prosecution of violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits.;

(e) Catherine C. Christophillis, Attorney At Law, 2000-present – handle private family court case; serve as Guardian Ad Litem in private custody cases; serve as Family Court Mediator; handle a very small percentage of criminal and civil cases;

(f) In addition to the above, my legal experience includes the following appointments:

(i) Chairman, State Child Fatalities Committee (1988-1995);

(ii) Chief Justice appointee, South Carolina Family Court Mediation and Alternative Dispute Resolution Rules Committee (1990);

(iii) Gubernatorial appointee, Joint Legislative Committee on Children, and Chairman, Subcommittee for Child Abuse and Neglect (1992-1996);

(iv) Gubernatorial appointee, Governor Carroll Campbell's Property Tax Reform and Accountability Advisory Committee (1994);

(v) Gubernatorial appointee, Maternal, Infant and Children's Committee (1990's);

(v) General Assembly's Joint Committee for Drug-Impaired Infants (1997);

(vi) Federal Court United States Magistrate Judge Merit Selection Panel (2000)."

Ms. Christophillis further reported:

"In the practice areas of divorce and equitable division of property, child custody and adoption, during the above-stated years in private practice, I have handled numerous cases involving divorce, equitable division of property, child custody, adoption, child support, and separate maintenance and support. In these areas, I have negotiated settlements, drafted settlement agreements, handled contested trials, handled uncontested cases, mediated disputes in these areas and served as GAL in contested custody and adoption cases.

In the practice areas of abuse and neglect and juvenile justice, I ran the child abuse and neglect unit of the 13th Circuit Solicitor's Office, which involved handling all the DSS cases in family court and circuit court, negotiating settlements, and trying contested cases. In the course of handling that unit, associated juveniles were involved in prosecutions I handled. As part of my private practice, I represented juvenile offenders at detention hearings, adjudication hearings, and contested trials."

Ms. Christophillis reported the frequency of her court appearances during the last five years as follows:

"(a) federal: 0%;

(b) state: I am in family court very frequently during an average week. Of my court appearances, I would estimate 90% to be in family court and the remaining 10% in circuit court, master's court, summary court or probate court."

Ms. Christophillis reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 9%;
(b) criminal: 1%;
(c) domestic: 90%."

Ms. Christophillis reported the percentage of her practice in trial court during the last five years as follows:

"(a) jury: 2%;
(b) non-jury: 98%."

Ms. Christophillis provided that she most often served sole counsel.

The following is Ms. Christophillis's account of her five most significant litigated matters:

"(a) State v. J. C. Rice

This case that I prosecuted in 2000 before a jury in General Sessions Court in Union County was significant because it was the first trial and conviction under the Exploitation of a Vulnerable Adult, S.C. Code Section 43-35-85;

(b) State v. John Frank Williams

This murder case that I defended in 1983 before a jury in General Sessions Court in Greenville County resulted in a not guilty verdict and was significant because of difficult circumstances and issues, especially the defendant's admission of shooting the victim in self-defense;

(c) State v. Sherry Pace, 337 S.C. 407, 523 S.E.2d 466 (Ct. App. 1999)

This case that I prosecuted before a jury in General Sessions Court in Greenville County was significant because it was the first trial and conviction under the Insurance Fraud Act, S.C. Code Section 38-55-530(D);

(d) Nasser-Moghaddassi v. Moghaddassi, 364 S.C. 182, 612 S.E.2d 707 (Ct.App. 2005)

This is a family court case in which I was involved as Guardian Ad Litem for the parties' three minor children at the trial level. The case was significant because it was the first time the Court of Appeals applied the Patel standards by finding that my investigation as GAL for the children was independent, balanced and impartial. See Patel v. Patel, 347 S.C. 281, 555 S.E.2d 386 (2001);

(e) State v. Whitner, 328 S.C. 1, 492 S.E.2d 777 (1996)

As director of the Child Abuse and Neglect unit of the 13th Judicial Circuit Solicitor's Office, I initiated the first prosecutions in the state of women who gave birth to drug-impaired infants under the child abuse and neglect statute, S.C. Code Section 20-7-50. This case was significant because the State Supreme Court held for the first time that the word "child" as used in the statute includes viable fetuses."

The following is Ms. Christophillis's account of the civil appeals she has personally handled:

"(a) Jerry Fowler v. Southern Bell

Won personal injury verdict in US District Court, which was upheld on appeal to the U.S. Court of Appeals, 4th Circuit (unpublished);

(b) Loftis v. Loftis

286 S.C. 12, 331 S.E.2d 372 (Ct.App. 1985)."

Ms. Christophillis reported that she has not personally handled any criminal appeals.

Ms. Christophillis further reported the following regarding an unsuccessful candidacy:

"I ran for Greenville County Council in 1984."

(9) Judicial Temperament:

The Commission believes that Ms. Christophillis's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee found that "Ms. Christophillis meets the qualifications as set forth in the evaluative criteria. The interviews and other sources utilized have led us to determine that she is well qualified for the position she seeks."

Ms. Christophillis is married to Constantine S. Christophillis, Jr. She has three children.

Ms. Christophillis reported that she was a member of the following bar associations and professional associations:

"(a) Greenville County Bar;

(b) South Carolina Bar."

Ms. Christophillis provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Board member of Greenville Transit Authority (Mayoral appointee);

(b) Chairman of North Main Street Traffic Study Committee (City Council appointee);

(c) Chairman of Board of Centre Stage South Carolina;

(d) Board member of Upstate Community Mediation Center;

(e) Member of Junior League of Greenville and Junior League Singers;

(f) Greenville Kiwanis Club;

(g) Recipient of Metropolitan Arts Council Volunteer Award;

(h) Graduate of Leadership South Carolina."

(11) Commission Members' Comments:

The Commission commented that Ms. Christophillis has tremendous experience in the Family Court which will be an asset on the Family Court bench. They noted her varied civic involvement in her local community.

(12) Conclusion:

The Commission found Ms. Christophillis qualified and nominated her for election to the Family Court.

W. Wallace Culp III
Family Court, Thirteenth Judicial Circuit, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Culp meets the qualifications prescribed by law for judicial service as a Family Court Judge.

Mr. Culp was born in 1961. He is 47-years old and a resident of Greenville, South Carolina. Mr. Culp provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Culp.

Mr. Culp demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Culp reported that he has not made any campaign expenditures.

Mr. Culp testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Culp testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Culp to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Culp described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a)Annual Judicial Conference	08/21/06;
(b) Ethics 2000	12/13/05."

Mr. Culp reported that he has taught the following law-related courses:

"(a) I taught a course on torts to the paralegals at Greenville Technical College in 1993;

(b) On September 27, 1995, January 28, 2000, and November 6, 2007, I was a moderator and speaker at a probate practice seminar;

(c) On October 24, 2000, I was a speaker at a child custody seminar."

Mr. Culp reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Culp did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Culp did not indicate any evidence of a troubled financial status. Mr. Culp has handled his financial affairs responsibly.

The Commission also noted that Mr. Culp was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Culp reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Culp appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Culp appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Culp was admitted to the South Carolina Bar in 1986.

He gave the following account of his legal experience since graduation from law school:

"(a) 1986-1987 - Law Clerk for the Honorable Frank P. McGowan, Jr.;

(b) 1987-1990 - Associate, Rainey, Britton, Gibbes and Clarkson;

(c) 1990-1991 - Associate, Haskins & Patton;

(d) 1991-present - Sole Practice.

In my first four years of practice, when I was with two different law firms, the general area of practice was in the field of insurance defense. When I opened my own law firm in 1991, I first stated out in general practice. The last sixteen years of practice have mainly been in the areas of probate law, elder law, domestic law and civil litigation. In the last ten years, the emphasis of my practice has grown even more to domestic law and abuse and neglect law. The last ten years I have also done a great deal of work in representing parties in Department of Social Services abuse and neglect cases. I handle some 30-40 of these matters per year. During the last ten years of my practice, I have represented a number of parties in divorce and equitable division of property cases. I have also handled a number of child custody matters, including adoptions. I have served as Guardian ad Litem for minor children in various cases as well. Since completing mediation training, I have mediated several domestic cases involving child custody. Although I have not had any cases in the juvenile justice area, I have observed how the Family Court Judges deal with children in custody and abuse cases. I am a

quick learner and would be able to gain quick experience in order to deal with juvenile justice cases."

Mr. Culp reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: None;
(b) State: 2-3 times per week."

Mr. Culp reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 34%;
(b) Criminal: 1%;
(c) Domestic: 65%."

Mr. Culp reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 10%;
(b) Non-jury: 90%."

Mr. Culp provided that he most often served as sole counsel.

The following is Mr. Culp's account of his five most significant litigated matters:

"(a) Marian Hackney v. the Estate of William N. Hackney, Jr.

I successfully defended the Estate against a claim for elective share brought by the to the fact that the elective share, if successful, would have been worth some $500,000.00. The case was also significant due to the fact that I was able to prove that the elective share had been waived even though the original waiver could not be found.

(b) LeBret v. Tipton

I successfully represented foster parents who wanted to adopt two children they had received in a DSS neglect case. The natural parents had essentially completed their treatment plans and vigorously defended the case in a six and one-half day trial. We were successful in getting their parental rights terminated and my clients were able to adopt the two children.

(c) Goldsmith v. Myers

In this case, I successfully represented Mr. Myers in a child custody matter. This significance of this matter was that I was able to convince the Court in South Carolina to dismiss this action due to the fact that

it had no jurisdiction under the Uniform Child Custody Jurisdiction Act.

(d) Ballew v. Cheever

In this case, I represented a group of citizens in Piedmont, South Carolina who were against the granting of an ABC license to a store. I was able to successfully represent them and convince the Administrative Law Judge to deny the ABC license.

(e) First Union v. Robert Benner

In this case I successfully defended Mr. Benner in a claim by First Union Bank. Mr. Benner had stopped payment on his check and First Union had paid the check. I was able to convince the Court that First Union Bank was not a holder in due course and therefore Mr. Benner prevailed."

The following is Mr. Culp's account of the civil appeals he has personally handled:

"(a) Leroy J. Howard and John Nasser, Appellants, v. JoAnn Nasser, Joey Nasser, Christina Nasser, Ashley Nasser, Leander Nasser, Mary Kaye Barki and Debbie Coggins, Defendants, of Whom JoAnn Nassesr is, Respondent. South Carolina Court of Appeals, May 2, 2005, 364 S.C. 279; 613 S.E.2d 64; 2005 S.C. App. LEXIS 125;

(b) DSS v. Tameka Grayson;

(c) DSS v. Courtney Mayes."

Mr. Culp reported that he has not personally handled any criminal appeals.

Mr. Culp further reported the following regarding unsuccessful candidacies:

"(a) I ran as the Republican Candidate for Greenville County Probate Judge in 1998 but was defeated;

(b) I also ran for the Thirteenth Judicial Circuit Family Court Seat No. 3 in 2001, but withdrew from that race;

(c) I ran for this same seat in 2008 but was not nominated."

(9) Judicial Temperament:

The Commission believes that Mr. Culp's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee for Fall 2008 reported that "the Committee has found no additional information that would alter our report from earlier this year." The Upstate Citizens Advisory Committee for the Spring 2008 found the following for Mr. Culp. "Constitutional Qualifications: Based on the Personal Data Questionnaire, this candidate appears to have all the necessary qualifications. Ethical Fitness: The committee has not discovered any information that would lead us to question the ethical fitness of this candidate. Professional and Academic Ability: The candidate appears to have all the necessary professional and academic ability. Character: The committee has no reason to believe this candidate has any negative character traits. Reputation**:** The candidate enjoys a favorable reputation in the community and amongst his legal peers. Physical Health and Mental Stability: The candidate appears to be in good physical and mental health. Experience: The candidate has sufficient experience in the Family Court setting. Judicial Temperament: The committee believes that this candidate would have an excellent judicial temperament."

Mr. Culp is married to Ellisa Huguley Culp. He has two children.

Mr. Culp reported that he was a member of the following bar associations and professional associations:

"(a) Member of the S.C. Bar from 1986 until present;

(b) Member of the Greenville County Bar Association from 1986 until present."

Mr. Culp provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Greenville Rotary Club (Health and Happiness Committee Chairman) 1996-present;

(b) Western S.C. Torch Club (President 1993-1994), Treasurer 1989 – present;

(c) Upstate Alzheimer's Association 1998-2006;

(d) Eastside Family YMCA Board of Directors 2000 – 2003, 2007 - present. I serve on the Outreach Committee which concentrates on community outreach projects;

(e) First Presbyterian Church Deacon and Stewardship Committee 2001-2005."

(11) Commission Members' Comments:

The Commission commented that Mr. Culp was well-experienced in the area of family law. The Commission also noted that Mr. Culp had a great demeanor at the Public Hearing and was an exceptional applicant.

(12) Conclusion:

The Commission found Mr. Culp qualified, but not nominated, to serve as a Family Court judge.

Catherine E. Fairey
Family Court, Thirteenth Judicial Circuit, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Fairey meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Fairey was born in 1955. She is 53 years old and a resident of Greenville, South Carolina. Ms. Fairey provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Fairey.

Ms. Fairey demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Fairey reported that she has not made any campaign expenditures.

Ms. Fairey testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Fairey testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Fairey to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Fairey described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) ABA Mauet's Trial Evidence I & II	07/9&23/08;
(b) Greenville Bar Civil and Criminal Law Updates	02/08/08;
(c) Family Law Bench and Bar Updates	01/25/08;
(d) Training for Attorneys Appointed in Abuse & Neglect Cases	10/05/07;
(e) Ethical Issues in ADR	02/28/07;
(f) Ethical Considerations & Pitfalls	02/28/07;
(g) Family Law Annual Seminar	01/27/07;
(h) Family Law intensive Workshop	11/02/06;
(i) New Child Support Guidelines	07/19/06;
(j) The Attorney As Supervisor	01/04/06;
(k) American Bar Family Law	09/29/05;
(l) Trial and Appellate Advocacy	01/22/05;
(m) Family Law Section Convention	01/21/05;
(n) Solo and Small Firm Section	01/20/05;
(o) SC Bar CLE Greenville	12/03/04;
(p) Hot Tips from Coolest Domestic	09/24/04;
(q) Revised Lawyer's Oath	09/10/04;
(r) Managing Internet Risks	12/17/03;
(s) Family Court Bench and Bar	12/05/03;
(t) Hot Tips from the Best	09/19/03;
(u) Family Law Part I	01/24/03;
(v) Contracts With Employees	09/24/02;
(w) SC Bench and Bar	07/25/02;
(x) Ethics	01/27/02;
(y) Family Law Taxes	01/25/02;
(z) Family Law Taxes II	01/25/02."

Ms. Fairey reported that she has taught the following law-related courses:

"As Chair of the Family Law Council, I moderated a family law seminar at the SC Bar Convention in Charleston. I taught a seminar on how to handle temporary hearings in Family Court. I organized and moderated the Intensive Family Law Workshop, on child support guidelines and the tax consequences of equitable division. I lectured on handling client difficulties in family law cases at a Richland County Paralegal Seminar."

Ms. Fairey reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Fairey did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Fairey did not indicate any evidence of a troubled financial status. Ms. Fairey has handled her financial affairs responsibly.

The Commission also noted that Ms. Fairey was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Fairey reported that her Martindale-Hubbell rating is BV.

(6) Physical Health:

Ms. Fairey appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Fairey appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Fairey was admitted to the South Carolina Bar in 1990.

She gave the following account of her legal experience since graduation from law school:

"From 1990 to 1991, I was a staff attorney with Piedmont Legal Services in Spartanburg, handling a very large caseload of a total cross section of family law issues, including divorces, equitable division of property, alimony, child custody and support, child and spousal abuse and neglect, and juvenile justice.

From 1991 to 1995, I was an associate at Wilkins & Madden in Greenville, working almost entirely with David Wilkins, and preparing high-profile divorces and child custody cases, which would include child and spousal support, and equitable division of property. During this same time, I also handled cases on my own,

including DSS appointments as attorney for defendants, or as *Guardian ad Litem* ("GAL"), or as attorney for the GAL, for both children and adults. This practice with Wilkins & Madden was statewide.

From 1995 to the present, I have been a solo practitioner, handling only family law cases to the exclusion of all other areas of the law. In each year, this practice primarily has been divorces and child custody, with all aspects of those. I also have handled appointments to DSS cases and juvenile justice cases, and I mediate DSS cases on a volunteer basis."

Ms. Fairey further reported:

"During my employment at Piedmont Legal Services, I handled, exclusively, all aspects of divorce and child custody, together with child and spousal protection and support. On court days, I routinely would have a dozen or more hearings. I also handled cases involving the removal of children from the home in DSS cases, as well as representing members of families involved in juvenile justice cases.

As an associate with Wilkins & Madden during the early to mid 90's, as well as all of my practice since then, I have handled all aspects of:

(a) DIVORCE including, but not limited to fault and no-fault grounds, contested and uncontested, and I litigated the existence and termination of common-law marriages and divorces.

I have handled divorces on all fault grounds, as well as actions for separate support and maintenance.

I have defended cases on the grounds of reconciliation, condonation and recrimination.

(b) ALIMONY including rehabilitative, lump-sum, permanent periodic and reimbursement on both a temporary and permanent basis.

I have handled modification of support, both upward and downward, and termination of alimony awards.

I have dealt with cases involving military personnel wage garnishment, intentional underreporting of income and imputed income. I have dealt with alimony and child support cases which involved under-utilized assets which were available to produce income for support of a spouse or child. I have handled cases involving the reservation of

the right to an award of alimony and security for the future payment of alimony.

(c) EQUITABLE DIVISION OF ASSETS AND DEBTS AT POVERTY LEVEL AND THE VERY WEALTHY. These cases included expert valuations of property, including equipment, franchises, law and medical practices, real estate, retirement funds, including but not limited to pensions, Keoghs, annuities, IRAs (Roth, Simple, SEP, etc.), 401k's, deferred compensation plans, profit sharing plans, military retirement and pension plans.

I have prepared Qualified Domestic Relations Orders and Qualified Medical Support Orders.

I have litigated cases involving contested issues of transmuted, co-mingled, pre-martial, non-marital and gifted property, special equity interests in property and resulting and constructive trusts.

I have litigated and settled cases involving alimony and equitable division, which necessarily included consideration and determination of tax consequences for each party.

I have litigated disputes on the tax deductibility of attorney's fees, and cases involving the recapture rule.

(d) CHILD CUSTODY AND SUPPORT**.** I routinely litigate and settle custody and support cases and have served as *Guardian ad Litem* in those kinds of cases. I have settled joint custody, split custody, shared custody and sole custody cases.

I have handled custody cases involving third parties and grandparents, and I have litigated jurisdictional issues regarding custody, including multi-state disputes, involving the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), on standard and emergency occasions.

I have litigated cases involving the relocation of parents, as well as the intentional alienation of children toward one parent.

I have handled child snatching cases and those involving the Parental Kidnapping Prevention Act (PKPA).

I have handled child custody cases, child support cases and modification of child support for a variety of reasons, as well as interstate support orders. Some of these

have included support for children with disabilities and extraordinary medical expenses.

I have handled all aspects of spousal support, including wage garnishment. I have dealt with tax deductions for child-related expenses, child tax credits, dependency exemptions, and other tax issues.

I have handled cases involving aid to families with dependent children (ASDC) and social security disability income directed to a child.

I have litigated unusual situations with uninsured medical and dental expenses, deviation from the Child Support Guidelines, and support for an emancipated child still in high school.

(e) ADOPTION. I have not handled adoptions as a routine part of my practice as there are many lawyers specializing in that exclusive practice. I am familiar with the adoption laws and have served as a *Guardian ad Litem* on a limited number of cases involving adoption and termination of parental rights.

(f) ABUSE, NEGLECT AND JUVENILE JUSTICE. I have handled a limited number of abuse and neglect cases as a compensated attorney. I have handled many child abuse and neglect cases as an attorney appointed by the Court in DSS cases.

My experience in juvenile justice has been limited to appointments in DSS cases when children have been removed from their home. I have monitored and will continue to monitor juvenile justice proceedings in our family courtrooms. I also have attended seminars on handling juvenile justice, abuse and neglect cases, and I have obtained and studied materials related to these cases.

(g) MISCELLANEOUS. I have handled civil and criminal contempt actions. I have prepared and litigated the enforceability of prenuptial/antenuptial agreements, as well as reconciliation agreements. I have handled name changes for adults and children, paternity, annulments, and rescission actions. I have handled cases for clients who needed protection from domestic abuse."

Ms. Fairey reported the frequency of her court appearances during the last five years as follows:

"(a) federal: None;

(b) state: Almost weekly."

Ms. Fairey reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: None;
(b) criminal: None;
(c) domestic: 100%, although a minor percentage of my practice has involved criminal contempt within the domestic arena."

Ms. Fairey reported the percentage of her practice in trial court during the last five years as follows:

"(a) jury: None;
(b) non-jury: 100%."

Ms. Fairey provided that she most often served as sole counsel.

The following is Ms. Fairey's account of her five most significant litigated matters:

"(a) Jeffrey A. Pyle v. Velda L. Pyle, 98-DR-23-850.

There were two separate trials in this case during which I represented the wife on both occasions. During the first trial, wife was awarded permanent periodic alimony. The second trial was brought by the husband seeking to terminate his alimony obligation to wife based upon her alleged cohabitation with another man.

Husband prevailed and I appealed the case. At trial and on appeal, I argued a new test for South Carolina, namely, whether the former husband, seeking termination of alimony, could prevail based solely upon wife's cohabitation without showing a substantial change of financial circumstances. The basis of my argument was that since alimony is intended as a substitution for the support a husband provided during marriage and prior to divorce, without a financial gain resulting from the cohabitation, the alimony award should stand.

The Court of Appeals affirmed the trial court's decision.

(b) John J. Sweeney v. Doris M. Sweeney, 2003-DR-23-904.

This case involved a divorced, elderly couple and dealt with, as a matter of law, whether the husband could be compelled to sell or deplete minimal assets from his award of half of the marital estate, in this case solely an IRA, in order to continue to pay alimony, when the assets

held by both parties were practically identical. The alimony award had been made when husband was earning a significant income and held significant assets. At the time of trial, husband was unemployed, had suffered great losses in the stock market and was supporting himself and a mentally disabled child with the use of his retirement funds. The trial court held that he could be required to continue to pay alimony. I appealed the case and the Court of Appeals affirmed the lower Court's decision.

(c) Michael Steven Riggs v. Crystal Moore and John C. Simmons, 2003-DR23-0593.

This case involved litigated issues on custody, visitation, child support, restraining orders and attorney's and *Guardian ad Litem* fees. The parties had never been married and both had been engaged in lifestyles which were not in the best interest of the child. However, father had reformed his lifestyle and become a very caring, responsible and supportive father. After several days of trial, my client, the husband, prevailed and continues to raise, as a single parent, a very special, talented young boy.

(d) Suzanne Paradis v. Laura Van Schaick and Edward "Todd" Eugene Van Schaick III, 2006-DR-23-23. In this case I represented the maternal grandmother of two minor grandchildren, in which she sought custody from her daughter and the children's father. The case was brought on a Notice and Motion for Expedited and Emergency Relief that alleged parental neglect and unfitness of the parents. I prevailed in this case and the custody of the two minor grandchildren was awarded to the grandmother. They continue to reside with her and are doing well.

(e) Richard Jacob Brown, Sr. v. Amanda Brown, 2005-DR-42-1601.

In this case, I was retained by the father after DSS took emergency protective custody of the parties' six-month old son from Greenville Memorial Hospital. There were allegations that the mother had harmed the child, based upon a video tape in the hospital room. It was later alleged that she was guilty of *Munchausen's by Proxy Syndrome*. The case was quite interesting and involved a number of professionals, including the treating hospital pediatrician, physicians at Duke University, Spartanburg

Regional, and Greenville Memorial hospitals. There were psychological and psychiatric, as well as psycho-personality, evaluations conducted. The baby boy had a five-year-old sister and, on a temporary basis, the baby was placed in foster care and the daughter was placed in the custody of the paternal grandparents.

My client, the father, was awarded custody of the children at a second temporary hearing subject to supervised visitation to the mother. The minor children remain in the father's sole custody and see their mother under supervised conditions.

(f) Deborah J. Bucci v. Michael N. Bucci, 2005-DR-23-4165.

This case involved divorce, alimony, equitable division of assets and debts, including valuation of four real estate properties, a medical practice, a franchise, investment accounts, retirement and pension accounts, including passive gains on the accounts after filing of action, husband's substantial earnings and wife's earning capacity, attorney's fees and suit costs. The estate in this case was substantial and diversified and required the use of experts for real estate and business evaluations. I represented the wife and argued that although she was well educated, and had at least two master's degrees, her husband's earning capacity was so substantial that no late in life career could support the standard of living she and her son had enjoyed during the course of a long marriage."

The following is Ms. Fairey's account of the civil appeals she has personally handled:

"(a) Jeffrey A. Pyle v. Velda L. Pyle, 98 DR 23-850, 2000 UP 462 (Ct.App. 2000);

(b) John J. Sweeney v. Doris M. Sweeney, 2003 DR 23-904, 2006 UP 166 (Ct.App. 2006);

(c) Rebecca J. Waters v. Sheldon K. Waters, 2001 DR 23-1230;

(d) One other with the Wilkins Law Firm, not reported, and case citation unavailable."

Ms. Fairey further reported the following regarding an unsuccessful candidacy:

"I sought election to the Greenville Family Court, Seat 3, earlier this year, 2008. I was not successful in that election."

(9) Judicial Temperament:

The Commission believes that Ms. Fairey's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee for the Fall 2008 reported the following regarding Ms. Fairey: "The Committee has found no additional information that would alter our report from earlier this year." The Upstate Citizens Advisory Committee reported for Spring 2008 the following regarding Ms. Fairey: "Constitutional qualifications: Based on the Personal Data Questionnaire, this candidate appears to have all the necessary qualifications. Ethical fitness: The committee has not discovered any information that would lead us to question the ethical fitness of this candidate. Professional and academic ability: The candidate appears to have all the necessary professional and academic ability. Character: The committee has no reason to believe this candidate has any negative character traits. Reputation: The candidate enjoys a favorable reputation in the community and amongst her legal peers. Physical health and mental stability: The candidate appears to be in good physical and mental health. Experience: The candidate has extensive experience (18 years) in practicing in Family Court. She does not have significant experience in juvenile matters. Judicial temperament: The committee believes that this candidate would have an excellent judicial temperament."

Ms. Fairey is married to O. Doyle Martin. She does not have any children.

Ms. Fairey reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar – Family Law Section Delegate;
(b) Family Law Council, SC Bar, Chair and Member;
(c) Greenville County Bar – no offices;
(d) American Bar Association – Family Law Section;
(e) Certified Mediator, Member of South Carolina ADR.
(f) South Carolina Women Lawyers Association."

Ms. Fairey provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Board Member –Carolina Youth Symphony;
(b) Board Member – Langston Charter School;
(c) South Carolina Women Lawyers Association"

(11) Commission Members' Comments:

The Commission commented that Ms. Fairey exhibited great demeanor and a patient temperament which would serve her well on the Family Court bench. They noted her wide range of experience in complex Family Court matters.

(12) Conclusion:

The Commission found her qualified, but not nominated, to serve as a Family Court judge.

Alex Kinlaw, Jr.
Family Court Judge, Thirteenth Judicial Circuit, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Kinlaw meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Kinlaw was born in 1952. He is 56 years old and a resident of Greenville, South Carolina. Mr. Kinlaw provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Kinlaw.

Mr. Kinlaw demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Kinlaw reported that he has not made any campaign expenditures.

Mr. Kinlaw testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Kinlaw testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Kinlaw to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Kinlaw described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) SCTLA Auto Torts	12/06/03;
(b) SCBLA Annual Summit & Retreat	10/21/04;
(c) SCTLA Auto Torts	12/04/04;
(d) S.C. Bar Bankruptcy/Consumer Act	12/06/05;
(e) SCBLA Retreat	09/28/06;
(f) SCTLA Auto Torts	12/01/06;
(g) S.C. Bar Management of Lawyer Trust Accounts	11/20/07;
(h) S.C. Bar Ethics & Non-Lawyer Employees	11/20/07;
(i) S.C. Bar SC Trust Accounting	11/19/07."

Mr. Kinlaw reported that he has taught the following law-related course:

"2006 – I gave a seminar on custody in the family court at the South Carolina Black Lawyers Retreat."

Mr. Kinlaw reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Kinlaw did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Kinlaw did not indicate any evidence of a troubled financial status. Mr. Kinlaw has handled his financial affairs responsibly.

The Commission also noted that Mr. Kinlaw was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Kinlaw reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Kinlaw appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Kinlaw appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Kinlaw was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

"(a) 1978-1980 – I was employed as a staff attorney with the Legal Services Agency in Greenville County;

(b) 1980-1981 – I was employed with the Public Defender's Office in Greenville County;

(c) 1982-present time – I have been engaged in the private practice of law with a focus in the area of Family Law."

Mr. Kinlaw further reported:

"When I was employed with the Legal Services Agency I handled a number of cases in the Family Court which ranged from representation of abused spouses to custody matters. Further, during my tenure with the Public Defender's Office, I represented a significant amount of juveniles in the Family Court who were charged with offenses ranging from truancy to serious felony related offenses. After going into private practice, I have handled over 10,000 family court related matters which included adoptions, divorces and cases involving equitable apportionment of property. Lastly, I also spoke at a CLE credited retreat on the different types of custody rulings that a judge could impose."

Mr. Kinlaw reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: 10%;
(b) State: 90%."

Mr. Kinlaw reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 10%;
(b) Criminal: 15%;
(c) Domestic: 75%."

Mr. Kinlaw reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 25% of my practice involved matters that went to a jury;

(b) Non-jury: 15% of my practice involved non-jury matters."

Mr. Kinlaw provided that he most often serves as sole counsel.

The following is Mr. Kinlaw's account of his five most significant litigated matters:

"(a) I was lead counsel in the first capital case that permitted a jury to be chosen from another county and be transported to the county where the case was to be tried. This was pursuant to a change of venue motion;

(b) I was involved in an adoption case where the issue was whether the adopting parents could change their mind after a hearing was held, but the Judge had not yet signed the order of adoption;

(c) I was also involved in a family court matter that involved what was considered a domestic support obligation as defined by the Bankruptcy Court;

(d) I litigated an issue in Family Court regarding whether a person's voluntary termination of employment affected his current obligation of support;

(e) Lastly, I handled several matters in Magistrate Court regarding a landlord's duty to repair."

Mr. Kinlaw reported that he has not personally handled any civil or criminal appeals.

Mr. Kinlaw further reported the following regarding an unsuccessful candidacy in the Spring of 2008:

"I was qualified and nominated as a candidate for the Family Court, Seat 3, but withdrew prior to election."

(9) Judicial Temperament:

The Commission believes that Mr. Kinlaw's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee for the Fall 2008 reported the following regarding Mr. Kinlaw: "The Committee has found no additional information that would alter our report from earlier this year." The Upstate Citizens Advisory Committee for the Spring 2008 reported the following regarding Mr. Kinlaw: "Constitutional qualifications: Based on the Personal Data Questionnaire, this candidate appears to have all the necessary qualifications. Ethical fitness: The committee has not discovered any information that would lead us to question the ethical fitness of this candidate. Professional and academic ability: The candidate appears to have all the necessary professional and academic ability. Character: The committee has no reason to believe this candidate has any negative character

traits. Reputation: The candidate enjoys a favorable reputation in the community and amongst his legal peers. Physical health and mental stability: The candidate appears to be in good physical and mental health. Experience: This candidate has been practicing for 30 years. He has vast experience in every area that is within the Family Court's jurisdiction. Judicial temperament: The committee believes that this candidate would have an excellent judicial temperament."

Mr. Kinlaw is married to Yvette Wiggins Kinlaw. He has two children.

Mr. Kinlaw reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;
(b) National Bar Association;
(c) South Carolina Black Lawyers Association."

Mr. Kinlaw provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Urban League of the Upstate;
(b) Sigma Pi Phi Fraternity;
(c) Alpha Phi Alpha Fraternity;
(d) Greenville Mental Health Board."

(11) Commission Members' Comments:

The Commission commented that Mr. Kinlaw is greatly experienced in the family law area where he has practiced for thirty years. They noted his clear inclination toward improving public service through innovation, as exemplified by his successful proposal that the Greenville Family Court reduce the amount of time dedicated to the docket for handling uncontested hearings.

(12) Conclusion:

The Commission found Mr. Kinlaw qualified and nominated him for election to the Family Court.

THURSDAY, JANUARY 15, 2009

W. Marsh Robertson
Family Court, Thirteenth Circuit, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Robertson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Robertson was born in 1963. He is 45-years old and a resident of Greenville, South Carolina. Mr. Robertson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Robertson.

Mr. Robertson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Robertson reported that he has not made campaign expenditures.

Mr. Robertson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Robertson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Robertson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Robertson described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Hot Tips From the Coolest Domestic Law

	Practitioners	9/19/08;
(b)	Lawyer Communications as Officers of the Court and Drug Testing for Family Court Cases	02/26/08;
(c)	SC Family Court Bench/Bar	12/07/07;
(d)	Hot Tips from The Coolest Domestic Practitioners	09/21/07;
(e)	Attorneys Ethics in Negotiations	02/21/07;
(f)	Sidebar: Family Law Case Update	01/19/07;
(g)	Criminal and Civil Law Updates	12/19/06;
(h)	SC Family Court Bench/Bar	12/08/06;
(i)	Ethical Dilemmas for Advocates and Neutrals in ADR	12/27/05;
(j)	Nuts & Bolts of Permanency Planning Hearings and Termination of Parental Rights	12/27/05;
(k)	SC Family Court Bench/Bar	12/02/05;
(l)	Hot Tips from the Coolest Domestic Practitioners	09/23/05;
(m)	SC Family Court Bench/Bar	12/03/04;
(n)	Ethical Considerations & Pitfalls for the Family Court Lawyer	12/01/04;
(o)	Hot Tips from the Coolest Family Law Practitioners	09/24/04;
(p)	Revised Lawyer Oath	09/10/04;
(q)	Litigation Technology Roadshow	12/10/03;
(r)	SC Family Court Bench/Bar	12/05/03."

Mr. Robertson reported that he has taught the following law-related courses:

"(a) Lecturer, Domestic Practice, Hot Tips from the Experts, 1995, 'Pendente Lite (Bifurcated) Divorces: Obtaining a Divorce Before the Final Order is Issued.'

(b) Lecturer, Domestic Practice, Hot Tips from the Experts, 1996, 'Issues and Strategies surrounding the 270-Day "Case-Striking" Rule.'

(c) Lecturer, Domestic Practice, Hot Tips from the Experts, 1998, 'The Alimony Payor's Right to Retire.' Note: Some ten years later, I continue to receive several requests each year from lawyers across the state for a copy of the written materials from this presentation."

Mr. Robertson reported that he has not published any books or articles.

"I did, however, serve on the Editorial Board for the following two books written by Roy T. Stuckey: *Marital Litigation in South Carolina: Substantive Law, 3rd Ed.* (SC Bar – CLE Division 2001) and *Marriage and Divorce Law in South Carolina: A Layperson's Guide* (SC Bar – CLE Division 2001)."

(4) Character:

The Commission's investigation of Mr. Robertson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Robertson did not indicate any evidence of a troubled financial status. Mr. Robertson has handled his financial affairs responsibly.

The Commission also noted that Mr. Robertson was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Robertson reported that his Martindale-Hubbell rating is AV.

(6) Physical Health:

Mr. Robertson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Robertson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Robertson was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

"1988 through 1990: Lewis, Lide, Bruce, and Potts, Columbia, SC. I was an associate in this law firm and practiced in a wide array of areas but with an emphasis on real estate law.

1990 through 1995: Robertson and Robertson, PA, Greenville, SC. – I practiced for this five-year stretch in a two-attorney partnership with my father, W.F. Robertson III. Our firm practiced exclusively in the area of family law.

1996 – 2008: Since the retirement of my father, I have continued practicing exclusively in the area of family law, either in sole practice or in the following two-attorney partnerships: Robertson & Quattlebaum, LLC; Robertson and Coleman, LLC; and currently, Robertson & Hodges, LLC."

Mr. Robertson further reported:

"Equitable Division of Property: Over my 17 years of exclusive family law practice, I have personally handled an estimated 1500 domestic relations cases. Of that amount, a high percentage has involved issues of equitable division. I have represented a wide range of clients, ranging from impoverished individuals with little or no net worth to multimillionaires with extremely complex marital estates. I have handled many cases in which I have been required work hand-in-hand with experts in the areas of taxation and business valuation, as well appraisers of a variety of property classifications including both real and personal property. I have questioned such experts in trial on both direct and cross-examination. I have drafted nearly every imaginable type of legal document involving equitable division, including motions, affidavits, pleadings, discovery documents, orders, memorandums of law, qualified domestic relations orders (QDRO's), and appellate briefs. In addition, as a prerequisite to my induction as a Fellow in the American Academy of Matrimonial Lawyers, I was require to pass rigorous national and state examinations on the more complex aspects of equitable division, including sections on business valuation, defined contribution and defined benefit retirement plans, QDRO's, ERISA, federal taxation, and bankruptcy.

Child Custody: I have handled a substantial number of contested child custody cases, many of which have proceeded to lengthy and hard-fought trials on the merits. I have successfully represented many mothers and many fathers in these cases, as well as grandparents and other interested parties. I have handled cases involving relocation issues, interstate custody disputes, and cases with international custody concerns. I have served in the capacity as guardian ad litem for minor children, and have acted as mediator in dozens of contested custody/visitation cases. Through my role in these cases, I have gained vast expertise in this state's statutory and case law touching on all areas of child custody, as well as related matters of visitation, paternity, parental rights termination, child removal, modification, and child support. I have likewise achieved expertise in evidentiary, procedural, and jurisdictional matters relevant to child custody and placement disputes. Additionally, the comprehensive exams I passed in the application process for fellowship into the American Academy of Matrimonial Lawyers included sections

on the most technical and complex areas of child custody law, including the Uniform Child Custody Jurisdiction Act (UCCJA), the Parental Kidnapping Prevention Act (PKPA), and the Hague Convention on International Child Abduction.

Abuse and Neglect: Although my experience in this area is more limited than in other areas of family practice, I have handled a number of abuse and neglect cases over the years, primarily through SCACR Rule 608 appointments. I have represented the parents of children for whom removal is sought, and have also served as the Guardian ad Litem for abused or neglected children.

Juvenile Justice: My involvement in these cases has been rare. However, given my widespread experience in other children's issues in family court, as well as my willingness and proven ability to learn new subject matter, I am quite confident that I can bring myself completely up to speed in this area of law before assuming the bench."

Mr. Robertson reported the frequency of his court appearances during the last five years as follows:

"(a) Federal: none;
(b) State: Frequent."

Mr. Robertson reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 0%;
(b) Criminal: 0%;
(c) Domestic: 100%."

Mr. Robertson reported the percentage of his practice in trial court during the last five years as follows:

"(a) Jury: 0%;
(b) Non-jury: 100%."

Mr. Robertson provided that he most often served as sole counsel.

The following is Mr. Robertson's account of his five most significant litigated matters:

(a) "Miller vs. Miller, 99-DR-23-4733. This change of custody action was prompted by a custodial parent's relocation. I successfully represented the Plaintiff/father of two children, ages 7 and 4. Only a few months before filing, the parties had settled the contested issue of child custody as part of their overall divorce agreement. The

father had agreed to concede primary placement of the children to the mother under the condition that he would receive an extraordinarily liberal visitation schedule. One day after the divorce, the mother accepted a marriage proposal to a man she had just recently met over the internet. The two married a month later and almost immediately relocated from Greenville to McClellanville, more than 250 miles away. We filed for change of custody. Following a three day trial featuring multitudes of exhibits and witness testimony, the court granted my client full custody of the children. The judge made this decision notwithstanding a recommendation to the contrary by the Guardian ad litem. The significant elements of this decision were: (i) the impact in child custody determinations of poor judgment by a custodial; (ii) the importance of environmental factors in child custody determinations; and (iii) the subordinate role of guardian ad litem recommendations in child custody determinations.

(b) Ringler vs. Ringler, 98-DR-23-2362. This Greenville County case is significant for many reasons, not the least of which goes to its longevity and convolutedness. I represented the husband beginning in 1996. Both parties were retired at the time of filing. The case was ultimately filed in 1998, and the primary contested issues were divorce (my client alleged adultery by wife), alimony, and equitable division of a marital estate that included real and personal property and retirement benefits already in pay status. After a lengthy trial in 1999, a final order was issued in early 2000. The Court granted a divorce on no-fault grounds, denied the wife's alimony request, and divided the marital estate equally. Post-trial motions for consideration quickly followed. Wife then appealed. That appeal would involve approximately two dozen appellate motions, petitions, and returns, along with corresponding orders. Ultimately, my client and I were successful in having the appeal dismissed with an award of attorney's fees, but not until nearly six years had elapsed from the date my involvement in the case had begun.

(c) Burch vs. Anderson, 97-DR-42-3322. This was a contested child custody case in Spartanburg County. I represented the Plaintiff/Mother, who initiated the action

seeking only an order of child support. The father counterclaimed for custody based primarily on various accusations of unfitness on the part of the mother, including allegations of drug addiction and educational neglect. After a two-day trial, the presiding judge awarded my client primary placement of the child notwithstanding a recommendation by the Guardian ad litem that custody be awarded to the father. This case provides a good example of these principles: (i) the "primary caretaker" standard remains an important factor in child custody determinations, particularly where a previously uninvolved father decides to seek custody only after being served with a complaint seeking child support; (ii) a child's need for stability and consistency may outweigh allegations of parental misconduct (i.e., drug use) that occurred several years before the custody action was filed; and (iii) while a guardian ad litem is a useful tool in a contested custody case, the guardian's recommendation is to aid, not direct the Court, and the ultimate custody decision lies with the trial judge.

(d) Theisen vs. Theisen, 99-DR-23-2818. This was an extremely involved domestic relations case featuring extremely high net worth parties and the involvement of a virtual "who's who" of the top family court attorneys and experts in the state. I have chosen to include this case even though it was ultimately settled prior to a merits trial, simply because this case involved a magnified view of nearly every imaginable issue that family courts deal with in private litigation: fault-based divorce allegations, alcoholism and other "marital misconduct", contested child custody, contested visitation, contested child support beyond Guidelines limitations, contested alimony, equitable division of marital property (including substantial closely held business interests, retirement benefits, financial accounts, and real estate), transmutation, insurance matters, and attorneys fees. I was lead counsel for the Wife/Defendant. After many months of intense litigation that included countless motions, rules, interlocutory orders, depositions, written discovery and expert analysis, the case was settled at the conclusion of two full days of mediation.

(e) Patsie C. Walker vs. Kenneth C. Walker, 94-DR-04-138: Following an Anderson County Family court order granting my client, the plaintiff/wife, a divorce, alimony, and an award of 50% of the net marital estate, the husband appealed. I represented the wife on appeal. The case was remanded back to the trial court, where ultimately the original order was upheld subject to a slight alimony reduction. The appellate opinion was unpublished, but the case was significant on the following points of law:

(i)An award of alimony is appropriate where a 15-year marriage is destroyed by a husband's adulterous affair;

(ii) husband's effort to bar wife from alimony based on allegation of adultery will fail where the evidence of infidelity is not clear and convincing; and iii) an award of 50% if the marital estate is proper notwithstanding the fact that the alimony was based on part on the discrepancy in the parties' actual incomes and earning capacities."

The following is Mr. Robertson's account of the civil appeals he has personally handled:

"(a) Kenneth C. Walker, Appellant vs. Patsie C. Walker, Respondent [see above]

(b) Roberta D. Ringler, Appellant vs. Jack W. Ringler, Respondent [see above]

I have also handled a small number of other appeals that were settled, abandoned or otherwise ended at early stages of the appeal."

Mr. Robertson reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Robertson's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee for the Fall 2008 reported the following regarding Mr. Robertson: "The Committee has found no additional information that would alter our report from earlier this year." The Upstate Citizens Advisory Committee reported for Spring 2008 the following regarding Mr. Robertson: "Constitutional qualifications Based on the Personal Data Questionnaire, this candidate appears to have all the necessary qualifications. Ethical fitness The committee has not

discovered any information that would lead us to question the ethical fitness of this candidate. Professional and academic ability The interview with this candidate revealed that he a member of the American Academy of Matrimonial Attorneys. This credential alone is impressive. However, the committee believes it is especially telling of his professional and academic abilities. Character The committee has no reason to believe this candidate has any negative character traits. Reputation The candidate enjoys a favorable reputation in the community and amongst his legal peers. Physical health and mental stability The candidate appears to be in good physical and mental health. Experience this candidate has practiced 100% family law for 18 years. He is a member of the America Academy of Matrimonial Attorneys, which evidences his experience and commitment to family law. Judicial temperament The committee believes that this candidate would have an excellent judicial temperament."

Mr. Robertson is married Barbara Kessenich Robertson. He has three children.

Mr. Robertson reported that he was a member of the following bar associations and professional associations:

"(a) Greenville County Bar Association;
(b) South Carolina Bar (Family Law Section);
(c) American Academy of Matrimonial Lawyers."

Mr. Robertson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Christ Episcopal Church (Youth basketball coach);
(b) Greenville Little League (Youth baseball coach);
(c) Greenville Country Club;
(d) Poinsett Club."

(11) Commission Members' Comments:

The Commission commented that Mr. Robertson has an exceptional reputation in his community as a matrimonial lawyer which is evidenced by his membership in the American Academy of Matrimonial Lawyers. They noted that his keen intellect would be an asset on the Family Court.

(12) Conclusion:

The Commission found Mr. Robertson qualified and nominated him for election to the Family Court.

THURSDAY, JANUARY 15, 2009

David J. Rutledge
Family Court, 13th Circuit, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Rutledge meets the qualifications prescribed by law for judicial service as a Family Court Judge

Mr. Rutledge was born in 1955. He is 53 years old and a resident of Greenville, South Carolina. Mr. Rutledge provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1994. He is also licensed in Alabama since 1987 and North Carolina since 1995.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Rutledge.

Mr. Rutledge demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Rutledge reported that he has not made any campaign expenditures.

Mr. Rutledge testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Rutledge testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Rutledge to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Rutledge described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Children's Issues in Family Court	03/28/08SC;
(b) Solo and Small Firm Conference	06/22/07SC;
(c) Children's Issues in Family Court	03/23/07SC;
(d) Confidentiality in a Wired World	12/27/07NC;
(e) Everything You Needed to know About Substance Abuse	12/18/07NC;
(f) South Carolina Family Court Bench/Bar	12/01/06SC;
(g) Speaking to Win	04/28/06SC;
(h) Children's Issues in Family Court	03/17/06SC;
(i) ABC's of Effective and Ethical Practice	10/14/05SC;
(j) Hot Tips from Domestic Practitioners	09/23/05SC;
(k) Children's Issues in Family Court	03/18/05SC;
(l) Depositions	02/01/05AL;
(m) Oath Seminar	12/21/04SC;
(n) Representing Non-US Citizens	05/23/03SC;
(o) Cool Tips from the Hottest Practitioners	04/25/03SC;
(p) Guardian ad litem Training	01/10/03SC."

Mr. Rutledge reported that he has taught the following law-related courses:

"(a) Videos for South Carolina State Bar

(i) Trials in Magistrate's Court – 2007;

(ii) Trials in Family Court – 2006;

(b) Mock Trial Competition, Furman University - 2001-2005;

(c) Lecturer for the South Carolina Bar CLE - Stress and the Practice of Law – 2001;

(d) Lecturer for the South Carolina Bar - I gave lectures on Family Law for the Bar's 'Ask a Lawyer' program at various libraries in Greenville County. 2006-2007;

(e) Lecturer - I gave frequent lectures on employment related issues in Alabama. 1988-1990."

Mr. Rutledge reported that he has published the following:

"(a) Age Discrimination in the Work Force", Executive Enterprises (1988);

(b) 'Mrs. Jamison's Tale of the War', South Carolina Historical Magazine, vol. 99, number 4 (1998)."

(4) Character:

The Commission's investigation of Mr. Rutledge did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Rutledge

did not indicate any evidence of a troubled financial status. Mr. Rutledge has handled his financial affairs responsibly.

The Commission also noted that Mr. Rutledge was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Rutledge reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Rutledge appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Rutledge appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Rutledge was admitted to the South Carolina Bar in 1994.

He gave the following account of his legal experience since graduation from law school:

"(a) Clerkship, United States District Court for the Northern District of Alabama, U.S. District Judge Robert B. Probst (1987-88)

I wrote opinions and orders and dealt with the legal community. The judge published two legal opinions which I wrote during my clerkship – one was on ERISA preemption and the other on Social Security Disability pain issues.

The former was published at the request of the bar in Alabama, and the latter at the request of West Publishing Company.

(b) Sirote & Permutt. Birmingham, AL (1988-1990)

General practice of labor law, copyright law, trademarks, and other intellectual property issues. I gave numerous lectures on benefit-related topics including health insurance, tax issues and intellectual property. I handled E.E.O.C. complaints, wrote briefs and performed legal research. I was the city attorney for the city of Graysville, Alabama.

(c) McDaniel, Hall Conerly & Lusk. Birmingham, AL (1990-94)

Insurance defense work, personal injury, mass tort, legal research, brief writing and some appellate practice. I traveled extensively.

(d) General Practice, solo practitioner. Greenville, SC (1994-present)

Primarily practicing in the area of family law."

Mr. Rutledge reported the frequency of his court appearances during the last five years as follows:

"(a) federal: never;
(b) state: almost daily."

Mr. Rutledge reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 5%;
(b) criminal: 35% (primarily involving juveniles);
(c) domestic: 60%."

Mr. Rutledge reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 5%;
(b) non-jury: 95%"

Mr. Rutledge provided that he most often served as sole counsel.

The following is Mr. Rutledge's account of his five most significant litigated matters:

"(a) Allison v. Eudy, 499 S.E. 2d 227 (1998)

Defined standard for changing custody in a joint custody arrangement. The Court of Appeals wrote this about my representation: "[We] commend the guardian *ad litem* for the thorough investigation he conducted in this case and express our gratitude to him for his appearance on the child's behalf before the court.

(b) The State of South Carolina v. Antonio Calloway, 2008-JU-23-417 (2008)

Received a Directed Verdict in favor of my juvenile client who was accused of drug possession. This was a Public Defender case. Although they were subpoenaed, none of his family showed up to serve as witnesses. The case is significant to me because I was the first person ever to stand up for this young man in his life.

(c) Mary Harlett Clements v. Vanessa May Givens and Joel Andrew Givens, 2005 DR-23-4318 (2007) In this *pro bono* case, I was successful in getting custody for my client, the grandmother. There were non-relative interveners who were trying to adopt the children.

(d) William Hopkins v. Kayla B. Hopkins and John Philyaw, 2007-DR-23-3009 (2008) I represented a father

who had seen his four year old son only two or three times. D.S.S became involved, but through my efforts the agency was dismissed as a party. The father was eventually awarded custody of his son.

(e) S.C.D.S.S. v. Kelly West-Hawkins, 1998-DR-23-4180 (2001)

I represented Kelly West *pro bono*. She was a former school teacher who had developed drug dependency issues and had lost her child to D.S.S. custody. I helped her through drug rehabilitation, the D.S.S. process, and a custody battle with the father of her child. She was successful in regaining custody and I eventually helped her regain her teaching license as well. This case is significant to me because I, as her lawyer, assisted her in getting her life back on track."

The following is Mr. Rutledge's account of the civil appeal he has personally handled:

"Allison v. Eudy, 499 S.E. 2d 227 (1998)."

Mr. Rutledge reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Rutledge's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found Mr. Rutledge "meets the qualifications as set forth in the evaluative criteria. They determined he is qualified for the position he seeks. They also indicated he satisfactorily explained the circumstances surrounding his bankruptcy."

Mr. Rutledge is married to Deborah Walsh Rutledge. He has two children.

Mr. Rutledge reported that he was a member of the following bar associations and professional associations:

"Greenville Bar Association - 1994-present."

Mr. Rutledge provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"I am a member of St. Matthew's Episcopal Church, where I serve as a Sunday School Teacher, Lay Eucharistic Minister, Lay Reader, Eucharistic Visitor, and Wednesday Evening Prayer Officiate. I am a member of the Sons of Confederate Veterans, and

have written articles and given lectures on history. I am involved in an ongoing course of Education for Ministry."

(11) Commission Members' Comments:

The Commission commented that Mr. Rutledge has worked a great deal with juveniles in Family Court. They noted his outstanding performance in the Commission's Practice and Procedures test for Family Court candidates.

(12) Conclusion:

The Commission found him qualified, but not nominated, to serve as a Family Court judge.

Michael Don Stokes
Family Court, Thirteenth Judicial Circuit, Seat 6

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Stokes meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Stokes was born in 1966. He is 42 years old and a resident of Taylors, South Carolina. Judge Stokes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Stokes.

Judge Stokes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Stokes reported that he has made $75.00 in campaign expenditures for "postage."

Judge Stokes testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Stokes testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Stokes to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Stokes described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a)	STOP Violence Against Women	04/01/02;
(b)	Magistrate Mandatory School	10/18/02;
(c)	SCSCJA Seminar	09/4-9/8/02;
(d)	Seminar on Civil Law	07/22/03;
(e)	The Probate Process	08/22/03;
(f)	SCSCJA Seminar	09/04/08;
(g)	Magistrate Mandatory School	10/31/03;
(h)	Family Law in SC	12/15/03;
(i)	Judicial Oath of Office	11/19/04;
(j)	Magistrate Mandatory School	11/19/04;
(k)	SCSCJA Legislative Reception and Seminar	3/9/05;
(l)	Family Court Judges Seminar	12/02/05;
(m)	Magistrate Mandatory School	11/03/06;
(n)	SCSCJA Staff Judges Seminar	02/14/07;
(o)	SCSCJA Legislative Reception and Seminar	3/7/07;
(p)	Advanced Studies Seminar	05/14-15/07;
(q)	SCSCJA Summer Seminar	07/9-11/07;
(r)	Domestic Abuse Seminar	10/2007;
(r)	Magistrate Mandatory School	11/02/07;
(s)	CDV Training	05/30/08;
(t)	SCSCJA Seminar	07/27-29/08."

Judge Stokes reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge Stokes reported that he has published the following articles.

> "(a) Comment, Logical Relationship Test for Computing Counterclaims Adopted, South Carolina Law Review, Vol. 42, number 1, pp.188-191 (Autumn 1990)

(b) Comment, Volunteers Ineligible for Workers' Compensation: Subject Matter Jurisdiction over Compensation Agreements Unsettled, South Carolina Law Review, Vol. 42, number 1, pp. 273-275 (Autumn 1990)."

(4) Character:

The Commission's investigation of Judge Stokes did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Stokes did not indicate any evidence of a troubled financial status. Judge Stokes has handled his financial affairs responsibly.

The Commission also noted that Judge Stokes was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Stokes reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Judge Stokes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Stokes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Stokes was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

"(a) 1991-1996, Associate, Chapman, Harter & Groves, PA.

During this time I was engaged in the general practice of law and focused on family law, including divorce and equitable division of property and child custody cases. I also engaged in a real estate practice doing residential home closings and refinances. I was further exposed to insurance defense work associated with motor vehicle accidents, and defending the State of South Carolina in tort claims made against the state from highway construction and suits brought against the state and its agencies, especially the Department of Corrections. I also was involved in preparing workers' compensation appeals to the full Workers' Compensation Commission, the circuit court and the state supreme court.

(b) 1996-2000, Sole practitioner, Greenville, South Carolina

During this time I maintained a general practice much as before, but expanded my practice areas in the field of family law to encompass not only divorce, child custody and equitable division cases, but also adoption and abuse and neglect cases. I continued to engage in residential real estate purchases and refinances, but also expanded into some commercial real estate work. This real estate work lead to getting into the area of representing financial institutions, and doing general counsel work for a credit union.

(c) 2000-2001, Partner, Mims & Stokes, Greer, South Carolina

While in partnership with Hank Mims, I continued to practice all areas of family law such as divorce, equitable division, adoption, and abuse and neglect cases. Further, I continued my practice in the real estate areas, and began to practice more in the area of criminal law.

(d) 2001-2005, Sole practitioner, Greer, South Carolina

My practice during this time began to sharpen its focus more tightly onto a more specialized practice in the area of divorces, equitable division, adoption, and abuse and neglect cases in the family law area. Due to my office now being located in my hometown, I was called on to develop a practice in the area of probate law as its relates to estates and guardian and conservatorships. I maintained the level of involvement in real estate and financial institution representation I had engaged in previously.

(e) 2005-present, Partner, Stokes & Southerlin, PA.

The practice as a whole continues to be heavily involved in divorces, equitable division of property, adoption, and abuse and neglect cases as well as probate law, real property closings, estate and guardianship and conservator cases. For the last two years my personal practice has been almost exclusively family law and some probate.

(f) 1996-present, Greenville County Magistrate Judge.

In this capacity I am the magistrate who serves the north east quadrant of Greenville County which includes the communities of northern Greer and Travelers Rest, Blue Ridge, Tigerville,

Mountain View, Gowensville, Skyland, and the Cliffs of Glassy. I manage a free standing office and am responsible for docket management for the civil docket, jury and non-jury, and the criminal non-jury docket. (The Solicitor's Office maintains the criminal jury trial docket). I am also responsible for all public monies that pass through the office and managing the court's staff. This office handles criminal cases, summons and complaints, claims and deliveries, restraining orders and landlord tenant matters. I am also responsible for hearing all cases that arise under a county ordinance relating to building standards, property maintenance, zoning, animal control, and enforcement of county tax collection ordinances. I have an office and courtroom at Greenville County Square that is used for these county wide cases."

Judge Stokes further reported:

"I have maintained a practice in Family Court for the entire time I have been an attorney. Most of my cases have involved divorce and property distribution along with child custody. As with most good practitioners, I have settled approximately 90 to 95% of my cases. I attribute this good settlement record to being able to work well with other attorneys and clients, and to being able to explain the law to clients that applies to the client's case, so that settlement can be realistically pursued for the client and with the client's support and enthusiasm. The law in these areas is reasonably settled and practitioners should be able to predict with reasonable accuracy the range within which a decision by a court will fall. Also, settlements have been facilitated in Greenville County because this county has had mandatory mediation for some time and this has greatly helped both litigants and the courts. Of course, for various reasons not all cases settle and I have tried many cases before the court to a conclusion.

I have done several adoptions in my practice. I have undertaken private adoptions, step-parent adoptions, and adoptions that involved DSS where foster parents adopt the children that have been place in their care.

I have handled abuse and neglect cases that have involved DSS and private actions that involved issues of abuse and neglect. Our office has a general policy that we handle the DSS cases assigned to us and rarely hire another attorney to take our place. Therefore, over the years, I have had extensive exposure to cases involving abuse, neglect, and the termination of parental rights.

I have never had the opportunity to handle a juvenile case. However, I have reviewed the procedure in preparing for this process, both as it relates to crimes and status offences, I have litigated several criminal matters, and as a magistrate I have heard hundreds of criminal matters so I feel comfortable with the underlying criminal law and believe that I am competent to apply the process in a juvenile case in Family Court."

Judge Stokes reported the frequency of his court appearances during the last five years as follows:

"(a) federal: 0;

(b) state: Attorney, 3-6 per month average; Magistrate, daily."

Judge Stokes reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 35%;

(b) criminal: 10%;

(c) domestic: 55%."

Judge Stokes reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 5%;

(b) non-jury: 95%."

Judge Stokes provided that he most often served as "Sole or chief counsel."

The following is Judge Stokes's account of his five most significant litigated matters:

"(a) Knight v. Knight

Family Court case involving a long term marriage, significant real property in two states and a small business;

(b) Bishop v. Bishop

Family Court case involving a long term marriage, significant debt, a bankruptcy issue, and several contempt proceedings;

(c) Marion v. Marion

Family Court case involving real and personal property issues and significant Quadro issues;

(d) Wade v. Wade

Family Court case involving allegations of abuse and property issues;

(e) Holt v. Holt

Child custody dispute involving allegations of abuse, drug abuse, and competing jurisdiction between two states."

The following is Judge Stokes's account of the civil appeals he has personally handled:

"(a) Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 431, 458 S.E. 2d 76 (Ct. App. 1995);

Seeger v. Wrenn Handling Company, Employer, and Farmington Casualty Company, Carrier, Unpublished opinion of Court of Appeals, 1999."

Judge Stokes reported that he has not personally handled any criminal appeals.

Judge Stokes reported that he has held the following judicial office:

"I was appointed a Greenville County Magistrate Judge in November 1996 and continue to serve. The criminal jurisdiction is offenses not exceeding a fine of $500.00 (plus assessments) or 30 days imprisonment, or both. The civil jurisdiction is matters where the amount in controversy does not exceed $7500.00. Unlimited jurisdiction in landlord/tenant matters."

Judge Stokes provided the following list of his most significant orders or opinions:

"(a) EmTec eviction. Case involved the eviction of a manufacturing plant in Travelers Rest, South Carolina. Case involved multiple parties and the amount in controversy was well into the six-figure range;

(b) I handled the criminal case as a magistrate when a fire escaped and burned a portion of Paris Mountain. The case is significant in that I had to handle the media attention given to the case;

(c) Most civil cases I hear are without significance on their own (excepting the parties). However, they are significant as a group here because of the volume of the cases that I have been called upon to decide is now well in excess of one thousand;

(d) Most criminal cases standing alone are without significance at my current level of court (excepting the parties and victims). However, the volume of cases I have decided is significant in that that number now conservatively exceeds 750;

(e) I believe that the most significant fact of my time on the Magistrate court is that I do not believe I have been appealed more than 5 or 6 times in 12 years and that I have a clean ethical record."

Judge Stokes reported the following regarding his employment while serving as a judge:

"I continued my practice of law while a continuing part-time judge from 1996 to the present at the firms listed [under Experience]. I have always been my own supervisor."

Judge Stokes further reported the following regarding an unsuccessful candidacy:

"In the Family Court elections for May 2008, I was not successful. I was found qualified, but not nominated."

(9) Judicial Temperament:

The Commission believes that Judge Stokes's temperament has been and would continue to be excellent.

(10) Miscellaneous:

In the Fall of 2008, the Upstate Citizens' Committee found regarding Judge Stokes, "no additional information that would alter our report from earlier this year." In the Spring of 2008, the Upstate Citizens Advisory Committee reported the following for Judge Stokes: "Constitutional qualifications: Based on the Personal Data Questionnaire, this candidate appears to have all the necessary qualifications. Ethical fitness: The committee has not discovered any information that would lead us to question the ethical fitness of this candidate. Professional and academic ability: The candidate possesses the professional and academic ability to qualify for the position he seeks. Character: The committee has no reason to believe this candidate has any serious negative character traits, with the exception of having a short temper as described below. Reputation: This candidate has a reputation that concerns the committee. The areas of concern are regarding Judicial Temperament and are more detailed below. Physical health and mental stability: The candidate appears to be in good physical and mental health. Experience: The candidate has sufficient experience in the Family Court setting. Judicial temperament: This candidate is a sitting magistrate and based on comments from several people, who have observed his conduct, this committee has serious concerns about his judicial temperament."

Judge Stokes is married to Rachel Elizabeth Few Stokes. He has three children.

Judge Stokes reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar;
(b) Greenville County Bar."

Judge Stokes provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Boy Scouts of America
Offices: Assistant District Commissioner, Assistant Scoutmaster, Assistant cubmaster, Webelos Den Leader, Den Leader. Eagle Scout with Silver Palm, Vigil Honor, Order of the Arrow, BSA, Webelos Den Leader of the Year 2007, Foothills District, Blue Ridge Council, BSA;
(b) Few's Chapel United Methodist Church Offices: Chairman, Administrative Council, Lay leader, Trustee, Choir;
(c) Blue Ridge Ruritan Club Offices: President, Vice President, Director, Secretary, Zone Governor;
(d) Masonic Lodge. Bailey Lodge, Greer, South Carolina. No offices held;
(e) Scottish Rite. Greenville, SC. No offices held;
(f) Commerce Club. Greenville, SC. No offices held."

(11) Commission Members' Comments:

The Commission commented that Judge Stokes is knowledgeable in family law and has served ably as a magistrate. They noted that he is known for his active civic involvement in his local community.

(12) Conclusion:

The Commission found Judge Stokes qualified, but not nominated, to serve as a Family Court judge.

THURSDAY, JANUARY 15, 2009

Deborah B. Durden
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Durden meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Ms. Durden was born in 1961. She is 47-years old and a resident of Columbia, South Carolina. Ms. Durden provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992. Ms. Durden also became a licensed attorney in Alaska in 1993.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Durden.

Ms. Durden demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Durden reported that she has made $92.00 campaign expenditures for stationary and printing.

Ms. Durden testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Durden testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Durden to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Durden described her continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) SC Association of Counties Local Gov't Institute 12/12/03;
(b) SCDOT Condemnation Workshop 11/14/03;
(c) Revised Lawyer's Oath 09/14/04;
(d) Transportation Research Board 1/11-13/04;
(e) Attorney ECF Training, Federal District Court 7/5/05;
(f) SC Administrative and Regulatory Law Assn 09/23/05;
(g) SC Association of Counties Local Gov't Institute 12/09/05;
(h) Government Law Update 06/16/06;
(i)Criminal Practice in SC 11/10/06;
(j)Eminent Domain 09/18-19/06;
(k) Criminal Law Update 09/13/06;
(l)SC Administrative and Regulatory Law Assn 09/21/07;
(m) Federal Practice in SC 08/24/07;
(n) It's All a Game – Evidence 01/10/08;
(o) Judicial Selection in SC 09/17/08;
(p) SC Administrative and Regulatory Law Assn 09/19/08."

Ms. Durden reported that she has taught the following law-related courses:

"(a) August 27 and September 3, 2008

I taught training sessions for SCDOT staff on the effect of S.C. Act 114 of 2007, which restructured SCDOT and the SCDOT regulations promulgated in 2008 pursuant to that act.

(b) June 16, 2006 SC Bar Government Law Section

I taught a segment of the CLE on recent state legislative action related to Eminent Domain law.

(c) March 1, 2005, CLE International Eminent Domain Institute

Relocation Assistance, An Update on New Regulations -- I presented a segment of the CLE explaining the basics of relocation assistance benefits and how newly promulgated federal regulations would affect those benefits in the future.

(d) November 14, 2003, SCDOT Associate Counsel Workshop

Interplay Between Condemnation and Relocation Assistance Benefits – I taught a segment of a CLE for attorneys who handle condemnation cases for SCDOT explaining

relocation assistance benefits available to landowners and displaces and the interplay between those benefits and just compensation payments made in the condemnation litigation.

(e) November 2, 2001, SCDOT Associate Counsel Seminar Handling FOIA and Discovery Requests – Strategies for Avoiding a Surprise at Trial."

Ms. Durden reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Durden did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Durden did not indicate any evidence of a troubled financial status. Ms. Durden has handled her financial affairs responsibly.

The Commission also noted that Ms. Durden was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Durden reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Durden appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Durden appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Durden was admitted to the South Carolina Bar in 1992.

She gave the following account of her legal experience since graduation from law school:

"(a) 1991 - 1992 - Judicial Law Clerk

After graduation from USC law school and sitting for the South Carolina bar exam, I moved to Anchorage, Alaska where I served as law clerk to Alaska Superior Court Judge Karen Hunt from August 1991 to September 1992. Judge Hunt handled complex civil litigation and I performed legal research related to those cases and wrote memoranda of law and proposed orders on all motions to dismiss and motions for summary judgment. I also evaluated motions for injunctive relief filed with the court.

I served as law clerk to Alaska Superior Court Judge John Reese from December 1992 to April 1993 handling family court matters. I reviewed motions filed with the court and recommended action on those motions. During this time I studied for the Alaska Bar exam and took that exam in January, 1993.

(b) 1993 - 1997 - Private Practice

In April 1993 I became an associate at Faulkner, Banfield, Doogan and Holmes' Anchorage office. Faulkner Banfield is a large firm with offices in Juneau, Fairbanks and Anchorage, Alaska representing primarily business clients. During my association with the firm I worked on Workers Compensation matters, professional liability cases, and tort cases. Approximately 50% of the cases I worked on were in the Federal District Court. I also successfully argued an appeal of a constitutional issue before the Alaska Supreme Court.

In 1994 my husband's service commitment to the U.S. Air Force ended and I left Faulkner Banfield so that he and I could move to South Carolina. I became an Associate at Gergel, Nickles & Grant (the firm is now Gergel, Nickels and Solomon). During my association with the firm from 1994 to 1997, I represented teachers and other employees in employment matters and worked on motions and discovery in tort claims cases, Fair Labor Standards Act cases, and other civil litigation.

(c) 1997 - Present - Government Service

In August 1997, I accepted a position as Assistant Chief Counsel at the South Carolina Department of Transportation. While at SCDOT I have handled a wide variety of legal matters including condemnation cases, contract matters, legislative issues, environmental matters, and administrative law. I handle all contested cases at the Administrative Law Court for the department concerning environmental permits, the payment of relocation assistance benefits, and the certification of Disadvantaged Business Enterprises. I handle the drafting and promulgation of all agency regulations. SCDOT has adopted a philosophy of using associate counsel to litigate condemnation cases, so do not handle the litigation of those cases, but I frequently counsel agency staff and

associate counsel on issues concerning condemnation and real estate law. My responsibilities at SCDOT also involve reviewing and analyzing legislation that is pending at the state legislature. I evaluate the effect of proposed statutory language, draft proposed legislation and amendments, and provide testimony before legislative subcommittees."

Ms. Durden further reported:

"I handle all contested cases at the Administrative Law Court for the Department of Transportation concerning environmental permitting, the payment of Relocation Assistance benefits, and the certification of Disadvantaged Business Enterprises. I handle an average of two matters per month before the Administrative Law Court. Approximately 75% of those are settled prior to a hearing. My cases that go to a full hearing and decision by the Administrative Law Court normally take a full day to try. I recently handled an environmental permitting case that took a full week to try.

In Disadvantaged Business Enterprise cases the issue is frequently an appeal of an SCDOT decision denying certification of a particular business as a Disadvantaged Business Enterprise. Certification qualifies a business for special consideration in highway construction contracts and is intended to assist women and minority business owners get businesses established. The issues litigated in those cases revolve around whether the woman or minority individual who is applying for the certification actually owns and controls the business as required by the federal regulations. Litigation of these cases is important to protect the integrity of the D.B.E. program and prevent businesses that are not owned and controlled by disadvantaged individuals from usurping the benefits intended for those who are truly at a disadvantage. I recently handled the appeal in which an adverse decision of the ALC was reversed by the Court of Appeals on the issue of how a spouse can effectively renounce an interest in the property used to acquire an ownership interest in a business.

In Relocation Assistance cases the issues litigated revolve around whether SCDOT has paid the proper amount of Relocation Assistance benefits. Particular questions I have litigated include whether benefits are available to an individual whose primary residence is somewhere other than the acquired property; what

constitutes a comparable dwelling; and whether a business has been displaced by a change of driveway access to the property.

In environmental permitting cases the issues I handle are related to whether SCDOT is entitled to a 401 Water Quality Certification or Navigable Waters Permit, and if so what conditions can properly be imposed on the permit by the Department of Health and Environmental Control. Issues I have litigated and won in the past year include:

(a) whether the ALC has jurisdiction over a case if an appeal of the Notice Of Proposed Decision was not timely filed before DHEC;

(b) whether DHEC loses its jurisdiction to impose permit conditions if it fails to issue a Notice of Proposed Decision within the time limits of its regulation;

(c) whether DHEC has authority to require compensatory mitigation on a 401Water Quality Certification where there are no Navigable Waters permit issues raised by the project.

SCDOT does not take its public hearings on regulations before the ALC; they are heard by the SCDOT Commission using the same procedure and standards that a hearing before the ALC would use. I am responsible for handling all aspects of promulgating regulations for the department, including issues related to hearings."

Ms. Durden reported the frequency of her court appearances during the last five years as follows:

"(a) federal: once a year;
(b) state: once a month."

Ms. Durden reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"civil: 100%."

Ms. Durden reported the percentage of her practice in trial court during the last five years as follows:

"(a) jury: 5%;
(b) non-jury: 95%."

Ms. Durden provided that she most often served as sole counsel.

The following is Ms. Durden's account of her five most significant litigated matters:

"(a) L. A. Barrier v. SCDOT, 06-ALJ-19-0925

South Carolina Court of Appeals (DBE certification case). The Court of Appeals reversed a decision of the Administrative Law Court and affirmed SCDOT's position that a renunciation of interest by a spouse must be a prior renunciation of the jointly owned assets used to purchase an ownership interest in a DBE firm for that interest to be considered the sole property of the disadvantaged individual. This ruling is significant because allowing after-the-fact renunciations would undermine the requirement that the business be acquired by the real and substantial contribution of capital by the disadvantaged individual and threaten the integrity of the DBE program,

(b) SCDOT v. DHEC and Friends of the Congaree *et al.* ALC 2006-ALJ-07-0804

Administrative Law Court (U.S. 601 Bridge Replacement Permits). Final Order issued by Judge Ralph King Anderson, III on April 4, 2008 was appealed to the Court of Appeals, but dismissed by Appellants prior to a decision by the Court. This was an environmental permitting case in which SCDOT was seeking a 401 Water Quality Certification and Construction in Navigable Waters permit from DHEC for the replacement of four existing bridges on U.S. Highway 601 near the Congaree National Park. Three of the rulings in the case will have a long-term positive effect for both SCDOT and other entities seeking environmental permits from DHEC: 1) DHEC has no authority to require compensatory mitigation under a 401 Water Quality Certification where no navigable waters permit issues are presented by the projects; and 2) DHEC waives its right to dictate the terms of a permit if it fails to issue a Notice of Proposed Decision within the time limits set forth in its regulations; and 3) Feasible alternatives to a project are not the same as conditions that DHEC seeks to impose to minimize the adverse effects of the project, but must be an alternative to the project.

(c) Southern Environmental Law Center v. DHEC, 07-ALJ-07-108

Administrative Law Court and pending in the Court of Appeals (Port Access Road Permits). Final order

issued by Administrative Law Judge John Geathers on September 4, 2007 was appealed to the Court of Appeals where oral argument is scheduled in October 2008. This case is significant both because of the importance of the project and the legal issue involved. The Administrative Law Court dismissed the contested case brought by an environmental group holding it lacks subject matter jurisdiction to hear a case if the appeal of the permit is not first timely filed with DHEC. This case and the 601 case noted above, were also significant because they were two of the first cases heard by DHEC and the ALC following the passage of the 2007 law changing the procedures for challenging DHEC decisions on permits. My argument in those cases has shaped how DHEC and the ALC deals with procedural issues and under what circumstances a remand to agency staff from the DHEC Board will be allowed

(d) Swanner v. Anchorage Equal Rights Commission; Supreme Court of Alaska; May 13, 1994. citation: 874 P. 2d 274 (Alaska, 1994) *Cert. denied by* Swanner v. Anchorage Equal Rights Commission, 513 U.S. 979, 115 S. Ct. 460, 130 L. Ed. 2d 368, 63 USLW 3341, 63 USLW 3345 (1994)

This case was significant because it dealt with constitutional questions of religious freedom as it relates to an individual's conduct in violating state prohibitions against housing discrimination based on marital status. I wrote the brief and made the argument before the state Supreme Court which ruled in favor of my client. A Westlaw keycite search reveals that this case has been cited in 29 subsequent cases and in 299 secondary sources and briefs.

(e) Rae's Cleaners v. SCDOT, South Carolina Administrative Law Court

Final Order issued by Judge Ralph King Anderson, III on January 3, 2006. This was a Relocation Assistance Benefits contested case in which SCDOT's finding that Rae's Cleaners was not a displaced business entitled to relocation assistance benefits was challenged. The issue was whether a change in access to the business site allowing only right turns in and out of the business

constituted a displacement of the business which would have entitled the owner to relocation assistance benefits. The matter was significant in light of a line of cases issued by the South Carolina Court of Appeals creating controlling law at that time allowing damages related to restricted access to real property in condemnation cases. Judge Anderson affirmed SCDOT's decision denying benefits, holding that while a loss of access is a special injury that might entitle a landowner to just compensation in a condemnation case, it is not an acquisition entitling the landowner to relocation benefits where the acquisition of property did not affect the continued operation of the business."

The following is Ms. Durden's account of five civil appeals she has personally handled:

"(a) L. A. Barrier & Son Inc. v. SCDOT
S.C. Court of Appeals; July 21, 2008, not reported;

(b) Southern Environmental Law Center v. SCDHEC and SCDOT
Pending at S.C. Court of Appeals;

(c) SCDOT v. DHEC and Friends of the Congaree et al.
Appellants dismissed prior to decision of the Court;

(d) Swanner v. Anchorage Equal Rights Commission; Supreme Court of Alaska; May 13, 1994. Citation: 874 P. 2d 274 (Alaska, 1994) Cert. denied by Swanner v. Anchorage Equal Rights Commission, 513 U.S. 979, 115 S. Ct. 460, 130 L. Ed. 2d 368, 63 USLW 3341, 63 USLW 3345 (1994);

(e) Allen et. al v. Loadholt
United States Court of Appeals for the Fourth Circuit. I briefed this Fair Labor Standards Act case which settled prior to argument before the Court of Appeals."

Ms. Durden reported that she has not personally handled any criminal appeals.

Ms. Durden further reported the following regarding an unsuccessful candidacy:

"I ran, unsuccessfully, for a seat on the Administrative Law Court in 2006. I was found qualified and nominated by the Judicial Merit Selection Commission, but withdrew from the race prior to the election by the General Assembly."

(9) Judicial Temperament:

The Commission believes that Ms. Durden's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Ms. Durden to be "a most highly qualified and a highly regarded candidate who would ably serve on the Administrative Law Court."

Ms. Durden is married to Wiley Kevin Durden. She has three children.

Ms. Durden reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar Association;

(b) Alaska Bar Association;

(c) South Carolina Administrative and Regulatory Law Association."

Ms. Durden provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:00

"(a) Trenholm Road United Methodist Church;

(b) Girl Scout Troop Leader, 2001 to 2008."

(11) Commission Members' Comments:

The Commission commented that Ms. Durden is enthusiastic and sincere about her desire to serve on the Administrative Law Court. The Commission also noted that Ms. Durden has excellent experience and is a hard worker which would serve her well on the court.

(12) Conclusion:

The Commission found Ms. Durden to be qualified and nominated her for election to the Administrative Law Court.

Christopher McGowan Holmes
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Holmes meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Mr. Holmes was born in 1949. He is 59 years old and a resident of Mount Pleasant, South Carolina. Mr. Holmes provided in his application that He has been a resident of South

Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Holmes.

Mr. Holmes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Holmes reported that he has not made any campaign expenditures.

Mr. Holmes testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Holmes testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Holmes to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Holmes described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) Lunch & Learn	05/18/07;
(b) 2007 SCAARLA Conference	09/21/07;
(c) 4th Annual "What Works"	12/20/07;
(d) SCAARLA Seminar	09/22/06;
(e) SC Bar Admin. & Reg. Comm.	11/03/06;
(f) Charleston Bar "What works for me"	12/01/06;
(g) Charleston Bar "What works for You"	12/15/06;
(h) Attorney ECF Training	09/07/05;
(i) SCAARLA Educational Seminar	09/23/05;
(j) Anatomy of a Trial	11/29/05;
(k) What Works for Me	12/09/05;
(l) What Works for You	12/16/05;

(m) Revised Lawyer's Oath CLE 07/22/04;
(n) SCAARLA Annual Meeting 10/01/04;
(o) SCARLA Safari: Finding Answers 09/26/03;
(p) Mold in the Indoor Environment 12/04/03;
(q) Annual CLE Part I 12/05/03;
(r) Annual CLE Part II 12/12/03."

Mr. Holmes reported that he has taught the following law-related courses:

"I lectured on coastal zone management issues at a joint North Carolina/South Carolina seminar in the late 1980's. I have given presentations to various professional groups and associations in the Charleston area on issues relating to regulations of wetlands and dock permitting."

Mr. Holmes reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Holmes did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Holmes did not indicate any evidence of a troubled financial status. Mr. Holmes has handled his financial affairs responsibly.

The Commission also noted that Mr. Holmes was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Holmes reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Holmes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Holmes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Holmes was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

"(a) 1978-1979

Partner with Gene W. Dukes, St. George, SC. General practice including civil, criminal, domestic, administrative and estate planning;

(b) 1979-1985

Hired in September 1979 as staff attorney for newly created South Carolina Coastal Council; promoted to General Counsel in 1983 and Deputy Director in 1984. Advised agency staff and Board members on legal and regulatory matters, drafted regulations, reviewed contracts, represented agency at administrative hearings and in circuit and appellate courts. As Deputy Director, headed up agency's Charleston office supervising a staff of approximately 25 professional and clerical employees;

(c) 1985-1993

Associate with McNair Law Firm in Columbia and Charleston; member of administrative and regulatory section, representing clients in variety of environmental and regulatory matters;

(d) 1994-present

Private law practice in Charleston and Mt. Pleasant. Primary focus on representing clients before administrative agencies and Administrative Law Court and appellate courts on issues involving environmental permits."

Mr. Holmes further reported:

"Since establishment of the Administrative Law Court, approximately 90% of my practice has been before that tribunal. With the exception of Judge Gossett, I have appeared before every current and former ALJ. Virtually all matters I have handled have involved DHEC's coastal zone, water quality, air quality or stormwater permits. Approximately one-half of the time my client's position has been allied with the agency and the other half in opposition. Over the last ten years, I have averaged approximately four to five appearances before the ALC annually."

Mr. Holmes reported the frequency of his court appearances during the last five years as follows:

"(a) federal: none;

(b) state: 3-4 times a year."

Mr. Holmes reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 98%;
(b) criminal: 0%;
(c) domestic: 2%."

Mr. Holmes reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 0%;
(b) non-jury: 100%."

Mr. Holmes provided that he most often served as sole counsel.

The following is Mr. Holmes's account of his five most significant litigated matters:

"(a) Guerard v. Whitner, 276 SC 521, 280 SE2d 539 (SC 1981)
First case interpreting the SC Coastal Zone Management Act standard of review. The Court held that, notwithstanding statutory statement that review was de novo, the substantial evidence test is to be applied in judicial review;

(b) Carter v. SC Coastal Council, 281 SC 201, 314 SE2d 327 (SC 1984)
First case challenging agency regulation of privately owned wetlands as unconstitutional "taking." The Court held that agency's action was a legitimate exercise of police powers to prevent public harm and not a regulatory "taking";

(c) Brown v. SCDHEC, 348 SC 527, 560 SE2d 410 (SC 2002)
First case setting forth the proper standard of review by an agency Board on appeal from the Administrative Law Court. The Court held that the ALJ was the finder of facts and the DHEC Board, as a reviewing tribunal, lacked authority to make its own factual findings. The case effectively led to adoption of legislation (2006 Act No. 387) eliminating agency board and circuit court review of ALJ decisions which now go directly to Court of Appeals;

(d) Setzer and Gilgen v. SC DHEC, Case No. 03-CP-15-980, June 2004

Following denial of permit and affirmation of decision by ALJ, plaintiffs appealed to circuit court (Hon Jackson V. Gregory) successfully arguing decision was improperly based on agency policies never promulgated and adopted as regulations as required by APA.;

(e) Concerned Citizens of Jamestown v. Southern Aggregates.

Actually four different circuit court cases alleging trespass and nuisance against a limestone quarry and administrative appeals of mining permits before the Mining Council. The various proceedings went on for nearly four years and were resolved by negotiated payment of substantial damages and an agreement to significantly modify future mining methods to minimize impacts on surrounding lands."

The following is Mr. Holmes's account of five civil appeals he has personally handled:

"(a) Brownlee v. SCHEC

SC Court of Appeals, January 29, 2007,372 SC 119, 641 SE2d 45;

(b) Brown v. SCDHEC

SC Supreme Court, February 25, 2002; 348 SC 527, 560 SE2d 410;

(c) Concerned Citizens, etc. v. SC Coastal Council, et al

SC Supreme Court, November 9, 1992; 310 SC 267, 423 SE2d 134;

(d) State ex rel Medlock v. SC Coastal Council, et al

SC Supreme Court, July 28, 1986; 289 SC 445, 346 SE2d 716;

(e) Carter v. SC Coastal Council

SC Supreme Court, March 26, 1984; 281 SC 201, 314 SE2d 327."

Mr. Holmes reported that he has not personally handled any criminal appeals.

Mr. Holmes further reported the following regarding an unsuccessful candidacy:

"In February of 2006 I filed as a candidate for Administrative Law Court, Seat 5. I was found qualified but not nominated."

(9) Judicial Temperament:

The Commission believes that Mr. Holmes's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee reported the following regarding Mr. Holmes: "Constitutional Qualifications: Mr. Holmes meets the constitutional qualifications for the judicial position he seeks; Ethical Fitness: Persons interviewed by the committee indicated that Mr. Holmes was considered ethical; Professional and Academic Ability: The committee gave Mr. Holmes a good rating in this area; Character: The committee reported that Mr. Holmes' character is unquestionable; Reputation: Mr. Holmes enjoys a good reputation in the community and among his peers; Physical and Mental Health: There is evidence that Mr. Holmes is physically and mentally capable of performing the duties required of a judge of the Administrative Law Court; Experience: The committee recognized Mr. Holmes' good legal experience; Judicial Temperament: The committee gave Mr. Holmes a good rating in this category."

Mr. Holmes is married to Patricia Ann Martin Holmes. He has three children.

Mr. Holmes reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar;

(b) SC Bar Administrative and Regulatory Committee;

(c) SC Administrative and Regulatory Law Association;

(d) Charleston County Bar."

Mr. Holmes reported that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

(11) Commission Members' Comments:

The Commission commented that Mr. Holmes is a capable and experienced candidate who would serve well on the Administrative Law Court. They noted his fine reputation in the legal community.

(12) Conclusion:

The Commission found Mr. Holmes qualified, but not nominated, to serve as an Administrative Law judge.

THURSDAY, JANUARY 15, 2009

Melody L. James
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge James meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Judge James was born in 1963. She is 45 years old and a resident of Lexington, South Carolina. Judge James provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1987.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge James.

Judge James demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge James reported that she has not made any campaign expenditures.

Judge James testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge James testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge James to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge James described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name _____
Date(s)

(a)	Domestic Violence Seminar	04/24/08;
(b)	Annual Summary Court Seminar	03/05/08;
(c)	17th Annual Criminal Practice	10/05/07;
(d)	The ABC's of DUI	07/23/07;
(e)	Criminal Domestic Violence	01/30/07;
(f)	Judges & Attorneys Substance Abuse Seminar – MUSC	12/01/06;
(g)	Ethics Roadshow 2006	12/13/06;
(h)	2006 SC Ultimate Trial Notebook	11/17/06;
(i)	Mandatory ADR Training	09/08/06;
(j)	The Unforgiving Minute	12/10/05;
(k)	The Criminal Trial from Start to Finish	12/12/05;
(l)	DUI Trail Advocacy from A to V	07/20/05;
(m)	Summary Court Annual Meeting (Judicial Oath of Office)	09/09/04;
(n)	Revised Lawyer's Oath CLE	08/27/04;
(o)	DUI Trail Advocacy	08/19/04;
(p)	DUI Trial from A to V	03/11/04;
(q)	13th Annual Criminal Practice	11/21/03;
(r)	Ethics Seminar	11/07/03;
(s)	Ethics Seminar	05/13/03;
(t)	Annual Convention Summary Ct.	09/07/03."

Judge James reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge James reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge James did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge James did not indicate any evidence of a troubled financial status. Judge James has handled her financial affairs responsibly.

The Commission also noted that Judge James was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge James reported that her Martindale-Hubbell rating is BV.

(6) Physical Health:

Judge James appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge James appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge James was admitted to the South Carolina Bar in 1987.

She gave the following account of her legal experience since graduation from law school:

> "(a) August, 1987 - August, 1997 - Setzler, Chewing & Scott (law firm); firm later became Setzler & Scott; West Columbia, SC. I practiced as an associate in general practice firm;
>
> (b) August, 1997 - October, 1999 - Barnes, Alford, Stork, & Johnson (law firm); Columbia, SC. I practiced as an associate lawyer in an insurance defense firm in the area of workers' compensation defense;
>
> (c) October, 1999 - present - Mozingo & James (law firm); Camden, SC; Partner and practicing attorney in a general practice firm with strong emphasis in workers' compensation."

Judge James further reported:

"My experience with administrative law is not through the Administrative Law Court, but is through my experience before another administrative body, the South Carolina Workers' Compensation Commission. I have substantial experience before the Commission in addressing procedural, factual and legal issues. The contested hearings are held before a single commissioner. I appear at the trial level (single commissioner), review level (Full Commission), and have handled matters on appeal to the Circuit Court (*), and Court of Appeals. The procedure for hearings is provided through a set of administrative laws and rules. The standard of review of an appeal from the Workers' Compensation Commission to the Court of Appeals is the same standard for administrative appeals heard before the Administrative Law Court and appeals from the Administrative Law Court. The standard of review of is set forth in the Administrative Procedures Act.

(*Pursuant to 2007 reform of the Act, cases involving injuries occurring on or after July 1, 2007 are appealed directly to the Court of Appeals, instead of the Circuit Court.)"

Judge James reported the frequency of her court appearances during the last five years as follows:

"(a) federal: N/A;

(b) state: Hearings set would be an average of one time a week on various matters, including workers' compensation matters and domestic matters. After various consent orders or other resolutions prior to the court date, actual appearances would average once every two to three weeks. (Also, as a municipal court judge, I preside over bench trials once a week, and jury trials are set for twice a week.)"

Judge James reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) Civil: 60%;
(b) Criminal: 0%;
(c) Domestic: 40%."

Judge James reported the percentage of her practice in trial court during the last five years as follows:

"(a) Jury: 0%;
(b) Non-jury: 100%."

Judge James provided that she most often served as "Chief counsel."

The following is Judge James's account of her five most significant litigated matters:

"(a) Hunter v. Werner Enterprises, et al

This case involved a trucking liability case in which suit was filed, and I was involved in the negotiation of a settlement that protected the interests of an individual that lost an eye and had other significant impairment.

(b) Vargas v. Sitton Buick

This was a workers' compensation claim. I represented the Defendants in trial and subsequent requests for review and appeal. The Defendants were successful and the case was denied. This is matter that would have involved the payment of substantial sums if the claim was found compensable.

(c) Branham v. Kohn Construction Co.

This was a workers' compensation claim in which I represented the Claimant. As well as other issues, the matter involved contested matters of non-insurance and

whether the employer was subject to the Act. The employer was found to be subject to the Act. The Claimant suffered a severe injury to his back and as a result of the trial, he was able to get the medical treatment he needed, including surgery, and all benefits that he was entitled to.

(d) All Carolina Temporary v. Smith

This was workers' compensation matter in which I represented the Defendants. The main issue in this matter was whether the claimant engaged in horseplay. The procedures of braking and using a large trash truck in a residential neighborhood were also peripheral issues.

The Defendants were successful and the case was denied with a finding of horseplay. If found compensable this matter would have involved the payment of substantial sums.

(e) Catoe v. Lynches River

This case was a civil liability case that involved an accident with a large utility truck. Co-counsel and I represented the family of the driver of the other vehicle, who died as a result of the collision. After suit was filed and extensive discovery, the matter was resolved through settlement that protected the interests of the deceased family (which included a young child). With the numerous workers' compensation matters that I have handled this is an extremely hard question to answer. There are a large number of legal/factual issues that I have handled that have a significant impact on a workers' compensation matter. Many of these matters result in the case changing in substantial value."

The following is Judge James's account of five civil appeals she has personally handled:

"(a) Melton v. Melton

S.C. Court of Appeals; January 10, 2005, (Unpublished opinion);

(b) Beard v. Aiken Regional Medical Center

March 8, 2000, (Unpublished opinion);

(c) Lovelace v. Anderson Steel Erection, Inc., et al

S. C. Court of Appeals; June 2006, (Unpublished opinion);

(d) Loyd's Inc. v. Good, et al

S.C. Court of Appeals; December 2, 1991; 306 S.C. 450; 412 S.E.2d 441 (Ct. App. 1991);

(e) Soaper v. Hope Industries, Inc.

S.C. Court of Appeals - January 6, 1992; S.C. Supreme Court - November 30, 1992; 306 S.C. 531, 413 S.E.2d 38 (Ct. App. 1991) aff'd 309 S.C. 438, 424 S.E.2d 493 (1992) This matter was handled with co-counsel. I participated in trial and latter argued the matter at the Court of Appeals level."

Judge James reported that she has not personally handled any criminal appeals.

Judge James reported that she has held the following judicial office(s):

"(a) City of Cayce Municipal Court - Associate Judge from August, 1988 until 1994;

(b) Chief Judge from 1994 until present (appointed by City Counsel). Jurisdiction is over cases arising under the ordinances of the City, and all offenses which are subject to a fine not exceeding $500.00 or imprisonment not exceeding 30 days, or both, which occur within the City limits. There are also various statutes that provide jurisdiction for municipal court in criminal matters exceeding these limits. (Example, DUS 2nd and above (non-DUI related).) Also, the Court has authority to issue arrest warrants, search warrants, and conduct preliminary hearings on all criminal matters."

Judge James reported the following regarding her most significant orders or opinions:

"At the summary court level there is rarely a written order, and the matters tried are mainly alleged traffic violations, and first level criminal offenses. Therefore, I am unable to quote any significant orders or opinion, and am not aware of any cited orders or opinions."

Judge James reported the following regarding her employment while serving as a judge:

"As I am a part-time municipal judge, the only other employment would be in the practice of law, as reflected in my prior answer."

(9) Judicial Temperament:

The Commission believes that Judge James's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found "Judge James to be a highly qualified and a highly regarded candidate, who would ably serve on the Administrative Law Court."

Judge James is not married. She does not have any children.

Judge James reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar since 1987;

(b) 11th Judicial Circuit Representative in Young Lawyers' Division."

Judge James provided that she is not a member of any civic, charitable, educational, social, or fraternal organizations:

(11) Commission Members' Comments:

The Commission commented that Judge James has excellent legal and judicial experience as a municipal judge in Cayce. They noted that she was very professional at the public hearing and had a strong work ethic.

(12) Conclusion:

The Commission found her qualified, but not nominated, to serve as an Administrative Law judge.

Ms. Carol Ann Isaac McMahan
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. McMahan meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Ms. McMahan was born in 1953. She is 55 years old and a resident of Anderson, South Carolina. Ms. McMahan provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. McMahan.

Ms. McMahan demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. McMahan reported that she has made $15.00 in campaign expenditures for unlisted items.

Ms. McMahan testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. McMahan testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. McMahan to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. McMahan described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) SCARLA Seminars (2003 not in my records)	09/21/2007; 09/22/2006; 09/23/2005; 10/01/2001-09/20/2002;
(b) Dramatic Changes in Criminal Law	07/13/2007;
(c) Ethics Roadshow	12/10/2007;
(d) Top Trial Lawyers Tackle Evidence	02/08/2008;
(e) Domestic Violence	05/31/2006;
(f) The Truth About Opinions	11/21/2006;
(g) Secrecy and the Courts	04/19/2005;
(h) Managing Litigation w/Technology	12/19/2005;
(i) SC Assoc. of Counties	12/9/2005;
(j) Advocacy	12/10/2004;
(k) Beyond the Bar II	11/05/2004;
(l) Circuit Court Arbitration	02/15/2002.

Ms. McMahan reported that she has taught the following law related courses:

"As part of a South Carolina Bar program, 'Law School for Non-Lawyers,' I taught 'An Overview of South Carolina Courts' on September 11, 2007 in Anderson, South Carolina. I also taught a tax course at Tri-County Technical College in

Pendleton, South Carolina."

Ms. McMahan reported that she has published the following:

"Authored

(a) 'Client Alert Effects of the 2% Withholding Tax' - South Carolina Lawyer, July/Aug. 1990;

(b) 'Withholding Whammies in South Carolina' - 1991 Tax Commentaries, S.C. Association of CPAs;

(c) 'Are Settlement Procedures the Way to Resolve Tax Nexus Issues' - Journal of Multistate Taxation, Nov/Dec, 1992;

(d) 'Are Settlement Procedures the Way to Resolve Tax Nexus Issues' - South Carolina Lawyer, May/June 1993;

(e) 'One-Stop Business Shopping': - Business & Economics, Jan/Feb/Mar, 2003.

Co-Authored

(a) 'What's the Use Tax' - South Carolina Lawyer, July/Aug, 1991;

(b) 'The Taxation of Multistate Corporations in South Carolina' - 1991 Tax Commentaries, S.C. Association of CPAs;

(c) 'What's in a Use Tax' - 1991 Tax Commentaries, S.C. Association of CPAs;

(d) 'Manufacturing and Business personal Property Tax Returns, Did You Know' -1992 Tax Commentaries, S.C. Association of CPAs;

(e) 'Katie Bar The Door, The Tax Person Is Here' - 1992 Tax Commentaries, S.C. Association of CPAs."

(4) Character:

The Commission's investigation of Ms. McMahan did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. McMahan did not indicate any evidence of a troubled financial status. Ms. McMahan has handled her financial affairs responsibly.

The Commission also noted that Ms. McMahan was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. McMahan reported the following regarding her Martindale-Hubbell rating: "My visibility rating in Martindale-Hubbell provides: '327 out of 2120 in Columbia, 122689 out of 889357 overall.' I would note that my research indicates that the other attorneys at the Department have this rating as well."

Ms. McMahan reported the following military service:

"From 1974 to 1977 I served in the United States Army Security Agency. I achieved the rank of E-4, and, in 1977, I was honorably discharged."

(6) Physical Health:

Ms. McMahan appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. McMahan appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. McMahan was admitted to the South Carolina Bar in 1986.

She gave the following account of her legal experience since graduation from law school:

"Upon graduation from USC Law School I was employed by Price Waterhouse in Columbia, South Carolina as a Tax Consultant. This involved research and application of various federal and state tax laws. In December 1988, I was employed by the South Carolina Department of Revenue as a Tax Analyst. At that time I conducted legal research and represented the Field Services Division of the Department (at that time "Tax Commission") before the Tax Commissioners. In the fall of 1995, I began preparing Department Determinations regarding regulatory violation and licensing issues and eventually tried such matters as contested cases before the ALC in 1996. In July of 2006, I was also assigned as counsel to various tax matters. I represented the Department in these contested cases before the ALC. In August of 2007, I also served as an Asst. Attorney General for tax matters in the absence of Thomas McDermott (military duty in Iraq). To date, I assist as counsel in criminal tax matters as needed."

Ms. McMahan further reported the following:

"On a monthly, at times weekly basis I represent the South Carolina Department of Revenue in contested case hearings relating to all matters administered by the Department to include, tax, licensing and regulatory matters. For the most part I serve as

sole counsel in such representation. I also serve as counsel on the appeal of such matters to the Court of Appeals and Supreme Court (previously appeals were taken to circuit court)."

Ms. McMahan reported the frequency of her court appearances during the last five years as follows:

"During the last five years I have appeared monthly, at times weekly, in South Carolina Courts, to include the Administrative Law Court. I have not appeared in federal court."

Ms. McMahan reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"As an attorney for the S.C. Department of Revenue, the vast majority of my case load is administrative, regulatory and civil matters. In the last year, I have also appeared in General Sessions for guilty pleas in criminal tax matters."

Ms. McMahan reported the percentage of her practice in trial court during the last five years as follows:

"My entire legal experience is in the non-jury arena. With the exception of two cases, Lexington Medical vs. South Carolina Department of Revenue and Anonymous Taxpayer v. South Carolina Department of Revenue, I have served as sole counsel."

Ms. McMahan provided that she most often served as sole counsel.

The following is Ms. McMahan's account of her most significant litigated matters:

"(a) McNickel's Inc. V. S.C. Dept. of Revenue, 351 S.C. 629, 503 S.E.2d 723 (1998)

This case is of note as the issue involved the validity of a Department regulation. The Supreme Court sustained the Department's position. Also, this was my first oral argument before the Supreme Court;

(b) Sonoco Products Company v. S.C. Dept. of Revenue, S.C. __, __, S.E.2d, __, 2008 WL 2329754 (2008)

(I handled the oral argument only). This was a property tax matter involving the meaning of the word "contiguous" in relation to determining the applicable tax base for an office building. This was significant in that it involved the application of a property tax statute with implications as to other taxpayers similarly situated;

(c) Video Gaming Consultants Inc. v. S.C. Dept. of Revenue, 358 S.C. 647, 595 S.E.2d 890 (CA, 2004) (I handled the oral argument only). The Court of Appeals ruled that the Department of Revenue was not required to pay attorneys fees for 'pressing its claim' in this case because the underlying issue was the constitutionality of a statute."

The following is Ms. McMahan's account of five civil appeals she has personally handled:

"(a) McNickel's Inc. V. S.C. Dept. of Revenue
351 S.C. 629, 503 S.E.2d 723 (1998);
(b) Sonoco Products Company v. S.C. Dept. of Revenue
__ S.C. __, __, S.E.2d, __, 2008 WL 2329754 (2008);
(c) Video Gaming Consultants Inc. v. S.C. Dept. of Revenue
358 S.C. 647, 595 S.E.2d 890 (CA, 2004);
(d) Evans v. S.C. Dept. of Revenue
(Unpublished, Court of Appeals);
(e) S.C. Dept. of Revenue v. Stardust Amusement Co."

Ms. McMahan reported that she has not personally handled any criminal appeals.

Ms. McMahan further reported the following regarding any unsuccessful candidacies: "This application is my first candidacy for any elective office."

(9) Judicial Temperament:

The Commission believes that Ms. McMahan's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found Ms. McMahan to be "well qualified for the position she seeks."

Ms. McMahan is married to George Carroll McMahan. She has three children.

Ms. McMahan reported that she was a member of the following bar associations and professional associations:

"South Carolina Bar Association, Delegate, 2006/2007."

Ms. McMahan provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) School Improvement Council, Pendleton High School;

(b) St. Joseph's Catholic Church, Catechist (Sunday School Teacher);

(c) St. Andrews Catholic Church;

(d) Teakwood Plantation Homeowners Assoc. (Bd. Member (2003-2007); President (2004);

(e) Special Olympics, 2008."

(11) Commission Members' Comments:

The Commission noted that Ms. McMahan seemed very intelligent and firm in her beliefs. They also commented that Ms. McMahan was impressive at the Public Hearing and that her military background would be helpful in serving as a judge on the Administrative Law Court.

(12) Conclusion:

The Commission found Ms. McMahan qualified and nominated her for election to the Administrative Law Court.

Leonard P. Odom
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Odom meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Mr. Odom was born in 1970. He is 38 years old and a resident of Greenville, South Carolina. Mr. Odom provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Odom.

Mr. Odom demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Odom reported that he has spent approximately $170 in campaign expenditures for stationary and postage.

Mr. Odom testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Odom testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Odom to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Odom described his past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) William & Mary 54th Tax Conference	11/13/08-11/14/08;
(b) 2008 SCAARLA Conference	09/19/08;
(c) William & Mary 53rd Tax Conference	11/08/07-11/09/07;
(d) 2007 SCAARLA Conference	09/21/07;
(e) William & Mary 52nd Tax Conference	11/16/06-11/17/06;
(f) 2006 SCAARLA Conference	09/22/06;
(g) 2005 SCAARLA Conference	09/23/05;
(h) Ethics for State Gov't Lawyers	11/19/04;
(i) 2004 SCAARLA Conference/Oath	10/01/04;
(j) IP Law- What Every Gunslinger	02/27/04;
(k) Ethics for State Gov't Lawyers	11/14/03;
(l) 2003 SCAARLA Safari	09/26/03;
(m) National Nexus Program	05/28/03-05/29/03."

Mr. Odom further reported:

I also attended but did not seek MCLE or LEPR credit for the following seminars in the past five years:

(a) Multistate Tax Commission – Legal and Auditing, 9/20/04-9/24/04

Principles of Apportioning Corporate Income and Presentation of Evidence;

(b) UC-Davis, Center for State and Local Taxation, 6/20/04-6/24/04 Summer Tax Institute."

Mr. Odom reported that he has taught the following law-related courses:

"(a) Legal Writing I – Fall 2004, Fall 2005 and Fall 2006;

(b) Legal Writing II – Spring 2005 and Spring 2006.

In Legal Writing I, I taught first-year law students the basic principles of legal analysis and writing.

In Legal Writing II, I taught first-year law students the fundamentals of drafting an appellate brief and presenting an oral argument."

Mr. Odom reported that he has not published any books or articles."

(4) Character:

The Commission's investigation of Mr. Odom did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Odom did not indicate any evidence of a troubled financial status. Mr. Odom has handled his financial affairs responsibly.

The Commission also noted that Mr. Odom was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Odom reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Odom appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Odom appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Odom was admitted to the South Carolina Bar in 2000.

He gave the following account of his legal experience since graduation from law school:

"After graduation from law school and taking the South Carolina Bar Exam in 1999, I entered the Graduate Tax Program at the University of Florida College of Law to earn a Master of Laws (LL.M) in Taxation. Upon entry into the Graduate Tax Program, I was selected by Professor Michael Oberst, based on my prior law

school experience with the fundamentals of partnership taxation, to serve as his Graduate Assistant. In this capacity, I performed various research and writing assignments for Professor Oberst on complex issues in the areas of individual income and partnership taxation. While enrolled in the Graduate Tax Program, I authored an article entitled *Evaluating the Tax Treatment of Environmental Remediation Expenditures: Tax Reform Needed to Fully Execute the Policy Behind the Environmental Laws* to fulfill the Program's thesis requirement, but I did not submit the article for publication. I earned the LL.M degree in May 2000 and graduated with a 3.63 GPA.

In June 2000, I began my legal career with McNair Law Firm in Columbia, South Carolina, and practiced primarily in the area of general taxation. My experience included drafting pleadings for matters before the United States Tax Court, assisting in the Firm's representation of clients in audit matters before the Internal Revenue Service and the South Carolina Department of Revenue, and other general tax and corporate matters.

In November 2000, I moved to Hilton Head Island to practice estate planning with Richard Allen, P.A., a solo-practitioner affiliated with Fraser & Allen, LLC. I assisted Richard Allen with complex estate planning models, which usually consisted of family limited partnerships and intentionally defective grantor trusts, and various probate matters.

In 2001, I accepted a position as a contract attorney with Nexsen Pruet Jacobs & Pollard, LLP in Columbia to work on a complex anti-trust litigation matter, for which Nexsen Pruet represented the defendant. Initially, for the first few months, my job duties consisted of reviewing thousands of pages of documents to determine whether such documents were responsive to discovery requests, and, if responsive, whether such documents were protected by the attorney-client privilege. After a few months, I began working primarily with David Eddy, who had the responsibility of deposing many key witnesses during the discovery phase. I assisted David Eddy by reviewing documents authored or reviewed by each witness and highlighted potential key points of such documents that were relevant to the upcoming deposition. The case settled before trial.

In November 2002, I accepted a position as Counsel for Revenue Litigation with the South Carolina Department of Revenue. My legal experience developed tremendously while I

was with the Department of Revenue. For example, on day one, I inherited a complex individual income tax case that was on appeal to the South Carolina Supreme Court. My first assignment was to prepare and present oral argument in that case. Although I prepared the argument, the case settled shortly before the hearing. However, just a few weeks later, I was asked to prepare and present the oral argument in another case that was pending before the South Carolina Supreme Court. In May 2003, I argued Ed Robinson Laundry and Dry Cleaning, Inc. v. South Carolina Department of Revenue, 356 S.C. 120, 588 S.E.2d 97 (2003) before the South Carolina Supreme Court. I also represented the Department of Revenue in other appellate matters before the circuit courts that were on appeal from the Administrative Law Court.

Although the appellate aspects of my career with the Department of Revenue were very thrilling and fulfilling, the overwhelming majority of my experience there involved drafting Final Agency Determinations (Determination) and representing the Department before the South Carolina Administrative Law Court. A Determination allowed a taxpayer to request a contested case hearing with the Administrative Law Court to review the Department of Revenue's final decision in that matter. Nearly all of the Determinations that I drafted pertained to individual income and corporation income tax matters. I also drafted Determinations for sales, employment, property, motor fuels, alcoholic beverage licensing violations, and other miscellaneous tax matters. I estimate that I drafted 80 Determinations, from which taxpayers requested a contested case hearing in approximately 30 of those matters. Out of those 30 requests for a contested case hearing, I estimate that I conducted 12 hearings before the Administrative Law Court and the other 18 matters settled during or after the discovery phase.

In December 2006, I accepted a position as Of Counsel with Womble Carlyle Sandridge & Rice, PLLC, in its Greenville, South Carolina, office and am currently a member of its Tax Practice Group. I primarily represent taxpayers before various states' revenue departments in audit matters, assist taxpayers with complex state and local tax planning, including the county and municipal levels, and assist other lawyers within the Firm on economic incentive matters."

Mr. Odom further reported:

"My experience before the Administrative Law Court stems from my position as Counsel for Revenue Litigation with the South Carolina Department of Revenue from November 2002 until December 2006. At the Department of Revenue, I drafted Final Agency Determinations for taxation matters that were not resolved at the audit or appeals stages of the controversy. Such Determinations represented the Department of Revenue's final position on these issues. These Determinations then allowed the taxpayer to request a contested case hearing before the Administrative Law Court to review the Department of Revenue's final position. When a taxpayer requested a contested case hearing before the Administrative Law Court, I represented the Department of Revenue in that matter.

I estimate that I drafted 80 Determinations while with the Department of Revenue. Out of those 80 Determinations, I estimate that 30 taxpayers requested a contested case hearing before the Administrative Law Court, and out of those 30 requests for a contested case hearing, I estimate that 12 actually went to trial. The other 18 generally settled during or after the discovery phase, or sometimes within a day or so of the hearing, in which case the trial preparation had been completed."

Mr. Odom reported the frequency of his court appearances during the last five years as follows:

"(a) federal: 0%;
(b) state: 100%."

Mr. Odom reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 100%;
(b) criminal: 0%;
(c) domestic: 0%."

Mr. Odom reported the percentage of his practice in trial court during the last five years as follows:

"(a) jury: 0%;
(b) non-jury: 100%."

Mr. Odom provided that he most often served as lead counsel. He provided the following regarding that determination:

"All of my trial experience in the past five years stems from my position as Counsel for Revenue Litigation with the South Carolina Department of Revenue. We often listed more than one attorney's name in the pleadings; however, the attorney that was

assigned the matter generally handled the matter entirely unless it was a very complex case. Thus, in the majority of these matters, I would characterize my role most often as chief counsel."

The following is Mr. Odom's account of his five most significant litigated matters:

"(a) Ed Robinson Dry Cleaning and Laundry, Inc. v. South Carolina Dep't of Revenue, 356 S.C. 120, 588 S.E.2d 97 (2003)

Although the briefs were prepared before I joined the South Carolina Department of Revenue, I prepared the oral argument and argued this case before the South Carolina Supreme Court (the "Court"). There were two issues before the Court: (1) whether the imposition of sales tax on laundry and dry cleaning services, but not other services, violated the equal protection clause, and (2) whether the sheer number and nature of the sales and use tax exemptions in S.C. Code Ann. Section 12-36-2120 renders the Act special legislation and in violation of the equal protection clause. On the first issue, the Court found that a rational basis existed for treating dry cleaners differently from other trades in the service industry and upheld the imposition of sales tax on laundry and dry cleaning services. On the second issue, the Court held that it was not concerned with the size or number of exemptions, but only their content. The Court gave great deference to the General Assembly's classification decisions on the presumption that it debated and weighed the advantages and disadvantages of the legislation at issue. This case was important because it upheld the General Assembly's power to create distinct classifications for taxation purposes and preserved its ability to create an exemption for certain classes when a rational basis exists for such exemption.

(b) Anonymous Taxpayers v. South Carolina Dep't of Revenue, Docket No. 03-ALJ-17-0366-CC (December 15, 2003)

I represented the Department of Revenue in this contested case hearing before the Administrative Law Court. The issue before the court was whether the deduction allowed by S.C. Code Ann. Section 12-6-1140(4) (2000) for amounts received for "disability retirement due to a permanent and total disability" includes long-term disability insurance benefits. The taxpayers contended that the term "retirement" should be broadly construed to include all payments received by an individual that is permanently unable to return to work, even if such payments are not made under a retirement plan and the recipient is not

technically retired. Judge Geathers upheld the Department of Revenue's Final Agency Determination and ruled that the term "retirement" meant a formal retirement plan and not just failing to return to work. Consequently, Judge Geathers ruled that the term "disability retirement" must be construed as those benefits paid under a formal retirement plan because of a disability. This case was important because if the term "retirement" was construed loosely, it arguably would have generated an income tax deduction for any payments received by an individual from a disability insurance policy as a salary replacement when the individual was unable to return to work, but had not yet attained retirement age.

(c) Anonymous Taxpayers v. South Carolina Dep't of Revenue, Docket No. 06-ALJ-17-0397-CC (2006)

This matter also was a contested case hearing in which I represented the Department of Revenue before the Administrative Law Court. The issue was whether the taxpayers could exclude disability retirement compensation received from the South Carolina Police Officers Retirement System (SCPORS) from South Carolina taxable income pursuant to Internal Revenue Code (IRC) section 104(a)(1) as payments received under a workmen's compensation statute or a statute in the nature of a workmen's compensation statute. Judge Kittrell upheld the Department of Revenue's Final Agency Determination and ruled that such payments were not excludable because they were not paid under the provisions of South Carolina's workmen's compensation statute, and that, consistent with federal tax law, the SCPORS provisions were not in the nature of a workmen's compensation statute because the SCPORS allowed payments for reasons other than on-the-job injuries.

(d) Anonymous Corporation v. SCDOR, 05-ALJ-17-0010-CC

I served as co-counsel in this matter, along with Malane Pike, and we represented the Department of Revenue in a matter in which a civil fraud penalty was asserted against a corporate taxpayer. The case involved two separate dividends that were declared and paid with a promissory note by a South Carolina entity to its out-of-state parent. The Department alleged that deductions were taken for accrued but unpaid interest. We issued a very detailed administrative summons requesting

various corporate records and other information. The Department hired forensic accountants to assist us in evaluating the taxpayer's accounts payable, accounts receivable, cash flow, and other corporate records to examine whether the taxpayer had the ability to make principal and interest payments on the promissory notes. The parties settled the matter shortly before hearing, and a Consent Order of Dismissal was issued by Judge Matthews. Although this matter settled before the hearing, it is significant because of the complexity of the legal issues and the use of forensic accounting experts to review and recreate the corporation's records.

(e) Anonymous Taxpayer v. South Carolina Dep't of Revenue, 03 ALJ-17-0094- CC (August 8, 2003)

I represented the Department of Revenue in this matter, and the parties agreed to a settlement before the hearing. However, I found this case important because the issue was whether the Department of Revenue properly calculated interest on overpayments of taxes for tax years that ended prior to September 1, 1985, but were paid after September 1, 1985. On September 1, 1985, South Carolina switched from a simple interest method of calculating interest to a compounding method (meaning interest accrues on interest). At issue was whether the simple interest that accrued before September 1, 1985, should have been compounded thereafter or just added to a separately compounded portion when computing the total interest due. If the simple interest that accrued before September 1, 1985, should have been compounded for all periods thereafter, then the interest payable would have been substantial, because the accrual period was approximately 20 years. The Department of Revenue consulted with key state and local tax experts and a federal tax expert. After a status conference was held before Judge Kittrell, the parties reached a settlement in the case, and a Consent Order was issued on August 8, 2003."

The following is Mr. Odom's account of the civil appeals he has personally handled:

"(a) Ed Robinson Laundry and Dry Cleaning, Inc. v. South Carolina Dep't of Revenue, 356 S.C. 120, 588 S.E.2d 97 (2003)

I argued this case on behalf of the Department of Revenue before the South Carolina Supreme Court (the "Court") on May 14, 2003. The Court issued its decision on October

13, 2003, and denied the appellants' motion for rehearing on November 20, 2003. The Court held that a rational basis existed for treating dry cleaners differently from other trades in the service industry and upheld the imposition of sales tax on laundry and dry cleaning services. The Court also held that the sheer number and nature of the sales and use tax exemptions in S.C. Code Ann. Section 12-36-2120 did not render the Act special legislation and, therefore, did not violate the equal protection clause.

(b) Anonymous Taxpayer v. South Carolina Dep't of Revenue, Unpublished Opinion No. 2008-UP-124 (S.C. Ct. App. February 20, 2008); Anonymous Taxpayer v. South Carolina Dep't of Revenue, C/A No.: 06-CP-40-1336 (Richland County Circuit Court June 20, 2006)

Although the South Carolina Court of Appeals (the "Court of Appeals") issued this Unpublished Opinion after I had left the Department of Revenue to return to private practice, this case was initially assigned to me, and I represented the Department of Revenue before the Administrative Law Court on the taxpayer's request for a contested case hearing. I also represented the Department of Revenue in this matter before the Richland County Circuit Court on the taxpayer's appeal of the Administrative Law Court's decision. After oral arguments, the circuit court granted the Department of Revenue's motion to dismiss the taxpayer's appeal, because the taxpayer failed to pay or post a bond for the amount of tax and interest determined to be due by the Administrative Law Court. The taxpayer then filed an appeal of the circuit court's decision with the Court of Appeals, and subsequently filed a Motion to Proceed In Forma Pauperis. I filed a return to the taxpayer's motion, and such motion was ruled upon after I left the Department of Revenue. The Department of Revenue's position was ultimately upheld by the Court of Appeals in the Unpublished Opinion.

(c) Anonymous Taxpayers v. South Carolina Dep't of Revenue, Case No. 2002-01628 (Anderson County Circuit Court, 2004)

In this matter, the taxpayers filed an appeal in Anderson County Circuit Court to review a decision of the Administrative Law Court. Although the hearing before the Administrative Law Court preceded my employment with the Department of Revenue, I represented the Department of Revenue in the appellate stage of this controversy. The matter involved the Department of Revenue's denial of the taxpayers' claim for refund of taxes paid, which was affirmed by the Administrative Law Court. The taxpayers filed an appeal with the circuit court, and the Department of Revenue filed a motion to dismiss the appeal on grounds that the taxpayers' petition failed to state grounds or errors of law sufficient to confer jurisdiction upon the court pursuant to the Pringle and Al-Shabazz cases. After oral arguments, the Department of Revenue's motion was dismissed; however, the Department of Revenue prevailed on the merits, which were presented through briefs of both parties."

(9) Judicial Temperament:

The Commission believes that Mr. Odom's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found "Mr. Odom to be an eminently and most highly qualified and a most highly regarded candidate. He is a driven, enthusiastic, and highly motivated candidate who would most ably serve on the Administrative Law Court."

Mr. Odom is married to Suzanne Guitar Odom. He does not have any children.

Mr. Odom reported that he was a member of the following bar associations and professional associations:

"(a) South Carolina Bar;

(b) South Carolina Administrative and Regulatory Lawyers Association;

(c) South Carolina Economic Developer's Association."

Mr. Odom provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

"The Gamecock Club."

(11) Commission Members' Comments:

The Commission commented on Mr. Odom's great intellect which would ably serve him in discharging his responsibilities as

a jurist on the Administrative Law Court. They noted that his Master of Laws in Taxation and his experience with the Department of Revenue would further assist him on the bench.

(12) Conclusion:

The Commission found Mr. Odom qualified, but not nominated, to serve as an Administrative Law judge

Kelly Hunter Rainsford
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Rainsford meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Ms. Rainsford was born in 1973. She is 35 years old and a resident of Columbia, South Carolina. Ms. Rainsford provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1998.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Rainsford.

Ms. Rainsford demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Rainsford reported that she has made $137.89 in campaign expenditures for "stationery, $66.49, 8/30/2008; postage, $71.40, 9/3/2008."

Ms. Rainsford testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Rainsford testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Rainsford to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Rainsford described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name Date(s)

(a) Depositions: Technique and Strategy 03/14/2003;
(b) SCAARLA Safari: Finding Answers 09/26/2003;
(c) 21 Tips to Avoid Malpractice (Part 1) 12/30/2003;
(d) 21 Tips to Avoid Malpractice (Part 2) 12/30/2003;
(e) National Association of Public Pension Attorneys Legal Education Conference 06/22/2004-06/25/2004;
(f) SCAARLA Educational Seminar with Revised Lawyers Oath 10/01/2004;
(g) SCAARLA Educational Seminar 09/23/2005;
(h) SCAARLA Educational Seminar 09/22/2006;
(i) New Pension Law 10/06/2006;
(j) Lunch & Learn: Act 387 11/03/2006;
(k) Ethics for Government Lawyers 11/03/2006;
(l) Lunch & Learn: Act 387 05/18/2007;
(m) Westlaw Training 09/17/2007;
(n) SCAARLA Educational Conference 09/21/2007;
(o) Ethics for Government Lawyers 11/09/2007;
(p) Basic Principles & Dangerous New Trends 11/30/2007;
(q) SCAARLA Educational Conference 09/22/2008."

Ms. Rainsford reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Ms. Rainsford reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Rainsford did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Rainsford did not indicate any evidence of a troubled financial status. Ms. Rainsford has handled her financial affairs responsibly.

The Commission also noted that Ms. Rainsford was punctual and attentive in her dealings with the Commission, and the

Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Rainsford reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Rainsford appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Rainsford appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Rainsford was admitted to the South Carolina Bar in 1998.

She gave the following account of her legal experience since graduation from law school:

"(a) Law Clerk/Attorney for the South Carolina Department of Revenue (August 1998 to May 1999)

During law school, I clerked for Dean Secor, Assistant Attorney General, who prosecuted criminal tax matters assigned to the Attorney General's Office. After completing the bar exam, I returned to work for Mr. Secor while searching for a permanent position. In this job, I drafted orders, trial briefs, indictments, and motions; responded to discovery requests; researched legal issues; and managed the case docket.;

(b) Judicial Law Clerk for the South Carolina Court of Appeals (May 1999 to June 2000)

During my tenure at the Court of Appeals, I clerked for Judge C. Tolbert Goolsby, Jr., then Chief Judge William T. Howell, and finally Acting Judge A.E. Morehead, III. While working for this Court, I reviewed appellate briefs and records on appeal; identified and researched legal issues; attended conferences with the judges; and drafted opinions and memoranda. I worked on appeals regarding various areas of the law, including administrative, criminal, civil, and family.

(c) Judicial Law Clerk for the South Carolina Administrative Law Court (June 2000 to May 2002)

For nearly two years, I clerked for Chief Judge Marvin F. Kittrell. In this job, I managed case files; researched, summarized, and evaluated motions,

petitions, transcripts, and briefs; attended administrative hearings; and drafted and reviewed orders. I worked on cases in most areas for which the Court had jurisdiction at that time.

(d) Attorney with Austin, Lewis & Rogers, P.A. (May 2002 to March 2004)

In private practice, I focused on administrative law, dealing mostly with Department of Health and Environmental Control matters, and gained experience in civil matters as well. I prepared briefs, motions, pleadings, and proposed orders; researched legal issues; conducted discovery; prepared for and conducted depositions; prepared for trial; and supervised the firm's law clerks.

(e) Legal Counsel for the South Carolina Retirement Systems (March 2004 to January 2007)

I managed the agency's entire docket of Administrative Law Court cases including preparing cases for trial, conducting discovery, preparing for and conducting depositions, and filing pleadings; managed all disability matters at the Director's level and on appeal; and drafted Final Agency Determinations. During this period, I tried 20 cases and managed a docket that reached more than 30 cases at one time.

(f) Legal Counsel for the South Carolina Retirement Systems (January 2007 to May 2008)

In January 2007, I was promoted to a position where I assisted with complex litigation; provided program support; created and maintained databases to manage cases, subpoenas, QDROs, and Final Agency Determinations; established procedures and created a database to manage a new disability monitoring project; and researched miscellaneous program and legal issues.

(g) Assistant General Counsel for the Office of General Counsel, State Budget and Control Board (May 2008 to present)

In this job, I have been managing the internal appeals for the Employee Insurance Program and drafting appeals decisions. Additionally, I have been overseeing the agency's Administrative Law Court cases,

researching various legal issues, and writing legal memoranda."

Ms. Rainsford further reported:

"The majority of my appearances before the Administrative Law Court occurred between August 2004 and January 2007. During that period of time, I represented the Retirement Systems in more than 20 final hearings on either the merits of a case or a dispositive motion. A majority of the cases I handled related to the denial of disability retirement benefits. I also handled a large number of cases involving the Retirement Systems' interpretation and application of the statutory filing requirement for disability applications. Although I appeared before the Administrative Law Court occasionally before and after that period of time, this experience is significant to my understanding of what it is like to appear before the Administrative Law Court."

Ms. Rainsford reported the frequency of her court appearances during the last five years as follows:

"(a) federal: None;

(b) state: Between August 2004 and January 2007, I averaged two dispositive hearings every three months, although there were several months when I tried two or three cases in a month. Otherwise, I have appeared in court occasionally."

Ms. Rainsford reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: 100%;

(b) criminal: 0%;

(c) domestic: 0%."

Ms. Rainsford reported the percentage of her practice in trial court during the last five years as follows:

"(a) jury: 0%;

(b) non-jury: 100%."

Ms. Rainsford provided that she most often served as sole counsel.

The following is Ms. Rainsford's account of her five most significant litigated matters:

"(a) Anderson v. S.C. Retirement Systems, 06-ALJ-30-0008-CC

This case involved a question about the Retirement Systems' interpretation and application of its disability statute.

Prior to this case, two separate Administrative Law Judges had issued orders resulting in conflicting interpretations. One judge found that the disability statute required an application to be filed while a member was in service. Another judge found that the member merely needed to prove his disability arose while he was in service. After the Anderson case was filed, the Court granted my request for *en banc* consideration in order to maintain uniformity of its decisions. The Court, with five judges participating, heard oral arguments and ultimately issued a unanimous ruling that a member must be in service when he files his application for disability retirement benefits. It is my understanding this was only the second time the Court had held an *en banc* hearing since 2001 when the Court added Rule 70.

(b) Lazicki-Thomas v. S.C. Retirement Systems, S.C. Supreme Court, May 12, 2008, Op. No. 26487 (Shearouse Adv. Sh. No. 19 at 77)

In this appeal, the Supreme Court considered the issue heard by the Administrative Law Court *en banc* in the above-referenced Anderson case. The Supreme Court ultimately agreed with the Administrative Law Court and upheld the Retirement Systems' interpretation that a member is not eligible for disability retirement benefits unless he files an application while he is in service. This was significant because it provided clear guidance to the Retirement Systems about the proper administration of its disability statute.

(c) Morgan v. S.C. Retirement Systems, S.C. Court of Appeals, March 13, 2008, Op. No. 4356 (Shearouse Adv. Sh. No. 12 at 56)

In this appeal, Mr. Morgan challenged the Retirement Systems' calculation of his service purchase cost and the Administrative Law Court's affirmance of that calculation. Mr. Morgan asserted the Retirement Systems should have been estopped from using his highest career salary because the Retirement Systems' misinformation prevented him from completing his service purchase before his salary substantially increased. The Court concluded Mr. Morgan failed to prove he lacked the ability to discern the truth given that he could have read the statute himself. The Court also concluded Mr. Morgan failed to prove he justifiably relied on the misinformation prior to the Retirement Systems correcting its error nine days later. In this appeal, the Court declined to estop a state agency that had

made numerous efforts to provide timely, accurate responses based on the information provided.

(d) Duvall v. S.C. Retirement Systems, S.C. Supreme Court, March 10, 2008, Op. No. 26451 (Shearouse Adv. Sh. No. 9 at 74)

In this appeal, Mr. Duvall challenged the Retirement Systems' calculation of his monthly retirement benefit. When calculating Mr. Duvall's benefit, the Retirement Systems included a payout made at retirement for 45 days of unused annual leave as allowed by statute. Mr. Duvall, however, sought to include in his salary a payout made prior to retirement for additional unused annual leave. Significantly, Mr. Duvall argued that because he was not a state employee but an employee of the Municipal Association of South Carolina, the 45-day cap on unused annual leave did not apply to him. The Court held that the legislature's provision for the inclusion of a payout for 45 days of annual leave applies to all participants in the retirement system, regardless of whether they are state employees. This appeal was significant because it promoted equity in the calculation of retirement benefits.

(e) Graham v. S.C. Retirement Systems, 04-ALJ-30-0160-CC (J. Anderson, Dec. 30, 2004)

In this contested case, Ms. Graham sought a continuation of her disability retirement benefits. One issue in the case was the allegation of a condition for which Ms. Graham was not seeking ongoing treatment and was not compliant with medications prescribed for her. The Court determined that because the disability statute required a finding that a member "should be retired," Ms. Graham was precluded from obtaining disability retirement benefits on the basis of this condition. This was significant because it provided support for the Retirement Systems' administration of its disability statute."

The following is Ms. Rainsford's account of the civil appeals she has personally handled:

"(a) Morgan v. S.C. Retirement Systems
S.C. Court of Appeals, March 13, 2008, Op. No. 4356 (Shearouse Adv. Sh. No. 12 at 56);

(b) Lazicki-Thomas v. S.C. Retirement Systems
S.C. Supreme Court, May 12, 2008, Op. No. 26487 (Shearouse Adv. Sh. No. 19 at 77);

(c) Duvall v. S.C. Retirement Systems

S.C. Supreme Court, March 10, 2008, Op. No. 26451 (Shearouse Adv. Sh. No. 9 at 74). I was co-counsel and assisted in this appeal."

Ms. Rainsford reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Rainsford's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found "Ms. Rainsford to be an eminently and most highly qualified and a most highly regarded candidate. She is a driven, enthusiastic, and highly motivated candidate who would most ably serve on the Administrative Law Court."

Ms. Rainsford is married to Matthew Stevens Rainsford. She does not have any children.

Ms. Rainsford reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Administrative and Regulatory Law Association (SCAARLA)

Member, 2000 to present

Member, Board of Directors, September 2003 to present

Chairman, Membership Committee, 2004 to present;

(b) Administrative and Regulatory Law Committee of the South Carolina Bar Member, 2003 to present."

Ms. Rainsford provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Bible Study Fellowship (BSF) 2004-present;

(b) Usher January 2005-January 2007;

(c) Assistant Treasurer January 2007-present."

(11) Commission Members' Comments:

The Commission commented that Ms. Rainsford is well-qualified to serve as an Administrative Law judge based on her practice before the court. They noted her active involvement with the South Carolina Administrative and Regulatory Law Association.

(12) Conclusion:

The Commission found Ms. Rainsford qualified, but not nominated, to serve as an Administrative Law judge.

THURSDAY, JANUARY 15, 2009

Shirley C. Robinson
Administrative Law Court, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Robinson meets the qualifications prescribed by law for judicial service as an Administrative Law judge.

Ms. Robinson was born in 1951. She is 57 years old and a resident of Columbia, South Carolina. Ms. Robinson provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Robinson.

Ms. Robinson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Robinson reported that she has made $97.20 in campaign expenditures "for postage ($67.20) and printing (30.00)."

Ms. Robinson testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Robinson testified that she is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Robinson to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Robinson described her past continuing legal or judicial education during the past five years as follows:

"Conference/CLE Name	Date(s)
(a) 2008 SCAARLA Conference	09/19/08;

(b)	National Association of Hearing Officers	11/5-6/07;
(c)	SCAARLA	10/31/07;
(d)	Federation of Administrative & Regulatory Boards	10/05/07;
(e)	2007 SCAARLA Conference	09/21/07;
(f)	SC Association of Counties Local Government Attorneys' Workshop	12/08/06;
(g)	SC Attorney General Ethics Workshop	11/03/06;
(h)	2006 SCAARLA Conference	09/22/06;
(i)	2005 SCAARLA Conference	09/23/05;
(j)	DHEC Seminar	03/18/05;
(k)	SC Association of Counties Local Government Attorney's Workshop	12/10/04;
(l)	SC Black Lawyers 2nd Annual Retreat	10/22/04;
(m)	2004 SCAARLA Conference	10/01/04;
(n)	SC Association of Counties Local Government Attorney's Workshop	12/12/03;
(o)	2003 SCAARLA Conference	09/26/03."

Ms. Robinson reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Ms. Robinson reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Robinson did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Robinson did not indicate any evidence of a troubled financial status. Ms. Robinson has handled her financial affairs responsibly.

The Commission also noted that Ms. Robinson was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Robinson reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Robinson appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Robinson appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Robinson was admitted to the South Carolina Bar in 1991.

She gave the following account of her legal experience since graduation from law school:

"(a) 1991 (6 months) - Law Firm of Edwards and Associates, Columbia, South Carolina

Was a first year associate working primarily as co-counsel with more seasoned attorneys on cases in the areas of personal injury, family law and worker's compensation;

(b) 1991 thru Mid-1992 - 8th Circuit Solicitor's Office, Greenwood, SC

Served as an Assistant Solicitor prosecuting juvenile cases, and prosecuted abuse and neglect cases for the SC Department of Social Services;

(c) 1992 thru 1994 - SC Legislative Black Caucus, Columbia, South Carolina

Served as Executive Director; performing duties that included legislative research, speech writing, management of office and staff, fundraising and coordinating intern program; 1995 thru 2000 - Law Offices of Newman & Sabb, PA, Columbia, South Carolina (Firm name changed to Law Offices of Ronnie A. Sabb, LLC in June 2000)

Was the senior associate in offices in Columbia and Lake City, South Carolina. My primary areas of practice were consumer bankruptcy and family law, which made up approximately 75% of my practice. The remaining approximate 25% of my practice was in the areas of probate law, workers compensation, and personal injury;

(e) 2000 thru present - SC Department of Labor, Licensing and Regulation, Columbia, South Carolina

I am the senior hearing advisor to the 36 professional licensing boards that comprise LLR's Division of Professional and Occupational Licensing (POL). POL boards have statutory responsibility for sanctioning licensees who are found to have committed misconduct or incompetence. It is only after conducting an

evidentiary hearing that complies with the notice and procedural requirements of the Administrative Procedures Act (the APA) that the Board will issue a final order with findings and conclusions that are supported by a preponderance of the evidence. Because the majority of board members are individuals who practice the profession that is governed by the board on which that individual serves, the members have little knowledge of the procedural aspects of conducting contested hearings or evaluating evidence presented during those hearings. As the advisor for contested hearings, it is my responsibility to make sure that the hearings comply with the APA and that the licensee who is on trial is given a full and fair hearing. Additionally, I make recommendations to board members on the disposal of pre-hearing matters, instruct them on making rulings from the bench and applying the proper evidentiary standard, and assist them in maintaining proper order and decorum during the hearings.

Ms. Robinson reported the frequency of her court appearances during the last five years as follows:

"(a) federal: None. Prior to leaving private practice, I appeared weekly in Federal Bankruptcy Court;

(b) state: None. Again, prior to leaving private practice, I appeared in family court weekly."

Ms. Robinson reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

"(a) civil: Currently, 0%. While in private practice, 60%;

(b) criminal: 0%.;

(c) domestic: Currently, 0%. While in private practice, 40%."

Ms. Robinson reported the percentage of her practice in trial court during the last five years as follows:

"(a) jury: 0%;

(b) non-jury: Currently, 0%. While in private practice, 100%."

Ms. Robinson provided that she most often served as sole counsel.

The following is Ms. Robinson's account of her five most significant litigated matters:

"(a) Mollie A. Brooks, et al. vs. SC Department of Health and Environmental Control, et al.

My clients contested DHEC's granting of a permit for a chicken farm in their community and requested a contested hearing before the Administrative Law Court. The case was significant to me because it represented my first appearance before the ALC.

(b) In Re: The Estate of Herbert O. Pointer vs. Phyllis Pointer

This probate case is significant because of the novel issue involved. The PR sought to exclude my client as an heir because she was not the decedent's natural child and was never legally adopted. The facts show that shortly after marrying my client's mother, the decedent caused his name to be added to the birth certificate and raised my client as if she was his natural child. Interestingly my client did not know the circumstances of her birth prior to the step-mother initiating the proceeding to exclude her from the estate.

(c) Manson Robinson, Jr., et al. vs. John Q. Hammond Corporation, et al.

This was my first and only significant federal civil case. It involved complex issues that required extensive pre-trail preparation, numerous depositions were taken and several experts were prepared for trial testimony. The clients accepted a sizeable settlement offer on the morning trial was to begin.

(d) Page vs. Page

This was a hotly contested child custody dispute in which my client ultimately prevailed.

(e) McFadden vs. McFadden

This also was a hotly contested child custody and property dispute with both parties alleging marital misconduct. The case was significant to me because it was a case that was unnecessarily prolonged by the husband and his lawyer, and the delay was not in the best interest of the parties or the minor child whose custody was in dispute."

The following is Ms. Robinson's account of the civil appeals she has personally handled:

"(a) Brantley v. Brantley

SC Court of Appeals, decision issued on March 13, 2000;

(b) Jones v. Jones

SC Court of Appeals, decision issued on October 1, 1998;

(c) Schumpert v. Estate of Pearl Schumpert Jenkins
SC Court of Appeals, decision issued on May 19, 1997."

Ms. Robinson reported she has not personally handled any criminal appeals.

Ms. Robinson further reported the following regarding unsuccessful candidacies:

"I ran unsuccessfully for the SC Administrative Law Court in 2005 and 2006. In each instance, I was found qualified and nominated by the Commission, but did not receive the requisite number of votes from the General Assembly."

(9) Judicial Temperament:

The Commission believes that Ms. Robinson's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Ms. Robinson to be "a highly qualified and a highly regarded candidate, who would ably serve on the Administrative Law Court."

Ms. Robinson is not married. She has one child.

Ms. Robinson reported that she was a member of the following bar associations and professional associations:

"(a) South Carolina Bar;
(b) SC Administrative and Regulatory Law Association;
(c) SC Women Lawyers' Association;
(d) SC Black Lawyers' Association."

Ms. Robinson provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

"(a) Board of Directors, Columbia Bethlehem Community Center – Personnel Committee Chair;
(b) Board of Trustees, James L. Belin Trust – Vice Chair;
(c) 1988 recipient of Am Jur Award in Contracts;
(d) Formerly served on Babynet Interagency Coordinating Council (appointed by Governor Carroll Campbell)."

(11) Commission Members' Comments:

The Commission commented that Ms. Robinson was noted as an insightful attorney with a calm demeanor that would assist her in ably serving as a Judge. They noted that her current position for the past eight years as a Senior Hearing Advisor at Labor, Licensing and Regulation would equip her well on the Administrative Law Court.

(12) Conclusion:

The Commission found her qualified and nominated her for election to the Administrative Law Court.

CONCLUSION

The following candidates were found qualified and nominated:

Kaye G. Hearn .....Court of Appeals, Seat 5
Jeffrey P. Bloom ..... Circuit Court, First Judicial Circuit, Seat 1
Edgar Warren Dickson..... Circuit Court, First Judicial Circuit, Seat 1
James Benjamin Jackson, Jr..... Circuit Court, First Judicial Circuit, Seat 1
G. Thomas Cooper, Jr. .....Circuit Court, Fifth Judicial Circuit, Seat 3
Frank R. Addy, Jr.....Circuit Court, Eighth Judicial Circuit, Seat 2
Eugene C. Griffith, Jr.....Circuit Court, Eighth Judicial Circuit, Seat 2
Joseph C. Smithdeal.....Circuit Court, Eighth Judicial Circuit, Seat 2
Roger M. Young, Sr..... Circuit Court, Ninth Judicial Circuit, Seat 3
Carmen Tevis Mullen ..... Circuit Court, Fourteenth Judicial Circuit, Seat 2
Benjamin H. Culbertson ..... Circuit Court, Fifteenth Judicial Circuit, Seat 2
David Craig Brown ..... Circuit Court, At-Large, Seat 1
Andrew Michael Hodges ..... Circuit Court, At-Large, Seat 1
William Jeffrey Young ..... Circuit Court, At-Large, Seat 1
Rupert Markley Dennis, Jr. ..... Circuit Court, At-Large, Seat 2
Clifton Newman..... Circuit Court, At-Large, Seat 3
Edward Walter Miller ..... Circuit Court, At-Large, Seat 4
J. Mark Hayes II..... Circuit Court, At-Large, Seat 5
Daniel Dewitt Hall ..... Circuit Court, At-Large, Seat 6
William Henry Seals, Jr. ..... Circuit Court, At-Large, Seat 6
Sarah Elizabeth Wetmore ..... Circuit Court, At-Large, Seat 6
Jesse Cordell Maddox, Jr. ..... Circuit Court, At-Large, Seat 7
Kenneth G. Goode. ..... Circuit Court, At-Large, Seat 8
J. Michelle Childs. ..... Circuit Court, At-Large, Seat 9
James Rezner Barber III..... Circuit Court, At-Large, Seat 10
Edgar Henderson Long, Jr ..... Family Court, Tenth Judicial Circuit, Seat 1
M. Scott McElhannon. ..... Family Court, Tenth Judicial Circuit, Seat 1

David Earl Phillips.....Family Court, Tenth Judicial Circuit, Seat 1
Catherine C. Christophillis.. Family Court, Thirteenth Judicial Circuit, Seat 6
Alex Kinlaw, Jr.. .....Family Court, Thirteenth Judicial Circuit, Seat 6
William Marsh Robertson..... Family Court, Thirteenth Judicial Circuit, Seat 6
Deborah Brooks Durden .....Administrative Law Court, Seat 4
Carol Ann Isaac McMahan .....Administrative Law Court, Seat 4
Shirley Canty Robinson. .....Administrative Law Court, Seat 4

Respectfully submitted,

/s/Representative F. G. Delleney, Jr.
/s/Senator Glenn F. McConnell
/s/Senator Robert Ford
/s/Representative Alan D. Clemmons
/s/Senator John M. "Jake" Knotts, Jr.
/s/Representative David J. Mack, III
/s/Professor John P. Freeman
/s/Mr. John Davis Harrell
/s/Mrs. Amy Johnson McLester
/s/Mr. H. Donald Sellers

Received as information.

CONCURRENT RESOLUTION

The following was introduced:

H. 3287 -- Reps. Whitmire, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires,

Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO EXPRESS THE DEEPEST SYMPATHY OF THE MEMBERS OF THE GENERAL ASSEMBLY TO THE FAMILY AND MANY FRIENDS OF MR. WILLIAM KENT TODD, A DISTINGUISHED BUSINESS AND CIVIC LEADER IN WALHALLA, UPON HIS DEATH.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

INTRODUCTION OF BILLS

The following Bills and Joint Resolutions were introduced, read the first time, and referred to appropriate committees:

H. 3288 -- Rep. Gullick: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 1, TITLE 20 SO AS TO ENACT THE "UNIFORM PREMARITAL AGREEMENT ACT" WHICH PROVIDES REQUIREMENTS FOR THE EXECUTION, CONTENT, AND AMENDMENT OR REVOCATION OF PREMARITAL AGREEMENTS, THE EFFECT OF MARRIAGE OR A VOID MARRIAGE ON THE AGREEMENT, THE ENFORCEMENT OF THESE AGREEMENTS, LIMITATION OF ACTIONS WITH REGARD TO THE AGREEMENT, AND THE APPLICATION AND CONSTRUCTION OF THIS ARTICLE.

Referred to Committee on Judiciary

H. 3289 -- Rep. Kennedy: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-29-733 SO AS TO RECOGNIZE THE VALUE OF AMATEUR RADIO COMMUNICATIONS BY REQUIRING CITY AND COUNTY ORDINANCES REGULATING ANTENNAS TO REASONABLY ACCOMMODATE AMATEUR RADIO COMMUNICATIONS.

Rep. KENNEDY asked unanimous consent to have the Bill placed on the Calendar without reference.

Rep. ERICKSON objected.

Referred to Committee on Labor, Commerce and Industry

H. 3290 -- Reps. Stavrinakis and Merrill: A BILL TO AMEND SECTION 12-36-2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE STATE'S SALES TAX, SO AS TO INCLUDE THE GROSS PROCEEDS OF SALES OR THE SALES PRICE OF MACHINERY, MACHINE TOOLS, AND PARTS OF THEM, USED IN THE PRODUCTION OF ELECTRICITY FROM A RENEWABLE ENERGY SOURCE.

Referred to Committee on Ways and Means

H. 3291 -- Rep. Skelton: A BILL TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXTEND THE EXEMPTION ALLOWED CHURCHES TO PROPERTY OWNED BY A CHURCH BUT USED FOR RELIGIOUS PURPOSES BY ANOTHER CHURCH.

Referred to Committee on Ways and Means

H. 3293 -- Reps. King, Gunn and Howard: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 6, ARTICLE X OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO PROPERTY TAX AND THE METHOD OF VALUATION OF REAL PROPERTY AND THE LIMITS ON INCREASES IN THE VALUE OF REAL PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO REQUIRE THE GENERAL ASSEMBLY TO PROVIDE BY LAW A DEFINITION OF "FAIR MARKET VALUE" FOR REAL PROPERTY FOR PURPOSES OF THE PROPERTY TAX, TO ELIMINATE THE FIFTEEN PERCENT LIMIT ON INCREASES IN THE VALUE OF REAL PROPERTY UP TO FIVE YEARS AND TO ELIMINATE AN ASSESSABLE TRANSFER OF INTEREST AS AN EVENT CHANGING THE VALUE OF THE REAL PROPERTY.

Referred to Committee on Ways and Means

H. 3294 -- Reps. A. D. Young and Simrill: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23-23-125 SO AS TO PROVIDE THAT FOR THE CURRENT FISCAL YEAR, AN ADDITIONAL FIVE DOLLAR SURCHARGE TO FUND INFRASTRUCTURE IMPROVEMENTS AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY ON ALL FINES, FORFEITURES, ESCHEATMENTS, AND OTHER

MONETARY PENALTIES MUST BE IMPOSED FOR CERTAIN OFFENSES, TO PROVIDE A PROCEDURE FOR THE COLLECTION AND DISTRIBUTION OF THE SURCHARGE REVENUES, AND TO PROVIDE THAT THE STATE TREASURER MAY REQUEST THE STATE AUDITOR TO EXAMINE THE FINANCIAL RECORDS OF JURISDICTIONS THAT COLLECT THE SURCHARGES.

Referred to Committee on Ways and Means

H. 3295 -- Reps. Hamilton, Allen, Bedingfield, Cato, Dillard, Nanney, Stringer and Wylie: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED ON JANUARY 8, 2009 BY THE STUDENTS OF PARIS ELEMENTARY SCHOOL, TAYLORS ELEMENTARY SCHOOL, AND SEVIER MIDDLE SCHOOL WHEN THE SCHOOLS WERE CLOSED DUE TO A POWER OUTAGE IS EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

Referred to Committee on Education and Public Works

H. 3296 -- Reps. Sellers and Alexander: A JOINT RESOLUTION TO IMPOSE A MORATORIUM ON RESIDENTIAL MORTGAGE FORECLOSURES IN THIS STATE FOR A PERIOD OF ONE YEAR EXCEPT WHERE THE PARTY BRINGING THE FORECLOSURE ACTION STATES BY AFFIDAVIT THAT THE MORTGAGE LENDER DID NOT STEER THE BORROWER INTO A SUBPRIME MORTGAGE LOAN IN CERTAIN CIRCUMSTANCES.

Referred to Committee on Judiciary

H. 3297 -- Reps. Sellers and E. H. Pitts: A BILL TO AMEND SECTION 59-10-340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SNACKS SOLD FOR STUDENT CONSUMPTION IN SCHOOLS, SO AS TO PROVIDE FOR FAT, CALORIE, AND SUGAR CONTENT STANDARDS THAT SNACK FOOD AND BEVERAGES MUST MEET IN ORDER TO BE SOLD IN SCHOOLS; AND BY ADDING SECTION 59-10-345 SO AS TO PROVIDE THAT ELEMENTARY SCHOOLS MAY OFFER ONLY FULL MEALS FOR STUDENT CONSUMPTION, AND TO PROVIDE FOR FAT, CALORIE, AND SUGAR CONTENT

STANDARDS THAT FOODS AND BEVERAGES MUST MEET IN ORDER TO BE SOLD IN SCHOOLS.

Referred to Committee on Education and Public Works

H. 3298 -- Reps. Sellers, Bedingfield, Nanney, Cato, Delleney, Kelly, Pinson, E. H. Pitts and M. A. Pitts: A BILL TO AMEND SECTION 16-23-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CARRYING OF A HANDGUN, SO AS TO PROVIDE THAT A PERSON MAY LAWFULLY STOW A HANDGUN UNDER THE SEAT OF A VEHICLE.

Referred to Committee on Judiciary

H. 3299 -- Reps. Sandifer, Harrell, Cato, Thompson, Bedingfield, Bingham, Brady, Gambrell, Harrison, Jennings, Mack, Mitchell, Cooper, Crawford, Alexander, Allison, Anthony, Bales, Bannister, Barfield, Bowers, G. A. Brown, Clemmons, Cobb-Hunter, Duncan, Gullick, Haley, Hayes, Herbkersman, Howard, Huggins, Limehouse, Littlejohn, Lowe, Miller, Ott, Owens, Pinson, M. A. Pitts, J. R. Smith, J. E. Smith, Spires, Toole, Umphlett, White, Forrester, H. B. Brown and Anderson: A BILL TO AMEND SECTION 58-9-576, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELECTION BY AND DUTIES OF THE LOCAL EXCHANGE CARRIER AND ALTERNATIVE FORMS OF REGULATION, SO AS TO ENACT THE "CUSTOMER CHOICE AND TECHNOLOGY INVESTMENT ACT OF 2009".

Referred to Committee on Labor, Commerce and Industry

CONCURRENT RESOLUTION

On motion of Rep. T. R. YOUNG, with unanimous consent, the following was taken up for immediate consideration:

H. 3292 -- Reps. T. R. Young, Allison and Parker: A CONCURRENT RESOLUTION TO DECLARE FEBRUARY 2009 AS "NATIONAL CHILDREN'S DENTAL HEALTH MONTH" IN SOUTH CAROLINA AND FRIDAY, FEBRUARY 6, 2009, AS "GIVE KIDS A SMILE DAY" TO PROMOTE ORAL HEALTH AND TO JOIN IN THE EFFORTS THROUGHOUT THE NATION TO ADVOCATE FOR ORAL HEALTH AWARENESS AND OPTIMAL ORAL HEALTH IN CHILDREN.

Whereas, the State of South Carolina is proud to promote good oral health through "National Children's Dental Health Month" in February 2009, and "Give Kids a Smile Day" on Friday, February 6, 2009; and

Whereas, "National Children's Dental Health Month" and "Give Kids a Smile Day" are set aside to focus attention on the highly preventable epidemic of untreated oral disease among disadvantaged children; and

Whereas, dental decay is a problem that is not widely recognized, but is detrimental to the health of all South Carolinians. Dental decay in children is five times more common than asthma and seven times more common than hay fever; and

Whereas, an estimated twenty-three million children in America are without dental insurance;

Whereas, the future, in large part, is dependent on the good health of our families; and

Whereas, good overall health and educational success can be achieved in part through good oral health care; and

Whereas, the General Assembly of the State of South Carolina stands committed to supporting regular and thorough oral health care for the children of our State, so they may smile brightly and proudly in the future. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the members of the General Assembly of the State of South Carolina, by this resolution, declare February 2009 as "National Children's Dental Health Month" and Friday, February 6, 2009, "Give Kids a Smile Day" in South Carolina to promote oral health and join in the efforts throughout the nation to advocate for oral health awareness and optimal oral health in children.

Be it further resolved that a copy of this resolution be forwarded to the South Carolina Dental Association.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

CONCURRENT RESOLUTION

The Senate sent to the House the following:

S. 257 -- Senators Knotts, Setzler, Shoopman, Rose, Bryant, Verdin, Grooms, Alexander, Davis, Cleary, Campsen, Fair, Campbell, S. Martin, Bright and Cromer: A CONCURRENT RESOLUTION TO INVITE THE NATIONAL COMMANDER OF THE AMERICAN LEGION, THE HONORABLE DAVE REHBEIN, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AT 12:30 P.M. ON TUESDAY, FEBRUARY 24, 2009.

The Concurrent Resolution was ordered referred to the Committee on Invitations and Memorial Resolutions.

ROLL CALL

The roll call of the House of Representatives was taken resulting as follows:

Agnew	Alexander	Allen
Allison	Anderson	Anthony
Bales	Ballentine	Bannister
Barfield	Battle	Bedingfield
Bingham	Bowen	Bowers
Brady	Branham	Brantley
G. A. Brown	H. B. Brown	R. L. Brown
Cato	Chalk	Clemmons
Clyburn	Cobb-Hunter	Cole
Cooper	Crawford	Daning
Delleney	Dillard	Duncan
Edge	Erickson	Forrester
Frye	Funderburk	Gambrell
Gilliard	Govan	Gullick
Gunn	Haley	Hardwick
Harrell	Harvin	Hayes
Hearn	Herbkersman	Hiott

Horne	Hosey	Howard
Huggins	Hutto	Jefferson
Jennings	Kelly	Kennedy
King	Kirsh	Knight
Limehouse	Littlejohn	Loftis
Long	Lowe	Lucas
Mack	McEachern	McLeod
Merrill	Miller	Millwood
Moss	Nanney	J. H. Neal
J. M. Neal	Neilson	Ott
Owens	Parker	Parks
Pinson	E. H. Pitts	M. A. Pitts
Rice	Sandifer	Scott
Sellers	Simrill	Skelton
D. C. Smith	G. M. Smith	G. R. Smith
J. E. Smith	J. R. Smith	Sottile
Spires	Stavrinakis	Stewart
Stringer	Thompson	Toole
Umphlett	Weeks	Whipper
White	Whitmire	Williams
Willis	Wylie	A. D. Young
T. R. Young		

STATEMENT OF ATTENDANCE

I came in after the roll call and was present for the Session on Thursday, January 15.

James Harrison	Chris Hart
K.F. Hodges	Todd Rutherford
Ted Vick	

Total Present--120

LEAVE OF ABSENCE

The SPEAKER granted Rep. HAMILTON a leave of absence due to medical reasons.

DOCTOR OF THE DAY

Announcement was made that Dr. Gregory Tarasidis of Greenwood was the Doctor of the Day for the General Assembly.

THURSDAY, JANUARY 15, 2009

SPECIAL PRESENTATION

Rep. G. R. SMITH presented to the House the Simpsonville "Stars" Softball Team, the 2008 Little League World Series Champions and their coaches.

CO-SPONSORS ADDED

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co-sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co-sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member's or co-sponsor's written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee."

CO-SPONSOR ADDED

Bill Number:	H. 3299
Date:	ADD:
01/15/09	FORRESTER

CO-SPONSOR ADDED

Bill Number:	H. 3254
Date:	ADD:
01/15/09	KELLY

CO-SPONSOR ADDED

Bill Number:	H. 3014
Date:	ADD:
01/15/09	GILLIARD

CO-SPONSOR ADDED

Bill Number:	H. 3024
Date:	ADD:
01/15/09	GILLIARD

CO-SPONSOR ADDED

Bill Number:	H. 3029
Date:	ADD:
01/15/09	GILLIARD

CO-SPONSOR ADDED

Bill Number:	H. 3037
Date:	ADD:
01/15/09	STAVRINAKIS

CO-SPONSOR ADDED

Bill Number:	H. 3047
Date:	ADD:
01/15/09	STAVRINAKIS

CO-SPONSOR ADDED

Bill Number:	H. 3060
Date:	ADD:
01/15/09	STAVRINAKIS

CO-SPONSOR ADDED

Bill Number:	H. 3147
Date:	ADD:
01/15/09	STAVRINAKIS

CO-SPONSOR ADDED

Bill Number:	H. 3222
Date:	ADD:
01/15/09	DANING

CO-SPONSOR ADDED

Bill Number:	H. 3254
Date:	ADD:
01/15/09	SELLERS

CO-SPONSOR ADDED

Bill Number:	H. 3254
Date:	ADD:
01/15/09	BARFIELD

CO-SPONSOR ADDED

Bill Number:	H. 3271
Date:	ADD:
01/15/09	MOSS

CO-SPONSOR ADDED

Bill Number:	H. 3281
Date:	ADD:
01/15/09	MILLER

CO-SPONSOR ADDED

Bill Number:	H. 3281
Date:	ADD:
01/15/09	G. A. BROWN

CO-SPONSOR ADDED

Bill Number:	H. 3281
Date:	ADD:
01/15/09	BATTLE

CO-SPONSOR ADDED

Bill Number:	H. 3281
Date:	ADD:
01/15/09	ANDERSON

CO-SPONSOR ADDED

Bill Number:	H. 3281
Date:	ADD:
01/15/09	JENNINGS

CO-SPONSOR ADDED

Bill Number:	H. 3299
Date:	ADD:
01/15/09	H. B. BROWN

CO-SPONSOR ADDED

Bill Number:	H. 3303
Date:	ADD:
01/15/09	LONG

CO-SPONSOR ADDED

Bill Number:	H. 3303
Date:	ADD:
01/15/09	EDGE

CO-SPONSOR ADDED

Bill Number:	H. 3299
Date:	ADD:
01/15/09	ANDERSON

ELECTION OF HOUSE ETHICS COMMITTEE MEMBER

The SPEAKER announced that nominations were in order for a member of the House Ethics Committee.

The following name was placed in nomination: Rep. BRADY

On motion of Rep. J. R. SMITH, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the SPEAKER announced that Rep. BRADY was duly elected for the term prescribed by law.

SENT TO THE SENATE

The following Bills and Joint Resolution were taken up, read the third time, and ordered sent to the Senate:

H. 3108 -- Rep. Hosey: A BILL TO AMEND ACT 201 OF 1993, RELATING TO PAYMENT FOR SERVICES RENDERED BY MEMBERS OF THE WILLISTON SCHOOL DISTRICT 29 BOARD OF TRUSTEES IN BARNWELL COUNTY, SO AS TO DELETE THE PROVISION THAT NO MORE THAN TWELVE SPECIAL MEETINGS MAY BE HELD IN ONE CALENDAR YEAR.

H. 3061 -- Rep. A. D. Young: A BILL TO DESIGNATE A CERTAIN PORTION OF DORCHESTER COUNTY AS COOSAW POINTE, AND TO REQUEST THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION TO ERECT SIGNS INDICATING THIS AREA DESIGNATED AS COOSAW POINTE.

H. 3232 -- Rep. Hosey: A JOINT RESOLUTION TO CHANGE THE CERTIFICATION DATE FOR THE RESULT OF A CAPITAL PROJECTS SALES AND USE TAX ACT REFERENDUM HELD AT

THE TIME OF THE 2008 GENERAL ELECTION FROM NO LATER THAN NOVEMBER 30, 2008, TO NO LATER THAN DECEMBER 11, 2008.

ORDERED TO THIRD READING

The following Joint Resolution was taken up, read the second time, and ordered to a third reading:

H. 3267 -- Education and Public Works Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE STATE BOARD OF EDUCATION, RELATING TO OPERATION OF PUBLIC PUPIL TRANSPORTATION SERVICES, DESIGNATED AS REGULATION DOCUMENT NUMBER 3209, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Rep. ALLISON explained the Joint Resolution.

H. 3267--ORDERED TO BE READ THIRD TIME TOMORROW

On motion of Rep. ALLISON, with unanimous consent, it was ordered that H. 3267 be read the third time tomorrow.

H. 3281--ORDERED TO THIRD READING

The following Joint Resolution was taken up:

H. 3281 -- Reps. Edge, Miller, G. A. Brown, Battle, Anderson and Jennings: A JOINT RESOLUTION DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES WHEN ADJUSTING ITS BUDGET IN RESPONSE TO REVENUE REDUCTIONS TO MAINTAIN FUNDING FOR HOSPICE SERVICES AT THE LEVEL IN PLACE ON DECEMBER 31, 2008.

Rep. EDGE explained the Joint Resolution.

Rep. RICE proposed the following Amendment No. 1 (COUNCIL\NBD\11139AC09), which was tabled:

Amend the joint resolution, as and if amended, page 1 after line 23 by inserting:

/SECTION 2. Notwithstanding any other provision of law the Department of Health and Human Services may adjust provider rates in order to ensure maintenance of all existing programs./

Renumber sections to conform.

Amend title to conform.

Rep. RICE explained the amendment.

Rep. EDGE spoke against the amendment.

Rep. EDGE moved to table the amendment.

Rep. KENNEDY demanded the yeas and nays which were taken, resulting as follows:

Yeas 105; Nays 9

Those who voted in the affirmative are:

Agnew	Alexander	Allen
Allison	Anderson	Anthony
Bales	Ballentine	Bannister
Barfield	Battle	Bedingfield
Bingham	Bowers	Brady
Branham	Brantley	G. A. Brown
H. B. Brown	R. L. Brown	Cato
Chalk	Clemmons	Clyburn
Cobb-Hunter	Cole	Cooper
Daning	Delleney	Dillard
Duncan	Edge	Erickson
Forrester	Funderburk	Gambrell
Gilliard	Govan	Gullick
Hardwick	Harrell	Hart
Hayes	Hearn	Herbkersman
Hiott	Horne	Hosey
Howard	Huggins	Hutto
Jefferson	Jennings	Kelly
King	Kirsh	Knight
Limehouse	Loftis	Long
Lowe	Lucas	Mack
McEachern	McLeod	Merrill
Miller	Millwood	Moss
Nanney	J. H. Neal	J. M. Neal
Neilson	Ott	Owens

Parker	Parks	Pinson
E. H. Pitts	M. A. Pitts	Rutherford
Sandifer	Scott	Sellers
Simrill	Skelton	D. C. Smith
G. M. Smith	G. R. Smith	J. E. Smith
J. R. Smith	Sottile	Spires
Stavrinakis	Stewart	Stringer
Thompson	Toole	Umphlett
White	Whitmire	Willis
Wylie	A. D. Young	T. R. Young

Total--105

Those who voted in the negative are:

Frye	Gunn	Haley
Harvin	Kennedy	Littlejohn
Rice	Weeks	Williams

Total--9

So, the amendment was tabled.

Rep. HALEY demanded the yeas and nays which were taken, resulting as follows:

Yeas 113; Nays 0

Those who voted in the affirmative are:

Agnew	Alexander	Allen
Allison	Anderson	Anthony
Bales	Ballentine	Bannister
Barfield	Battle	Bedingfield
Bingham	Brady	Branham
Brantley	G. A. Brown	H. B. Brown
R. L. Brown	Cato	Chalk
Clemmons	Clyburn	Cobb-Hunter
Cole	Cooper	Daning
Delleney	Dillard	Duncan
Edge	Erickson	Forrester
Frye	Funderburk	Gambrell
Gilliard	Govan	Gullick
Gunn	Haley	Hardwick

Harrell	Hart	Harvin
Hayes	Hearn	Herbkersman
Hiott	Hodges	Horne
Hosey	Howard	Huggins
Hutto	Jefferson	Jennings
Kelly	Kennedy	King
Kirsh	Knight	Limehouse
Littlejohn	Loftis	Long
Lowe	Mack	McEachern
McLeod	Merrill	Miller
Millwood	Moss	Nanney
J. H. Neal	J. M. Neal	Neilson
Ott	Owens	Parker
Parks	Pinson	E. H. Pitts
M. A. Pitts	Rice	Rutherford
Sandifer	Scott	Sellers
Simrill	Skelton	D. C. Smith
G. M. Smith	G. R. Smith	J. E. Smith
J. R. Smith	Sottile	Spires
Stavrinakis	Stewart	Stringer
Thompson	Toole	Umphlett
Weeks	White	Whitmire
Williams	Willis	Wylie
A. D. Young	T. R. Young	

Total--113

Those who voted in the negative are:

Total--0

So, the Joint Resolution was read second time and ordered to third reading.

H. 3283--INTERRUPTED DEBATE

The following Bill was taken up:

H. 3283 -- Reps. Sandifer and Cooper: A BILL TO AMEND SECTION 12-45-420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORITY OF THE COUNTY AUDITOR, ASSESSOR, AND TREASURER TO WAIVE OR

REDUCE PROPERTY TAX PENALTIES IN CASES OF ERROR BY THE COUNTY, SO AS TO ALLOW THE COUNTY COUNCIL BY MAJORITY VOTE TO DIRECT THE COUNTY TREASURER TO WAIVE, DISMISS, OR REDUCE REAL AND PERSONAL PROPERTY TAX PENALTIES IF THE COUNCIL DETERMINES SUCH ACTION IS IN THE BEST INTEREST OF THE COUNTY.

Rep. SANDIFER explained the Bill.

Further proceedings were interrupted by expiration of time on the uncontested Calendar, the pending question being consideration of the Bill, Rep. Sandifer having the floor.

OBJECTION TO RECALL

Rep. SANDIFER asked unanimous consent to recall H. 3247 from the Committee on Judiciary.

Rep. HART objected.

H. 3162--ADOPTED AND SENT TO SENATE

The following Concurrent Resolution was taken up:

H. 3162 -- Reps. Delleney, Clemmons and Mack: A CONCURRENT RESOLUTION TO FIX NOON ON WEDNESDAY, FEBRUARY 11, 2009, AS THE TIME TO ELECT A SUCCESSOR TO A CERTAIN CHIEF JUDGE OF THE COURT OF APPEALS, SEAT 5, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT, SEAT 1, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2010, AND THE SUBSEQUENT FULL TERM THAT EXPIRES JUNE 30, 2016; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT, SEAT 3, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL CIRCUIT, SEAT 2, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2012; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT, SEAT 3, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT FOR THE FOURTEENTH JUDICIAL CIRCUIT, SEAT 2, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT

FOR THE FIFTEENTH JUDICIAL CIRCUIT, SEAT 2, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 1, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2009, AND THE SUBSEQUENT FULL TERM THAT EXPIRES JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 2, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 3, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 4, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 5, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 6, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2009, AND THE SUBSEQUENT FULL TERM THAT EXPIRES JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 7, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 8, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 9, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 10, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE FAMILY COURT FOR THE TENTH JUDICIAL CIRCUIT, SEAT 1, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2013; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE FAMILY COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT, SEAT 6, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2010, AND THE SUBSEQUENT FULL TERM THAT EXPIRES JUNE 30, 2016; TO ELECT A SUCCESSOR TO A CERTAIN CHIEF JUDGE OF THE ADMINISTRATIVE LAW COURT, SEAT 1, WHOSE TERM EXPIRES JUNE 30, 2009; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE ADMINISTRATIVE LAW COURT, SEAT 4, TO FILL THE UNEXPIRED TERM THAT EXPIRES JUNE 30, 2010, AND THE SUBSEQUENT FULL TERM THAT EXPIRES JUNE 30, 2015.

Be it resolved by the House of Representatives, the Senate concurring:

That the House of Representatives and the Senate shall meet in joint assembly in the Hall of the House of Representatives Wednesday, February 11, 2009, at Noon to elect a successor to the Honorable Kaye G. Hearn, Chief Judge of the Court of Appeals, Seat 5, whose term expires June 30, 2009; to elect a successor to the Honorable James C. Williams, Jr., Judge of the Circuit Court for the First Judicial Circuit, Seat 1, to fill the unexpired term that expires June 30, 2010, and the subsequent full term that expires June 30, 2016; to elect a successor to the Honorable G. Thomas Cooper, Jr., Judge of the Circuit Court for the Fifth Judicial Circuit, Seat 3, whose term expires June 30, 2009; to elect a successor to the Honorable James W. Johnson, Jr., Judge of the Circuit Court for the Eighth Judicial Circuit, Seat 2, to fill the unexpired term that expires June 30, 2012; to elect a successor to the Honorable Roger M. Young, Judge of the Circuit Court for the Ninth Judicial Circuit, Seat 3, whose term expires June 30, 2009; to elect a successor to the Honorable Carmen Tevis Mullen, Judge of the Circuit Court for the Fourteenth Judicial Circuit, Seat 2, whose term expires June 30, 2009; to elect a successor to the Honorable Benjamin H. Culbertson, Judge of the Circuit Court for the Fifteenth Judicial Circuit, Seat 2, whose term expires June 30, 2009; to elect a successor to the Honorable John M. Milling, Judge of the Circuit Court, At-Large, Seat 1, to fill the unexpired term that expires June 30, 2009, and the subsequent full term that expires June 30, 2015; to elect a successor to the Honorable R. Markley Dennis, Jr., Judge of the Circuit Court, At-Large, Seat 2, whose term expires June 30, 2009; to elect a successor to the Honorable Clifton Newman, Judge of the Circuit Court, At-Large, Seat 3, whose term expires June 30, 2009; to elect a successor to the Honorable Edward W. Miller, Judge of the Circuit Court, At-Large, Seat 4, whose term expires June 30, 2009; to elect a successor to the Honorable J. Mark Hayes II, Judge of the Circuit Court, At-Large, Seat 5, whose term expires June 30, 2009; to elect a successor to the Honorable James E. Lockemy, Judge of the Circuit Court, At-Large, Seat 6, to fill the unexpired term that expires June 30, 2009, and the subsequent full term that expires June 30, 2015; to elect a successor to the Honorable J. Cordell Maddox, Jr., Judge of the Circuit Court, At-Large, Seat 7, whose term expires June 30, 2009; to elect a successor to the Honorable Kenneth G. Goode, Judge of the Circuit Court, At-Large, Seat 8, whose term expires June 30, 2009; to elect a successor to the Honorable J. Michelle Childs, Judge of the Circuit Court, At-Large, Seat 9, whose term expires June 30, 2009; to elect a

successor to the Honorable James R. Barber III, Judge of the Circuit Court, At-Large, Seat 10, whose term expires June 30, 2009; to elect a successor to the Honorable Barry W. Knobel, Judge of the Family Court for the Tenth Judicial Circuit, Seat 1, to fill the unexpired term that expires June 30, 2013; to elect a successor to the Honorable Timothy L. Brown, Judge of the Family Court for the Thirteenth Judicial Circuit, Seat 6, to fill the unexpired term that expires June 30, 2010, and the subsequent full term that expires June 30, 2016; to elect a successor to the Honorable Marvin Frank Kittrell, Chief Judge of the Administrative Law Court, Seat 1, whose term expires June 30, 2009; and to elect a successor to the Honorable John D. Geathers, Judge of the Administrative Law Court, Seat 4, to fill the unexpired term that expires June 30, 2010, and the subsequent full term that expires June 30, 2015.

Be it further resolved that all nominations must be made by the Chairman of the Judicial Merit Selection Commission and that no further nominating or seconding speeches may be made by members of the General Assembly on behalf of any candidate.

The Concurrent Resolution was adopted and sent to the Senate.

RECURRENCE TO THE MORNING HOUR

Rep. SANDIFER moved that the House recur to the Morning Hour, which was agreed to.

INTRODUCTION OF BILLS

The following Bills and Joint Resolution were introduced, read the first time, and referred to appropriate committees:

H. 3300 -- Rep. Gullick: A BILL TO AMEND SECTION 59-1-400, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SICK LEAVE FOR FULL-TIME PUBLIC SCHOOL EMPLOYEES, SO AS TO PROVIDE THAT SUCH EMPLOYEES WHO ARE REEMPLOYED RETIREES OF THE SOUTH CAROLINA RETIREMENT SYSTEM ACCRUE AND CARRY FORWARD SICK LEAVE AT THE SAME RATE AND IN THE SAME MANNER AS ANY OTHER PERSON EMPLOYED BY THE DISTRICT IN A POSITION REQUIRING CERTIFICATION, AND TO PROVIDE THAT A DISTRICT MAY NOT MAKE A LUMP SUM PAYMENT FOR UNUSED SICK LEAVE ACCRUED BY THESE EMPLOYEES.

Referred to Committee on Ways and Means

H. 3301 -- Reps. Harrell, Cato, Sandifer, Sellers, Neilson, Erickson, Bannister, Bedingfield, Merrill, Mitchell, Anthony, Bingham, Huggins, Vick, Cooper, Chalk, J. R. Smith, Willis, Gilliard, Allison, Anderson, Bales, Barfield, Battle, Bowers, Brady, G. A. Brown, H. B. Brown, Cole, Daning, Duncan, Edge, Forrester, Gambrell, Gullick, Hamilton, Hayes, Herbkersman, Hiott, Horne, Jefferson, Kelly, Kirsh, Knight, Limehouse, Littlejohn, Long, Lowe, Lucas, Miller, Millwood, Nanney, Ott, Owens, Parker, Pinson, E. H. Pitts, M. A. Pitts, Scott, Simrill, Skelton, D. C. Smith, G. R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, White, Whitmire, Wylie, A. D. Young and T. R. Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34-39-175 SO AS TO REQUIRE THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS TO IMPLEMENT A REAL-TIME INTERNET ACCESSIBLE DATABASE FOR DEFERRED PRESENTMENT PROVIDERS TO VERIFY IF DEFERRED PRESENTMENT TRANSACTIONS ARE OUTSTANDING FOR A PARTICULAR PERSON; BY ADDING SECTION 34-39-270 SO AS TO PROHIBIT A DEFERRED PRESENTMENT PROVIDER FROM ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION WITH A PERSON WHO HAS AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OR WHO HAS ENTERED INTO AN EXTENDED PAYMENT PLAN AGREEMENT AND TO REQUIRE A DEFERRED PRESENTMENT PROVIDER TO VERIFY WHETHER AN INDIVIDUAL IS ELIGIBLE TO ENTER INTO A DEFERRED PRESENTMENT TRANSACTION; BY ADDING SECTION 34-39-280 SO AS TO REQUIRE THOSE APPLYING FOR LICENSES TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT TO PROVIDE CERTAIN INFORMATION REGARDING EXTENDED PAYMENT PLANS; TO AMEND SECTION 34-39-130, RELATING TO LICENSURE REQUIREMENTS FOR DEFERRED PRESENTMENT PROVIDERS, SO AS TO PROHIBIT A PERSON FROM ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES WITH A RESIDENT OF SOUTH CAROLINA EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 39, TITLE 34; TO AMEND SECTION 34-39-180, RELATING TO DEFERRED PRESENTMENT RESTRICTIONS AND REQUIREMENTS, SO AS TO PROVIDE THAT THE TOTAL AMOUNT ADVANCED TO A CUSTOMER FOR DEFERRED PRESENTMENT OR DEPOSIT, EXCLUSIVE OF

PERMISSIBLE FEES, MAY NOT EXCEED SIX HUNDRED DOLLARS.

Referred to Committee on Labor, Commerce and Industry

H. 3302 -- Rep. Gullick: A BILL TO REQUIRE THAT A SCHOOL IMPACT FEE IMPOSED BY LAW OR LOCAL ORDINANCE MAY BE USED FOR CLASSROOM OPERATIONAL EXPENSES.

Referred to Committee on Education and Public Works

H. 3303 -- Reps. J. R. Smith, Gullick, Hardwick, Gambrell, Hiott, Anthony, A. D. Young, Huggins, Jennings, Moss, Clemmons, Allison, Bowen, Branham, Cooper, Duncan, Hearn, Lucas, Neilson, Simrill, D. C. Smith, Spires, Long and Edge: A BILL TO AMEND SECTION 40-37-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN CONNECTION WITH THE LICENSURE AND REGULATION OF OPTOMETRISTS, SO AS TO DELETE THE DEFINITIONS OF "BASIC CERTIFIED OPTOMETRIST", "DIAGNOSTIC CERTIFIED OPTOMETRIST", AND "THERAPEUTIC CERTIFIED OPTOMETRIST"; TO AMEND SECTION 40-37-30, AS AMENDED, RELATING TO LICENSURE REQUIREMENTS FOR OPTOMETRISTS, SO AS TO FURTHER SPECIFY ACTIVITIES THAT CONSTITUTE THE PRACTICE OF OPTOMETRY; TO AMEND SECTION 40-37-290, AS AMENDED, RELATING TO OPTOMETRISTS ADMINISTERING AND PRESCRIBING PHARMACEUTICAL AGENTS, SO AS TO FURTHER SPECIFY WHAT PHARMACEUTICAL AGENTS MAY BE PRESCRIBED BY OPTOMETRISTS, TO DELETE PROVISIONS RELATING TO PRESCRIBING ORAL AND TOPICALLY APPLIED MEDICATIONS AND THE PROVISION REQUIRING AN OPTOMETRIST TO COMMUNICATE AND COLLABORATE WITH AN OPHTHALMOLOGIST WHEN PRESCRIBING TOPICAL STEROIDS FOR MORE THAN TWENTY-ONE DAYS, AND TO PROVIDE WHAT MEDICATIONS AN OPTOMETRIST MAY ADMINISTER INJECTIONS INTO THE EYELID AND SUBCONJUNCTIVAL INJECTIONS; TO AMEND SECTION 40-37-310, RELATING TO REFERRALS TO OPHTHALMOLOGISTS AND OTHER OPTOMETRISTS AND THE PROHIBITION AGAINST OPTOMETRISTS PERFORMING SURGERY, AMONG OTHER THINGS, SO AS TO DELETE THE PROVISIONS PERTAINING

TO THESE REFERRALS AND THE PROHIBITION AGAINST PERFORMING SURGERY, AND TO PROVIDE WHAT TYPE OF SURGICAL PROCEDURES ARE NOT INCLUDED IN THE PRACTICE OF OPTOMETRY; AND TO REPEAL SECTION 40-37-420 RELATING TO LICENSURE TRANSITION PROVISIONS THAT ARE OBSOLETE.

Referred to Committee on Medical, Military, Public and Municipal Affairs

H. 3304 -- Reps. Umphlett, Allen, Bales, G. A. Brown, Neilson and D. C. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-37-226 SO AS TO EXEMPT FROM PROPERTY TAX INCREASES IN VALUE ATTRIBUTABLE TO PERIODIC REASSESSMENT OF OWNER-OCCUPIED RESIDENTIAL PROPERTY ALLOWED THE HOMESTEAD EXEMPTION FOR PERSONS OVER AGE SIXTY-FIVE YEARS OF AGE OR WHO ARE TOTALLY AND PERMANENTLY DISABLED, AND TO PROVIDE FOR THE DURATION OF THIS EXEMPTION.

Referred to Committee on Ways and Means

H. 3305 -- Reps. Bedingfield, Merrill, Bingham, Duncan, Loftis, G. R. Smith, Cato, Owens, Crawford, A. D. Young, Nanney, Bannister, Daning, Harrison, Horne, Kirsh, Lowe, Lucas, McLeod, E. H. Pitts, Stringer, Thompson, Toole and Wylie: A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 1, ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO ELECTIONS BY SECRET BALLOT AND PROTECTION OF THE RIGHT OF SUFFRAGE, SO AS TO PROVIDE THAT THE GUARANTEE OF THE RIGHT TO VOTE BY SECRET BALLOT APPLIES IN REQUIRED DESIGNATIONS OR AUTHORIZATIONS FOR EMPLOYEE REPRESENTATION.

Referred to Committee on Judiciary

H. 3306 -- Rep. Alexander: A BILL TO AMEND SECTION 42-7-65, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATED AVERAGE WEEKLY WAGE FOR CERTAIN CATEGORIES OF EMPLOYEES, SO AS TO INCREASE THE DESIGNATED AVERAGE WEEKLY WAGE FOR ALL VOLUNTARY FIREMEN OF ORGANIZED VOLUNTARY RURAL FIRE UNITS AND VOLUNTARY MUNICIPAL FIREMEN FROM

THIRTY-SEVEN AND ONE-HALF PERCENT TO SIXTY-SIX PERCENT OF THE AVERAGE WEEKLY WAGE IN THE STATE FOR THE PRECEDING FISCAL YEAR.

Referred to Committee on Labor, Commerce and Industry

H. 3283--POINT OF ORDER

Debate was resumed on the following Bill, the pending question being the consideration of the Bill, Rep. Sandifer having the floor:

H. 3283 -- Reps. Sandifer and Cooper: A BILL TO AMEND SECTION 12-45-420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORITY OF THE COUNTY AUDITOR, ASSESSOR, AND TREASURER TO WAIVE OR REDUCE PROPERTY TAX PENALTIES IN CASES OF ERROR BY THE COUNTY, SO AS TO ALLOW THE COUNTY COUNCIL BY MAJORITY VOTE TO DIRECT THE COUNTY TREASURER TO WAIVE, DISMISS, OR REDUCE REAL AND PERSONAL PROPERTY TAX PENALTIES IF THE COUNCIL DETERMINES SUCH ACTION IS IN THE BEST INTEREST OF THE COUNTY.

Rep. SANDIFER continued speaking.

POINT OF ORDER

Rep. G. R. SMITH made the Point of Order that the Bill was improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

H. 3247--RECALLED AND REFERRED TO COMMITTEE ON LABOR, COMMERCE AND INDUSTRY

On motion of Rep. SANDIFER, with unanimous consent, the following Bill was ordered recalled from the Committee on Judiciary and was referred to the Committee on Labor, Commerce and Industry:

H. 3247 -- Reps. Huggins and Duncan: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27-40-445 SO AS TO PROVIDE A LANDLORD OF A MULTI-FAMILY DWELLING MAY EMPLOY CERTAIN EQUIPMENT OR METHODOLOGY TO DETERMINE THE QUANTITY OF WATER PROVIDED TO EACH SINGLE-FAMILY RESIDENCE WITHIN THE DWELLING, AND TO PROVIDE THE

LANDLORD MAY CHARGE A TENANT FOR WATER AND WASTEWATER USED BY HIS SINGLE-FAMILY RESIDENCE, AND TO PROVIDE EXCEPTIONS; TO AMEND SECTION 27-40-210, RELATING TO GENERAL DEFINITIONS IN THE RESIDENTIAL LANDLORD AND TENANT ACT, SO AS TO DEFINE A MULTI-FAMILY DWELLING; AND TO AMEND SECTION 27-40-440, RELATING TO A LANDLORD'S OBLIGATIONS, SO AS TO PROVIDE SPECIFIC REQUIREMENTS PERTAINING TO THE PROVISION OF CENTRAL HEAT AND HOT WATER TO A MULTI-FAMILY DWELLING.

Rep. J. M. NEAL moved that the House do now adjourn, which was agreed to.

RETURNED WITH CONCURRENCE

The Senate returned to the House with concurrence the following:

H. 3258 -- Rep. Bales: A CONCURRENT RESOLUTION TO COMMEND KEVIN WYTHE SMITH, BUILDING CONSTRUCTION TEACHER AT SAMUEL A. HEYWARD CAREER & TECHNOLOGY CENTER IN RICHLAND COUNTY SCHOOL DISTRICT ONE, FOR HIS COMMITMENT TO PROVIDING QUALITY EDUCATION FOR THE CHILDREN OF SOUTH CAROLINA, AND TO CONGRATULATE HIM UPON ACHIEVING NATIONAL BOARD TEACHER CERTIFICATION IN NOVEMBER 2008.

H. 3259 -- Rep. Bales: A CONCURRENT RESOLUTION TO COMMEND G. CLEVE PILOT, DEAN OF STUDENTS AT SAMUEL A. HEYWARD CAREER & TECHNOLOGY CENTER IN RICHLAND COUNTY SCHOOL DISTRICT ONE, FOR HIS COMMITMENT TO PROVIDING QUALITY EDUCATION FOR THE CHILDREN OF SOUTH CAROLINA, AND TO CONGRATULATE HIM UPON ACHIEVING NATIONAL BOARD TEACHER CERTIFICATION IN NOVEMBER 2008.

H. 3260 -- Rep. Bales: A CONCURRENT RESOLUTION TO COMMEND NAYLENE REDMOND RICHARDSON, BUSINESS AND TECHNOLOGY EDUCATION TEACHER AT C. A. JOHNSON PREPARATORY ACADEMY IN RICHLAND COUNTY SCHOOL DISTRICT ONE, FOR HER COMMITMENT TO

PROVIDING QUALITY EDUCATION FOR THE CHILDREN OF SOUTH CAROLINA, AND TO CONGRATULATE HER UPON ACHIEVING NATIONAL BOARD TEACHER CERTIFICATION IN NOVEMBER 2008.

H. 3261 -- Rep. Bales: A CONCURRENT RESOLUTION TO COMMEND TWANDA DENISE ADDISON, HEALTH SCIENCE TECHNOLOGY TEACHER AT LOWER RICHLAND HIGH SCHOOL IN RICHLAND COUNTY SCHOOL DISTRICT ONE, FOR HER COMMITMENT TO PROVIDING QUALITY EDUCATION FOR THE CHILDREN OF SOUTH CAROLINA, AND TO CONGRATULATE HER UPON ACHIEVING NATIONAL BOARD TEACHER CERTIFICATION IN NOVEMBER 2008.

H. 3262 -- Rep. Bales: A CONCURRENT RESOLUTION TO COMMEND MONICA CANDACE ADAMS, HEALTH SCIENCE TEACHER AT SAMUEL A. HEYWARD CAREER & TECHNOLOGY CENTER IN RICHLAND COUNTY SCHOOL DISTRICT ONE, FOR HER COMMITMENT TO PROVIDING QUALITY EDUCATION FOR THE CHILDREN OF SOUTH CAROLINA, AND TO CONGRATULATE HER UPON ACHIEVING NATIONAL BOARD TEACHER CERTIFICATION IN NOVEMBER 2008.

H. 3263 -- Rep. Bales: A CONCURRENT RESOLUTION TO COMMEND JACKIE M. MEGGIE, BUSINESS EDUCATION TEACHER AT COLUMBIA HIGH SCHOOL IN RICHLAND COUNTY SCHOOL DISTRICT ONE, FOR HER COMMITMENT TO PROVIDING QUALITY EDUCATION FOR THE CHILDREN OF SOUTH CAROLINA, AND TO CONGRATULATE HER UPON ACHIEVING NATIONAL BOARD TEACHER CERTIFICATION IN NOVEMBER 2008.

H. 3287 -- Reps. Whitmire, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott,

Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO EXPRESS THE DEEPEST SYMPATHY OF THE MEMBERS OF THE GENERAL ASSEMBLY TO THE FAMILY AND MANY FRIENDS OF MR. WILLIAM KENT TODD, A DISTINGUISHED BUSINESS AND CIVIC LEADER IN WALHALLA, UPON HIS DEATH.

ADJOURNMENT

At 11:32 a.m. the House, in accordance with the motion of Rep. GILLIARD, adjourned in memory of Jasiri Whipper, son of Representative Seth Whipper, to meet at 10:00 a.m. tomorrow.

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