Friday, April 24, 2009

(Local Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the ACTING PRESIDENT, Senator COURSON.

REPORT RECEIVED

**Judicial Merit Selection Commission**

**Report of Candidate Qualifications**

Date Draft Report Issued: Thursday, April 23, 2009

Date and Time:

Final Report Issued: Noon, Tuesday, April 28, 2009

**Judicial candidates are not free to seek or accept commitments until Tuesday, April 28, 2009 at Noon.**

**Judicial Merit Selection Commission**

Sen. Glenn F. McConnell, Chairman Jane O. Shuler, Chief Counsel

Rep. F.G. Delleney, Jr., V-Chairman

Sen. Robert Ford Bradley S. Wright

John P. Freeman Patrick G. Dennis

John Davis Harrell Bonnie B. Goldsmith

Sen. John M. “Jake” Knotts, Jr. Andrew T. Fiffick IV

Amy Johnson McLester House of Representatives Counsel

H. Donald Sellers Post Office Box 142 J.J. Gentry

Rep. Alan D. Clemmons Columbia, South Carolina 29202 E. Katherine Wells

Rep. David J. Mack III (803) 212-6623 Senate Counsel

April 23, 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 on Tuesday, April 28, 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 on Tuesday, April 28 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**

Sen. Glenn F. McConnell, Chairman Jane O. Shuler, Chief Counsel

Rep. F.G. Delleney, Jr., V-Chairman

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Rep. David J. Mack III (803) 212-6623 Senate Counsel

April 23, 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 Spring 2009 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** **by the candidate** **and statements by the candidate** 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 **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. 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 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.

Sincerely,

Glenn F. McConnell, Chairman

F.G. Delleney, Jr., 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 is composed of 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 Supreme Court, Circuit Court, Family Court, and Administrative Law Court.

**Judge John C. Few**

**Supreme Court, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Few meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge Few was born in 1963. He is 46 years old and a resident of Greenville, South Carolina. Judge Few 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 Judge Few.

One affidavit was filed in opposition to Judge Few’s candidacy by Complainant Nancy Lockhart, who previously filed the same complaint against Judge Few during his screening for a Supreme Court seat in the Spring 2007. After taking testimony during the Spring 2007 screening, the Commission found Ms. Lockhart’s complaint not to be credible. The Commission also considered the additional allegation raised in her current complaint against Judge Few as well as the prior testimony and determined it would not proceed any further with this matter since the allegations were without merit.

Judge Few 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 Few reported, “I have made $51.45 in campaign expenditures for envelopes at Invitations on Main and for postage and cards at Kinko’s Columbia.”

Judge Few 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 Few 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 Few to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) SC Circuit Judges 05/05/04;

(b) Judicial Oath of Office 08/19/04;

(c) Annual SC Solicitors 09/26/04;

(d) 20th Annual Criminal Law Update 01/21/05;

(e) Circuit Court Judges 05/11/05;

(f) Annual Judicial Conference 08/24/05;

(g) SCDTAA Annual Meeting 11/03/05;

(h) Advanced Evidence 09/25/05;

(i) Teaching Evidence 11/14/05;

(j) Fourth Annual Civil Law Update 01/27/06;

(k) 21st Annual Criminal Law Update 01/27/06;

(l) 20th Circuit Court Judges 05/10/06;

(m) SCCA Judicial Conference 08/23/06;

(n) 22nd Annual Criminal Law Update 01/26/07;

(o) 5th Annual Civil Law Update 01/26/07;

(p) Circuit Court Judges 05/16/07;

(q) SCCA Judicial Conference 08/22/07;

(r) 23rd Annual Criminal Law Update 01/25/08;

(s) 6th Annual Civil Law Update 01/25/08;

(t) Circuit Court Judges 05/14/08;

(u) SCCA Judicial Conference 08/20/08;

(v) 24th Annual Criminal Law Update 01/23/09.”

Judge Few reported that he has taught the following law‑related courses:

“I have done a good bit of teaching and lecturing at continuing legal education classes since I began practicing law, and I continued doing that after I became a judge. I have spoken at Greenville Bar Association CLE programs several times. I have spoken at numerous South Carolina Bar programs as well. In addition, I am a member of the faculty at the National Judicial College, where I taught a class on evidence to other judges in September 2005 and in August 2007. I have spoken on at least six occasions to the South Carolina Defense Trial Attorneys Association, three times at their summer meeting at the Grove Park Inn in Asheville and three at their annual meeting, which is held in a different location each year. I have spoken to the South Carolina Association for Justice Auto Torts seminar in Atlanta. In February 2008 and 2009 I organized and moderated a full day evidence CLE for the South Carolina Bar entitled “It’s All A Game: Top Trial Lawyers Tackle Evidence.” In the summer of 2008 I served as an Adjunct Professor at the Charleston School of Law teaching Advanced Evidence. I have a list available of all the CLE presentations I have made in my career, which I have not attached, but will provide upon request.”

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

(4) Character:

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

The Commission also noted that Judge Few 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 Few reported that his last available Martindale-Hubbell rating was “AV.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Few was admitted to the South Carolina Bar in 1988.

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

“(a) 1989-1997 Private Civil Practice, in partnership with my father, J. Kendall Few;

(b) 1997-2000 Private Civil Practice by myself.”

Judge Few reported the frequency of his court appearances prior to his service on the bench as follows:

“(a) Federal: At least once a month;

(b) State: At least once a month.”

Judge Few reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

“(a) Civil: 100%;

(b) Criminal: 0%;

(c) Domestic: 0% (I was appointed in 2 or 3 domestic cases over 11 years).”

Judge Few reported the percentage of his practice in trial court prior to his service on the bench as follows:

“(a) Jury: 90%;

(b) Non-jury: 10%.”

Judge Few provided that, prior to his service on the bench, he most often served as lead counsel.

The following is Judge Few’s account of his five most significant litigated matters:

“(a) Bagwell v. Nissan, US District Court, District of South Carolina.

This case is significant because I was able to play a major role in enabling a severely disabled quadriplegic, who was otherwise unable to provide for himself financially, to have his basic needs met for the rest of his life.

(b) Shockley v. Hoechst Celanese, 793 F.Supp. 670 (D.S.C. 1992).

This case is significant because an Order I wrote at the request of the district judge was published in the Federal Supplement, and has played a significant role in the development of the law of environmental contamination.

(c) Roshto v. Spartanburg Petroleum.

This Laurens County case was significant in that my co-counsel and I were able to get a settlement for a hotel (the old Holiday Inn at SC 56 and I-26) owner and operator that enabled the business to stay in operation despite the unwillingness of banks to finance the business because of groundwater contamination on the property caused by a gas station on adjoining property.

(d) Shook v. Golden Rule, 1993 WL 18754 (D.S.C. Jan. 7, 1993).

This case against a medical insurance provider is significant in that my co-counsel and I were able to get medical insurance payments immediately made for a severely disabled accident victim whose insurance had been denied in violation of the terms of the policy.

(e) Cameron v. General Motors Corp., 158 F.R.D. 581 (1994).

This case is significant because of the fact that the U.S. District Judge who presided over it was essentially disqualified by the Fourth Circuit, and the case was transferred to a District Judge from West Virginia. The legal issues were substantial, and eventually involved litigation in West Virginia and Detroit Michigan, in addition to South Carolina."

The following is Judge Few’s account of the five civil appeals he has personally handled:

“(a) Shockley v. Hoechst Celanese Corp., 996 F.2d 1212 (4th Cir. 1993).

I wrote the brief in this case, but did not personally argue the appeal.

(b) Ehlies v. Shirley, 2000-UP-250.

(c) Phillips v. Southland Life Insurance Co.

This was the first case I ever tried, and the first appeal I ever argued. I don’t have the case number of the unpublished opinion. I lost both the trial and the appeal.

(d) Clark v. Greenville County, 313 S.C. 205, 437 S.E.2d 117 (1993).

I don’t think I actually argued this appeal, but I wrote or substantially wrote the briefs.

(e) Kelly v. Para-Chem Southern, Inc., 311 S.C. 223, 428 S.E.2d 703 (1993).”

Judge Few reported that he has not personally handled any criminal appeals.

Judge Few reported that he has held the following judicial office:

“I have served as a Circuit Judge since July 1, 2000.”

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

“(a) Dissenting opinion in South Carolina State Ports Authority v Jasper County, 368 S.C. 388, 629 S.E.2d 624 (2006). I was sitting as an Acting Justice by designation;

(b) Foothills Brewing Concern, Inc., et. al. v. City of Greenville, 06-CP-23-7803 (Order dated March 8, 2007);

(c) Dabbs v. Davis, 01-CP-23-7629 (Order dated March 1, 2004);

(d) Sloan v. Greenville County, 99-CP-23-3022 (Order dated May 7, 2001), 99-CP-23-5004 (Order dated May 7, 2001), 00-CP-23-5354 (Order dated September 14, 2001), aff’d 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003);

(e) Pitts v. Jackson National Life Insurance Co., 352 S.C. 319, 574 S.E.2d 502 (Ct. App. 2002).”

Judge Few reported the following regarding his employment while serving as a judge:

“I served as Adjunct Professor at the Charleston School of Law in the summer of 2008. I taught one class: Advanced Evidence. It was a part-time position. The dates of the class were every Tuesday and Thursday evening from 6 to 8 from May 27 to July 17, with the exam on July 24. My supervisor was the Associate Dean for Academic Affairs, Nancy Zisk, who no longer holds that position. For this work, I was paid a salary and given a per trip expense reimbursement.”

Judge Few further reported the following regarding unsuccessful candidacies:

“I ran unsuccessfully for the SC Supreme Court in 2007 and in 2008.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found no additional information that would alter its most recent report concerning Judge Few. The most recent Upstate Citizens Committee Report for Judge Few was completed in 2007. In it, the Committee stated that “Judge Few is a most competent and excellent jurist. His qualifications greatly exceed the expectations set forth in the evaluative criteria.”

Judge Few is not married. He has three children.

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

“(a) South Carolina Bar;

(b) Greenville County Bar.”

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

“I serve on the Duke University Alumni Advisory Committee for the upstate. All I do in that capacity is to interview high school seniors who have applied to Duke. I also serve in the unofficial role of President of the Duke Club of the Upstate, which specifically does not involve any fundraising whatsoever. I am simply a contact person for Duke alumni who live in this area, and from time to time I schedule events for Duke alumni in our area.”

(11) Commission Members’ Comments:

The Commission commented that Judge Few was highly knowledgeable of the law which would assist him in discharging his responsibilities as a Supreme Court Justice. They noted his confident demeanor at the Public Hearing and his able service on the Circuit Court for the past nine years.

(12) Conclusion:

The Commission found Judge Few qualified and nominated him for election to the Supreme Court.

**Kaye G. Hearn**

**Supreme Court, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Hearn meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge Hearn was born in 1950. She is 59 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, “I have spent approximately $150 in mailing letters announcing my candidacy to members of the General Assembly (excluding the members of the Judicial Merit Selection Commission).”

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 continuing legal or judicial education during the past five years as follows:

“Conference/CLE Name Date(s)

(a) Using Electronic Evidence in Civil Litigation 7-15-04;

(b) South Carolina Judicial Conference 8-04;

(c) Hot Tips from the Coolest Domestic Practitioners 9-24-04;

(d) Wofford and the Law 9-25-04;

(e) National Council of Chief Judges’ Conference 11-04;

(f) South Carolina Judicial Conference 8-06;

(g) National Council of Chief Judges’ Conference 11-05;

(h) Summit on Children, Minneapolis, MN 11-05;

(i) Trial and Appellate Advocacy 1-28-06;

(j) Appellate Issues (Bridge the Gap) 3-6-06;

(k) SC Family Court Summit 7-06;

(l) South Carolina Judicial Conference 8-06;

(m) National Council of Chief Judges’ Conference 11-06;

(n) AutoTorts 12-2-06;

(o) South Carolina Judicial Conference 8-07;

(p) National Council of Chief Judges’ Conference 11-07;

(q) Combined NC/SC Appellate Judges’ Conference 11-07;

(r) South Carolina Judicial Conference 8-08;

(s) National Council of Chief Judges’ Conference 11-08;

(t) Symposium on State Constitutional Reform in

the New South 1-15 and 1-16-09.”

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

“(a) HearsayRule in the Family Court, Columbia, SC, July 21, 1979;

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

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

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

(e) Appellate Court Writs, Columbia, SC June 19, 1980;

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

(g) Order Writing for Law Clerks/Staff Attorneys, Col, SC Aug. 1981;

(h) Rules and Procedures of the Family Court,

SC Trial Lawyers Convention, Hilton Head, SC Aug. 20, 1981;

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

(j) Appellate Advocacy Brief Writing, Charleston, SC May 1982;

(k) Appellate Advocacy Brief Writing, Florence, SC June 25, 1982;

(l) Appellate Advocacy Preservation of the Record, Columbia, SC July 15, 1983;

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

(n) Separation & Antenuptial Agreements, Columbia, SC Oct. 12, 1984;

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

(p) Order Writing, New Family Court Judges’ School, Columbia, SC Feb. 28, 1985;

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

(r) Order Writing, Bridge the Gap, Columbia, SC August 1985;

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

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

(u) Order Writing, New Family Court Judges’ School, Columbia, SC July 21-22, 1988;

(v) Children’s Rights, SCDSS Family Violence Conf., Columbia, SC Mar. 19-20, 1990;

(w) Judge’s Perspective on Adoption, Columbia, SC 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, SC 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, SC Aug. 27-28, 1991;

(cc) Domestic Violence, Magistrate’s JCLE, Columbia, SC Nov. 8, 1991;

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

(ee) Adoption, Abuse and Neglect – Moderator, New Family Court Judges’ School, Columbia, SC July 28, 1992;

(ff) Separation Agreements, Columbia, SC Dec. 1992;

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

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

(ii) Suppression Hearings in Family Court, Solicitors’ Conference, Myrtle Beach, SC Oct. 4, 1993;

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

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

(ll) Juvenile Delinquency, Family Court Judges’ School, Columbia, SC June 24, 1994;

(mm) Family Court Rules, Columbia, SC July 29, 1994;

(nn) Waiver Hearings, Family Court Bench/Bar Seminar, Columbia, SC 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, SC Aug. 24, 1995;

(rr) Judicial Perspective on Briefs and Oral Arguments, Ethical Issues Facing Family Law Practitioners, Columbia, SC 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, SC May 1, 1996;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Appellate Issues, Court of Appeals Bench and Bar Seminar, Columbia, SC October 22, 1999;

(jjj) Appellate Issues, Bridge the Gap, Columbia, SC May 2000;

(kkk) Appellate Issues, Family Court Bench/Bar Seminar,

Columbia, SC Dec. 1, 2000;

(lll) Appellate Issues, Bridge the Gap, Columbia, SC March 2001;

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

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

(ooo) Appellate Issues, Bridge the Gap, Columbia, SC May 15, 2002;

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

(qqq) Appellate Issues, Bridge the Gap, Columbia, SC 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, SC Dec. 5, 2003;

(uuu) Appellate Issues, Bridge the Gap, Columbia, SC March 8, 2004;

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

(www) Hot Tips from the Coolest Domestic Practitioners, Columbia, SC 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, SC December 3, 2004;

(zzz) Appellate Issues, Bridge the Gap, Columbia, SC March 7, 2005;

(aaaa) Professionalism, Forum on Professionalism at the Charleston School of Law, Charleston, SC

(bbbb) Oral Arguments, SC Bar Convention January 28, 2006;

(cccc) Appellate Issues, Bridge the Gap, Columbia, SC March 6, 2006;

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

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

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

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

(hhhh) Oral Argument, Family Court Bench/Bar, Conway, SC December 7, 2006;

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

(jjjj) Ethics, Summary Court Judges’ Conference, Myrtle Beach, SC September 7, 2007;

(kkkk) Panel on the Constitution, Wofford College, Spartanburg, SC September 26, 2007;

(llll) Appellate Issues, Bridge the Gap, Columbia, SC March 10, 2008;

(mmmm) Appellate Issues, Bridge the Gap, Columbia, SC May 12, 2008;

(nnnn) New Appellate Rules in Workers’ Compensation Cases, Clarion Townhouse, Columbia, SC May 2008;

(oooo) Appellate Advocacy, Charleston School of Law, Visiting Adjunct Professor Fall 2008 semester;

(pppp) Change to Appellate Court Rules, Grove Park Inn, Ashville, NC November 7, 2008;

(qqqq) South Carolina Family Court Bench/Bar, Columbia, SC December 2008;

(rrrr) State Constitutional Reform in the New South, January 15-16, presented by the Charleston Law

Review at the Charleston School of Law and The Riley Institute at Furman, Charleston, SC January 15-16, 2009.”

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 Martindale-Hubbell rating is “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:

“(a) 1977-1979: Law clerk to the Honorable Julius B. Ness, Associate Justice of the S.C. Supreme Court;

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

(c) 1986-1995: Family Court Judge for the Fifteenth Judicial Circuit (Chief Administrative Judge from 1987-1995);

(d) 1995-1999: Judge, S.C. Court of Appeals;

(e) 1999-present: Chief Judge, S.C. Court of Appeals.”

Judge Hearn reported the frequency of her court appearances prior to her election to the bench as follows:

“(a) federal: 4-5 times per year;

(b) state: weekly.”

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

“(a) civil: 45%;

(b) criminal: 10%;

(c) domestic: 45%.”

Judge Hearn reported the percentage of her practice in trial court during the past five years as follows:

(a) jury: 40%;

(b) non-jury: 60%.”

Judge Hearn provided that she most often served as lead counsel.

The following is Judge Hearn’s account of her five most significant litigated matters:

“(a) Graham v. Whitaker, 282 S.C. 393, 321 S.E.2d 40 (1984) (I was trial and appellate counsel; the supreme court upheld the trial court’s grant of plaintiff’s motion for new trial nisi additur). This case has been cited in sixty-one different cases and eighteen secondary sources;

(b) Gasque v. Heublein, Inc., 281 S.C. 278, 315 S.E.2d 556 (1984) (I was trial and appellate counsel in this case; the supreme court found the two-issue rule required affirmance of jury’s verdict in favor of plaintiff whose vision was impaired when a champagne cork prematurely ejected). This case has been cited in twenty-five different cases and twenty-seven different secondary sources;

(c) Creel v. Creel (1983) (I was trial counsel in this six-day family court case involving complex valuations of business entities.);

(d) King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981) (I was appellate counsel in this medical malpractice case wherein the supreme court abolished the locality rule);

(e) Hellum v. Todd, (1980) (I was trial counsel in this Horry County personal injury action wherein the plaintiff was rendered quadriparesic as a result of a motor vehicle accident. The case is significant because, for the first time, a “day-in-the-life” video produced by co-counsel and myself was admitted into evidence.)”

The following is Judge Hearn’s account of the five the civil appeals she has personally handled:

“(a) King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981);

(b) Gasque v. Heublein, Inc., 281 S.C. 278, 315 S.E.2d 556 (1984);

(c) Sweatt v. Norman, 283 S.C. 443, 322 S.E.2d 478 (Ct. App. 1984);

(d) Graham v. Whitaker, 282 S.C. 393, 321 S.E.2d 40 (1984);

(e) Todd v. S.C. Farm Bureau Mutual Ins. Co., 287 S.C. 190, 336 S.E.2d 472 (1985).”

The following is Judge Hearn’s account of the five criminal appeals she has personally handled:

“(a) State v. Drew, 281 S.C. 440, 316 S.E.2d 367 (1984) (reversing appellants’ convictions because the trial court improperly admitted evidence of other crimes);

(b) State v. Miller, 287 S.C. 280, 337 S.E.2d 83 (1985) (affirming in part and reversing in part the circuit court’s grant of jnov in favor of defendant);

(c) State v. Cox, 279 S.C. 205, 305 S.E.2d 76 (1983);

(d) State v. David Cook (unpublished);

(e) Greene v. State (unpublished).”

Judge Hearn reported that she has held the following judicial offices:

“I was elected Family Court Judge in 1986 and served until 1995. The family court has jurisdiction over domestic matters, 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 jurisdiction to be transferred to General Sessions Court.

In 1995, I was elected to serve as a judge on the South Carolina 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):

(1) death penalty cases;

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

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

(4) 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;

(5) judgments dealing with elections or election procedures;

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

(7) 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) 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).

(c) 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).

(d) 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).

(e) Guider v. Churpeyes, Inc., 370 S.C. 424, 635 S.E.2d 562 (Ct. App. 2006) (reversing jury verdict in favor of plaintiff and finding the trial court should have granted a directed verdict in favor of corporation, which was sued by a former employee for malicious prosecution and abuse of process).”

Judge Hearn further reported the following regarding unsuccessful candidacies:

“In May of 2007, I ran for Seat 5 on the South Carolina Supreme Court. The Judicial Merit Selection Committee nominated Donald W. Beatty, H. Bruce Williams, and me for the seat. The Honorable Donald W. Beatty was elected. 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. I withdrew, and the Honorable John Kittredge was elected.”

(9) Judicial Temperament:

The Commission believes that Judge Hearn’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found Judge Hearn to be “a highly qualified candidate who would ably serve on the Supreme Court bench. There have been no significant changes in her application materials since her screening in fall 2008.”

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

President, 2005-2006

Chair, Education Committee, 2003

Member, Executive Board, 2001-2007

Member, Education Committee, 2000-2002;

(c) Conference of Family Court Judges

Treasurer, 1990

Secretary, 1991

President, 1992.”

Judge Hearn provided that she is a member of the following civic, charitable, educational, social, or fraternal organization:

“None, other than my active participation at St. Paul’s Episcopal Church in Conway.”

(11) Commission Members’ Comments:

The Commission commented that Judge Hearn’s outstanding grasp of legal issues was demonstrated by her performance on the Commission’s practice and procedure test. They also noted that, while ably serving as a judge and then as Chief Judge on the Court of Appeals for the past 14 years, Judge Hearn has written only 20 dissents. Of those cases, the Supreme Court has granted certiorari 13 times and followed Judge Hearn’s position on 11 occasions, which the Commission thought was exceptional.

(12) Conclusion:

The Commission found Judge Hearn qualified and nominated her for election to the Supreme Court.

**Deadra L. Jefferson**

**Supreme Court, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Jefferson meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge Jefferson was born in 1963. She is 45 years old and a resident of Charleston, South Carolina. Judge Jefferson 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 1989.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Jefferson.

Judge Jefferson 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 Jefferson reported that she has not made any campaign expenditures. She explained, “I anticipate that I will spend less than $100 in furtherance of my candidacy.”

Judge Jefferson 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 Jefferson 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 Jefferson to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Annual Criminal Law Update 1/25/2001;

(b) Family Law Section Seminar 1/26/2001;

(c) 2001 Family Court Judges Conference 5/3/2001;

(d) 2001 Orientation School for New Circuit Judges 7/2/2001;

(e) Annual Judicial Conference 8/23/2001;

(f) SCBLA Conference 9/14/2001;

(g) Annual Criminal Law Update, Annual Civil

Law Update 1/25/2002;

(h) Circuit Judges’ Annual Conference 5/8/2002;

(i) SCTLA Annual Convention 8/1/2002;

(j) Annual Judicial Conference 8/22/2002;

(k) Annual Criminal Law Update 1/23/2003;

(l) Annual Civil Law Update 1/23/2003;

(m) Annual Criminal Law Update 1/24/2003;

(n) Women Lawyers in the New Millennium 4/11/2003;

(o) SC Circuit Judges’ Conference 5/7/2003;

(p) National Judicial College General

Jurisdiction Course 7/14/2003;

(q) SCTLA Annual Convention 8/7/2003;

(r) Annual Judicial Conference 8/21/2003;

(s) SCDTAA Annual Conference 11/6/2003;

(t) Annual Criminal Law Update 1/23/2004;

(u) Annual Civil Law Update 1/23/2004;

(v) National Conference on Racial and Ethnic

Fairness in the Courts 4/14/2004;

(w) SC Circuit Judges’ Annual Conference 5/5/2004;

(x) SCTLA Annual Conference 8/6/2004;

(y) Annual Judicial Conference 8/19/2004;

(z) Supreme Court Judicial Oath of Office 8/19/2004;

(aa) Nat’l Judicial College Advanced Evidence

11/15/2004;11/19/2004;

(bb) Annual Civil Law Update 1/21/2005;

(cc) Annual Criminal Law Update 1/21/2005;

(dd) National Conference on Racial and Ethnic Fairness

in the Courts 4/13/2005;

(ee) Annual Circuit Judges Conference 5/11-13/2005;

(ff) Annual Judicial Conference 8/24/2005;

(gg) Annual SC Solicitors Conference 9/25/2005

(hh) Annual Criminal Law Update 1/27/2006;

(ii) Annual Civil Law Update 1/27/2006;

(jj) National Conference on Racial and Ethnic Fairness

in the Courts 4/26/2006;

(kk) National Judicial College Handling Capital

Cases 6/10-15/2006;

(ll) Annual Circuit Judges Conference 5 /10/2006;

(mm) Annual Judicial Conference 8/23/2006;

(nn) SCDTAA Annual Conference 11/9/2006;

(oo) Annual Criminal Law Update 1/26/2007;

(pp) Annual Civil Law Update 1/26/2007;

(qq) National Conference on Racial and Ethnic Fairness

in the Courts 5/2-5/5/2007;

(rr) Annual Circuit Court Judges Conference 5/16/2007;

(ss) SCTLA Annual Conference 8/2-8/3/2007;

(tt) Annual Judicial Conference 8/22/07;

(uu) Annual Civil Law Update 1/25/2008;

(vv) Annual Criminal Law Update 1/25/2008;

(ww) National Conference on Racial and

Ethnic Fairness in the Courts 4/26-5/2/08;

(xx) Annual Circuit Court Judges Conference 5/14/2008;

(yy) Annual Judicial Conference 8/20-22/2008;

(zz) SC Defense Trial Lawyers Association 11/13-11/14/08;

(aaa) Annual Civil Law Update 1/23/2009;

(bbb) Annual Criminal Law Update 1/23/2009.”

Judge Jefferson reported that she has taught the following law‑related courses:

“(a) Business Law Instructor, Trident Technical College Paralegal Program, 1993-1994 School Term;

(b) ‘Rules, Rules, Rules’ South Carolina Practice and Procedures Update, Presenter on the issue of Family Court Rules, SC Bar, March 20, 1998;

(c) Speaker/Panel Participant Wiley A. Branton Symposium, National Bar Association, October 24, 1998;

(d) ‘Current Issues in Attorney’s Fees’, Presenter, SC Bar Association, November 6, 1998;

(e) Recent Developments in Family Law, ‘Six by Six’ CLE Seminar, Presenter, Charleston County Bar Association, December 10, 1998;

(f) ‘Adjudication Hearings’, Presenter and Contributor to Family Court Judges Juvenile Workbook, SC Association of Family Court Judges, May 20, 1999;

(g) ‘Tips from the Bench’, Adoption, Presenter, SC Bar Association, February 25, 2000;

(h) ‘The Role of the Judge and Guardian ad Litem in Abuse and Neglect Proceedings’ Judges Panel, South Carolina Guardian ad Litem Conference, April 14, 2000;

(i) ‘Women, Leadership and the Law’, Brown Bag Lunch Panel Participant, SC Women Lawyers Association and College of Charleston Women’s Studies Program, September 22, 2000;

(j) Family Law Update and Tips from the Bench, Presenter, Charleston Lawyers Club, May 2, 2001;

(k) ‘The Use of Psychological Evaluations in Juvenile Proceedings’, Panel, Children’s Law Center, May 18, 2001;

(l) Judges Panel, 3rd Annual Children’s Law Conference, May, 2001;

(m) December 13, 2002, Hot Tips III, ‘Appeals and Motions’;

(n) April 11, 2003, Women Lawyers in the New Millennium, ‘Ethics Issues from Various Judicial Perspectives’;

(o) November 15-19-2004, National Judicial College, Advanced Evidence, Group Discussion Leader;

(p) June 20, 2003, SCDTAA Trial Academy Judge;

(q) December 2004, 2004 Local Government Attorneys’ Institute, Administered Oath;

(r) January 2005 9th Annual Probate Court Seminar, Administered Oath;

(s) September, 2005, SCBLA, Judicial Selection in South Carolina, Judicial Panel;

(t) September 26, 2005 SC Solicitors’ Association Conference, Criminal Law Update, ‘Recent Court Decisions’;

(u) October 20, 2005, Charleston School of Law Professionalism Series, ‘Civility and Ethics’;

(v) November 4, 2005 SC Defense Trial Lawyers Ethics and Civility \*\*In Trial unable to make the presentation;

(w) February 15, 2006 Charleston School of Law Ethics & Professionalism presentation;

(x) May 1, 2006, Law Day, Panel Presentation Judicial Selection in South Carolina Charleston School of Law;

(y) 6/10/2006 National Judicial College, Handling Capital Cases, Group Discussion Leader;

(z) September 29, 2006, SCBLA, ‘Civil Practice’;

(aa) November 16, 2006, Young Lawyers Division, New Admitees Reception, Presentation;

(bb) May 24, 2007, Young Lawyers Division, ‘Tips for Young Lawyers in Circuit Court’;

(cc) January 3, 2008 ‘Oath of Office’ D. Ashley Pennington Chief Public Defender;

(dd) March 1, 2008, ‘We Shape the World’ Charleston School of Law, Minority Law Day;

(ee) March 8, 2008, Women of Wisdom Expo 2008 ‘Daring to Embrace New Beginnings’ Bible Way Church, Columbia, SC;

(ff) March 10, 2008, National Association for Court Management, Mid Year Conference, Welcome Address;

(gg) June 11, 2008 Pro-Bono Legal Service Summer Intern Class, In-Court Seminar;

(hh) June 12, 2008 ‘Governor’s School of SC’ Summer Class;

(ii) July 29, 2008, Magistrate Seminar;

(jj) August 21, 2008, Annual Judicial Conference, South Carolina Access to Justice Commission, Panelist;

(kk) December 9, 2008, Young Lawyers Association Luncheon.”

Judge Jefferson reported that she has not published any books or articles. She further reported, “I have provided written materials for the courses listed above, and these materials have been published by the SC Bar as a part of their published seminar materials.”

(4) Character:

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

The Commission also noted that Judge Jefferson 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 Jefferson reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Jefferson was admitted to the South Carolina Bar in 1989.

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

“(a) Law Clerk to the Honorable Richard E. Fields of the Ninth Judicial Circuit, Charleston, S.C., August 1989 through August 1990. Primary Responsibilities: legal research, preparation of jury charges, preparation of Orders, scheduling of motions, all tasks required to prepare the Judge and myself for trials/hearings during the term and all other daily tasks as required by the Judge that ensured the smooth operation of Court;

(b) McFarland and Associates, Attorney, October 1990 through March 1996. Trial practice focusing on the following areas: Domestic Relations, Civil Litigation (all types), Probate Law, Real Estate Law and Criminal Law;

(c) Resident Family Court Judge of the Ninth Judicial Circuit, elected to serve February 14, 1996 through June 2001;

(d) Resident Circuit Court Judge of the Ninth Judicial Circuit, elected to serve May 31, 2001 to the present.”

Judge Jefferson reported the frequency of her court appearances, prior to her service on the bench, as follows:

“(a) Federal: approximately 15 times;

(b) State: approximately 50-60 times.”

Judge Jefferson reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench, as follows:

“(a) Civil: 47%;

(b) Criminal: 6%;

(c) Domestic: 47%.”

Judge Jefferson reported the percentage of her practice in trial court prior to her service on the bench, as follows:

“(a) Jury: 5%;

(b) Non-jury: 95%.”

Judge Jefferson provided that, prior to her service on the bench, she most often served as sole counsel.

The following is Judge Jefferson’s account of her five most significant litigated matters:

“(a) Blake v. County of Charleston. This case involved complex (federal) civil rights litigation. It was tried for two (2) weeks and involved many motions and other complex legal issues relating to evidence and the new federal rules. The case also resulted in a mistrial and was later tried a second time for one (1) week. I tried this case with two (2) other lawyers, both of whom had been practicing more than eighteen (18) years. During this process I was treated as an equal and an integral part of the litigation team. I was entrusted with a great deal of responsibility which included arguing motions, examination of witnesses, preparation of motions, and preparation of jury charges. This case challenged many current practices within the Charleston County Police Department. This case caused the Charleston County Police Department to evaluate and change many of their policies and practices.

(b) Hymes v. Khoury. This case was a simple auto accident which I did not think would be successful. This case taught me the importance of the strategic application of the civil rules of procedure and case law. Although this case took one (1) day to try, the jury deliberated for two (2) days and returned a verdict in favor of my client.

(c) In Re: The Estate of Joseph J. White, Jr., et. al. This was a probate court case. The central issue in this case involved the paternity of a two (2) year old minor child of the victim of an automobile fatality. The case involved an intense three (3) day probate trial. The trial involved approximately forty (40) witnesses. It also involved a unique question of law concerning the jurisdictional conflict between the probate and family courts. A favorable ruling was returned by the Probate Judge and the Circuit Court on appeal. In addition, I handled the wrongful death cause of action on behalf of the minor which resulted in a substantial recovery for the minor.

(d) Ashby v. Ashby. In this case I represented the plaintiff/husband who sought custody of his three (3) children. The Court applied the primary caretaker doctrine in awarding custody to the father. The case also involved issues of equitable distribution, adultery, child support and attorney’s fees.

(e) Thompson v. Polite. This case involved a hotly contested issue of visitation between the plaintiff/husband and his minor son. The defendant/wife was adamant in her refusal to allow visitation. My client was awarded reasonable visitation at the Temporary Hearing of this case. Prior to the Final Hearing the parties submitted to mediation. Through this process they were able to come to an amicable agreement regarding visitation and the rearing of their child. This case reinforced my belief in the value of alternative dispute resolution (mediation) as a method of improving the efficient use of court time and resources.”

Judge Jefferson reported that she has not personally handled any civil or criminal appeals.

Judge Jefferson reported that she has held the following judicial offices:

“Resident Family Court Judge of the Ninth Judicial Circuit, Seat Five, elected February 14, 1996. My service in this seat began April 1, 1996, and concluded in June 2001 when I was elected to the Circuit Court. I was elected to this position by the General Assembly. The Family Court is a statutory court of limited and specific jurisdiction. The jurisdiction of the Family Court is set forth in S.C. Code Annotated section 20-7-420, et seq. (i.e. divorce, custody, child support, name changes, juveniles, equitable distribution, adoptions, abuse and neglect, and as further set forth in the statute).

Currently a Resident Circuit Court Judge of the Ninth Judicial Circuit, Seat 1. My service in this seat began in June 2001. I was elected to this position by the General Assembly on May 30, 2001. The Circuit Court is South Carolina’s Court of general jurisdiction. It has a civil court, the Court of Common Pleas, and a criminal court, the Court of General Sessions. In addition to its general trial jurisdiction, the Circuit Court has limited appellate jurisdiction over appeals from the Probate Court, Magistrate’s Court, and Municipal Court.”

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

“(a) Beachfront Entertainment, Inc., et al. v. Town of Sullivan's Island, 379 SC 602,666 SE2d 921 (2008);

(b) Evening Post Publishing Company, et al. v. City of North Charleston, 357 S.C. 59, 591 S.E.2d 39 (Ct. App. 2003), 363 S.C. 452, 611 S.E.2d 496 (2005);

(c) State v. Washington, 367 S.C. 76, 623 S.E.2d 836 (Ct. App. 2006);

(d) Owner’s Insurance v. Clayton, et al., 364 S.C. 555, 614 S.E.2d 611 (2005);

(e) Home Port Rentals, Inc. v. Moore, 369 S.C. 493, 632 S.E.2d 862 (2006);

(f) State v. Stephen C. Stanko, 99-GS-22-918. 376 SC 571,658 SE2d94 (2008).”

Judge Jefferson further reported the following regarding unsuccessful candidacies:

“I ran for the seat that was to be vacated by the Hon. Robert R. Mallard in or about January 1995 through March of 1995. I went through the screening process successfully and was found qualified to hold judicial office. I voluntarily withdrew from the process prior to the election. I was subsequently elected to the Family Court of the Ninth Judicial Circuit, Seat 5 on February 14, 1996.

I ran for the seat to be vacated by the Hon. Justice James E. Moore in or about September 2007. I went through the screening process successfully and was found qualified to hold judicial office but not nominated.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Advisory Committee submitted its November 2007 report for Judge Jefferson. They found “Judge Deadra L. Jefferson to be an eminently qualified and very highly regarded candidate, who would ably serve on the Supreme Court bench.”

Judge Jefferson is not married. She does not have any children.

Judge Jefferson reported that she is a member of the following bar associations and professional associations:

“(a) South Carolina Bar Association;

(b) Charleston County Bar Association;

(c) S.C. Circuit Court Judges Association;

(d) S.C. Women Lawyers Association.”

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

“(a) The Life Center Cathedral, Charleston, S.C.;Trustee Ministry, 2001-present; Co-Founder and Director of Young Women’s Ministry ‘YWCE’, 1999-present;

(b) Charleston Chapter of the Links, Inc., Co-Chair Services to Youth 2000-2001; Corresponding Secretary 2004-2006; Chair Bylaws Committee 2006-2007;Vice President 2007-present;

(c) Former member Junior League of Charleston, former Strategic Planning Committee, Community Project Development Committee, Advisory Planning Committee, and President’s Ad Hoc Committee on Diversity; 1993-2003;

(d) Delta Sigma Theta Sorority, Inc., 1982-present;

(e) The Post and Courier Feature Article August 6, 2001;

(f) The Post and Courier ‘High Profile’ Article May 7, 2005;

(g) ‘The Heritage List, 9 Dazzling Women of Spirit and Humility’ Celebrate Your Heritage Magazine, Spring 2005;

(h) NAACP Lifetime Achievement Award 2003;

(i) Greater Charleston YWCA Lifetime Achievement Award 2004;

(j) Advisory Board Charleston School of Law 2002-present;

(k) Converse College Board of Trustees 2002-present, Committee on Trustees, Enrollment Committee and Student Affairs; Academic Affairs Committee;

(l) Converse College Board of Visitors 2001-2002;

(m) April 24, 2003 Founder’s Day Speaker Converse College;

(n) Governor’s Juvenile Justice Advisory Committee 2000 to the present;

(o) South Carolina Commission on Alternative Dispute Resolution 2002-2006, User Education Sub-Committee;

(p) Co-Chair 9th Circuit Courthouse Security Commission 2006;

(q) Associate Acting Justice South Carolina Supreme Court for the terms December 1, 2005 and June 10, 2004;

(r) Associate Acting Judge South Carolina Court of Appeals for the term June 19-13, 2003 during this term I sat En Banc with the Court, authored two (2) opinions and participated on seven (7) other panels/opinions;

(s) Designated by Hon. Chief Justice Toal as state liason to the National Consortium on Racial and Ethnic Fairness in the Courts 2003-present;

(t) Designated as Chief Judge for Administrative Purposes for the 9th Circuit as follows: General Sessions July 1, 2002-January 5, 2003; Common Pleas January 6, 2003-January 3 2004; General Sessions January 4, 2004-July 3, 2004 and Common Pleas January 1, 2006-December 30, 2006;General Sessions, Jan. 1-July 31, 2008. Common Pleas January 1, 2009-December 31, 2009;

(u) Assigned exclusive jurisdiction of the following cases by the Supreme Court: April 29, 2003 (03-GS-47-4) Statewide Grand Jury, State v. Bunker, et al.; December 2, 2003 (01-CP-18-0074A) Boyd v. Nationwide; June 28, 2004 (03-GS-38-2411-2413), State v. Levi Bing, Jr.; October 3, 2004 (2002-CP-15-471 and 494) Carter v. Steedley, et. al.; May 6, 2005 (05-GS-22-0918) State v. Stephen C. Stanko; October 3, 2005 (1996-GS-32-3341) State v. Jeffrey L. Jones; March 7, 2006 (04-CP-18-1951) Price v. Jones Ford, Inc.; October 5, 2007 State v. Broughton; (2006-GS-082164, 2165, 2182, 2183, 2184 & 2185);

(v) September 6, 2005, nominated for the inaugural class of the Lowcountry Diversity Leadership Academy developed by the American Institute for Managing Diversity and the Richard W. Riley Institute of Government, Politics and Public Leadership at Furman (had to decline due to the demands of the Court schedule);

(w) September 21, 2006, nominated for the Lowcountry Diversity Leadership Academy (had to decline due to the demands of the Court Schedule);

(x) July 2006, invited by the National Judicial College to be a group discussion leader for the General Jurisdiction Course (had to decline due to the demands of the Court schedule, however, I have been asked to participate when the schedule will allow my participation);

(y) Supreme Court Access to Justice Commission 2007-present;

(z) S.C. Liberty Fellow-Class of 2009. 2007-2009;

(aa) Bon Secour St. Francis Hospital Board Member. July 1, 2008-present.”

(11) Commission Members’ Comments:

The Commission commented that in Judge Jefferson’s eight years of service on the Circuit Court bench, she is known for always being courteous to litigants and court personnel. They noted that her great work ethic and enthusiasm will assist her in ably serving on the Supreme Court.

(12) Conclusion:

The Commission found Judge Jefferson qualified and nominated her for election to the Supreme Court.

**Arthur E. Morehead, III**

**Supreme Court, Seat 4**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Morehead meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge Morehead was born in 1946. He is 62 years old and a resident of Florence, South Carolina. Judge Morehead 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 Morehead.

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

Judge Morehead 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 Morehead 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 Morehead to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date

(a) Family Law Seminar at South Carolina Bar

Convention 01/23/09;

(b) Horry County Bar Association Family Court Seminar

On Procedural and Substantive Law 12/17/08;

(c) Annual Judicial Conference 08/20/08;

(d) Family Law Seminar at South Carolina Association

For Justice Convention 08/07/08;

(e) Orientation School for New Family Court

Judges 06/04/08;

(f) Annual Family Court Judges Conference 04/23/08;

(g) Family Law Seminar at South Carolina

Bar Convention 01/25/08;

(h) South Carolina Family Court Bench/Bar

Conference 12/07/07;

(i) Annual Judicial Conference 08/22/07;

(j) Family Law Seminar at South Carolina

Trial Lawyers 08/02/07;

(k) Orientation School for New Family

Court Judges 07/11/07;

(l) Annual Family Court Judges Conference 04/25/07;

(m) Seminar for Chief Judges for Administrative

Purposes in Family Court 02/15/07;

(n) Family Law Seminar at South Carolina

Bar Convention 01/26/07;

(o) South Carolina Family Court Bench/Bar

Conference 12/01/06;

(p) National Judicial College Judges/Journalists

Seminar 09/28/06;

(q) Mandatory Alternative Dispute Resolution

Training 09/08/06;

(r) Annual Judicial Conference 08/23/06;

(s) Mini Summit on Justice for Children 08/22/06;

(t) Family Law Seminar at South Carolina Trial

Lawyers Convention 08/03/06;

(u) Annual Family Court Judges Conference 04/26/06;

(v) Family Law Seminar at South Carolina Bar

Convention 01/27/06;

(w) Horry County Bar Association Family Court

Seminar on Procedure and Substantive Law 12/09/05;

(x) South Carolina Family Court Bench/Bar

Conference 12/02/05;

(y) Annual South Carolina Solicitor’s Association

Conference 09/25/05;

(z) Annual Judicial Conference 8/24/05;

(aa) Family Law Seminar at South Carolina

Trial Lawyers Convention 08/04/05;

(bb) Drug Court Planning Initiative 07/12/05;

(cc) Annual Family Court Judges Conference 04/27/05;

(dd) Drug Court Planning Initiative 03/02/05;

(ee) Family Law Seminar at South Carolina Bar

Convention 01/21/05;

(ff) Seminar for Chief Administrative Family

Court Judges 12/10/04;

(gg) Horry County Bar Association Family Court

Seminar on Procedure and Substantive Law 12/08/04;

(hh) South Carolina Family Court Bench/Bar

Conference 12/03/04;

(ii) Annual Judicial Conference 08/19/04;

(jj) Family Law Seminar at South Carolina

Trial Lawyers Convention 08/05/04;

(kk) Annual Family Court Judges Conference 04/28/04;

(ll) Family Law Seminar at South Carolina

Bar Convention 01/23/04.”

Judge Morehead reported that he has taught the following law‑related courses:

“(a) In November, 1991, organized a Family Law Seminar for the South Carolina Bar which dealt with such issues as financial declarations, bankruptcy, judicial ethics, judicial temperament, properly handling criminal actions, abuse and neglect actions along with a legislative and case law update. Additionally served as moderator of the seminar;

(b) In March, 1992, served on the seminar faculty for a Bar Association Continuing Legal Education Seminar discussing the topic of How to Properly Handle a Temporary Hearing;

(c) In August, 1992, served as a guest lecturer at the National Child Support Enforcement Association’s Convention in Orlando, Florida, and discussed issues with properly setting child support under newly structured guidelines and, more particularly, handling the deviations when dealing with multiple families, under employed parents, negotiated agreements and extraordinary expenses;

(d) In August, 1994, spoke at the South Carolina Trial Lawyers Convention on How to Better Prepare Young Lawyers for Trial Litigation in Family Court;

(e) In October, 1994, spoke at a 2-day seminar at the South Carolina Solicitor’s Association Annual Conference which dealt with Family Court prosecutors handling detention and waiver hearings;

(f) In May, 1995, served on the seminar faculty for the Bar Association Continuing Legal Education Seminar dealing with Child Abuse and Neglect Cases and presented a topic pertaining to effective advocacy, civility and professionalism – A View From the Bench;

(g) In August, 1997, at the request of Court Administration, spoke at the Annual Judicial Conference on the Rules dealing with Alternative Dispute Resolution as they pertained to Family Court and also spoke to the Family Court Judges on how to prepare proper temporary orders;

(h) In December, 1997, served on the seminar faculty for the Bar Association’s Continuing Legal Education Seminar discussing Pet Peeves regarding Family Court Practitioners and Family Court Judges as collected by a survey from the Bench and Bar;

(i) In May, 1998, spoke at the Annual Family Court Judges Conference on How to Properly Handle Pro Se Cases;

(j) In May, 1999, spoke at the Annual Family Court Judges Conference on How to Properly Handle Pre-Trial Matters and Detention Hearings;

(k) In May, 2000, organized the entire educational component of the Annual Family Court Judges Conference which dealt with a round table discussion of frequent problems that arise in Family Court and other interesting areas dealing with How to Properly Utilize Your Computer, Judicial Standards and Ethics, and a presentation from the Youth Law Center in Washington, DC, along with a Legislative Update;

(l) In June, 2000, spoke at the South Carolina Annual Bar Convention dealing with Alternative Dispute Resolution – Mediation in Family Court;

(m) In May, 2001, spoke at the Family Court Judges Conference on Pertinent Evidentiary Problems Family Court Judges Encounter;

(n) In December, 2001, spoke at the Family Court Bench/Bar Conference sponsored by the South Carolina Bar Association dealing with Proper Etiquette and Manners in the Courtroom;

(o) In May, 2002, was again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with alimony, a Legislative Update, when to order psychological as compared to psychiatric examinations for juveniles, and how to properly deal with Solicitors in criminal cases;

(p) In May, 2003, again organized the entire educational component at the Annual Family Court Judges Conference which dealt with custody, DSS Abuse and Neglect cases, sealing records, Guardian ad Litem statute, juveniles, Legislative Update, appellate court decisions and computer generated Family Court forms;

(q) In September, 2003, spoke at the South Carolina Solicitor’s Association’s Annual Conference to all of the prosecutors who come into Family Court;

(r) In April, 2004, again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with juvenile justice and the restorative justice program, how to handle complicated financial issues in Family Court, Legislative Update and typical problems a Family Court Judge deals with in the courtroom on a daily basis;

(s) In April, 2005, again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with appellate court decisions, handling pre-trial discovery, changing the default rules and the administrative strike rule, how to better handle pro se litigants, a Legislative Update dealing with the statewide Guardian ad Litem program, and tips on safety and security in the courtroom;

(t) In September, 2005, spoke at the South Carolina Solicitor’s Association’s Annual Conference on a specific topic of waiver hearings and had a roundtable discussion with the juvenile prosecutors;

(u) In December, 2005, served on the seminar faculty for the Bar Association’s Continuing Legal Education Seminar speaking specifically on proper enforcement of Court orders;

(v) In April, 2006, again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with how to properly work with pro se litigants, the Guardian ad Litem statute, juvenile issues, how to better handle temporary hearings, Abuse and Neglect cases, adoptions, the benefits of mediation, the wrong and right wording for Domestic Abuse orders, a Legislative Update and better awareness of the methamphetamine problem;

(w) In February, 2007, organized a seminar for the Chief Administrative Judges for Family Court in the Sixteen Judicial Circuits discussing their responsibilities;

(x) In April, 2007, again organized the educational component for the Annual Family Court Judges Conference which dealt with a round table discussion of frequent problems that arise in Family Court and other interesting areas dealing with a Legislative Update and presentations by the Court of Appeals, Fatherhood Initiative, John de la Howe School, and System of Care-Family Solutions-DJJ;

(y) In July, 2007, organized and moderated the entire three-day school for the new Family Court Judges recently elected;

(z) In April, 2008, again asked to organize the entire educational component at the Annual Family Court Judges Conference;

(aa) In June, 2008, organized and moderated the entire three-day school for the new Family Court Judges recently elected;

(bb) In August, 2008, spoke at the South Carolina Association for Justice Annual Convention;

(cc) In February, 2009, spoke at the New Clerk of Court's Conference dealing with Family Court issues.”

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

(4) Character:

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

The Commission also noted that Judge Morehead 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 Morehead reported that he is not rated by Martindale-Hubbell.

Judge Morehead reported the following military service:

“I spent two years on active duty as an officer in the United States Army from June, 1968, through May, 1970, obtaining the rank of First Lieutenant. Serial Number was social security number. After active duty, spent four years in the Standby Reserve and received my Honorable Discharge on June 20, 1974.”

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

“Previously served as a Commissioner of Elections for the City of Florence. Was appointed in November, 1983, but resigned in 1985 after being elected Family Court Judge. Filing not required.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Morehead was admitted to the South Carolina Bar in 1973.

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

“(a) Joined the Law Firm of Nelson, Mullins, Grier & Scarborough in Columbia, South Carolina, as an Associate in 1973 and remained there for three years practicing in all courts in this state with a general focus on defense litigation surrounding personal and property injuries, products liability and Worker’s Compensation;

(b) In 1976 moved to Florence, South Carolina, and became a Partner in the Law Firm of Swearingen and Morehead, remaining there until June, 1985. Had a general practice doing both plaintiff’s and defense litigation in state Civil Court, Federal Court and Family Court;

(c) Was elected a Family Court Judge for the Twelfth Judicial Circuit on April 10, 1985, and began serving on June 19, 1985. Served continuously until Chief Justice Ernest Finney appointed me to serve on the Court of Appeals after Chief Judge William Howell retired until his successor was elected. Served from January, 2000, until July 1, 2000, and then returned to the Family Court Bench. Also in March, 2003, due to the illness of Judge Carol Connor, Chief Justice Jean Toal appointed me to serve on the Court of Appeals for a one-month term. In June, 2007, sat on the South Carolina Supreme Court by special appointment of the Chief Justice as a result of a conflict with one of the Associate Justices.”

Judge Morehead reported the frequency of his court appearances prior to his service on the bench as follows:

“(a) Federal: 5 to 10 times per year;

(b) State: 150 to 175 times per year;

(c) Other: not applicable

Judge Morehead reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

“(a) Civil: 35%;

(b) Criminal: 10%;

(c) Domestic: 40%;

(d) Other 15 %.”

Judge Morehead reported the percentage of his practice in trial court prior to his service on the bench as follows:

“(a) jury: 30 to 35%;

(b) non-jury: 65 to 70%”

Judge Morehead provided that prior to his service on the bench, he most often served as sole counsel.

The following is Judge Morehead’s account of his five most significant litigated matters:

“(a) Falk v. Sadler, 341 S.C. 281, 533 S.E.2d 350 (S.C.App. 2000). This case dealt with the liability of a Guardian ad Litem in a Family Court setting immediately prior to the new statute which was subsequently passed by the Legislature. The decision stood for the proposition that a Guardian ad Litem, even though having quasi judicial immunity, could be individually liable if acting outside the scope of authority;

(b) deBondt v. Carlton Motorcars, Inc., 342 S.C. 254, 536 S.E.2d 399 (S.C.App. 2000). The case is significant and unusual in that it examines the regulations under the Manufacturers, Distributors and Dealers Act along with the Unfair Trade Practices Act. It gives a good discussion on fraud and misrepresentation along with specific performance. It further points out the problem with hearing summary judgment motions by two different judges at different times – one judge concluding that the co-defendant was responsible with the other judge, likewise, finding that the opposite co-defendant was responsible;

(c) Richardson v. City of Columbia, 340 S.C. 515, 532 S.E.2d 10 (S.C.App. 2000). A good analysis of how the South Carolina Tort Claims Act and the South Carolina Recreational Use statute can be reconciled where both could be applicable in certain situations. The case further analyzes liability under the Tort Claims Act discussing defect, actual notice and failure to correct;

(d) Davis v. Traylor, 340 S.C. 150, 530 S.E.2d 385 (S.C.App. 2000). The importance of this case surrounded the use of demonstrative evidence in the setting of an abuse of discretion standard for reversal;

(e) Hubbard v. Taylor, 339 S.C. 583, 529 S.E.2d 549 (S.C. App. 2000). A good, basic torts case on the issue of negligence, proximate cause and foreseeability.”

The following is Judge Morehead’s account of five civil appeals he has personally handled:

“Again, it has been twenty-three years since I practiced law; but while in active practice, I did handle appellate work. The last two reported cases are:

(a) Gibson v. Florence Country Club, 282 S.C. 384, 318 S.E.2d 365 (1984), and

(b) Mutual Savings and Loan Association v. McKenzie, 274 S.C. 630, 266 S.E.2d 423 (1980).

Since this is a position for appellate work, in addition to the five published cases attached above in paragraph 19, I am enclosing five additional Opinions which were authored but unpublished.

(a) Spartanburg National Bank v. DTF, Inc.;

(b) Sanders v. Wal-Mart Cities Stores;

(c) Charles H. Smith v. Town of Ridgeland;

(d) Joyce Lynn K. McDowell v. F.L. McDowell;

(e) Wilton T. Kay v. South Carolina Farm Bureau Mutual Insurance Company.”

The following is Judge Morehead’s account of five criminal appeals he has personally handled:

“Attached are five criminal cases that I authored while sitting on the Court of Appeals and which have been published.

(a) State v. Benjamin, 341 S.C. 160, 533 S.E.2d 606 (S.C. App. 2000). This case deals with the interpretation of the habitual offender statute;

(b) State v. Dinkins, 339 S.C. 597, 529 S.E.2d 557 (S.C. App. 2000). This case was affirmed by the Supreme Court at 345 S.C. 412, 548 S.E.2d 217 (2001). See attached;

(c) State v. Thomason, 341 S.C. 524, 534 S.E.2d 708 (S.C. App. 2000). Deals with a double jeopardy claim on a guilty plea;

(d) In the Interest of Robert R., 340 S.C. 242, 531 S.E.2d 301 (S.C. App. 2000). Deals with the standard South Carolina has adopted on the admissibility of scientific evidence and what steps the Court must take in determining that determination;

(e) State v. Muldrow, 340 S.C. 450, 531 S.E.2d 541 (S.C. App. 2000). This is a case in which I dissented with the majority’s interpretation of armed robbery under our statute. It was appealed to the Supreme Court with the Supreme Court reversing the majority and agreeing with my dissent. See, State v. Muldrow, 348 S.C. 264, 559 S.E.2d 847 (2002) attached.”

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

“Elected Family Court Judge for the Twelfth Judicial Circuit, Seat #2, on April 10, 1985, and began holding Court on June 19, 1985. Have served continuously since that date.

Upon retirement of Chief Judge William Howell from the Court of Appeals, Chief Justice Ernest Finney appointed me to serve on the Court of Appeals from January 2000 through June 2000.

Also in March, 2003, due to the illness of Judge Carol Connor, Chief Justice Jean Toal appointed me to serve on the Court of Appeals for a one-month term.

In June, 2007, sat on the South Carolina Supreme Court by special appointment of the Chief Justice as a result of a conflict with one of the Associate Justices.”

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

“See [my most significant litigated matters as well as the civil and criminal appeals I personally handled which are discussed above].”

Judge Morehead further reported the following regarding unsuccessful candidacies:

“(a) In the fall of 2002, was a candidate for Seat #6 on the South Carolina Court of Appeals;

(b) In the spring of 2007, was a candidate for Seat #5 on the South Carolina Supreme Court. Found qualified but not recommended;

(c) In the fall of 2007, was a candidate for Seat #3 on the South Carolina Supreme Court. Found qualified but not recommended.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found “Judge Morehead to be a highly qualified candidate who would ably serve on the Supreme Court bench.”

Judge Morehead is married to Elaine Dempsey Morehead. He has two children.

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

“(a) Formerly member of Richland County Bar Association from 1973-76;

(b) American Judicature Society;

(c) The South Carolina Defense Attorneys Association and the American Bar Association;

(d) Presently a member of the Florence County Bar Association and the South Carolina Bar Association. With the South Carolina Bar Association, have served as Sixth District Representative, Young Lawyers Division, from 1978 to 1980; on the Lawyer Referral Committee from 1974 to 1980; on the Practice and Procedures Committee from 1980 to 1982 and the Commission of Continuing Legal Education and Specialization from 1992 to 2000;

(e) In 1994 served as President of the South Carolina Conference of Family Court Judges and was previously a member of the National Council of Juvenile and Family Court Judges and the Association of Family and Conciliation Courts;

(f) Presently serving as Chairperson of the Family Court Judges’ Advisory Committee to the Chief Justice.”

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

“(a) Member of the American Legion serving on local, district and state committees;

(b) American Legion Palmetto Boys State for the past 46 years, serving as Director of the program from 1983 to 1999 (In 1999 received recognition from National Commander of the American Legion for working with youth in the state of South Carolina.) Presently serve as Chairman of the Boys State Committee for the State Department of the American Legion;

(c) Past President of the Florence Country Club;

(d) Member of the Pee Dee Area Citadel Club (past President);

(e) Member of St. Anthony’s Roman Catholic Church (Served on the Diocesan Pastoral Council under two Bishops for the Diocese of Charleston; past member, Parish Council and Chair of School Board);

(f) Worked with Encore Theatre Company and the Florence Little Theatre on its Board of Directors;

(g) SC Family Court Judges Association (in 1996 received the President’s Award in recognition for assisting and beginning the Parent and Children in Transition Program in SC; in 2008 was the inaugural recipient of the Buchan, Brown, Jacobs award honoring integrity, professionalism, skill, compassion, spirit, optimism and courage);

(h) Served as Chairman of the Twelfth Judicial Circuit Juvenile Justice Youth Council (Chairman from 1997 to 1999);

(i) Served on the Governor’s Juvenile Justice Task Force from 1997-99;

(j) Presently operating a Juvenile Drug Court in the Twelfth Judicial Circuit from 2002 to present.”

(11) Commission Members’ Comments:

The Commission commented that Judge Morehead is an intelligent, experienced, and well respected jurist. They noted that he would make fair and informed decisions on the Supreme Court.

(12) Conclusion:

The Commission found Judge Morehead qualified, but not nominated, to serve as a Supreme Court justice.

**H. Bruce Williams**

**Supreme Court, Seat 4**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Williams meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge Williams was born in 1956. He is 53 years old and a resident of Columbia, South Carolina. Judge Williams 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 1982.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Williams.

Judge Williams 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 Williams reported that he has made $107.45 in campaign expenditures for stationary.

Judge Williams 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 Williams 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 Williams to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Williams described his 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;

(c) Annual Judicial Conference 8/03 – 8/08

(d) National Foundation for Judicial Excellence 7/05-7/08

(e) 4TH Amendment Seminar (National Judicial College) 3/08

(f) Essential Skills for the Appellate Judge

(National Judicial College) 7/1/08

(g) South Carolina Drug Court Conference 8/23/06, ’07, ‘08

(h) Civil Law Update 1/27/06, 1/08

(i) Criminal Law Update 1/27/06,1/07, 1/08

(j) Family Court Judges Conference 4/03 – 4/08

(k) Mini Summit on Justice for Children 8/22/06

(l) Hot Tips for Domestic Law Practitioners 9/22/06

(m) Family Court Bench and Bar 12/01/06

(n) New Appellate Judge Conference

(New York University) 7/10/05

(o) Criminal Law Update 1/21/05

(p) Trial and Appellate Advocacy 1/22/05

(q) Hot Tips For Domestic Law Practitioners 9/23/05

(r) Annual Judicial Symposium 7/15/05-07

(s) SC Defense Lawyers Annual Meeting 11/05 – 11/08

(t) SC Bar Family Law Section 1/23/04

(u) Revised Lawyers Oath Seminar 8/27/04

(v) Wofford and the Law 9/24/04

(w) Annual Solicitors Conference 9/26/04

(x) SC Bar Family Law 1/24/03

(y) SC Trial Lawyers Conference 8/04-08

(z) Annual Solicitors Conference 9/03, 05, 06

(aa) Annual Mid-Year Solicitors Conference 2/08

(bb) National Association of Drug Court

Professionals 6/04, ‘06, ‘08”

Judge Williams reported that he has taught the following law‑related courses:

“(a) I have lectured at the SC Bar Program “Bridge the Gap” for new lawyers.

(b) I have made presentations on the topics of appellate advocacy and domestic relations to lawyers attending the Annual SC Bar Meeting.

(c) I have given presentations in the areas of appellate law and domestic relations to the South Carolina Trial Lawyers at the annual meeting.

(d) I have lectured to University of South Carolina Law School classes relating to the following topics: alternative sentencing/drug court, abuse and neglect cases, domestic relations.

(e) I lectured to undergraduate and graduate level classes at the University of South Carolina regarding juvenile crime and drug court.

(f) I had to opportunity to participate as a group leader in drug court training for new courts in a program sponsored by the National Association of Drug Court Professionals.

(g) I have made numerous presentations at SC Solicitors’ annual Conference relating to juveniles, case law updates, drug court, and civility in the courts.

(h) I had the opportunity to speak at locally sponsored CLE event regarding abuse and neglect cases and guardian ad litem training.”

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

(4) Character:

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

The Commission also noted that Judge Williams 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 Williams reported this last available Martindale-Hubbell rating was BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Williams was admitted to the South Carolina Bar in 1982.

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

“(a) 1982 -1995: General practice of law with primary emphasis on family law and personal injury law;

(b) Scott, Mathews, and Williams: 1982 – 1991;

(c) Trotter and Williams: 1991 – 1995;

(d) 1991 – 1995: Part-time municipal judge for Irmo, South Carolina;

(e) 1995 – 2004 Judge, South Carolina Family Court;

(f) 2004 – present Judge, South Carolina Court of Appeals.”

Judge Williams further reported:

“Since its inception in1997, I have served as presiding judge for the Richland County Juvenile Drug Court. Additionally I served as an acting circuit court judge for the Richland County Adult Drug Court for three years.”

Judge Williams reported the frequency of his court appearances prior to his service on the bench as follows:

“(a) Federal: low;

(b) State: high.”

Judge Williams reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

“(a) Civil: 30%;

(b) Criminal: 5%;

(c) Domestic: 65%.”

Judge Williams reported the percentage of his practice in trial court prior to his service on the bench as follows:

“(a) Jury: 5%;

(b) Non-jury: 95%.”

Judge Williams provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Williams’s account of his five most significant litigated matters:

“(a) Melvin v. Melvin – Long term marriage involving issues of contested divorce and equitable distribution of military retirement.

(b) Inman v. Inman – A custody case involving a mother who moved out of state.

(c) Oswald v. Oswald – A contested custody case involving child support, visitation, equitable distribution and attorney fees.

(d) Jackson v. Jackson – A domestic case seeking custody for the mother who had given up custody and visitation with her children. Custody was obtained for the mother.

(e) Bullard v. Ehrhardt – 324 S.E.2d 61, 283 S.C. 557 (1984) This case established the duty of a store owner to invitees for criminal acts of third parties in negligence actions.”

The following is Judge Williams’s account of the civil appeals he has personally handled:

“(a) Marvin E. Davis v. Bernice H. Davis

(b) Oyler v. Oyler – 358 S.E.2d 170, 293 S.C. 4 (S.C. App. 1987) participation limited to responsibility for oral argument and assisting in writing brief.

(c) Bullard v. Ehrhardt – 324 S.E.2d 61 283 S.C. 557 (1984)

(d) Francis June Rawl v. Roy Edwin Rawl Sr. – Participation limited to oral argument.”

Judge Williams reported that he has not handled any criminal appeals.

Judge reported that he has held the following judicial offices:

“(a) Assistant Town Judge, Irmo, SC: October 1991 – June 6, 1995: Appointed by Town Council; jurisdiction limited to magistrate level criminal and traffic offenses. Duties included setting bonds criminal defendants

(b) S.C. Family court Judge, Fifth Circuit, Richland County , Seat # 1; June 1995 – June 2004. Jurisdiction includes, but is not limited to divorce, adoption, abuse and neglect cases, and juveniles. I have presided over the Richland County Juvenile Drug court since inception in 1997.

(c) S.C. Court of Appeals – jurisdiction over all appeals except those reserved by statute to the Supreme Court.

(d) I was appointed as a special Circuit Judge to preside over the Richland County Adult Drug Court and I continue to preside over the Richland County Juvenile Drug Court as an acting family court judge”

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

“(a) Hooper v. Rockwell, et al. - 334 S.C. 281, 573 S.E.2d 358, (1999);

(b) Truitt v. Truitt – 361 S.C. 272, 603 S.E.2d 867 (Ct.App.2004);

(c) State v. Lynch, 375 S.C.628, 654 S.E. 2d 292 (Ct.App.2007);

(d) State v. Funderburk, 367 S.C. 236 , 625 S.E.2d 248 (Ct.App.2006);

(e) McLaughlin v. Williams, 379 S.C. 451, 665 S.E. 2d 667 (2008).”

Judge Williams further reported the following regarding unsuccessful candidacies:

“(a) In 1994, I was a candidate for Family Court Judge. I was found qualified by the S.C. Bar and Judicial Merit Selection Commission. I withdrew prior to the election. I was elected to the Family Court in 1995.

(b) In 2003, I was found qualified by the S.C. Bar in my effort to serve on the S.C. Court of Appeals. I was found qualified and nominated by the Judicial Merit Selection Commission. Another candidate won the election. I was elected to Court Of Appeals in 2004.

(c) In 2007, I was found qualified by the S.C. Bar in my effort to serve on the Supreme Court. I was found qualified and nominated by the Judicial Merit Selection Commission. Another candidate won the election.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen Committee found “Judge Williams to be a very eminently qualified and most highly regarded candidate, who would most ably serve on the Supreme Court in a most outstanding manner.”

Judge Williams is married to Sharon Childers Williams. He has two children.

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

“(a) S.C. Bar, 1982 – present;

(b) Richland County Bar, 1982 – present; Family Law Chairman 1993; Family Law Committee, 1991 -1993;

(c) S.C. Conference of Family Court Judges, 1995 -2004; President, 1999-2000; President-elect, 1998-99; Secretary-Treasurer, 1997-98

(d) S.C. Association of Drug Court Professionals; President 2000 – 2001; 2008 – Present; Board Member, 2006 – present;

(e) John Belton O’Neall Inn of Court, 2007-present.”

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

“(a) Received the ‘Program Achievement Award’ at the 1998 Governor’s Conference on Youth Crime for initiating and developing the Richland County Juvenile Drug Court;

(b) Columbia Kiwanis Club – President, 1989 – 1990; Board of Directors, 1987 – 1991 and 1994 – 1995; Key Club and Keywanettes – Advisor, 1983 -1996;

(c) The Country Club – Wildewood and Woodcreek Farms; Chairman of the Golf Committee, 2005–06; committee member, 2003–04. The club is now known as The Members Club at Woodcreek Farms and Wildewood. I am now serving as Chairman of the Golf Committee;

(d) Tarantella;

(e) Palmetto Club;

(f) South Carolina Association of Drug Court Professionals-President (2007-2008).”

(11) Commission Members’ Comments:

The Commission commented that Judge Williams has a wealth of experience in his various judicial roles, including his current service on the Court of Appeals. The Commission noted Judge Williams’s passion for growing drug courts in his state, and as evidenced by his continuing involvement with drug courts in Richland County for 12 years and his present service as current President of the S.C. Association of Drug Court Professionals for 2008-2010.

(12) Conclusion:

The Commission found Judge Williams qualified, but not nominated, to serve as a Supreme Court justice.

**Rame L. Campbell**

**Circuit Court, Tenth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

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

Mr. Campbell was born in 1969. He is 40 years old and a resident of Anderson, South Carolina. Mr. Campbell 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. Campbell.

Mr. Campbell 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. Campbell reported that he has made $8.75 in campaign expenditures for a name tag.

Mr. Campbell 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. Campbell 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. Campbell to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) 2008 Annual SC Solicitor’s Conference 9/28/08-10/1/08;

(b) Association of Government Attorneys in

Capital Litigation Annual Conference 8/27/08-8/30-08;

(c) Capital Litigation Seminar, SCSA 8/21/08-8/22/08;

(d) Capital Litigation Seminar, SCSA 5/16/07-5/18/07;

(e) Prosecuting Drug Cases, NDAA 9/30/07-10/4/07;

(f) 2006 Annual SC Solicitor’s Conference 9/24/06-9/28/06;

(g) SC Methwatch Program 3/11/05;

(h) U.S. District Court Attorney ECF Training 8/22/05;

(i) 2005 Annual SC Solicitor’s Conference 9/25/05-9/28/05;

(j) Prosecuting Drug Cases, NDAA 11/27/05-12/1/05;

(k) Revised Lawyer’s Oath CLE 10/5/04;

(l) SC Family Court Bench/Bar 12/3/04;

(m) SC Bar 18th Annual Criminal Law Update 1/24/03;

(n) The Probate Process 8/22/03;

(o) SCTLA 2003 Annual Convention 8/7/03;

(p) SCTLA Auto Torts 12/5/03-12/6/03.”

Mr. Campbell reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Mr. Campbell 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. Campbell reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Campbell was admitted to the South Carolina Bar in 1997.

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

“(a) Assistant Solicitor, Fourteenth Judicial Circuit. August 1997 – November 2000. I was responsible for managing and prosecuting a criminal docket in Municipal, Magistrate, and General Sessions Court. I prosecuted felony and misdemeanor cases as well as juveniles in Family Court.

(b) Law Firm of Epps & Nelson. December 2000 – December 2004. I was an associate in a general practice law firm with my primary emphasis in civil litigation handling mainly personal injury, business law. and contract cases, both jury and nonjury, Criminal Defense in Magistrate, State and Federal Court and Family Law, handling both contested and uncontested cases. I was also the Town of Belton’s trial attorney for municipal criminal matters.

(c) Assistant Solicitor, Tenth Judicial Circuit. January 2005 – Present. My primary emphasis is handling and prosecuting cases in General Sessions Court that involve the Death Penalty, Homicides, Violent Crimes and Felony Drug Cases.”

Mr. Campbell further reported:

“I have spent the majority of my legal career dealing with matters involving criminal and civil litigation at the Circuit Court level.

In criminal matters, I have represented both the State and criminal defendants in General Sessions, Magistrate and Municipal court. As a State prosecutor, I have actively participated in approximately 35-40 General Sessions Felony jury trials, mainly as the lead attorney. I have successfully tried cases where people were charged with everything from minor traffic offenses to murder. Over the last few years, my main criminal law focus has dealt with homicides, violent crimes and drug cases. I have successfully handled eighteen murder cases for the state by trial or resolving the case through a guilty plea. The main legal issues that I have dealt with in my prosecuting experience are suppression hearings dealing with 4th Amendment Search and Seizure issues, Jackson v. Denno hearings dealing with whether a person charged with a crime gave a voluntary statement, Competency hearings to determine a defendant’s fitness to stand trial, Criminal Responsibility hearings to determine whether a defendant could distinguish between right and wrong at the time the crime was committed, Schemerber hearings for a Court order to allow the government to procure evidence from a person’s body, and Witness Identification hearings.

My legal career has not been entirely devoted to the public service sector as a State prosecutor. I have had the experience of defending individuals charged with violating state criminal laws from misdemeanors in Magistrate Court to violent crimes in General Sessions. As an associate in a general practice law firm, I devoted approximately forty percent of my practice to criminal defense. This was either as a court appointed attorney or being privately retained. I resolved my client’s cases either by trying the case before a jury or resolving the matter with a plea or through a diversion program like pre-trial intervention, mental health court or drug court. I have also been involved in a capital murder case from the defense standpoint when I was appointed second council in the capital murder case of State v. Rico Hill. I have also assisted my senior partner in the defense of two clients charged with murder.

My several years in private practice also exposed me to the many different areas of civil litigation. I mainly represented plaintiffs in personal injury cases, wrongful death actions, real estate, business law, contracts and other tort matters. Occasionally, I did defend individuals who had lawsuits brought against them. While I did participate in several trials at the Circuit Court level as either lead counsel or as second chair, the majority of my civil work dealt with drafting lawsuits, handling pretrial matters, discovery, depositions, interrogatories, mediation and ADR.

I did not handle any criminal or civil appellant work but I have had at least one of my criminal cases appealed all the way to the South Carolina Supreme Court in which the Court upheld the verdict and my position at trial.”

Mr. Campbell reported the frequency of his court appearances during the past five years as follows:

“(a) Federal: 5%, while in private practice before 2005;

(b) State: 95%.”

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

“(a) Civil: 40% prior to 2005, 0% since 2005, when I became a state prosecutor;

(b) Criminal: 40% prior to 2005 as a criminal defense attorney, 100% since 2005, when I became a state prosecutor;

(c) Domestic: 20% prior to 2005 while in private practice, 0% since 2005, when I became a state prosecutor.”

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

“(a) Jury: 95% of my cases have involved trials or were resolved by guilty pleas;

(b) Non-jury: 5%.”

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

The following is Mr. Campbell’s account of his five most significant litigated matters:

“(a) State v. Raymondeze Rivera. Mr. Rivera, a self admitted serial killer, was convicted by an Anderson County jury on the first of two murders he committed in Anderson County. This conviction is the aggravating circumstance the State has used to file for the Death Penalty against him. His Death Penalty trial is scheduled for 7/6/09 in Anderson County.

(b) State v. Johnny Mahaffey. The victim, Ryan Cox, was found dead lying in the middle of a dark stretch of highway after being shot eight times. The case is significant because the homicide investigation began with no eyewitnesses and weak circumstantial evidence. Through the use of forensic evidence, cell phone records, and hard work by law enforcement, I was able to piece together that nights events and prove to a jury that Mr. Mahaffey had in fact committed the murder. He was subsequently found guilty and sentenced to life imprisonment.

(c) State v. Linda Taylor, 355 SC 392, 585 S.E.2d 303 (2003). The South Carolina Supreme Court upheld the conviction of Ms. Taylor for the unlawful issuance of fictitious driver’s licenses to illegal aliens through her position as manager of the SCDMV office in Walterboro, South Carolina. The case is significant because the parties involved were litigating over the novel issue of what the definition of “fictitious” means. The Court ruled with my position in that a driver’s license issued by an employee of the DMV is “fictitious” when the employee knows the information being provided is false, does not require the individuals to produce proper identification, take the written exam and take the driving test.

(d) State v. Larry Evans, 378 SC 296, 662 S.E.2d 489 (2008). This case is significant because Mr. Evans, a career criminal in Anderson County, was finally put behind bars for possessing a stolen vehicle. After his convict the reported thefts and other crimes being committed in the area he operated in were drastically reduced.

(e) State v. Steward. This was a drug case I prosecuted in Colleton County. During the trial of the case before the Honorable Diane Goodstein I felt that my lay witnesses were not being honest and truthful on the witness stand about Mr. Steward’s involvement with the cocaine found in the car. During a break I confronted them about their testimony and based on their responses I moved to dismiss the state’s case during the trial. This case is significant to me because it reinforces and reminds me that a prosecutor’s job is not to obtain a conviction but to seek justice and do what is right for the victim as well as the accused.”

Mr. Campbell reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Campbell’s temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found, “based on the evaluative criteria that this committee is charged with examining regarding each candidate, Mr. Campbell meets and exceeds the requirements in each area.”

Mr. Campbell is married to Jennifer Parham Campbell. He has one child.

Mr. Campbell reported that he is a member of the following bar associations and professional associations:

“(a) Anderson County Bar Association, 2000 to present;

(b) South Carolina Bar Association, 1997 to present; and

(c) South Carolina Solicitors’ Association, 2005 to present.”

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

“(a) Eagle Scout with three palms in Boy Scouts of America;

(b) Holy Trinity Episcopal Church in Clemson, SC

i. involved in year one of Education for Ministry

ii. on Church Gift Acceptance Committee

iii. involved with Habitat for Humanity through Church;

(c) Member of the Phillip Simmons Artist Blacksmith Guild; and

(d) Supreme Court of South Carolina Recognition and Appreciation of Service Certificate, 9/8/04.”

Mr. Campbell further reported:

“I believe that my legal background and life experiences have given me a solid foundation needed to be a Circuit Court Judge. My family has always been involved in public service. My dad retired from the Florida Highway Patrol after serving thirty eight years as a state trooper. My mom retired after twenty five years in the public school system. My parents instilled in me the values that directly correlate with a judiciary position. Values like hard work, integrity, fairness and honesty. These values were further reinforced and solidified while a member of the Boy Scouts of America were I obtained the rank of Eagle Scout with three palms.

Since 1997, I have served approximately seven years as a prosecutor with the Tenth and Fourteenth Judicial Circuit Solicitor’s Office. I have handled hundreds of criminal cases. As a prosecutor my job has always been to see that justice is served. To me this has meant not just trying to obtain a conviction but doing what is right and best for the victims, defendants and judicial system. I take these principals seriously and apply them on a daily basis. I have no better example of this than when I dismissed my own case in the middle of a drug trial because I felt that my witnesses were lying about the defendant’s involvement with the crime.

I have also practiced law from the other side of the courtroom while an associate in a small town general practice law firm. The four years I spent as a civil litigator and criminal defense lawyer have proved invaluable. I was exposed to cases involving personal injury, wrongful death, real estate, business dissolutions, contract disputes, will & trusts, family law and criminal defense. This experience has broadened my legal thinking and thought process and has been beneficial in viewing legal issues from different angles and points of view. I am in good standing with my local legal community and have a good reputation. I feel this is the reason I was appointed by the South Carolina Supreme Court to assume the responsibility of an attorney’s law practice when he was being disbarred for misconduct.

Anderson, South Carolina, is the community where I am raising my family and work. I would welcome the opportunity to serve my community and State in a judiciary capacity.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Campbell has demonstrated a good work ethic and would be the type of Circuit Court judge who would still be in the office on Friday afternoons presiding over matters. They noted that he has broad legal knowledge of the law in both the criminal and civil areas, which would assist him in serving on the Circuit Court bench.

(12) Conclusion:

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

**R. Lawton McIntosh**

**Circuit Court, Tenth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

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

Mr. McIntosh was born in 1960. He is 49 years old and a resident of Williamston, South Carolina. Mr. McIntosh 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. McIntosh.

Mr. McIntosh 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. McIntosh reported that he has made the following campaign expenditures:

“12/19/08

Letters: 140 @ .533 $74.62

Staff Time: 4 hrs.@ 15.71 $62.84

01/12/09:

Badge: 1 @ 15.90 $15.90

01/16/09

Letters: 3 @ .533 $1.60

Staff Time: .5 hrs @ 15.71 $7.86

01/28/09:

Letter: 1 @ .533 $.53

Staff Time: .25 hrs @ 15.71 $3.93

Total thru 2/25/09 $167.28”

Mr. McIntosh 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. McIntosh 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. McIntosh to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) 6th Annual Spring Seminar 05/02/03;

(b) Organize, Operate Law Firm 10/24/03;

(c) Auto Torts XXVI 12/05/03;

(d) Employment Law A to Z 04/14/04;

(e) Police Liability 08/24/04;

(f) Revised Lawyers Oath CLE 10/05/04;

(g) Auto Torts XXVII 12/03/04;

(h) Attorney ECF Training 06/29/05;

(i) Ethics Update 10/26/05;

(j) 2nd Annual Dove Shoot 11/21/05;

(k) Auto Torts XXVIII 12/03/05;

(l) Solving Water Intrusion & Mold 02/23/06;

(m) Auto Torts XXIX 12/01/06;

(n) Workers CompHearing 05/08/07;

(o) Auto Torts XXX 11/30/07;

(p) Ethics Tutorial 10/30/08;

(q) Auto Torts XXXI 12/05/08.”

Mr. McIntosh reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Mr. McIntosh 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. McIntosh reported that his Martindale-Hubbell rating is “BV.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. McIntosh was admitted to the South Carolina Bar in 1986.

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

“(a) After taking my bar examination, I was a law clerk for McIntosh and Sherard in Anderson, South Carolina (now McIntosh, Sherard & Sullivan) until I was admitted to practice on November 14, 1986

(b) Shortly after being admitted to practice, I served as an interim law clerk for the Honorable Luke N. Brown, Jr., Circuit Court Judge, Fourteenth (14th) Judicial Circuit. I clerked until May, 1987 and completed my clerkship upon Judge Brown’s originally selected law clerk passing the bar examination.

(c) Subsequent to my clerkship, I was hired as an associate by McIntosh and Sherard (Now McIntosh, Sherard & Sullivan) in May of 1987. I have continuously worked as either an associate or partner with McIntosh, Sherard & Sullivan from May of 1987 through the present.

(d) (May of 1987 through approximately 1990) – The general character of my practice included primarily handling civil and domestic cases. The civil cases I assisted with or handled ranged from representing individuals and business as plaintiffs or defendants in business and real estate related litigation. I also represented or assisted with representing plaintiffs in personal injury cases. My domestic practice primarily included representing both wives and husbands as either plaintiffs or defendants. A small percentage of my practice involved representing criminal defendants with charges such as grand larceny, criminal sexual conduct (1st), simple possession, DUI and traffic offenses. Although I represented criminal defendants in Circuit Court on guilty pleas, I have not tried a criminal case above the magistrate’s court level. I also occasionally closed loans.

(e) (1990 – 2000) I discontinued representing criminal defendants and performing loan closings. My civil and domestic practice continued as described above. I also started representing claimants in workers’ compensation cases. Approximately thirty (30%) percent of my practice was devoted to domestic cases; approximately forty (40%) percent of my practice was devoted to personal injury and workers’ compensation and approximately thirty (30%) percent was devoted to representing individuals and businesses in business and real estate related litigation. In this category, I represented both plaintiffs and defendants.

(f) (2000 – 2006) While the focus on my practice remained the same, the percentage of my practice devoted to each area changed. In March, 2003, our firm hired an associate to assist me with litigation. Our associate focuses primarily on domestic cases, enabling me to stop handling domestic cases in 2006 (with the exception of Court-appointed cases). During this period, the number of personal injury cases I handled declined to approximately twenty (20%) percent of my practice, which, together with representing workers’ compensation claimants, constituted approximately thirty (30%) percent of my practice. I also began handling probate matters, mostly litigation, which constituted approximately five (5%) percent of my practice. The remainder of my practice continued to focus on representing individuals and businesses as plaintiffs or defendants in real estate and business litigation, as well as my Court-appointed cases. I also defended the County of Anderson in two (2) cases.

(g) (2006 – present) Approximately thirty (30%) percent of my practice involves representing plaintiffs and claimants in personal injury and workers’ compensation cases. Approximately five (5%) percent involves handling probate matters, mostly litigation. The remainder of my practice continues to involve representing individuals and businesses as plaintiffs or defendants in real estate and business-related litigation as well as my Court-appointed cases.”

Mr. McIntosh further reported:

“(a) Criminal Experience I have not handled a criminal case within the last five (5) years. To compensate for my lack of experience, I would research and study cases and authoritative sources concerning the procedural and substantive aspects of criminal law. For example, I recently obtained a copy of the *South Carolina Criminal Trial Techiques Handbook* published by the CLE Division of the SC Bar. I would attend C.L.E.s and workshops involving criminal law. I would also seek counsel from more seasoned and experienced members of the judiciary.

(b) Civil Experience: Within the last five (5) years, I have tried jury and non-jury trials in Circuit Court. I have litigated workers’ compensation cases and handled appeals of those cases. I have handled appeals before the South Carolina Court of Appeals and appeals before the South Carolina Supreme Court. I have argued numerous motions in Circuit Court typically involving discovery matters or motions for summary judgment. I have tried a good number of cases in municipal or magistrate’s court. I have handled many conflicts that were resolved without the necessity of litigation or were settled after litigation was commenced. I have frequently appeared before the Family Court in Court-appointed cases as an attorney or guardian *ad litem*. Presently, most of my cases involve representing individuals or businesses as either plaintiffs or defendants in real estate, business or estate related litigation. Examples of these cases include usurpation of a corporate opportunity, tortious interference with prospective economic advantage, breach of fiduciary duty, dissolution of a corporate entity, interference with an easement, encroachments, removal of a personal representative or trustee, fraud, accountings, breach of lease, breach of contract, the Uniform Commercial Code (Article 2), and construction cases.

(c) A significant but lesser part of my caseload involves representing plaintiffs in personal injury actions and claimants in workers’ compensation cases. The personal injury cases vary from car wrecks, trip and falls to dog bites. I was recently successful in an appeal of the grant of summary judgment in a dog bite case. [See Harris –v- Anderson County Sheriff, (Sup.Ct.Op.No.26596, Filed 2/09/09) (See (b) under my most significant litigated cases] In addition to representing claimants before the SC Workers’ Compensation Commission, I am currently defending two (2) uninsured employers in workers’ compensation claims.”

Mr. McIntosh reported the frequency of his court appearances during the past five years as follows:

“(a) Federal: None;

(b) State: The frequency of my appearances in state court varies. My appearances may include multiple appearances in a week; but there are periods when I have no appearances for several weeks. Typically, my court appearances do not involve periods of more than a month that I do not appear.”

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

“(a) Civil: 97%;

(b) Criminal: 0%;

(c) Domestic: 3% (Court appointments).”

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

“(a) Jury: 50%;

(b) Non-jury: 50%.”

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

The following is Mr. McIntosh’s account of his five most significant litigated matters:

“(a) Lowrey -v- School District of Oconee County (CA No. 2005-CP-37-06)

This was a week-long jury trial involving parents and a minor child’s claims stemming from mold exposure in an elementary classroom setting. It is memorable because the case involved the dispute of whether prolonged exposure to mold could proximately cause permanent damage. All of plaintiffs’ exhibits were presented via computer presentation and backed up by exhibit notebooks. This case was settled on appeal.

(b) Harris -v- Anderson County Sheriff’s Office (Sup.Ct.Op.No.26596, Filed 02/09/09)

This case was significant because it resulted in the South Carolina Supreme Court’s Opinion clarifying the dog bite statute.

(c) Oconee County -v- Anderson County and Pickens County (CA No.2002-CP-39-942)

This case involved a three (3) county dispute over an alleged breach of a tri-county landfill agreement. This case was settled before trial after extensive discovery at mediation. The case is memorable because it involved technical issues concerning state-of-the-art recycling facilities and DHEC regulations but was resoled on the basis of a statute of limitations issue.

(d) Stringer -v- Herron, 309 S.C.529, 424 S.E.2d 547 (Ct.App.1992)

The case was significant because it involved mapping over fifty thousand (50,000) veterinary patients by zip code. Procedurally, it is significant because it involved the grant of a TRO, a supercedeas of the TRO, a trial on the merits and an appeal on the merits. It is an often-cited case involving covenants not to compete ancillary to an employment contract.

(e) Estate of Bonnie O. Landreth 2003-ES-04-00523 and Estate of Johnny C. Landreth, Sr., 2003-ES-04-00488 (Probate)

The cases, litigated together, were significant because they involved two (2) fairly large estates, multiple pieces of real property, a family corporation and securities, rental properties, rental incomes and other assets. I represented a devisee of the estates that petitioned to remove the personal representative for alleged misconduct and for related relief. The case involved identifying real properties in each estate, real properties conveyed from the estate and attempting to verify significant expenses allegedly spent to upgrade numerous rental properties and rental incomes. This case is significant because we were able to obtain a buy-out for client of a minority share of a family corporation after his equity in the business was upwardly adjusted. We were also able to segregate and convey to my client fee simple ownership in designated rental properties as opposed to his being a tenant-in-common. Overall, we were able to obtain for our client a fair distribution of his parents’ estates and remove him, in large part, from a continued entanglement with siblings.”

The following is Mr. McIntosh’s account of the five civil appeals he has personally handled:

“(a) Watson -v- Town of Pendleton, 294 S.C.155, 363 S.E.2d 234 (Ct. App. 1987);

(b) Weldon -v- Tiger Town RV & Marine Center, Inc., et al

(Unpublished Opinion No. 2004-UP-354)

(Withdrawn, Substituted & Refiled August 18, 2004 (Ct. App.);

(c) Perpetual Bank, FSB –v- W. Jerry Fedder, et al

(Unpublished Memorandum Opinion No. 2004-MO-031)

(Supreme Court, filed June 28, 2004);

(d) Glenn –v- School District No. Five of Anderson County, et al

294 S.C.530, 366 S.E.2d 47 (Ct. App. 1988);

(e) Silver Bay Seafood Restaurants, Inc. –v- Mann, et al

(Unpublished Opinion No. 2008-UP-431 (Ct. App.)

(filed July 31, 2008, petition for certiorari pending).”

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

(9) Judicial Temperament:

The Commission believes that Mr. McIntosh’s temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found that “based on the evaluative criteria that this committee is charged with examining regarding each candidate, Mr. McIntosh meets and exceeds the requirements in each area.”

Mr. McIntosh is married to Jessie Ruth Wilson. He has one stepdaughter.

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

“(a) South Carolina Bar;

(b) Anderson Inns of Court;

(c) South Carolina Association for Justice;

(d) South Carolina Workers’ Compensation Education Association.”

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

“(a) Alzheimers Association State Board - South Carolina Chapter (State Board Member);

(b) Western South Carolina Torch Club (Treasurer);

(c) Debutante Club of Anderson, Inc. (Parliamentarian) (resigned effective 4/13/09);

(d) The Chiquola Club of Anderson (member);

(e) National Rifle Association;

(f) Anderson Board of Assessment Appeals;

(g) Anderson YMCA.”

(11) Commission Members’ Comments:

The Commission commented that Mr. McIntosh is known as a diligent and competent attorney, which will serve him well on the Circuit Court. They also noted his diverse civil law experience.

(12) Conclusion:

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

**Eric K. Englebardt**

**Circuit Court, Thirteenth Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

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

Mr. Englebardt was born in 1964. He is 44 years old and a resident of Greenville, South Carolina. Mr. Englebardt 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 1989. He has also been licensed in North Carolina since 1990.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Englebardt.

Mr. Englebardt 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. Englebardt reported that he has made $50.00 in campaign expenditures for postage on “thank you” letters and stationery for those letters.

Mr. Englebardt 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. Englebardt 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. Englebardt to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date

(a) SCDTAA Joint Meeting 7/24/2003;

(b) SCDTAA Annual Meeting 11/6/2003;

(c) SCDTAA Joint Meeting 7/22/2004;

(d) NBI How to Litigate Your First Civil Trial

in South Carolina 12/17/2004;

(e) District of South Carolina CM/ECF 2/3/2005;

(f) ABA Transportation Mega Conference 3/3/2005;

(g) SCDTAA Joint Meeting 7/28/2005;

(h) SCDTAA Annual Meeting 11/3/2005;

(i) Changes to South Carolina 2/25/2006;

(j) SCDTAA Joint Meeting 7/27/2006;

(k) Changing the Rules, a Review 11/8/2006;

(l) SCDTAA Annual Meeting 11/9/2006;

(m) Uni-State Lawyers 3/3/2007;

(n) NBI The Art of Settlement 4/24/2007;

(o) SCDTAA Trial Academy 6/6/2007;

(p) NBI Mediation A Valuable Tool 7/24/2007;

(q) SCDTAA Annual Meeting 11/1/2007;

(r) Ounce of Prevention is Worth a Pound of Cure 2/27/2008;

(s) SCDTAA Joint Meeting 7/24/2008;

(t) SCDTAA Annual Meeting 11/13/2008.”

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

“I have taught sections on opening and closing arguments, expert cross examination as a group leader at the SCDTAA Trial Academy. I have also served as an instructor at NBI CLEs including ‘Mediation A Valuable Tool’, ‘How to Litigate Your First Civil Trial’ and ‘The Art of Settlement’.”

Mr. Englebardt reported that he has published the following:

“(a) I authored course materials for an NBI Seminar entitled ‘What to Expect in Your First Civil Trial in South Carolina’ in December 2004.

(b) I also authored a chapter called ‘How a Mediator Can Help You’, in course materials for NBI Course ‘Mediation, A Valuable Tool for Litigation’, in July 2007.”

(4) Character:

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

The Commission also noted that Mr. Englebardt 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. Englebardt reported that his Martindale-Hubbell rating is “BV.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Englebardt was admitted to the SC Bar in 1989 and the NC Bar in 1990.

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

“Since I graduated from law school my legal practice has been with three law firms. I began as an associate at Haynsworth, Marion, McKay & Guerard where I had served as a law clerk between my second and third year of law school. I started work in August 1989 and was admitted to the Bar in November of that year. I then was admitted to the North Carolina Bar after the February Bar Exam in 1990 and have been admitted to the United States District Court in South Carolina and all three districts in North Carolina. As a result of having spent some time working in the defense of the asbestos cases I have practiced in all three federal districts in North Carolina as well as the district of South Carolina on a variety of other cases as well. Additionally, I have tried several cases in State and Federal Court in North Carolina as well as approximately 70 cases in South Carolina.

In January of 1998 I became a shareholder at Haynsworth, Marion, McKay & Guerard where I continued until January of 2001, shortly after the merger where that firm became known as Haynsworth Sinkler Boyd. In January of 2001 I became a partner at Clarkson, Walsh, Rheney & Turner, P.A. I served as managing shareholder at that firm from July 1, 2004 through December 31, 2004. In September 2005 I became a shareholder at Turner, Padget, Graham & Laney, P.A. My practice has focused generally on the areas of insurance defense litigation, though I have handled a variety of plaintiff's cases as well as a small number of criminal/domestic matters. In 2000 I became certified as a mediator and have practiced as a mediator, mediating over 500 cases pending in both State and Federal Court. I am proud to have been listed in ‘Best Lawyers in America’ since 2007 for my ADR practice. I have also served as an arbitrator on two occasions in the last eighteen months in civil cases, and have more arbitrations scheduled in the next several weeks.

In the last 5 years my Court appearances have decreased in part because of the growth of my mediation practice and in part because of the decrease in the number of civil cases going to trial due to the success of ADR. I have tried two cases in the last six months. The first was a landowner dispute over tree cutting at a property line. The second was a complicated family dispute described more fully in [in the most significant litigated matters I have personally handled], which involved both civil and criminal issues.”

Mr. Englebardt further reported:

“My experience in criminal matters is admittedly more limited than my civil experience. In addition to the case described [in my most significant litigated matters], I have appeared in traffic court on a couple of occasions in the past for clients, but have never fully handled a significant criminal matter. Recently, however, I have begun participating in Youth Court, presiding as judge over misdemeanor criminal matters arising in the schools. This has given me some additional exposure to the criminal process in terms of the procedures and penalties, as well as interaction with members of law enforcement and members of the Criminal Defense Bar who oversee the program.

Additionally, several times in the last few months I have attended General Sessions Court as an observer, trying to get a feel for the ebb and flow of criminal procedure.

Obviously, I will need to overcome my lack of experience in criminal matters were I to be elected as a circuit judge, however, I have always prided myself as being a quick learner and, despite not having had a true criminal practice, I have always kept abreast of the case law involving criminal cases by reading the advanced sheets regularly. Obviously, it will take some study as well as listening to become familiar with criminal procedure, however, I believe I have a good handle of the Rules of Evidence and would be able to overcome my lack of experience in criminal matters to be an effective circuit judge.”

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

“(a) Federal: 4-5 times;

(b) State: I have had 5 or so jury trials and many court appearances in State Court in this time period. As the practice has shifted toward more mediation, many fewer cases have gone to trial in the Upstate. I would estimate that I have tried 70 trials before a jury in my career.”

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

“(a) civil: 96%;

(b) criminal: 2%;

(c) domestic: 2%.”

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

“(a) jury: 85%;

(b) non-jury: 15% - Motion Hearings. I have not had any non-jury trials in that time period.”

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

The following is Mr. Englebardt’s account of his five most significant litigated matters:

“(a) South Carolina Distributors and Livingston v. Livingston, et.al. This was a multimillion dollar case involving a breach of contract and probate dispute over a family business tried in Cherokee County;

(b) \_\_\_\_\_\_\_ v. CSX. This was a wrongful death and personal injury case involving two occupants of a car hit by a CSX train at a crossing in Joanna, South Carolina. This was a jury trial in front of The Honorable G. Ross Anderson in Federal Court in Anderson, South Carolina. After a week of trial, the jury granted us a defense verdict;

(c) Davis v. King Chris d/b/a McDonalds. This was a lawsuit against McDonalds Corporation over an injury which occurred in one of its parking lots. This case received much media exposure as at issue was the safety of the McDonalds playlands for children outside many of their restaurants. The case involved many complicated engineering and design issues;

(d) Register v. US Steel Corporation. This was a premises liability case involving a severe injury. It was tried to a verdict in Anderson County;

(e) Martha Knecht v. Linda Long, Melvin Dennis Long, Sherlon Tench, Dennis Tench, Cynthia Masters and David Masters. This was a lawsuit involving 8 separate causes of action for malicious prosecution, civil and criminal assault allegations, abuse of process, conversion, breach of fiduciary duties, financial exploitation, etc. It lasted for more than 3 years, and involved several criminal hearings, motion hearings and eventually a 3-day jury trial resulting in dismissal of all causes of action against 5 of my clients prior to trial and defense verdicts for my remaining client.”

The following is Mr. Englebardt’s account of the five civil appeals he has personally handled:

“(a) Bear Enterprises v. County of Greenville, 319 SC 137, 459 S.E.2d 883 (Ct. App. 1995);

(b) Camlin v. Bilo, 311 SC 197, 428 S.E. 2d 6(Ct. App. 1993);

(c) Threatt Michael Construction Company v. C&G Electric, 305 SC 147, 406 S.E.2d 374 (Ct. App. 1991);

(d) Preckler v. Owens- Corning, 60 F.3d 824, 1995 WL 417731 (4th Cir. 1995);

(e) Lindsey v. Vann, 2004-UP-442 (Ct. App).

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

Mr. Englebardt further reported the following regarding an unsuccessful candidacy:

“Thirteenth Judicial Circuit in 2003. I was a candidate for Circuit Court Seat #4. There were 7 candidates in that race, and I was found qualified and nominated by the Judicial Merit Screening Commission. I withdrew prior to the election in the General Assembly.”

(9) Judicial Temperament:

The Commission believes that Mr. Englebardt’s temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found that “based on the evaluative criteria that the committee is charged with examining regarding each candidate, Mr. Englebardt meets and exceeds the requirements in each area.”

Mr. Englebardt is married to Helen Elizabeth Burris. He has three children.

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

“(a) North Carolina Bar;

(b) South Carolina Bar;

(c) Greenville County Bar;

(d) SCDTAA (Executive Committee Member since 2000);

(e) North Carolina Bar Association;

(f) Upstate Mediation Network (Vice President 1999-2001).”

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

“(a) Temple of Israel Board of Directors (2nd VP 2005-2007);

(b) Greenville Little League (Coach);

(c) PTAs of Stone Academy, League Academy, and Greenville High School;

(d) Greenville High All-Sports Booster Club;

(e) Educational Foundation of the University of North Carolina (Upcountry Chapter Development Committee);

(f) UNC and UNC School of Law Alumni Associations.”

(11) Commission Members’ Comments:

The Commission commented on Mr. Englebardt’s confidence at the Public Hearing, which would assist him as a jurist. They noted that his diverse legal experience as a trial court practitioner would serve him well on the Circuit Court bench.

(12) Conclusion:

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

**Allen O. Fretwell**

**Circuit Court, Thirteenth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND 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 35-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 “$254.54 in campaign expenditures for stationary, cards, envelopes, printing and postage.”

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 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 Solicitors 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 (2004–05).”

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.

(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.

Moreover, even as a prosecutor, I have been responsible for knowing and applying the rules that apply to civil practice. 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 prosecutors.

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 each month for pleas, trials or motions.”

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

“I carry 275 to 375 warrants on my docket at any given time, dispose of 500 to 600 warrants a year and try 2 to 5 cases a year. That doesn't even register as a percentage point.

(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 most often served as sole counsel.

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, Op. No. 4507 (S.C. S. Ct. filed February 24, 2009) (Shearouse Adv. Sh. No. 10 at 67)—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 in 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 (S.C. 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 the following regarding holding public office:

“Aside from being appointed assistant solicitor and law clerk to the Chief Counsel to Governor David Beasley, I have not held public office.”

Mr. Fretwell further reported the following regarding unsuccessful candidacies:

“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. In September of 2008, I again filed as a candidate for the Circuit Court, At-Large Seat 1. I was found qualified, but not nominated, by the Judicial Merit Selection Commission.”

(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 from November 2008.” They reported, “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;

(b) Member, SC BAR Nominating Committee 2007 – Present;

(c) Member, House of Delegates 2002-03; 2006 – Present;

(d) Member, Law Related Education Committee 2004 – 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 exhibited great humility, which would serve him well on the Circuit Court bench. They also noted that he possesses a great attitude and insight and is very intelligent.

(12) Conclusion:

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

**Kristie B. Hodge**

**Circuit Court, Thirteenth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mrs. Hodge meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Hodge was born in 1970. She is 39 years old and a resident of Greenville, South Carolina. Ms. Hodge 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 1994.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Hodge.

Ms. Hodge 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. Hodge reported that she has “made approximately $173.68 in campaign expenditures for stationary, resume paper, envelope, and nametag.”

Ms. Hodge 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. Hodge 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. Hodge to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Technology in Prosecution 05/11/08;

(b) Child Abuse Summit 09/15/08;

(c) 7th Annual Solicitor’s Meeting 05/13/07;

(d) 2006 SCTLA Auto Torts XXIX 12/01/06;

(e) 13th Circuit Solicitor’s Office Conf. 05/06/06;

(f) 2005 SCTLA Auto Torts XXVIII 12/02/05;

(g) 2004 SCTLA Auto Torts XXVII 12/03/04;

(h) 4th Annual Solicitor’s Retreat 05/03/04.”

Ms. Hodge reported that she has taught the following law‑related courses:

“I have been a faculty member at the National College of District Attorneys, in Columbia, since 2002. I taught the following courses:

“(a) Pre Trial Advocacy, May 20-24, 2002;

(b) Trial Advocacy I, July 28- August 1, 2003.”

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

(4) Character:

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

The Commission also noted that Ms. Hodge 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. Hodge reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Hodge was admitted to the South Carolina Bar in 1994.

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

“(a) 1994-1995 - Law Clerk for the Honorable James W. Johnson, Jr.;

(b) 1995-1999 - 13th Circuit Solicitor’s Office;

(c) 2000 – Present - For my first two years as an Assistant Solicitor, I prosecuted General Sessions and Magistrate Court Cases; I was initially assigned to the General Crimes Unit, handling Burglary, Auto Breaking, Stalking, Assault and Battery, and Resisting Arrest cases. After 2 years I was promoted to the Violent Crimes Unit, where I have remained during my employment with the Solicitor’s Office. I am assigned Murder, Armed Robbery, CSC, Child Sexual and Physical Abuse cases in addition to the previously listed cases."

Ms. Hodge further reported:

“As an Assistant Solicitor for the past 14 years, I have gained extensive experience in most all criminal matters that would come before me as a Circuit Court judge. I have either been sole counsel or lead counsel on all of my jury trials, which have gone to a jury verdict. I have failed to keep track of the exact number and type of cases I’ve tried, but a good estimate would be 50-60 General Sessions jury trials, and approximately 20 Magistrate Court jury trials. The General Sessions trials have been primarily ones involving violent crimes, such as Murder, Armed Robbery, Burglary 1st degree, Criminal Sexual Conduct, Child Sex Assault and Physical Abuse. I have also assist Solicitor Ariail in 2 death penalty cases, one was a bench trial and the other was a jury trial. As a trial attorney, I am extremely familiar with the Rules of Evidence, as well as the Rules of Criminal Procedure, and substantive criminal law. The most common legal issues that arise in criminal cases are those that relate to the admissibility of confessions or statements by a defendant; admissibility of photographic lineups; competency and criminal responsibility of the defendant; hearsay issues; and admissibility of prior bad acts of the defendant. There are several others that arise periodically, such as issues involving self defense, 3rd party guilty, Battered Woman’s Syndrome, defense of duress and criminal intent.

As an Assistant Solicitor, I am responsible for managing a docket of 300-500 warrants at all times. Jury trials dispose of approximately 10-15 % of my docket, which leaves the other 85-90% to be disposed of by way of guilty pleas or diversionary programs. When attempting to dispose of a case by way of a guilty plea, our office policy is to offer to make a sentencing recommendation to the judge, where appropriate. My plea offers are based on the specific facts of the case, and as I stated in Sworn Statement, my offer is based on several factors, no one certain factor dictates. Due to the nature of the relationship of the Solicitor’s Office and the Defense Bar, I make sentencing recommendations on almost all of my cases. I feel this is an extremely important facet of my personal experience, which will help me be a fair and impartial judge when it comes time to impose sentences. I have seen almost every scenario one can imagine, from the worst of the worst to the “not so bad”. This is important because it has given me perspective, which I rely on when making my sentence recommendations even now. It is also something that can not be learned by studying the rules, cases or advance sheets, but must be experienced over a certain length of time, to be properly applied.

Admittedly, I lack experience in the area of civil law. I have never practiced civil law; however, I am an intelligent person with a strong work ethic, and I am committed to studying and preparing myself to be able to preside properly over Common Pleas, should I be elected to the bench. I have tried many cases, and I am very familiar with the Rules of Evidence, which are applied equally in civil and criminal law. I would hope my trial experience would compensate, to a significant degree, for my lack of experience in the subject matter of civil law.”

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

“(a) Federal: 0%;

(b) State: 2 to 3 weeks each month.”

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

“(a) civil: 0%;

(b) criminal: 100%;

(c) domestic: 0%.”

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

“(a) jury: 10-15% of my cases were jury trials that went to jury verdict;

(b) non-jury: 85-90% of my cases were guilty pleas or diversion programs.”

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

The following is Ms. Hodge’s account of her five most significant litigated matters:

“(a) State v. Earnetta King, 367 S.C. 131 (S.C.App. 2005), certiorari denied (3/8/07).

This is a murder case I prosecuted in 2003, where a mother and her boyfriend beat her 13 year old son to death, over the course of an evening, with various household objects. Codefendants were tried together and claimed that the other one was the actual killer. The mother gave two conflicting statements to police. Initially she admitted to being the sole assailant; then, after being in jail for approximately three months, she contacted the lead investigator and gave a second statement alleging the boyfriend was the sole assailant and she was a battered woman. The woman’s 9 year old daughter witnessed part of the incident, and gave a statement to police the day after the murder, stating both her mother and the boyfriend were beating the victim. During the course of the trial, the 9 year old witness recanted and attempted to place all blame on the boyfriend, stating the police had gotten her statement wrong as it related to her mother. The jury convicted both defendants of murder; and the judge sentenced both defendants to life in prison. Both defendants appealed; and the boyfriend’s case was affirmed. State v. Walker, 366 S.C. 643 (S.C.App., 2005). This case was significant for two main reasons. First, the sheer brutality evidenced by the injuries inflicted by these defendants on a child was horrifying, especially when one of them was his own mother. Second, trying codefendants together presented several legal issues, such as admissibility of statements without running afoul of Bruton issues, and presentation in the State’s case to combat anticipatory defenses by both defendants. Unfortunately, the mother’s case was reversed and remanded due to the judge excluding exculpatory evidence that the State (I) failed to disclose in a timely manner to defendant prior to the trial. For me, this was a painful lesson learned about the disclosure of possible exculpatory evidence. A mistake I will never make again.

(b) State v. Timothy Stahlnecker, case not reported as of this time.

This is a case I tried in February of 2008. The defendant lived with his girlfriend and the girlfriend’s 7 year old daughter. While the mother was taking another one of her children back to his home, the defendant made the 7 year old victim come up to his bedroom, take off her pants and panties, and he performed oral sex on her. He did not anticipate the mother being home as quickly as she was, and he was still in the process of molesting the child when she drove up to the house. At that point defendant told the child to go to her room and not tell her mother. The mother realized something was wrong, confronted the child and the child disclosed the abuse. The mother immediately took the child to the Emergency Room to be examined. Once there, the child’s clothes were collected and then sent to SLED for possible DNA analysis. The DNA expert at SLED was able to testify that a substance consistent with saliva was found in the crotch of the child’s panties, but the sample was not large enough to compare to the defendant’s DNA. The child testified, and the lead investigator was able to testify to the entirety of the child’s statement to her at the hospital, under S.C. Code Section 17-23-175. This case was significant for me due to the fact it was the first time I was able to admit a child’s hearsay statements to the jury through the lead investigator, when the child was not video taped; but due to the fact that the officer was trained in investigative interviews with children, and this was an emergency situation where no video taping capabilities were present to record the child’s statement electronically. In addition, the case was significant due to the fact there was forensic evidence to corroborate the victim’s testimony, which is almost unheard of in these types of cases.

(c) State v. Wallace, 364 S.C.130 (S.C.App.2005), certiorari granted (Nov. 14, 2006).

This was a case I tried where a step daughter of the defendant alleged that the defendant had been sexually abusing her since she was in the 7th grade. The victim stated it stared with fondling of breasts, and then progressed to forced digital penetration by the time she was in the 9th grade. The victim’s older sister had also been sexually abused by the defendant, but never reported it to law enforcement, until the younger victim disclosed the abuse. The defendant had started abusing the older sister in the same manner as he did the younger sister; however, the older sister’s abuse continued all the way through high school and until she moved out of the house and the defendant had intercourse with the older sister. At trial, I attempted to introduce the abuse of the older sister under Rule 404 (b), common scheme or plan exception. The trial court allowed a portion of the older sister’s testimony under 404 (b), but only to the extent that it was similar to the abuse suffered by the younger sister. This case is significant because the Supreme Court consolidated arguments in this case with arguments in another Lyle-type case, State v. Hubner, 608 S.E. 2d (Ct. App. 2005). According to some commentators, it is possible that the Supreme Court may take the opportunity to provide a bright line rule to the Bar, and possibly open the door to approval to the admission of ‘propensity evidence’ in sexual assault cases.

(d) State v. Walter Gaines - this case is not reported at this time.

This is a murder case I tried May 2008. The victim was an elderly man, known in his neighborhood as being very kind and generous, willing to help out those less fortunate. He also was known to carry large amounts of cash in his pocket, which ultimately led to his death. On the morning of his murder, this defendant was seen by two sisters who were waiting for the school bus. They observed defendant knock on the door and enter the victim’s residence. They had never seen the defendant before, but were very familiar with the victim, and felt that something wasn’t right. When they got home from school, law enforcement was at the victim’s home, and the girls were informed the victim had been killed. The victim had been beaten and strangled. The victim’s wallet and car were stolen. The girls immediately told what they had seen, and were able to describe the defendant to a sketch artist. The police received other information and were able to put the defendant in a lineup; both girls identified the defendant as the person entering the victim’s house on the morning of his murder. Other witnesses testified that the defendant came to their area later that day, bragging of robbing a man and implying that he killed him. The defendant also had several hundred dollars in cash, and said he had a ‘hot’ car. The jury found the defendant guilty of murder and he was sentence to life in prison. This case was significant, as all murder cases are, due to the nature of the case itself. Additionally, this case required locating and preparing witnesses, most of whom were friends or family members of the defendant. As you can imagine, it was not an easy task, but one that had to be done in the interest of achieving justice. This was a circumstantial evidence case. There was no forensic evidence to point to the identity or guilt of the defendant. The legal issues were not as complex in this case as in others, but it was the weaving together of the evidence for the jury that made this case one of the more difficult cases I’ve tried.

(e) State v. Essie Wright - this case was not reported.

This is a case a tried in July 2004, where several elderly people were residents at Essie Wright’s Care Center, an owner-operated nursing home facility, and were neglected and abused by the defendant. This case was significant for me because it opened my eyes to another area in our community that needs great help, the elderly. The victims in this case were placed in the defendant’s care by family members that could no longer take care of them for a variety of reasons. The family members trusted the defendant would take care of them, feed them, provide social or recreational activities for them, and provide them with adequate medical care and access to their doctors. An investigation by the Long Term Care Ombudsman revealed the defendant was barely feeding these people and giving them minimal liquids so she would not have to change their diapers, or so they would not have accidents while in the bed. The investigation also revealed no social or recreational activities were provided; but instead, the defendant would prop the victims up on hard plastic chairs, around a large screen television, and lock them in the residence for several hours, unattended. Finally, one of the victim’s family members came to visit and noticed how terrible their mother looked, and that she had severe bed sores. This victim was taken to the emergency room, where the doctor testified that she was severely malnourished and ‘looked like a refuge from a Nazi concentration camp’. The defendant was found guilty of abuse and neglect of a vulnerable adult, and was sentence to 5 years of probation (due to her age, 57) and ordered not to participate in any nursing or home care services. Additionally, this case was significant to me due to the difficult time I had trying to find physicians that were willing to testify to the fact that these victims were being neglected or abused. Thankfully I was able to find one physician, the emergency room doctor, who was so disturbed by the treatment of these victims that he put their needs before his own inconvenience, and testified for the State.”

Ms. Hodge reported that she has not personally handled any civil appeals.

The following is Ms. Hodge’s account of the criminal appeals she has personally handled:

“I have not personally handled any criminal appeals. The Attorney General’s Office handles all of our appeals.”

(9) Judicial Temperament:

The Commission believes that Ms. Hodge’s temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee found, “[b]ased on the evaluative criteria that this committee is charged with examining regarding each candidate, Ms. Hodge meets the requirements in each area; however, there was some concern regarding her lack of civil trial experience, but based on our understanding of the criteria, this would not prevent her from being a competent jurist.”

Ms. Hodge is married to David Albert Hodge. She has one child.

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

“(a) South Carolina Bar Association;

(b) Greenville County Bar Association.”

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

“(a) United Way, Women’s Leadership Initiative Subcommittee;

(b) Faculty member, National College of District Attorneys;

(c) Volunteer, Generations Group Home.”

(11) Commission Members’ Comments:

The Commission commented on Ms. Hodge’s involvement in her local community and as a faculty member of The National College of District Attorneys. They also noted her wealth of criminal trial experience as an assistant solicitor with the Thirteenth Judicial Circuit for 14 years.

(12) Conclusion:

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

**Benjamin L. Shealy**

**Circuit Court, Thirteenth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

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

Mr. Shealy was born in 1964. He is 44 years old and a resident of Easley, South Carolina. Mr. Shealy 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 1995.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Shealy.

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

Mr. Shealy 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. Shealy 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. Shealy to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Hot Tips from the Best Domestic 09/19/2003;

(b) Master-In-Equity Bench and Bar 10/17/2003;

(c) Complex Issues in Divorce 05/10/2004;

(d) Advanced Cross-Examination 05/14/2004;

(e) Keys to Successful Pre-Trial Practice 05/27/2004;

(f) Newly Adopted Medical Malpractice 10/14/2005;

(g) 2006 Annual Solicitors Conference 09/24/2006;

(h) Cross-Examination 05/21/2007;

(i) 2007 Annual Solicitor’s Conference 09/23/2007;

(j) 2008 Annual Solicitor’s Conference 09/28/2008.”

Mr. Shealy reported he has not taught at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Mr.Shealy 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. Shealy reported that he is not rated by Martindale‑Hubbell.

Mr. Shealy reported the following military service:

“June 1986 to December 1989

Army; Captain; XXX-XX-XXXX Retired; Honorable.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Shealy was admitted to the South Carolina Bar in 1995.

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

“(a) The Law Offices of Zimmerman & Shealy, LLC, April 2009 – Present;

“(b) Eighth Circuit Solicitor’s Office, 2006 – Present, Criminal Law;

(c) Babb and Brown, P.A., 2002 – 2005, General Litigation (Family law, construction law, real estate, personal injury, probate, etc.);

(d) Thirteenth Circuit Solicitor’s Office,1999 – 2001, Criminal Law;

(e) Eighth Circuit Solicitor’s Office, 1997 – 1999, Criminal Law;

(f) W. Frank Partridge, Jr., P.A., 1995 – 1997, Primarily Family Law.”

Mr. Shealy further reported:

“Over the last five years I have handled almost every type of criminal case on the state level. As an assistant, and then deputy solicitor I prosecuted cases ranging from driving under suspension to capital murder. As a defense attorney I defended a number of criminal cases in General Sessions Court, Magistrate Court and Municipal Court. In handling these cases I have been involved in pre-trial hearings, such as Jackson v. Denno, and Blair hearings; served notices of intent to seek life without the possibility of parole and death; and almost every other possible motion in criminal court. As a solicitor I am expected to know every aspect of criminal court and be able to competently address those issues on a moments notice. During my years as a prosecutor I have had the opportunity to handle all issues involved in a criminal proceeding.

While working in the law firm of Babb and Brown I was given the opportunity to become involved in several different areas of civil practice. The firm was one in which the senior partner took the position that if it came in the door we would handle the case if at all possible. Because of the attitudes of the partners I was able to gain experience which may not have been possible with a larger firm. During the four years I was involved in construction law, personal injury, social security, medical malpractice, family law, contract, and real estate law. While I ultimately never tried a civil case I did handle every aspect of a civil case with that exception this included filing complaints, answers, interrogatories, depositions, pre-trial conferences and mediations. Since the firm handled cases primarily in Greenville county I have had a great deal of experience with mediations.”

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

“(a) Federal: 0%;

(b) State: 100%.”

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

“(a) Civil: 20%;

(b) Criminal: 50%;

(c) Domestic: 30%.”

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

“(a) Jury: 35%;

(b) Non‑jury: 65%.”

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

The following is Mr. Shealy’s account of his five most significant litigated matters:

“(a) Murder of a Clemson University student

This case was significant because it gave me my first real insight into how the death of one person can have far reaching impact on the community. In this case there was most obviously an impact on the family especially his father but there was an impact on the University community. The University was thrust into a situation in which a well liked student was killed extremely close to the campus which created concerns about overall student safety. Finally, the town of Clemson was impacted by the death because it called intoquestion the safety within the town.

(b) Will contest case

This case was significant because it represented the first time I had been involved in a case of this nature. While handling the case I was struck by the arcane laws related to contesting a will. Additionally, it was startling to find out how steeped in emotions the case was and how those emotions really drove the litigaton. Finally, it was the first time that the firm had a mediation agreement set aside and we had to relitigate all the issues. It was also apparent in this case how the courts had not carefully considered all issues when instituting mediation and how that failure resulted in an injustice for all involved.

(c) Murder of a ten month old child

This was significant because it highlighted the many failures of the “system” to protect the child. Also important was the fact that one of the caregivers was mentally challenged which led indirectly to the death of the child. It also brought home the point that when dealing with criminal defendants it is important to get past the initial picture and delve into all of the facts to determine how justice is best served.

(d) Death Penalty case

This case is significant in that is allowing me to get a true understanding of how the families of both the defendant and victim are affected. Additionally, it has provided me with experience in handling the administrative aspects of a capital case and the many aspects of a death penalty case which most attorneys do not get the opportunity to address.

(e) Social Security appeal

This was significant because it was the first time I had the opportunity to prepare this type of case. I was struck by the seemingly absurd result which resulted in the lockstep application of federal rules. My client who was obviously in no condition to work in any type of job was forced to go through months of endless paperwork prior to getting the hearing. During those months his family suffered great financial hardship which included the loss of their home. When the hearing finally occurred it was clear to the judge that there was a mistake in the original finding and he quickly granted the appeal.

Mr. Shealy reported that he has not personally handled any civil appeals.

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

“The only criminal appeals I’ve handled were appeals from magistrate and municipal level cases to the circuit court.”

(9) Judicial Temperament:

The Commission believes that Mr. Shealy’s temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Advisory Committee submitted its November 2008 report for Mr. Shealy. They found, “Mr. Shealy meets the qualifications as set forth in the evaluative criteria. The interviews and other sources utilized have led the Committee to determine that he is well qualified for the position he seeks.”

Mr. Shealy is married to Danielle Diana Daggett Shealy. He has three children.

Mr. Shealy reported that he was a member of the following bar association and professional association:

“(a) South Carolina Bar, 1995 to present.”

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

“(a) University Lutheran Church, Clemson, South Carolina, Member;

(b) Trinity Lutheran Church, Greenville, South Carolina, Member.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Shealy is extremely intelligent, which was reflected in his performance on the Commission’s Practice and Procedure test. They noted that his diverse legal background and his demonstrated integrity would serve him well on the Circuit Court bench.

(12) Conclusion:

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

**Robin B. Stilwell**

**Circuit Court, Thirteenth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

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

Judge Stilwell was born in 1966. He is 42 years old and a resident of Greer, South Carolina. Judge Stilwell 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.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Stilwell.

Judge Stilwell 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 Stilwell reported that he has made “$75.00 in campaign expenditures for postage for letters of introduction to the General Assembly.”

Judge Stilwell 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 Stilwell 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 Stilwell to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Criminal Law Hot Tips 5/16/2003;

(b) Ethical Considerations for the Juvenile Justice 7/13/2004;

(c) Revised Lawyer’s Oath 9/10/2004;

(d) Judicial Oath of Office 10/29/2004;

(e) Handling DUI Cases in the New Law 4/15/2005;

(f) Two-Day Seminar, (Summary Judges Convention)

5/16/2005;

(g) Two-Day MBA for Attorneys 10/24/2005;

(h) Two-Day Seminar, (Summary Judges Convention) 5/8/2006;

(i) S.T.O.P. Violence Program 6/22/2006;

(None for 18 months due to Afghanistan deployment and

Military status with the South Carolina Bar)

(j) Summary Court Judges’ Convention,

Kingston Plantation” 2/12/2009 -2/14/2009.”

Judge Stilwell reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Judge Stilwell 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 Stilwell reported his last available Martindale‑Hubbell rating was “BV.”

Judge Stilwell reported the following military service:

“Entered military service 1985 upon enrollment in ROTC at The Citadel. Commissioned as Officer of Infantry 15 March 1991 in the United States Army. Served continuously since in the South Carolina Army National Guard. Currently serving as a Major, Infantry, Executive Officer of the 1‑118th Combined Arms Battalion, Union, SC. Serial number same as Social Security Number. Served abroad in Afghanistan in Operation Enduring Freedom, 2007‑2008.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Stilwell was admitted to the South Carolina Bar in 1994.

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

“(a) 2000- Present

Hunter, Tomaszek & Stilwell, PA

Shareholder

General Practice emphasizing representation of small businesses. This would include formations of businesses, negotiations between shareholders and members, litigation between members and shareholders and litigation involving commercial disputes with third parties. However, this practice included litigation of a general nature as well. It also included real estate matters to include the closing of real estate loans for both commercial and residential clients. Because of my practice in real estate, I have been a title insurance agent since the mid 1990’s. Prior to 2002, I represented litigants in Family Court as well; Certified Circuit Court Mediator – certified on January 14, 2002. I have actively mediated cases at the rate of approximately twenty to thirty cases per year;

(b) 1999- Present

Judge, Mauldin Municipal Court. I began serving as Judge at the Mauldin Municipal Court on a fill-in basis in 1999. In the year 2000, I began to serve in the stead of Judge Randolph Hunter who had taken an extended leave of absence. I served for all of the year as the Associate Judge presiding on all cases before the Court and was nominated by the City Council of Mauldin as the Chief Judge of Mauldin Municipal Court in 2001. I have remained serving in that capacity since that time;

(c) January 2009 – Present

Associate Judge, Greer Municipal Court;

(d) 1999-2000

Robin B. Stilwell, LLC

Sole Practitioner. This was a general practice of law wherein I represented any number of clients in various courts to include Circuit Court, Magistrate’s Court, Probate Court and Federal Court. I also represented clients on both commercial and residential real estate matters. I also represented litigants in Family Court;

(e) 1996-1999

Anderson, Fayssoux & Chasteen

Associate Attorney. I had a very general practice focused on litigation and representation of clients in all courts. I also practiced both commercial and residential real estate. During this period of time I also was serving as an Indigent Defense Counsel for the County of Greenville as indicated below. I represented litigants in Family Court as well;

(f) 1995-1997

Greenville County Indigent Defense Contract Attorney. I acted as a contract Public Defender and represented clients exclusively in General Sessions Court. I was appointed to represent Defendants at the rate of approximately eight cases every two weeks. The representation of these clients remained under appointment even after the contract terminated in 1997. Therefore, I continued to represent indigent defendants through 1999. This representation also involved the appointment to represent clients in Post-Conviction Relief applications to the Court of Common Pleas;

(g) 1994-1996

The Stilwell Law Firm

Associate Attorney. I practiced general law. I was an associate for my father and assisted him in all matters related to clients of The Stilwell Law Firm. In that capacity I began the contract with the Greenville County Indigent Defense and also obtained my South Carolina title insurance license;

(h) 1993-1994

Judicial Clerk

The Honorable Paul E. Short, Circuit Court Judge.”

Judge Stilwell further reported: “Because of my office of Municipal Court Judge, I have elected not to practice criminal law in General Sessions Court. I felt that because of my position, it would be inappropriate to be adverse to attorneys in the Solicitor’s Office or law enforcement officers who may appear before me. However, as listed above, prior to my taking the judicial oath of office, I appeared in General Sessions Court quite frequently incident to the Indigent Defense Contract with Greenville County. I also represented clients in General Sessions Court in my capacity as a private attorney. I both handled and tried suits ranging from murder, burglary first, criminal sexual conduct, spanning down to driving under the influence first offense. I also had occasion to appear in court on thousands of pleas.“

Judge Stilwell reported the frequency of his court appearances as follows:

“(a) Federal: 1‑2 times a year;

(b) State: approximately 50 times a year.\*

\*I have been deployed to Afghanistan from Feb. 2007 through May 2008. Therefore, my appearances in any court during that time were limited.”

Judge Stilwell reported the percentage of his practice involving civil, criminal, and domestic matters as follows:

“(a) Civil: 95% of my private practice;

(b) Criminal: 100% of my judicial responsibilities;

(c) Domestic: 5% of my private practice.”

Judge Stilwell reported the percentage of his practice in trial court as follows:

“(a) Jury: 50%;

(b) Non‑jury: 50%.”

Judge Stilwell provided that he most often serves as sole counsel.

The following is Judge Stilwell’s account of his five most significant litigated matters:

“None of the following cases are particularly significant to the Bar or establish precedence. However, each was significant to me for the learning experience. An attorney learns something of value and expands his or her experience from each case he or she tries.

(a) Greer Plaza, Inc. v. Winn Dixie, Inc., 1995-CP-23-3047. This was a case in which I represented the Plaintiff in a commercial lease dispute. It was the first Common Pleas case that I tried and one from which I took away many lessons regarding both trial and handling cases prior to trial;

(b) State of South Carolina v. Dennis Boyd Terry, Murder, 1995 Greenville County General Sessions Court, Jury Verdict, 1995. This was the first General Sessions case that I tried. I represented the defendant and learned many important things about preparing and examining witnesses;

(c) Dean Sinatra and Enterprise Partners, Inc. v. Realticorp, et al, 2003-CP-23-1834. This was a non-jury trial in which I represented the plaintiff. It involved a contract/employment dispute among sophisticated business entities and helped me develop a better understanding of more complex business litigation;

(d) Elijah McCollum v. Medical Center, Inc. of Pickens, et al, 2003-CP-39-0598. This was a case in which I represented the defendant in a shareholders’ derivative dispute. Again, it taxed my knowledge of the Corporate Code and also taught me lessons in lawyer skill and conduct;

(e) State of South Carolina v. Timothy Lamont Jackson, Case No. 97-GS-23-2964 and 2966, Burglary First Degree and CSC First Degree, Jury Verdict. I represented the defendant who was found guilty of the charged offenses. I learned from this case what a lawyer’s duty is to a criminal defendant, in spite of his or her personal reservations.”

The following is Judge Stilwell’s account of the five civil appeals he has personally handled:

“(a) Brenda Wilson v. James Moseley, et al, Supreme Court of SC, August 4, 1997, Opinion Number 24664;

(b) Collins Holding Corporation v. Scott Landrum and Landrum Incorporated, Inc., SC Supreme Court, June 22, 2004, Opinion Number 25851;

(c) James Rhodes and Jeanette Rhodes v. William Marvin McDonald, et al, SC Court of Appeals, June 4, 2001, Opinion Number 3349;

(d) Christina G. deBondt v. Carlton Motorcars, Inc, et al, March 15, 2004, Opinion Number 2004-MO-008;

(e) William S. Ivester, Jr. v. MKR Partnership, SC Court of Appeals, Case No. 96-CP-23-801.”

Judge Stilwell reported that he has not personally handled any criminal appeals.

Judge Stilwell reported that he has held the following judicial offices:

“I began serving in 1999 as Associate Judge for the City of Mauldin. Since 2001 I have served as the Chief Judge of the Mauldin Municipal Court. This is a Summary Court Judge with jurisdiction over criminal matters that carry incarceration for less than one year or a fine less than $500. Summary Court Judges may also hear cases outside of this stated jurisdiction by special designation by the Supreme Court.

I have also been sworn in and am acting as an Associate Municipal Judge for the City of Greer, SC. I began in this capacity earlier this year.”

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

“There were no reported cases as this is a Summary Court and is not a Court of record. No appeals have been made to the Appellate or Supreme Court.”

Judge Stilwell reported the following regarding his employment while serving as a judge:

“During my service as a Judge, I have been commissioned as an infantry officer with the United States Army serving in the South Carolina Army National Guard. I have also practiced law as described above.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Advisory Committee submitted its November 2008 report for Mr. Shealy. They found “based on the investigation of this committee, Mr. Stilwell 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.”

Judge Stilwell is married to Charlotte Whelan Stilwell. He has three children.

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

“(a) South Carolina Bar Association;

(b) Greenville County Bar.”

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

“(a) 1998-2003

Greenville Literacy Association

Member, Board of Directors, 1998-2000

Treasurer, 2001; President, 2002; Past President, 2003;

(b) 2005-2006

Mental Health Association of South Carolina

Member, Board of Directors;

(c) 2004-2006

Eastside YMCA Advisory Board; Member, Board of Advisors;

(d) 2005-2006

Greenville Hospital System Patewood Advisory Board

Member, Board of Advisors;

(e) 2008

Member, Veterans of Foreign Wars (VFW).”

Judge Stilwell further reported that “I feel that my legal experience has prepared me well to be a Circuit Court Judge. I have served as a law clerk to The Honorable Paul E. Short and thereafter have spent a career in Court. I believe that I am both well-qualified and well-disposed to be a Circuit Court Judge.

Also, I have been awarded by the U.S. Army the Bronze Star Medal for Meritorious Service while conducting combat operations in Afghanistan in 2007-2008. Thereafter, I was awarded the Palmetto Patriot Award on May 28, 2008, by Lt. Governor Andre Bauer for sacrifices made in defense of our Country and our State.”

(11) Commission Members’ Comments:

The Commission commented that Judge Stilwell has a good balance of both civil and criminal law experience which would assist him in serving as a judge on the Circuit Court bench. They also noted his professional demeanor at the Public Hearing.

(12) Conclusion:

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

**W.T. Geddings, Jr.**

**Family Court, Third Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Geddings meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Geddings was born in 1963. He is 46 years old and a resident of Manning, South Carolina. Mr. Geddings 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 was also admitted to the Georgia Bar in 1995.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Geddings.

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

Mr. Geddings 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. Geddings 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. Geddings to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date

(a) Curing Title Problems 02/26/2009;

(b) Its All a Game – Top Evidence Lawyers 02/13/2009;

(c) ITIC Annual Conference 09/11/2008;

(d) 2007 Fall ITIC Title Insurance Seminar 11/02/2007;

(e) Nuts and Bolts of Like Kind Exchange 11/15/2007;

(f) Anatomy for Lawyers 02/23/2007;

(g) Non-Profit Corporations 02/07/2007;

(h) ITIC 2006 seminar 10/06/2006;

(i) 20/20: An Optimal View 12/16/2005;

(j) 2005 ITIC seminar 10/14/2005;

(k) What it is, What it was, What it will be 12/17/2004;

(l) Revised SC Lawyers Oath CLE 09/17/2004;

(m) Title Insurance and the Order of things 07/13/2004;

(n) Ethics Committee June meeting 06/18/2004;

(o) Ethics Committee Feb. meeting 02/20/2004.”

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

“(a) I have lectured on Risk Management and insurance liability issues at Western Carolina University, Clemson University, Furman University, College of Charleston and at University of South Carolina.

(b) I have lectured on issues involving hazing at University of South Carolina

(c) I taught courses are Central Carolina Technical College in their paralegal program and in their criminal justice program. Courses included Torts, Legal Research, Office Management, Criminal Law, Ethics, Business Law, Domestic Relations, etc.”

Mr. Geddings reported that he has published the following:

“(a) ‘Like a Hog with a Wristwatch - A Guide to Technology in the Law Office’, South Carolina Trial Lawyers Magazine, Fall 1995

(b) ‘Legally Speaking’, a semi-weekly column in The Manning Times from 1989 through 1997 in which I discussed various topics of law of interest to a lay person.”

(4) Character:

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

The Commission also noted that Mr. Geddings 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. Geddings reported that he is not rated by Martindale-Hubbell. Mr. Geddings further reported “I am not listed in Martindale-Hubbell. Few people use Martindale-Hubbell so I felt little need to pay a subscription fee just to have a rating. More people use the internet when searching for an attorney or information about an attorney so I focused my attention there.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Geddings was admitted to the South Carolina Bar in 1988.

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

“After graduation from law school, I returned home to Manning, SC. I worked with the firm of Coffey, Cooper, Chandler & DuRant, PA as an associate and handled mainly litigation matters. These included criminal cases, family court cases and tort claims from the Plaintiff's perspective. I also worked as a Public Defender. This was from my admission to the bar in 1988 until January of 1992.

In January of 1992, I opened my own office in Manning, South Carolina as a sole practitioner. I continued to practice general law with a focus on litigation. I began to handle real estate matters as well. In 1993, I entered into an agreement with Rosalee Hix Davis, Esquire, in which she worked with me in my office. During that time, we also began to handle matters for the Department of Social Services in Williamsburg County on a contract basis. Ms. Davis left in 1995 and I hired Scott L. Robinson as an associate. While Scott Robinson worked for me, we continued to handle general law and expanded into bankruptcy matters. When Mr. Robinson left in 1997, we stopped handling bankruptcy law. In 1998, I entered into a contract with the Clarendon County Department of Social Services to provide legal services as a contract attorney in addition to my private practice. That contract expired in June of 2001.

I currently practice general law and handle mainly real estate, domestic relations and tort or contract litigation. I do a little bit of criminal work currently but it has become a small part of my practice since other attorneys in this area have started to specialize in it and I do not actively seek it.”

Mr. Geddings further reported:

“My time as a contract attorney for the South Carolina Department of Social Services (Clarendon County office) gave me a great deal of experience with abuse and neglect cases as well as a great deal of time in the Family Court. I found it very rewarding to try to help protect the children and help to try to help them make a better life. We also worked to investigate and establish the first Family Court Drug Court in South Carolina. In my private practice, I have handled many divorce cases or custody disputes. I have represented husbands and wives, mothers or fathers and often served as the Guardian *ad Litem* so I believe I have seen the cases from almost every perspective. I believe my experience in handling these cases and dealing with the clients would help me be a Family Court Judge because in addition to understanding the law of the situation, I understand how people will misinterpret or misunderstand the law. I can therefore help them understand the situation and encourage them to work with their attorneys to really know what is possible and not possible.”

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

“(a) Federal: once per year or less. I have not handled a Federal case in the last five years.

(b) State: I am in Circuit Court a couple of times per month. I am in

Family Court on average 4 times per month. I am in

Magistrate Court about once per month. I serve as a

Special Referee and hear non-jury cases about 5 per

month.”

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

“(a) Civil: 35%;

(b) Criminal: 5%;

(c) Domestic: 60%.”

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

“(a) Jury: 15%;

(b) Non‑jury: 85%.”

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

The following is Mr. Geddings’s account of his five most significant litigated matters:

“(a) Anthony Sharpe v. Case Produce Company, 336 S.C. 154, 519 S.E.2d 102 (1999) - I served as trial and appellant counsel for Case Produce Company. The Commission and lower courts had basically held that an employee who claimed to have been injured at work was almost presumed to have been injured at work. The Supreme Court agreed with our position that the burden of proof in proving any injury occurred at work must rest with the claimant and not the employer.

(b) State vs. Marcus Joseph - This was a Circuit Court death penalty case in which I was assistant counsel. I believe it was significant because it involved many issues of contract murder, interstate jurisdiction and extradition, the death penalty and negotiations both with the prosecution and with the client. I learned a great deal in this case so it has personal significance to me.

(c) Gladys Haskins v. Lynn Ray Tidwell - This case was litigated in the Family Court. I represented the Defendant. The case involves the burden of proof in a common law marriage case. It also involves the question of when a common law marriage ripens from a relationship that was initially void due to one of the parties being married, if it ever ripens. The trial court ruled in favor of the Plaintiff and we appealed. Immediately prior to the appeal being heard, the standard of review by an appellate court in this type of matter changed so the appeal was denied after oral arguments in an unpublished opinion. I believe it is significant because since South Carolina is one of the few states with common law marriage, it is necessary to develop better guidelines for when a relationship changes into a marriage.

(d) Tom Judy v. Breann Lashell Wall - This is a typical automobile accident case in which I represent the Plaintiff. The reason I list it as significant is because it took almost 7 years to complete.. Mr. Judy was injured while he was working and the Workers Compensation case remained unresolved for that entire period. While the Workers Compensation claim remained pending, the civil action for the automobile accident could not be resolved. This is significant to me because it shows me how justice delayed can become justice denied. My ability to help Mr. Judy was been stymied by the other factors and in my meetings with him, it reminded me that all of our actions impact real people with real problems.

(e) Tracy E. Howard v. John Doe - Tracy Howard is a young lady about to be married who was in an automobile accident caused by an unknown driver. She is now a paraplegic. I represent her and have assisted her with the automobile insurance and with the Medicaid system. This case is significant because her determination to carryon and her positive attitude give me inspiration. Someone who had everything going for he and who is suddenly faced with stupendous medical bills and the loss of use of her legs but who still maintains a positive attitude is someone I want to remember. Maybe it is not a socially significant case to others, but it is one I am proud to be involved and it is significant to me.”

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

(a) Anthony Sharpe v. Case Produce Company, 336 S.C. 154, 519 S.E.2d 102 (1999);

(b) Anthony Sharpe v. Case Produce Company, 329 S.C. 534, 495 S.E.2d 790 (Ct.App.1997);

(c) Gladys Haskins v. Lynn Ray Tidwell, Case No. 2004..DR..14..161, appeal denied after oral arguments to Court of Appeals in an unpublished opinion.

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

Mr. Geddings further reported the following regarding unsuccessful candidacies:

“I was an unsuccessful candidate for Clarendon County Council in 1994. I lost in the run-off election to W. J. Frierson.”

“I unsuccessfully sought selection as a Circuit Court Judge in 2005. I was seeking the Third Judicial Circuit seat being vacated by the Honorable Thomas W. Cooper and which was ultimately filled by the Honorable R. Ferrell Cothran, Jr.”

(9) Judicial Temperament:

The Commission believes that Mr. Geddings’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found “Mr. Geddings to be a well‑regarded candidate who would ably serve on the Family Court bench.”

Mr. Geddings is married to Jane Ulmer Geddings. He has two children.

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

“(a) South Carolina Bar Association;

(b) Georgia Bar Association;

(c) Clarendon County Bar Association.”

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

“(a) Sigma Chi Fraternity – I have been a Grand Praetor (district governor)and am currently a Grand Trustee and serve on the Executive Committee;

(b) Rotary Club of Manning – Paul Harris Fellow;

(c) New Covenant Presbyterian Church.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Geddings appears to be well versed in the practical aspects law. They also noted his excellent reputation in the community and his demeanor at the Public Hearing, which convinced them that he would be an impartial jurist on the Family Court bench.

(12) Conclusion:

The Commission found Mr. Geddings qualified and nominated him for election to the Family Court.

**Angela R. Taylor**

**Family Court, Third Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Taylor meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Taylor was born in 1958. She is 50 years old and a resident of Sumter, South Carolina. Ms. Taylor 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 1984.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Taylor.

Ms. Taylor 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. Taylor reported that she has made $70.00 in campaign expenditures for postage.

Ms. Taylor 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. Taylor 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. Taylor to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Prosecuting cases in Family Court 08/20/08;

(b) Solicitors’ Conference 09/28/08;

(c) Office of Disciplinary Counsel 10/21/08;

(d) Family Court Bench/Bar 12/07/07;

(e) Complex Issues in Family Law 03/31/06;

(f) Hot Tips from the Coolest Experts 09/22/06;

(g) Ethics Seminar 09/21/05;

(h) Solicitors’ Conference 09/25 – 09/28/05;

(i) SCDSS Conference 05/21/04;

(j) Revised Lawyer’s Oath 05/21/04;

(k) The Adolescent Brain 11/04;

(l) 5th Annual Children’s Conference 05/15/03;

(m) 2003 Solicitors’ Association 09/28/03.”

Ms. Taylor reported that she has taught the following law‑related course:

“I taught a Family Course at Sumter Technical College in Sumter, South Carolina."

Ms. Taylor reported that she has published the following:

“I was a co-author with several other attorneys of a Domestic Violence Handbook published by the South Carolina Bar Young Lawyers Division Committee on Spouse Abuse.”

(4) Character:

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

The Commission also noted that Ms. Taylor 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. Taylor reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Taylor was admitted to the South Carolina Bar in 1984.

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

“(a) Three Rivers Legal Services (1983-1984)

Family Law, Landlord Tenant, Social Security;

(b) Neighborhood Legal Assistance Program (1984-1985)

Family Law, Landlord Tenant;

(c) Sumter County Solicitors Office (1985-present)

Juvenile prosecutions, child abuse and neglect cases;

(d) Law Office of Larry C. Weston (1987-1997)

Family Law, Wills, Personal Injury, DSS Contract Attorney;

(e) Law Office of Angela R. Taylor (1997-present)

Family Law, Personal Injury, Wills, DSS Contract Attorney.”

Ms. Taylor further reported:

“I have practiced in the area of family law for most of my legal career. I was the attorney for the Department of Social Services from 1985 until 2005, first as an Assistant Solicitor assigned to prosecute child abuse cases and then as a contract attorney for the agency. I have been the juvenile prosecutor for the Sumter County Solicitor’s Office since 1985 to present. I have prosecuted cases in Sumter, Lee, Clarendon and Williamsburg Counties. I have had my own practice since 1997. In my private practice, I have represented clients in the areas of divorce, equitable division of property, child custody and adoption. My practice focuses primarily on family. I feel that as a result of my experience, I am knowledgeable in almost every aspect of family law.”

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

“(a) Federal: None;

(b) State: I appeared exclusively in Family Court.”

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

“(a) Civil: None;

(b) Criminal: 40% (Juvenile);

(c) Domestic: 60% (Abuse and neglect, Family Law).”

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

“(a) Jury: None;

(b) Non‑jury: None.”

The following is Ms. Taylor’s account of her five most significant litigated matters:

“(a) State v. Corey D., 339 S.C. 107, 529 S.E. 2d, 200 (2000)

The State appealed the Family Court’s denial of the motion to transfer this juvenile to the Court of General Sessions for the offenses of two counts of murder, criminal sexual conduct in the first degree and burglary in the 1st degree. The State appealed the denial of transfer first to the Circuit Court and then to State Supreme Court. The Supreme Court held it was an abuse of discretion not to transfer the murder charges to General Sessions as the waiver statute did not set an age limitation. The Court ruled that the related charges could not be transferred to the Court of General Sessions because transfer was not authorized by statute due to the juvenile’s age. This case is significant because of the very serious nature of the crimes committed by this 12 year old juvenile and is codefendants. The case received intense media attention during the course of the investigation and the subsequent waiver hearing. I was the Family Court prosecutor responsible for the trial of the waiver hearing.

(b) State v. Avery, 374 S.C. 524, 649 S.E 2d, 102, S.C. App. (June 21, 2007). This case involved the transfer of a juvenile from the Family Court to the Court of General Sessions for the offenses of murder, armed robbery and carjacking. The Defendant appealed his conviction in the Circuit Court for these offenses. One of basis of the Defendant’s appeal was the Circuit Court’s denial of his motion for a change of venue due to the pre-trial publicity. The Court of Appeals ruled that the Circuit Court did not abuse its discretion in denying the Defendant’s motion for change of venue based on pre-trial publicity. This case also dealt with issues regarding the voluntariness of the juvenile Defendant’s confession. The Court determined that the juvenile made a knowingly, intelligent and voluntary statement implicating himself and his codefendant in these crimes. The Court of Appeals also held that the Family Court did not abuse its discretion in transferring jurisdiction of this case due to the serious nature of the offenses. The Court of Appeals found that transferring jurisdiction of a juvenile charged with murder and related offenses to General Sessions did not violate the Eighth Amendment. This case was significant because this case also received intense media attention. The waiver hearing lasted two days. The attorneys for the juvenile and his codefendant hired expert witnesses (psychiatrists) to oppose the transfer of these cases to General Sessions. I was the juvenile prosecutor responsible for the transfer hearing.

(c) In Re Baby Grace this a case filed by the Sumter County Department of Social Services. In 2002, Baby Grace, a newborn was found abandoned in a field by two school aged boys. She was covered with ants and she had to receive medical treatment. Law enforcement and the Department of Social Services made diligent efforts to locate the biological parents of the child, but they were unable to locate them. The parental rights of the parents were terminated and the child was also adopted by a family outside of Sumter County. This case is significant due to the manner in which the child was abandoned. Even though this case received a great deal of media coverage, no one came to claim the child or name the parents.

(d) South Carolina DSS v. Queen Kennedy and Gregory Wilson

This action was initiated by DSS to remove a child from the Defendants’ due to the mother’s limited intellectual functioning, the unsafe living conditions of the mother and father and alleged drug use by the father. The Sumter County Department of Social Services devised a Treatment Plan for the parents. The Agency’s efforts to assist this family was hampered by a local physician who intervened on the parents’ behalf. The doctor alleged the Department took the couple’s child because the parents were indigent. She wrote letters to the Governor, Legislators and other entities. She contacted the local newspaper who did a feature story on the couple. An editorial was later published in the newspaper which accused the agency of; among other things, hiding behind the confidentiality laws in efforts to withhold information about the case. This case was significant because unlike many cases brought forth by the Department of Social Services it received significant media attention. Prior to this case, Sumter County Department of Social Services had not been subjected to such intense media scrutiny, nor had the agency’s handling of its cases been challenged to such an extent by a private citizen who was not an attorney appointed or retained to represent either of the parties.

(e) In Re Henry Dingle this was a Family Court case involving an 11 year old charged with armed robbery, minor in possession of a firearm, Violation of the South Carolina Gun Law and simple possession of marijuana in August, 2006. Law Enforcement obtained a Court Order to have the juvenile detained because the juvenile was below the age of 12. The juvenile stole a handgun from a vehicle and used this same weapon to rob a 44 year old man. He was apprehended a short distance from the incident location at approximately 11:00 pm. The juvenile’s attorney filed Motions to suppress the juvenile’s statement taken by law enforcement. The juvenile’s attorney also moved to suppress the identification of the juvenile by the victim and the weapon used by the juvenile as “the fruits of the poisonous tree”. The attorney filed a Writ of Habeas Corpus to the State Supreme Court challenging the detention of his client. This case was significant because it involved issues relative to the mental capacity of an 11 year old to be charged with a criminal offense and his ability to participate in the trial of his case and to assist his attorney.”

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

(9) Judicial Temperament:

The Commission believes that Ms. Taylor’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found “Ms. Taylor to be an excellent candidate who would ably serve on the Family Court bench.”

Ms. Taylor is not married. She does not have any children.

Ms. Taylor reported that she was a member of the following bar association and professional association: “Sumter County Bar Association.”

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

“(a) Sumter County Chamber of Commerce;

(b) Sumter County Treatment Team of the South Carolina Department of Social Services;

(c) Sumter County Bar Association;

(d) South Carolina Sheriff’s Association;

(e) The Evening Optimist Club;

(f) South Carolina Bar Foundation;

(g) Mid-Carolina Commission on Higher Education;

(h) Attorney to Assist the Office of Disciplinary Counsel;

(i) Legal Redress Committee of the NAACP, Sumter, South Carolina;

(j) Member of Mount Pisgah African Methodist Episcopal Church, Sumter, South Carolina;

(k) 1987 – Tribute to Women in Industry (TWIN) Honoree;

(l) 1997 – Complete Lawyer Award;

(m) 2001 – The American Society on the Abuse of Children, Legal Award;

(n) 2001 – James T. McCain Humanitarian Award;

(o) Dean’s List University of South Carolina;

(p) Outstanding Young Woman of the Year 1983.”

Ms. Taylor further reported:

“As I have stated in my previous responses, I feel my years of experience in the area of Family Law should be taken in consideration in the nomination process. As the attorney for the Department of Social Services, a juvenile prosecutor and a Court appointed Guardian ad Litem in custody cases, I have the opportunity to meet, interview, and prepare many young victim/witnesses for Court. I feel these experiences have made me particularly aware and sensitive to the needs of children in the judicial process. I have come in contact with different types of people through my work with Legal Services, my private practice and my work as a prosecutor. I believe these contacts have helped me to be able to relate to people from various walks of life. I have worked hard to develop a reputation for honesty and integrity, with my fellow attorneys and the members of the public I meet either as clients or victims of crime. I make an effort to show respect to all people no matter what their circumstances may be. I believe these qualities are important for a Judge as a Judge must make decisions in cases that affect all classes of people.”

(11) Commission Members’ Comments:

The Commission commented that Ms. Taylor is a well-respected attorney, who has lengthy legal experience handling DSS cases. They noted she is also a well-rounded individual, citing her involvnment in her local community.

(12) Conclusion:

The Commission found Ms. Taylor qualified and nominated her for election to the Family Court.

**Bryan W. Braddock**

**Family Court, Fourth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Braddock meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Braddock was born in 1973. He is 36 years old and a resident of Hartsville, South Carolina. Mr. Braddock 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. Braddock.

Mr. Braddock 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. Braddock reported that he not made any campaign expenditures.

Mr. Braddock 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. Braddock 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. Braddock to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) 2008 SCAJ Annual Convention 08/07/08;

(b) Family Law: Helping Your Client Through

Difficult Cases 12/03/07;

(c) 2007 SCTLA Annual Convention 08/02/07;

(d) Hot Tops (Domestics) 09/22/06;

(e) Mandatory ADR Training 09/08/06;

(f) 2006 SCTLA Annual Convention 08/03/06;

(g) 2005 SCTLA Annual Convention 08/04/05;

(h) Attorney ECF Training 01/07/05;

(i) New Lawyer’s Oath CLE 08/06/04;

(j) 2004 SCTLA Annual Convention 08/05/04;

(k) Win Your Case with Multi-Media 03/05/04;

(l) Civil Mediation Training 10/11/03;

(m) 2003 SCTLA Annual Convention 08/07/03.”

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

“(a) Better Organize Divorce Cases for Trial, presented for NBI, 12/03/2007;

(b) Use of Web-based software in family court practices; scheduled for the SCAJ Hilton Head Convention, August, 2009.”

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

(4) Character:

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

The Commission also noted that Mr. Braddock 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. Braddock reported that he is not aware of any current rating by Martindale‑Hubbell. He further reported “[a]t one time, I believe I was rated ‘BV’. However, my current firm does not advertise with Martindale‑Hubbell, as we did not find it to be an effective tool for obtaining clients, and I have therefore not been contacted by Martindale‑Hubbell about participating in their peer review process.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Braddock was admitted to the South Carolina Bar in 1998.

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

“(a) Clerk for the Honorable Paul M. Burch, August 1998- August 1999; Circuit Court Clerk;

(b) Saleeby & Cox, P.A., Associate Attorney, October 1999- August 2005; Practice Areas: Domestics: 50%; Personal Injury: 30%; Criminal/Traffic: 15%; Miscellaneous: 5%;

(c) Darlington County Public Defender’s Office: Part-time Public Defender 2000-2001;

(d) Young, Miller, & Braddock, LLC, Full Partner, August 2005- Present; Practice Areas: Domestics: 75%; Personal Injury/Workers’ Compensation: 15%; Criminal/Traffic: 10%.”

Mr. Braddock further reported:

“Divorce/Annulment/Common Law Marriages: I have prosecuted and defended cases involving every actionable ground for divorce except desertion. I have been successful in having Court find common law marriages. I have successfully argued for annulments.

Equitable Division of Property: I have been involved in equitable divisions including arguments of marital versus non-marital status of property, arguments of constructive trusts, arguments for special interest trusts, division of defined benefit and defined contribution retirement plans, and cases in which both real property and personal property appraisers were utilized.

Child Custody: I have successfully obtained custody for fathers, mothers, step-fathers, grandparents, and distant family members. I have been involved in cases involving various experts, including counselors, psychologists, and psychiatrists.

Adoptions/TPRs: I have handled cases involving the voluntary and involuntary termination of parental rights. I have handled adoptions for family members, step-parents, and unrelated third parties. I have handled private adoption and special needs adoptions.

Abuse and Neglect: I have handled hundreds of DSS Abuse and Neglect cases alleging all levels of abuse. I recently participated in a case in which an orthopaedist and a pediatric orthopaedist were deposed, and the matter had to be tried over a full day, preventing DSS from obtaining a finding against my client. I handled a case from the very beginning, through the involuntary TPR stage, and even handled the appeal to the Court of Appeals.

Juvenile Justice: As a private attorney and during my brief stint as a part-time Public Defender, I have handled dozens of DJJ cases, probably over a hundred.”

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

“(a) Federal: 1%;

(b) State: 99%.”

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

“(a) Civil: 25%;

(b) Criminal: 10%;

(c) Domestic: 65%.”

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

“(a) Jury: 35%;

(b) Non-jury: 65%.”

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

The following is Mr. Braddock’s account of his five most significant litigated matters:

“(a) Windell Brown vs. Cynthia Brown cases: During a series of separate cases between these parties, I argued for a termination of child support based upon the emancipation of the minor daughter, against a Risinger claim filed on behalf of that same child, for two transfers of the custody of the another child of the parties, for child support and alimony modifications, and for the termination of permanent, periodic alimony based upon continued cohabitation of the Defendant with a paramour;

(b) Wright Adoption: An adoption case in which I represented the adopting parties in involuntarily terminating the parental rights of the two parents, one of whom became psychologically incapacitated during the pendency of the case. During the pendency of the case, my clients also lost one of their biological children in an automobile accident and eventually separated while the adoption was still pending. I was able to complete the adoption despite these circumstances;

(c) State versus Dontell McDaniels: Murder trial on which I worked for over three years. I was appointed counsel and worked on this case with the assistance of a private investigator retained with OID funds. I had the opportunity to visit the crime scene and personally interview numerous witnesses. The case was tried against a senior member of the South Carolina Attorney General’s Office, and I was able to obtain a plea of ten (10) years for my client on the third day of trial;

(d) Amerson Divorce: After lengthy and hotly contested litigation, I was able to obtain my client a divorce on the Defendant’s habitual drunkenness and get her an award of equitable division, compensating her for the various items of personal property the Defendant sold off during the separation. After the Defendant managed to get access to his retirement account and liquidate it, I was thru contempt proceedings able to obtain an order placing the Defendant in jail, ordering his brother to return all the money he was holding in trust for his brother, order a bank to freeze various accounts, and ordering the Clerk of Court to sign a deed transferring title to the marital residence;

(e) Johnson Divorce: In this case, the other party’s parents had built the marital home and sold it to the parties for about 30% of its fair market value. However, my client had also paid the proceeds from the sale of his pre-marital home to his in-laws. When they divorced, the other party tried to claim a special equity interest in the home, basically claiming that 70% of the equity in the home should be hers alone based upon the contribution of her family. I was able to defeat this claim. I also was able to get the Court to use my appraiser’s value for the home and, after the other party tried to claim that there were only $7,500 in marital personal property, I was able to use a personal property appraiser to show that the correct value was approximately $25,000. In addition to this successful argument regarding the equitable distribution, I was able to gain enough visitation for my client as the secondary custodian of the minor children that he actually received child support from the other party, the primary custodian, due to the discrepancy in incomes.”

The following is Mr. Braddock’s account of the civil appeal he has personally handled:

“South Carolina Department of Social Services vs. Marggie Hutson, Eliseo Perez, and Landin Nuan Perez, from the Family Court; Unpublished Opinion No. 2006-UP-238; filed May 15, 2006.”

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

(9) Judicial Temperament:

The Commission believes that Mr. Braddock’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found “Mr. Braddock to be a well‑regarded candidate who would ably serve on the Family Court bench.”

Mr. Braddock is married to Dusty Renae Spring Braddock. He has two children.

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

“(a) South Carolina Bar Association;

(b) Darlington County Bar;

(c) Florence County Bar;

(d) South Carolina Association for Justice: Board of Governors (2008-

Notification of Candidacy for this position), Legislative Planning.”

Steering Committee (2008- Notification of Candidacy for this position) Mr. Braddock further stated that he resigned from the positions noted in (e) effective on the date of applying for this judicial position.

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

“(a) Loyal Order of the Moose; Trustee (2002-2003);

(b) Moose Legion;

(c) College of Charleston Alumni Association.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Braddock has an outstanding grasp of the law, which was demonstrated by his performance on the Commission’s Practice and Procedure test. They noted his good work ethic and his excellent ideas for handling the backlog of cases in Family Court.

(12) Conclusion:

The Commission found Mr. Braddock qualified, but not nominated, to serve as a Family Court judge.

**Michael S. Holt**

**Family Court, Fourth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Holt meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Holt was born in 1970. He is 38 years old and a resident of Hartsville, South Carolina. Mr. Holt 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. Holt.

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

Mr. Holt 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. Holt 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. Holt to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date

(a) Real Property Foreclosure 1-12-09;

(b) Plaintiff’s Personal Injury 12-9-08

(c) Social Security Disability 10-24-08

(d) Social Security Disability 6-16-08

(e) Real Estate Transactions 12-10-07

(f) Social Security Disability 6-21-07

(g) Probate Practice 8-25-06

(f) Real Estate 8-15-06

(g) Examining Title Issues 12-14-05

(h) Social Security Disability 12-9-05

(i) Social Security Disability 3-11-05

(j) Hot Tips-Domestic 9-24-04

(k) Title Insurance 9-17-04

(l) Family Law in SC 12-15-03

(m) Hot Tips-Domestic 9-19-03.”

Mr. Holt reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Mr. Holt 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. Holt reported that he is not rated by Martindale‑Hubbell. He further reported “I am not listed in Martindale-Hubbell and have not been since I worked with the Saleeby and Cox Law Firm. I have no particular reason for not being listed except that I have not seen the benefit in my area of practice.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Holt was admitted to the South Carolina Bar in 1996.

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

“In 1996 I graduated from law school and began practicing with the Saleeby & Cox law firm in Hartsville, SC. I worked for the late Senator Edward E. Saleeby, Sr. where I handled general litigation. Following Senator Saleeby’s retirement I worked under his son, Ed Saleeby, Jr. and James C. Cox. From 1996 until 2005 the main focus of my practice was domestic relations. However, I also handled criminal, real estate as well as social security disability work. In July 2005 I left the Saleeby Law Firm and joined the Wilmeth Law Firm as an associate where my focus would remain the same, however, I was promised that I would be able to do some corporate and estate work. In February 2006 I left the Wilmeth Law Firm and I opened my own office where I continue to practice as a sole practitioner. My areas of focus continue to remain the same with a heavy emphasis on domestic relations.”

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

“(a) Federal: I have not appeared in Federal Court. However, I have appeared in many Social Security Disability hearings.

(b) State: I am typically in Court on a weekly basis.”

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

“(a) Civil: 10%;

(b) Criminal: 30%;

(c) Domestic: 60%.”

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

“(a) Jury: 20%;

(b) Non‑jury: 80%.”

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

The following is Mr. Holt’s account of his five most significant litigated matters:

“(a) *State of SC vs. Robert Hermanades:*  This case was my first trial which I handled on my own in General Sessions. This case was tried in Darlington County and caused me significant pressure because it was being reported in the local media. I represented a somewhat unsavory individual who was not a very sympathetic character. However, after three days he was found not guilty which I felt was right verdict for the jury. The trial gave me confidence in my trial skills but it also gave me some notoriety in the community because of it being reported in the media.

(b) *State of SC vs. Wayne Futrell*: This case was tried in General Sessions Court in Chesterfield County where I am not known and it was difficult drawing a jury. The case was a combination of Criminal Domestic Violence and Assault and Battery of a High and Aggravated Nature. This case holds some significance because the Defendant had also been my client in a divorce and it was our position the wife/victim had made false allegations against my client which led to his arrest. The wife/victim made many allegations against the Solicitor’s office which caused the case to be referred to the State Attorney General’s office. After several days of trial my client was found not guilty.

(c) *Mills vs. Mills:*  This was a domestic case that I tried as a young lawyer. I was up against a much more seasoned and experienced lawyer who had a reputation for not negotiating cases and taking a case to trial. My client had been in a marriage for over twenty years and the Defendant husband had been physical with her and had tried to hide assets from us. After a lengthy trial my client was awarded half the marital estate and significant attorney fees. We survived a motion to reconsider following the order of the Court.

(d) *State of SC vs. Brandon Ray*: This case was tried in Marlboro County which is where the prosecutor is from. I felt at a disadvantage trying the case because of the solicitor’s familiarity with the jury pool. My client had been charged with murder and was facing life in prison. My client argued self defense and in my mind we had done a good job in proving our case. However, the jury found my client guilty of the lesser included offense of voluntary manslaughter. Despite my client being found guilty, I felt a sense of pride because my client was not found guilty of the charge the state had brought against him.

(e) *Pamela C. Blackmon and Stephen W. Blackmon vs. Peggy Ann Harrington, Stephen Lee and John Doe:* This case was held in Florence County and involved an infant, Mary Ann Harrington, who was born with a heart defect. The Plaintiff wife, Pamela Blackmon, worked with my wife which is how I knew her. Mary Ann’s heart had not developed properly which likely was caused by drug use by the Defendant mother. The Plaintiff’s had a family and did not have the resources to pay a lawyer to assist them with petitioning the Court for custody. Time was of the essence due to the infant’s heart defect and there was no time to waste. The doctors at MUSC would not put the child on a transplant list unless someone other than her mother had custody of the child. It was perceived by the doctors that it would be a waste to give Mary Ann a heart when it was unlikely her mother would be responsible in her care of this child. This case involved a tremendous amount of work and time which I did at no cost to the family. Mary Ann Harrington is now Seven (7) years old.”

Mr. Holt reported that he has not personally handled any civil or criminal appeals.

Mr. Holt further reported the following regarding an unsuccessful candidacy:

“I ran for the State Senate in 2004 and lost in the Republican Primary.”

(9) Judicial Temperament:

The Commission believes that Mr. Holt’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found Mr. Holt to be “a well-regarded candidate who would ably serve on the Family Court bench.”

Mr. Holt is married to Sherry Burton Holt. He has two children.

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

“(a) South Carolina State Bar;

(b) Darlington County Bar Association;

(c) Municipal Association of South Carolina; Board of Directors (current);

(d) Darlington County Economic Development Partnership; Board of Directors (current).”

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

“(a) Kiwanis Club; Past President;

(b) Hartsville Masonic Lodge;

(c) B&F Social Club;

(d) First Presbyterian Church, Elder;

(e) Carolina Elementary School Improvement Committee, Board member;

(f) University of South Carolina Distinguished Young Alumnus Award, College of Arts and Sciences, 2008;

(g) Hartsville YMCA; Board of Directors;

(h) Agape’ Hospice; Board of Directors.”

Mr. Holt further reported that:

“Public service is very important to me. Since I returned home from law school to begin working, public service has been at the forefront of most of my activities. I am very passionate about my community and have worked hard to make a positive impact not only at home but across the state. My service as the mayor of my city has been one of the more rewarding experiences of my professional life. A part of my life I would be remiss in not mentioning was a period of time when I worked for a lawyer who subsequently was disbarred for improprieties. For six (6) months in 2005/2006 I worked for this lawyer. When I became aware of her activities I immediately left her firm. Nevertheless, this was a very dark time in my life and caused great stress on me and my family. Having gone through that experience taught me many lessons not only about the profession but about life as well.

(11) Commission Members’ Comments:

The Commission commented that Mr. Holt has a high degree of professionalism which would assist him in serving as a Family Court judge. They noted that they were very impressed with Mr. Holt’s presentation at the Public Hearing.

(12) Conclusion:

The Commission found Mr. Holt qualified and nominated him for election to the Family Court.

**Salley Huggins McIntyre**

**Family Court, Fourth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. McIntyre meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. McIntyre was born in 1969. She is 40 years old and a resident of Dillon, South Carolina. Ms. McIntyre 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. McIntyre.

Ms. McIntyre 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. McIntyre reported that she has made “$52.50 in campaign expenditures for: Nametags, $20.10, and Business Cards, $32.40.”

Ms. McIntyre 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. McIntyre 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. McIntyre to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Cool Tips from the Hottest Domestic Law Practitioners

4/25/08

(b) Children’s Issues in Family Court 3/21/08

(c) Hot Tips from the Coolest Domestic Law Practitioners

09/19/08

(d) Title Insurance Claims and Underwriting Seminar

11/13/08

(e) Children’s Issues in Family Courts 3/23/07

(f) Hot Tips from the Coolest Domestic Law Practitioners

9/21/07

(g) Title Insurance Claims & Underwriting 11/8/07

(h) Children’s Issues in Family Court 3/17/06

(i) Children’s Issues in Family Court 8/30/05

(j) Hot Tips from the Coolest Domestic Law Practitioners

9/23/05

(k) Fundamentals of Real Estate Closings in South Carolina

12/6/05

(l) Guardian ad Litem Training 3/5/04

(m) Hot Tips from the Coolest Domestic Law Practitioners

9/24/04

(n) Hot Tips from the Best Domestic Law Practitioners

9/19/03

(o) Mediation Training 10/11/03.”

Ms. McIntyre reported that she has taught the following law‑related course:

“I taught a business law class through Coker College shortly after being admitted to the bar. It was a night class taught at the National Guard Armory in Mullins and mainly consisted of adult students who were working full time and attending school part time.”

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

(4) Character:

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

The Commission also noted that Ms. McIntyre 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. McIntyre reported that her Martindale‑Hubbell rating is BV.

Ms. McIntyre reported that she has held the following public office:

“Mayor of Dillon‑May 1999 to May 2003.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

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

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

“Upon graduating from law school, I clerked for the Honorable James E. Lockemy from August 1995 until June 1996. In June 1996, I became an Associate at the firm of Greene & Bailey, P.A. in Dillon, SC. In June of 1998, A. Glenn Greene, Jr. and I formed Greene & Huggins, P.A., where I am currently practicing.

Since joining the firm of Greene & Bailey, P.A., (now Greene & Huggins, P.A.) I have maintained a general practice in the areas of real estate, domestic, personal injury and probate. As the years have passed, my real estate and domestic work have increased substantially, and I have had very little work in the areas of personal injury and probate. Practicing in a small town, one has to have a general practice to service most of the community.”

Ms. McIntyre reported the frequency of her court appearances during the past five years as follows:

“(a) Federal: None;

(b) State: On average, I appeared in court at least two days a week.”

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

“(a) Civil: 30%;

(b) Criminal: 0%;

(c) Domestic: 70%.”

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

“(a) Jury: 0%;

(b) Non‑jury: 100%.”

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

The following is Ms. McIntyre’s account of her five most significant litigated matters:

“(a) Tex Allen Taylor, II v. Felicia Gayle Shaw 2006-DR-34-69.

This case involved a Father and Mother that were never married. They were operating under a Final Order in which the Mother was given custody and the Father was given more than standard visitation. I was retained after the case was initially filed and the first attorney discovered she had a conflict. The Father learned that the Mother had pending criminal charges, was unable to maintain a stable living environment and a stable job. Father was seeking sole custody of his minor daughter. During Discovery, we were able to determine that the Mother was engaged in a lifestyle that did not serve the best interests of the child. Weeks before the final hearing, the Mother retained a new attorney and the day of the hearing we were able to settle the case by splitting some of the decision making regarding the minor child. The Father was to be responsible for making the decisions regarding the minor child’s education, daycare, extracurricular activities and discipline. The Mother was to be responsible for making the decisions regarding the minor child’s grooming, clothing, religious issues, social issues, non-emergency medical, dental and healthcare treatment. This case was important because although the Father did not receive full custody, he was able to make the crucial decisions that he felt were being overlooked in his child’s life. The Father and I had worked very hard in preparing the case and had numerous witnesses ready to testify about the Mother’s inability to parent, which was a strong factor in the settlement negotiations.

(b) Jennifer Green v. Brenda Wilson 2000-DR-17-604.

This was a contested custody case where the Grandmother, Wilson, was initially given custody of her then two (2) year old grandchild by consent in 1996. In 2000, the Mother, Green, filed an action seeking custody of her then six (6) year old child. I represented the Grandmother who had raised the minor child since birth. The Mother had been in and out of the child’s life only during times in which she herself lived with Grandmother. The Mother had been involved in a very abusive relationship with Mr. Green for many years. Mr. Green was not the father of this minor child. One of the altercations between Mr. Green and Mother resulted in Mother suffering severe brain trauma. Mother continued to stay with Mr. Green after recovering from the incident. Mother was under a Court Order to not expose the minor child to Mr. Green during any visitation. During the 2000 case, Mother continued to expose the minor child to Mr. Green and even hid Mr. Green in the storage building behind the house when the Guardian went for a surprise home visit. After extensive investigation by the Guardian *ad Litem,* my client and the private investigator, we were able to litigate the case and win custody with gradual visitation to the Mother. The Mother had to make a certain number of specified visits before she graduated to her next schedule of extended visitation and then to her final schedule. All visitations were to be held outside of the presence of Mr. Green. Mother has in eight (8) years failed to make it past her first set of scheduled visitations. This was a very intense case that lasted over a year. At the end of the case, Mr. Green threatened my life but the child has remained safe.

(c) Tammy Small Moore v. Rodney Wade Moore 2001-DR-33-360.

This case is significant because it involves the Tobacco Settlement. I chose this case because when my client walked in all she could say was that she wanted her children and out of her marriage. She believed there was no money to fight over. By the end of this case, we had four attorneys involved (2 on each side) and we had hired an expert from the University of South Carolina to testify in regards to the Tobacco Settlement. Needless to say, this was the first time this “expert” had ever testified. She had been studying the buyout but had never been called to testify in a divorce hearing. During Discovery, we were able to determine that Mr. Moore was the owner of some of the farms in question and also listed as the grower of these and other farms along with his father. The payout was based on grower and owner. My client received yearly payouts from her husband’s portion of the proceeds for over five (5) years. In addition to the tobacco issue, we had crops, livestock and equipment to value. My client had very little upfront money to hire an investigator so much of the investigation was left up to me and my client. Counting moving cows is really hard to do. Ultimately, we videoed the cows owned by the husband as our number was much higher than his. When we were finally able to settle the case, we also settled issues about who was to pay what portion of their daughter’s upcoming wedding. It was a very long and time consuming case but I was so happy to see my client get what she, by law, was entitled to receive.

(d) Victor Pernelll Abraham v. Jackelin Moreno 2006-DR-17-360.

I debated about adding this as one of my most significant litigated cases but decided that this is a case for the Guardians *ad Litem* in South Carolina that struggle with their Court Ordered duties and this is one of the cases that helped me decide to run for this position. I was appointed as the Guardian in this private action after the Temporary Hearing where the Mother (Moreno) lost custody to the Father (Abraham). Father and Mother were never married. Father was under a Court Order to pay child support but there was never an order for custody. This case was active for over one year. I visited with the child numerous times over the course of this case. I went to her home where she lived in Rock Hill in October of 2008 and visited with her, her teachers, her Father and Step-mother. I left all of my numbers for school personnel and teachers to contact me if they needed me for any reason. I explained who I was and what my role was. I visited with the minor child in Marion County during Thanksgiving of 2008. The hearing was set for the first part of December. I did not speak with the child between Thanksgiving and the first day of trial. The trial started in December and continued until a day in February. After, the Judge ruled on this case, it was discovered that a DSS investigation was pending in York County for allegations of abuse, and was first opened after Thanksgiving but before the trial started in December. When I first heard about the DSS investigation, I became very alarmed and was unable to get much more of an answer other than the case was an Unfounded Category II. I immediately filed a Motion to Re-open the case so that I could continue to investigate. The motion was granted and eventually another hearing was held. At the conclusion of the hearing, the Court left the child with her Father but ruled that the Step-Mother could not administer any corporal punishment to the minor child. This case is significant because I had technically been relieved as the Guardian but because we are charged with a duty to serve the best interest of the child, I felt that I could not ignore this allegation and thankfully I didn’t. Re-opening this case has provided more protection for this minor child and has certainly made DSS more aware of the issues surrounding her environment.

(e) Linda P. Oxendine v. Herbert Oxendine 2006-DR-17-237

This is a case that I became involved in after the temporary hearing. I represented the Mother. There were two minor children and very little assets to fight over. We had two (2) temporary hearings in this matter because of the Father encouraging his daughters to misbehave to the extent that they could have been arrested or killed. The Father allegedly told the 13 year old daughter to take her Mother’s car and drive to Dillon. At the time that she took the car it was approximately 5 am. The child was in Daniel’s Island and had her younger sister in the car with her. The Father instructed her to drive for almost two (2) hours before he met them and picked them up. The Father did not contact anyone until almost 10 am the next morning to let anyone know that he had the children. It was late that afternoon before he took the children to the Sheriff’s department. He has called law enforcement on two (2) different occasions while the girls were present to have the Mother’s car searched for drugs. The Father has made several unfounded reports to DSS. As a result of the psychological trauma to the children, all visitations between the children and their Father must be supervised. Despite Father’s allegations of Mother’s alleged drug use, Mother has successfully passed all random drug tests and Father has failed two random drug tests. This case is significant because the father has made every attempt at alienating the children’s relationship with their Mother which has ultimately cost him his relationship with them.”

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

(9) Judicial Temperament:

The Commission believes that Ms. McIntyre’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found Ms. McIntyre to be “a dynamic candidate who would ably serve on the Family Court bench.”

Ms. McIntyre is married to Frederick Martin “Marty” McIntyre, Jr. She has three children.

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

“(a) Dillon County Bar Association, President, 2008-present;

(b) American Bar Association.”

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

“(a) Dillon Rotary Club, 1996- present

President 2001-2002, President Elect, Program Chair

Multiple Paul Harris Fellow;

(b) South Elementary School Improvement Council Committee,

2007 -2008 member; 2008-2009 Chairman;

(c) South Carolina Paralegal Task Force, 2008-2009 member;

(d) Pro Bono Attorney for the Dillon County Guardian ad Litem Program,1998–present;

(e) Pro Bono Work for the SC BAR,1996 – present;

(f) Welvista-Pee Dee Advisory Board, 2008-present;

(g) Member Main Street United Methodist Church

Board of Trustees 2001-2003;

Chairman Board of Trustees 2003;

(h) Dillon County Communities in Schools – Board Member 2002-2004;

(i) Walk America – Honorary Chair 2002;

(j) Dillon County United Way Board Member, 1999 - 2002

Campaign Chairman 1999;

(k) Dillon County YMCA Board Member 1997-2002.

AWARDS

(l) 1998 Young Career Woman - Dillon County;

(m) Elected Official Honor Award 2003 –

For Leadership and Dedication in the Field of Historic Preservation

Presented by Governor Mark Sanford.”

(11) Commission Members’ Comments:

The Commission commented on Ms. McIntyre’s outstanding endorsement from the Pee Dee Citizens Committee. They noted that her pro bono work as the attorney for the Dillon County Guardian Ad Litem Program would equip her well in serving on the Family Court bench.

(12) Conclusion:

The Commission found Ms. McIntyre qualified and nominated her for election to the Family Court.

**Elizabeth R. Munnerlyn**

**Family Court, Fourth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Munnerlyn meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Munnerlyn was born in 1969. She is 39 years old and a resident of Bennettsville, South Carolina. Ms. Munnerlyn 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 1993.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Munnerlyn.

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

Ms. Munnerlyn 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. Munnerlyn 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. Munnerlyn to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Munnerlyn described her 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) 2008 S. C. Solicitors’ Assoc. 9/28-30/08;

(c) 2007 Annual Solicitor’s Conf. 9/23-26/07;

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

(e) New Child Support Guidelines 7/19/06;

(f) Hot Tips from the Coolest Domestic Law Practitioners

9/22/06;

(g) 2006 Annual SC Solicitors’ Conference 9/24-27/06;

(h) Hot Tips from the Coolest Domestic Law Practitioners

9/23/05;

(i) 2005 Annual Solicitor’s Conference 9/25-28/05;

(j) 2004 Annual SC Solicitor’s Conference 9/26-29/04;

(k) Revised Lawyer’s Oath CLE 9/27/04;

(l) SC Family Court Bench/Bar 12/3/04.”

Ms. Munnerlyn reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Ms. Munnerlyn 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. Munnerlyn reported that she is not rated by Martindale‑Hubbell. Ms. Munnerlyn further reported “I am listed in Martindale‑Hubbell but never completed the ranking process. For the last thirteen years, I have been in a two person firm in a small town in a rural area. Our business has been dependent upon word of mouth and community involvement and exposure locally. In the early days of our practice, we were listed in Martindale Hubbell but found we received little or no clients or cases from the service. Therefore, the ranking process was not a priority for our practice.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Munnerlyn was admitted to the South Carolina Bar in 1993.

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

“(a) Law Clerk, Circuit Judge James E. Lockemy, August 1993–August 1994.

Clerk for the Honorable James E. Lockemy who was at that time an At Large Circuit Judge; researched both criminal and civil issues and attended Court with the Judge on a regular basis traveling throughout the State during this one year tenure.

(b) Assistant Solicitor, Fourth Circuit Solicitor Gordon McBride, August 1994- April 1996.

Full Time Juvenile Prosecutor for the Fourth Circuit which includes Marlboro, Chesterfield, Darlington and Dillon counties. Also, maintained responsibilities for prosecution in General Sessions Court during this time.

(c) Partner, Rogers & Munnerlyn, P.A., May 1996-December 2008.

One of two attorneys in this small town law firm. Handled a variety of matters including domestic, real estate, probate, and civil cases.

(d) Assistant Solicitor (Contract basis), Fourth Circuit Solicitor’s Office, January 1997- present.

Prosecuted criminal cases from Murder to Criminal Domestic Violence 2nd offense in General Sessions as well as Juvenile Court. Solely responsible for administrative responsibilities as well as prosecution of cases in Marlboro County from 1998 until the present. Prosecuted all juvenile cases in Marlboro County from 1998 – 2008.

(e) Sole Practitioner, Elizabeth R. Munnerlyn, P.A., January 2009-present.

Continuing practice of Rogers & Munnerlyn, P.A. as the sole practicing attorney in the areas of domestic, real estate, probate and civil matters.”

Ms. Munnerlyn further reported:

“Divorce and Equitable Division of Property.

Approximately 40% of my practice has encompassed cases involving these issues. I have handled numerous divorce cases on the no fault ground as well as on the grounds of adultery, habitual drunkenness/drug use, and physical cruelty with proof being not only by direct eyewitness testimony but oftentimes by indirect circumstantial evidence as well as other documentary evidence.

The division of real and personal property cases have included the appraisal and/or sale of property to accomplish a division as well as the issuance and negotiation of Qualified Domestic Relations Orders to divide retirement/401(k) accounts and the like including those that are already in pay status.

Child Custody.

Approximately 40% of my practice has encompassed cases involving this issue. 30% of these also involve divorce as set forth above. Cases involving either custody or divorce and equitable distribution comprise 50% of my practice. I have handled custody battles between parents who were married as well as those who had children out of wedlock. A number of these cases have related to a stepchild or other non-related child where the doctrine of psychological parenting has come into play.

Most of these cases have involved the use of a Guardian ad Litem. However, I have had a number of custody cases involving older children where the Court found it unnecessary to appoint a Guardian and proceeded with trial often utilizing the in chambers interview of a child or children.

The final component in my experience with custody cases has been as the court appointed Guardian ad Litem for the child/children in private cases.

Adoption.

These cases compose a smaller percentage of my practice – perhaps 5% of my overall legal experience. However, I have handled both contested and uncontested TPR and adoption cases as well as blood related and non-blood related adoptions.

By court appointment, I also have served as the Guardian for the child/children in a number of private adoption cases.

Abuse and Neglect.

My primary experience with actions surrounding the abuse and neglect of a child has been in my capacity as attorney for the lay Guardians ad Litem appointed to represent the children in these cases in Marlboro County. I along with my former law partner have served in this capacity for approximately the last ten years in all cases involving lay Guardians. Since January of this year, I have been serving solely in this capacity.

This contract requires my appearance in Family Court for every DSS Abuse and Neglect day in Marlboro County which is normally scheduled for one day out of every court term. Therefore, this would encompass approximately 5% of my overall legal experience.

Juvenile Justice.

I have served as Juvenile Prosecutor in two different capacities during my 16 year legal career. The first of these was in a full time position as the sole Juvenile Prosecutor for the Fourth Circuit which covers Marlboro, Dillon, Chesterfield, and Darlington counties from 1994 to 1996.

From 1997 until the present, I have served on a part-time contractual basis as Assistant Solicitor for the Fourth Circuit which has included prosecuting juveniles. From 1998 until the Fall of 2008, I handled all juvenile cases in Marlboro County as part of my assignment as Special Prosecutor for Marlboro County.

From July 1996 through December 1996, I did contract with the Public Defender Board of Marlboro County to serve as Juvenile Public Defender for Marlboro County before returning to the Solicitor’s office in a part-time capacity.”

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

“(a) Federal: None;

(b) State: Over the last 5 years, I have spent at least 50% of my time in either General Sessions, Family Court, Probate Court or Civil court each month.”

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

“(a) Civil: 5%;

(b) Criminal: 35%;

(c) Domestic: 60 %.”

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

“(a) Jury: 20%;

(b) Non‑jury: 50%.”

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

The following is Ms. Munnerlyn’s account of her five most significant litigated matters:

“(a) State vs. Chuckie Smith and Celester McCollum; Case numbers 97-GS-34-70 and 97-GS-34-103. This was a murder case which I prosecuted as Assistant Solicitor in Marlboro County. There were originally three co-defendants and one was dismissed from the case at the directed verdict stage. The remaining two co-defendants, Chuckie Smith and Celester McCollum, were charged with Murder. The jury returned a guilty verdict of murder as to Chuckie Smith and voluntary manslaughter as to Celester McCollum.

Having a concern about the inconsistency of these verdicts issued by the jury and the ability of the inconsistent convictions to withstand appellate scrutiny, the trial judge and counsel agreed to set aside the jury verdict as to Defendant Smith and accept a guilty plea from him to voluntary manslaughter for which he was sentenced. This case led to the only lawsuit which has been filed against me as discussed in [my personal data questionnaire number 34].

(b) State vs. Kendell Green; 2005-GS-34-473, 474, 475. This was another General Sessions matter prosecuted by me as Assistant Solicitor for Marlboro County. Kendell Green was charged with Murder, Kidnapping, and Grand Larceny more than $5,000.00. He was tried utilizing the testimony of a co-defendant and the physical evidence found at the scene and was ultimately convicted receiving a sentence of natural life with 10 years consecutive on the Grand Larceny case. This was the most succinctly and efficiently tried serious case in my career concluding in less than three days from drawing of the jury through jury deliberation and sentencing.

(c) State vs. Brandon L. Ray; Case numbers 2007-GS-34-657 and 658. This case was also a murder case prosecuted by me as Assistant Solicitor in Marlboro County. This case was originally set to be tried utilizing the testimony of a co-Defendant. However, on the eve of trial, the co-Defendant reneged on his deal to testify. As a result, we had to proceed with trial in anticipation of the co-Defendant refusing to testify pursuant to the constitutional rights accorded him by the 5th amendment of the United States. We were very careful to handle this without prejudicing the case. The jury did return a verdict of guilty as to voluntary manslaughter and the Defendant Ray was sentenced to 22 years in prison.

(d) Kyong Yi Knight vs. Craig Stanley Knight; case number 99-DR-34-56. This was a domestic case including the issues of divorce, equitable division, and custody. My client was the wife who was of Korean descent having married the Defendant while he was in the military. Her English was not good, but we were able to overcome the communication barrier to try the case. This case included the division of a military pension which was in pay status.

(e) John Moody, Jr. vs. Hope Michelle Price; case number 2005-DR-34-43. This was a domestic case on the issue of change in custody based on a substantial change in circumstances. My first involvement with the Plaintiff actually came in 2003 when we brought an action in Marlboro County which established jurisdiction for custody and visitation issues involving the subject minor children herein in South Carolina pursuant to the UCCJA.

This action was filed in 2005 for a change in custody to my client, the father. This involved two children ages 9 and 10 and was tried without the benefit of a Guardian ad Litem after the Court determined that it was not necessary to have the same appointed. We did achieve a change in custody through the submission of documentary evidence and testimony regarding the instability of the Mother in providing for the children and the increased stability of the father since the last ruling by the Court.”

The following is Ms. Munnerlyn’s account of the civil appeal she has personally handled:

“Estate of E.C. McInnis, Jr. vs. Alyce B. McInnis, Appeal from the Probate Court to Circuit Court and subsequently to the Court of Appeals; Opinion from the South Carolina Court of Appeals filed on January 28, 2002, Opinion No. 3439.”

Ms. Munnerlyn reported that she has not personally handled any criminal

appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Munnerlyn’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Advisory Committee found “Ms. Munnerlyn to be a well-regarded candidate who would ably serve on the Family Court bench.”

Ms. Munnerlyn is married to Jerry Ronald Munnerlyn. She has two children.

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

“(a) South Carolina Bar Association;

(b) South Carolina Trial Lawyers Association (past member);

(c) American Bar Association (past member).”

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

“(a) Kiwanis, member (2000-present); President (2003-2004);

(b) United Way, Board member (2000-2005);

(c) Junior Charity League, member (1994-2004).”

(11) Commission Members’ Comments:

The Commission commented that Ms. Munnerlyn articulated many good ideas at the Public Hearing for handling the backlog of cases in Family courts. They noted that she had well-rounded legal experience that would serve her well on the Family Court bench.

(12) Conclusion:

The Commission found Ms. Munnerlyn qualified and nominated her for election to the Family Court.

**J. Alex. Stanton, IV**

**Family Court, Fourth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Stanton meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Stanton was born in 1949. He is 60 years old and a resident of Hartsville, South Carolina. Mr. Stanton 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 1974.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Stanton.

Mr. Stanton 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. Stanton reported that he not made any campaign expenditures.

Mr. Stanton 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. Stanton 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. Stanton to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

Conference/CLE Name Date(s)

“(a) Horry County Family Court Seminar 12/17/2008;

(b) Chicago/Ticor Title Insurance Seminar 11/19/2008;

(c) Chicago/Ticor Title Insurance Seminar 11/15/2007;

(d) The Ten Greatest Estate Planning

Techniques in S.C. 07/31/2007;

(e) Settling Uninsured and Underinsured

Motorist Claims 12/12/2006;

(f) Chicago/Ticor Title Insurance Seminar 11/9/2006;

(g) Mandatory ADR Training 09/8/2006;

(h) How to Prepare and Succeed at Social Security

Disability Hearings 12/9/2005;

(i) Chicago/Ticor Title Insurance Seminar 11/10/2005;

(j) Chicago/Ticor Title Insurance Seminar 11/10/2004;

(k) Chicago/Ticor Title Insurance Seminar 11/12/2003;

(l) Litigation Under the S.C. Tort Claims Act 08/15/2003;

(m) S.C. Worker’s Compensation Law 05/30/2003”.

Mr. Stanton reported that he has taught the following law‑related course:

“Darlington County School District ‘Planning for the Future Seminar’ for Retirees

I have presented a program to the retirees on Wills, Powers of Attorney, Health Care Powers of Attorney, Living Wills, Trusts, and Other Estate Planning Matters on 7/14/1998, 7/20/2000, 6/20/2002, 6/17/2004, and 6/19/2008.”

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

(4) Character:

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

The Commission also noted that Mr. Stanton 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. Stanton reported that his Martindale-Hubbell rating is AV.

Mr. Stanton reported the following military service:

“(a) United States Army – Active Duty

I was commissioned a Reserve Commissioned Officer as a 2 LT on May 21,1971 upon my graduation from Wofford College as a member of the Wofford College ROTC.

I was granted a ‘deferment’ from Active Duty to attend law school.

On October 25, 1974, I was promoted to the Rank of 1 LT.

On October 25, 1974, I began my Active Duty Training (ADT) at Fort Bliss, Texas. I completed my ADT at Fort Bliss, Texas on February 14, 1975, at which time I was granted an Honorable Discharge from the U.S. Army Active Duty, as reflected on Form Number DD 214, which I filed in the Office of the Clerk of Court for Darlington County on February 18, 1975 in Book 11 at page 138.

(b) United States Inactive Reserve

Upon my completion of my ADT, I was a member of the United States Inactive Reserve.

(c) South Carolina National Guard

I became a member of the South Carolina National Guard on November 17, 1977 as a 1 LT.

On February 27, 1980, I was promoted to the rank of Captain in the South Carolina National Guard.

I served as Commander of the 741st General Supply Company from 1980 to 1983.

On December 10, 1982 I was presented with the Army Achievement Medal by The Department of the Army.

I ceased my service in the South Carolina National Guard in 1985 and was Honorably Discharged.”

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

“(a) Darlington County Board of Education (Elected by the voters of Darlington County)

Dates: 1979 to 1994

Served as Chairman: 1989 to 1991

Served as Vice-Chairman : 1981 to 1989;

(b) South Carolina State Board of Education (Appointed by the Legislative Delegation)

Dates: 1995 to 1998

Served as Chairman : 1997 to 1998

Served as Vice-Chairman : 1997

I timely filed all reports with the State Ethics Commission.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Stanton was admitted to the South Carolina Bar in 1974.

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

“In August of 1974, after I finished Law School and after I took the S.C. Bar Examination, I became an Associate with the Law Firm of Shand and Lide in Hartsville, S.C. (comprised of Robert W. Shand and Vinton D. Lide). In October of 1974 I had to attend my U.S. Army Officer Basic Course (ADT) in Fort Bliss, Texas until February of 1975, at which time I was placed in the U.S. Army Inactive Reserve. In February of 1975 I resumed my Associate Position with Shand and Lide. This law practice was a “general practice” which included (1) Family Court Matters, (2) Real Estate, (3) Wills, Powers of Attorneys and Trusts, (4) Estate Planning, (5) Probate and Estates, (6) Criminal Defense, (7) Business Law (corporations and partnerships), (8) Debt Collection, and (9) Personal Injury.

I continued as an Associate with Shand and Lide until January 1,1976 when I was made a Partner and the Law Firm’s name was changed to Shand, Lide, & Stanton. We continued to practice the same areas of law.

Sometime in 1978, Mr. Vinton D. Lide withdrew from The Law Firm and relocated to the Columbia, S.C. area. Mr. Shand and I continued in the practice of law under the name of Shand & Stanton. We continued to practice the same areas of law.

Sometime in 1980, Robert W. Shand retired from the active practice of law, and I continued the Law Firm under the name of Shand and Stanton (with Mr. Shand being “of counsel”). I continued to practice the same areas of law.

On January 1, 1985, I made Mr. Jamie Lee Murdock, Jr. (an Associate of my Law Firm) a Partner, and Mr. Murdock and myself began to practice law under the name of Shand, Stanton, and Murdock. We continued to practice the same areas of law.

This continued until May 1, 1992 when Mr. Murdock was elected to a Family Court Judgeship (Seat 2 of the Fourth Judicial Circuit). Upon the departure of Mr. Murdock, I continued my law practice under my prior solo Law Firm name of Shand and Stanton. I continued to practice the same areas of law.

On October 1, 1992, I brought in two (2) other attorneys, Mr. J. Richard Jones and Mr. Karl H. Smith, as Partners, and we began to practice law under the name of Stanton, Jones & Smith. We continued to practice the same areas of law.

In the spring of 1997, Mr. Smith withdrew from the Law Firm, but Mr. Jones and myself continued to practice law under the name of Stanton & Jones. We continued to practice the same areas of law.

Effective December 31, 2008, Mr. Jones withdrew from the Law Firm to become a “Fulltime Public Defender”, and I have continued my law practice under the name of Stanton Law Firm. I continue to practice the same areas of law.

My entire practice of law has always been at the same address of 954 West Carolina Avenue, Hartsville, South Carolina.”

Mr. Stanton further reported:

“My practice for the past thirty-four (34) years has always included a substantial portion of family law cases, including numerous divorces, numerous cases involving the issues of spousal support (alimony), along with equitable division of property, child custody and child support. I have also handled several adoption cases. I have been involved either as the Attorney or Court Appointed Guardian *ad Litem* in many Department of Social Services abuse and neglect cases. In addition, I have been involved in the representation of juveniles in Family Court proceedings.

**Recent Divorce and Equitable Division of Property Cases**

Dana White Farmer v. James G. Farmer 2007-DR-16-250 (Active)

I represent the husband, and this case involves both of these issues with the equitable division issue being complicated. It also involves the issues of Non-Marital Property, Alimony and Attorney Fees. We have undergone extensive Discovery in this case and it should be scheduled for a Final Hearing in the near future.

Ann H. Hudson V. Paul E. Hudson 2008-DR-16-882 (Active)

I represent the husband, and this is a recent case which involves both of these issues. There has been a Temporary Hearing, and we are currently doing Discovery in this case. It has not yet been scheduled for a Final Hearing.

Ronnie D. Johnson v. Lynda J. Johnson 2008-DR-16-113 (Active)

I represent the wife, and this is a recent case which involves both of these issues. It also involves the issues of Alimony (as the wife is disabled) and Attorney Fees. There has been a Temporary Hearing, and we are currently doing Discovery in this case. It has not yet been scheduled for a Final Hearing.

Traci M. Teal v. James Harvey Teal 2008-DR-16-273 (Active)

I represent the husband, and this is a recent case which involves both of these issues. It also involves the issue of Alimony, Child Support, and Attorney Fees. One (1) of the major marital assets is a business operated by the husband. There has been a Temporary Order issued in this case. It has not been scheduled for a Final Hearing.

Deborah Michelle Moore v. Butch Samuel Moore 2008-DR-16-120 (Active)

I represent the husband, and this is a recent case which involves both of these issues. It also involves the issues of Alimony, Child Custody, Visitation, and Child Support. We have had a Temporary Hearing and we are currently doing Discovery. A Final Hearing has not yet been scheduled.

Cheri L. Pittman v. Christopher J. Pittman 2008-DR-16-496 (Closed)

I represented the husband, and this was a case which involved both of these issues. It also involved the issues of Child Custody, Visitation, Child Support, and Attorney Fees. Shortly before the Final Hearing, the parties entered into a written Agreement as to all issues except for the issue of Divorce. At the Final Hearing, the Court approved the Agreement and granted the Divorce.

Gina Sasser Anderson v. Scott Edward Anderson 2007-DR-16-1125 (Closed)

I represented the wife and this case involved both of these issues. It also involved the issues of Child Custody, Visitation, Child Support, and Attorney Fees. A Temporary Hearing was held in this case. Extensive Discovery was done prior to the Final Hearing. The parties entered into a written Agreement as to all issues except the issue of Divorce. At the Final Hearing, the Court approved the Agreement and granted the Divorce.

Kirsten Anderson v. Daniel R. Anderson v. Auleen Pabst 2006-DR-16-0683 (Closed)

I represented Mrs. Pabst, and this was a Divorce, Equitable Division of Property, Child Custody, Visitation, Child Support, Alimony, and Attorney Fees case between Kirsten Anderson and Daniel R. Anderson. During the course of this hotly contested case, Mrs. Auleen Pabst (the mother of Kirsten Anderson) was added as a party-defendant to this case due to Daniel R. Anderson claiming an interest in the house in which Kirsten and Daniel had lived as husband and wife, but which had always been owned by and titled in the name of Mrs. Pabst. There were several Hearings involved in this case. After the second (2nd) day of the Final Hearing, Mr. Anderson withdrew his request to be awarded an equitable interest in the house owned by Mrs. Pabst.

Gloria T. Smith v. Gregory C. Smith 2008-DR-16-331 (Closed)

I represented the husband, and this case involved both of these issues. We were unable to resolve these issues and the Court made the decision on the issues of Equitable Division of Property, Alimony, and Attorney Fees. Also, the Court granted a Divorce to the parties.

Diane J. Lisenby v. R. Steven LIsenby 2008-DR-13-205 (Closed)

I represented the wife, and this case involved both of these issues. Also, this case involved the issue of Non-Marital Property claimed by both parties. We were unable to resolve these issues and the Court made the decision on the property matters and granted the wife a Divorce.

**Recent Child Custody Cases**

Cheri L. Pittman v. Christopher J. Pittman 2008-DR-16-496 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

Gina Sasser Anderson v. Scott Edward Anderson 2007-DR-16-1125 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

William Christopher Norton v. Kellie Louise Norton 2002-DR-34-298(Closed)

I represented the father, and this was a case in which the father sought the custody of two (2) children. I was able to obtain the custody of the two (2) children for the father, and the mother was only allowed supervised visitation due to her use of drugs, and the mother was required to pay Child Support. The maternal grandmother was granted some limited visitation rights in this case. A Guardian *ad Litem* was also active in this case.

Deborah Michelle Moore v. Butch Samuel Moore 2008-DR-16-1206 (Active)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

**Adoption Cases**

James Frederick Jones and Elwanda Susan Munn Jones v. Baby Graham 1984-DR-16-167 (Closed)

I represented both of the adoptive parents and this was a private adoption case. The Court approved the Adoption of the baby.

Barbara Robinson Slater vs Zaereona Shydea Slater and John Doe 2008-DR-16-419 (Closed)

I represented the adoptive grandmother, who was the mother of the natural mother. The father was unknown. The maternal grandmother had been taking care of the minor child since birth and the minor child was six (6) years old. The Court granted the Adoption.

William Christopher Norton and Tonya Marie Norton vs Kellie Nolan Norton and Yvonne Kersey 2008-DR-34-469 (Closed)

I represented the adoptive mother and the natural father in this case which was brought against the natural mother and the maternal grandmother. This case also involved the issue of Termination of Parental Rights against the natural mother and the Termination of Grandparental Rights of the natural grandmother. The Court Terminated the Parental Rights of the natural mother and the limited visitation rights of the maternal grandmother. In addition, the Court approved the Adoption of the two (2) children by the adoptive mother (who was the new wife of the natural father).

There have been some other Adoption Cases, but I cannot recall them at this time.

**Abuse and Neglect Cases**

S.C. Department of Social Services vs Lorenzo Scott 1998-DR-16-1408 (Still Open)

I have been representing the father in this case since November 21, 2001.

The SCDSS had the custody of the father’s three (3) children, namely, Lorenzo Scott (DOB: 5/26/91), Cyless Scott (DOB: 1/20/1993), and Shareb Scott (DOB: 1/19/94). Mr. Scott had been incarcerated in the State Prison System and the mother of the children had been accused of abuse and neglect in Case Number 1998-DR-16-1408.

The SCDSS also initiated a Complaint for Termination of Parental Rights against both the father and the mother, Shelieka Jones, in Case Number 1999-DR-16-1411. The Court issued its Order on March 11, 2001 in which the Court terminated the rights of the natural parents. Thereafter, the Court later issued a Supplemental Order (due to Mr. Scott’s Motion for Reconsideration) in which the Court ruled that the Parental Rights of Mr. Scott to the above three (3) children were not terminated. I was not representing Mr. Scott at this time.

Later, by Order dated February 19, 2004, the SCDSS withdrew its request for Termination of the Parental Rights of Mr. Scott to these children. I did represent Mr. Scott at that time.

The SCDSS instituted another action for the Termination of the Parental Rights of Mr. Scott to Ny’rique Saladine James (DOB: 12/17/1999) in Case Number 2001-DR-16-0112. I was appointed to represent Mr. Scott on November 21, 2001. On May 30, 2002 the Court issued its Order which terminated his parental rights to one (1) child, namely, Ny’rique Saladine Jones (DOB: 12/17/1998).

I have continued to represent Mr. Scott in Case Number 1998-DR-16-1408 in regards to Hearings held for Permanency Planning on 3/7/2002, 9/26/2002, 11/25/2003, 6/10/2004, 6/7/2005, 6/6/2006, 6/5/2007, and 6/3/2008. Mr. Scott has now been released from prison, but SCDSS still has the custody of the children and another Permanency Planning Hearing will be held probably in June of 2009.

S.C. Department of Social Services vs Thereva Copeland, Mark Bosch, Maurice Bell, Stanley Bosch, and Sara Bosch 2002-DR-16-0169 (Closed)

I was appointed to represent Thereva Copeland, the children’s mother, in this action for the removal of her children for alleged abuse and neglect. Several Hearings were held in 2002, 2003, and 2004. Ms. Copeland complied with the Treatment Plan and by Order dated October 23, 2004, the children were returned to Ms. Copeland.

S.C. Department of Social Services vs Renee S. Wright, Hattie Toney, and Troy Toney 2003-DR-16-0151 (Closed)

I was appointed to represent Renee S. Wright, the mother of the minor child, in a removal action for abuse and neglect. The SCDSS was granted custody of the minor child by Order dated April 3, 2003. A Treatment Plan was approved by Order dated December 30, 2003. Permanency Hearings were held on December 13, 2003, June 10, 2004, and November 30, 2004, which resulted in Orders being issued to continue the custody of the child with the SCDSS. On March 11, 2005 the Court issued its Order returning the child to Ms. Wright.

S.C. Department of Social Services vs Tina Commander, Michael Commander, Jermaine McDonald, and Ola Commander 2003-DR-16-437 (Closed)

I was retained by Michael Commander, the father of one (1) of the subject children. Mr. Commander had obtained a Divorce from Tina Commander on November 6, 2002 in the State of North Carolina. Ms. Tina Commander had the child living with her when the SCDSS instituted this case for abuse and neglect on her part. There were no allegations as to abuse and neglect against Mr. Commander. On May 14, 2005, the Court issued its Order granting the Temporary Custody of the minor child to Ola Commander, the paternal grandmother. On June 22, 2005 the Court granted the Temporary Custody of the child to Mr. Commander. Mr. Commander had filed an Answer in which he requested the legal and physical custody of the minor child. Also, Mr. Commander later had filed an Amended Answer, Counterclaim, and Cross-Claim for the legal and physical custody of the minor child. On September 28, 2005 the Court issued its Order continuing the custody of the subject minor child with Mr. Commander and required that Ms. Tina Commander be entered in the Central Registry of Child Abuse and Neglect. On December 30, 2005 the Court issued an Order which continued the custody of the subject minor child with Mr. Commander.

S.C. Department of Social Services vs Amanda Bradley, Brandon Smothers, and Donna Smothers 2003-DR-16-1230 (Closed)

I was appointed to represent Amanda Bradley, the mother of the minor child, in an abuse and neglect action against her for her use of illegal drugs. Ms. Bradley filed an Answer in which she requested that the custody of the child be returned to her. On January 8, 2004 the Court continued the custody of the child with the SCDSS and approved a Treatment Plan. On February 17, 2004 the Court issued its Order continuing the legal custody of the child with the SCDSS. On August 27, 2004 the Court issued its Order granting the legal and physical custody of the child to Donna Smothers, the paternal grandmother, and provided that Ms. Bradley would have visitation with the child and that Ms. Bradley would continue her efforts to complete the Treatment Plan. On November 22, 2004 the Court issued its Order continuing the custody of the child with Donna Smothers, but provided for visitation by Ms. Bradley.

S.C. Department of Social Services vs Jenna Collier, James Lee, and Frank Collier, Jr. 2004-DR-16-0114 (Closed)

I was appointed as the Guardian *ad Litem* for the minor child in this case involving allegations of abuse and neglect against the child’s parents. On May 25, 2004 the Court issued its Order granting the custody of the child to the maternal grandfather, Mr. Frank Collier, Jr., and the Court made findings of abuse and neglect against the parents. On October 1, 2004 the Court issued its Order continuing the custody of the minor child with the maternal grandfather, Mr. Frank Collier, Jr.(as recommended by the undersigned as Guardian *ad Litem* ).

There have been many other cases in the Abuse and Neglect area, but I cannot recall them at this time.

**Juvenile Justice Cases**

I have represented some juveniles in some Juvenile Justice Cases, but I cannot recall them at this time. Therefore, I have experience in this area of family law.”

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

“(a) Federal: Federal: very infrequently and I only recall one (1) case which I was involved with in the last five (5) years.

(b) State: probably an average of three (3) times per month.”

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

“(a) Civil: 79% to 82%;

(b) Criminal: 0% to 1%;

(c) Domestic: 18% to 20%.”

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

“(a) Jury: 2%;

(b) Non‑jury: 98 %.”

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

The following is Mr. Stanton’s account of his five most significant litigated matters:

“(a) Estate of Margaret S. Goodson (1998-ES-16-216) and Estate of Helen S. Goodson (2000-ES-16-284).

‘I was retained in 2005 by seven (7) of the nine (9) Heirs to these two (2) Estates in an attempt to determine the status of both Estates and to determine what had happened to the assets of both Estates.

Ms. Harriett E. Wilmeth had served initially as the Attorney for both Estates and later served as the Personal Representative of both Estates. I filed an extensive “Demand for Documents and Information’ and served it on Ms. Wilmeth. A Hearing was held by Probate Judge, Marvin I. Lawson, on February 25, 2005, which resulted in an Order being issued on April 25, 2005, but Judge Lawson had orally advised the parties of his ruling on February25,2005. This Order set forth that a full Hearing would be conducted during the first (1st) week of May of 2005 and required Ms. Wilmeth to provide to the undersigned his requested information and documents prior to such Hearing.

A Hearing was held on May 5, 2005, but there was not sufficient time to complete a presentation of the witnesses and issues and another Hearing was held on December 8, 2005. As a result of the two (2) Hearings, the Probate Court issued an Order, dated February 3, 2006, consisting of sixty-eight (68) pages. This Order was prepared by the undersigned pursuant to instructions issued by Judge Lawson to the undersigned. This Order found that Ms. Wilmeth had not properly served as the Attorney and/or Personal Representative of the Goodson Estates’ and the Probate Court Order granted the following Judgments against Ms. Wilmeth as follows:

1. In favor of the Margaret S. Goodson Estate in the sum of $150,000.00

2. In favor of the Helen S. Goodson Estate in the sum of $317,760.97

Both Judgments totaled the sum of $467,960.97. However, at the May 5, 2005 Hearing, upon examination of Ms. Wilmeth by the undersigned, it was discovered that Ms. Wilmeth had depositied some of the Goodson Estates’ monies into one (1) of her personal companies, namely, Wilmeth Enterprises, LLC. The Probate Judge ‘orally ordered’ Ms. Wilmeth to return those monies to the Goodson Estates’ on or before May 15, 2005. Ms. Wilmeth presented a deposit slip for $861,367.52, which purported to show compliance by Ms. Wilmeth with the May 5, 2005 ‘oral order’ to return those monies to the Goodson Estates. However, later on, it was discovered that the check for $861, 367.52 (as reflected as having been deposited into the Goodson Estates’ by Ms. Wilmeth) had been ‘returned by the Bank due to insufficient funds’. The Probate Judge issued his Emergency Order and Rule to Show Cause to Ms. Wilmeth on February 15, 2006, which required Ms. Wilmeth to appear at a Hearing on February 17, 2006 regarding the required deposit from her to the Goodson Estates’ of the sum of $861,367.52.

A Hearing was held on February 17, 2006, at which time Ms. Wilmeth did appear and the undersigned was also present. When Ms. Wilmeth admitted that she did not return the sum of $861,367.52 to the Goodson Estates’, as required by Judge Lawson on May 5, 2005, and when Ms. Wilmeth refused to inform the Probate Judge as to the whereabouts of said money, the Probate Judge issued his Order on February 17,2006, which sentenced Ms. Wilmeth to six (6) months in the Darlington County Detention Center. Said Order did allow her to purge herself of the Contempt of Court by return to the Goodson Estates’ of the sum of $861,583.22. This Order also removed Ms. Wilmeth as the Personal Representative of both Goodson Estates and prohibited Ms. Wilmeth from making any further withdrawals from the Goodson Estates. On February 18, 2006, Ms. Wilmeth caused the delivery to the Probate Judge of a Certified Check in the sum of $861,583.22, and the Probate Judge then allowed Ms. Wilmeth to be released from jail.

Through my efforts, I was able (1) to recover from Ms. Wilmeth the sum of $861,583.22 for the Heirs of the Goodson Estates’, (2) to have Ms. Wilmeth removed as Personal Representative of the Goodson Estates’, and (3) obtained Judgments against Ms. Wilmeth in the total sum of $467,960.97.

I am continuing my efforts to collect the Judgments against Ms. Wilmeth on behalf of the Goodson Estates.

Also, another significant matter relating to Ms. Wilmeth and this case, was that I believe that my representation of the Goodson Estates’ and the uncovering of the conversion of the Goodson Estates’ money by Ms. Wilmeth, was helpful in the Supreme Court of South Carolina issuing its Order for Interim Suspension of Ms. Wilmeth on March 22, 2006 and the Disbarment Ms. Wilmeth by Order of the Supreme Court of South Carolina on May 15, 2007 (with the Goodson Estates’ being referred to as ‘Matter 1’ in the Disbarment Order).’

(b) Eden Hernandez v. Labor Services, Inc. (W.C.C. File No. 020033:2004-CP-12-792 (Circuit Court Appeal)).

‘I represented Mr. Hernandez in this Workers Compensation Case against his employer, Labor Services, Inc.

Mr. Hernandez was employed by Labor Services, Inc. and was placed at Charles Ingram Lumber Company. Mr. Hernandez was injured on January 3, 2002 while operating a machine at Charles Ingram Lumber Company. Mr. Hernandez incurred an injury to his right arm which required surgery and which resulted in Mr. Hernandez being given a 100% permanent residual impairment to his upper right arm. Mr. Hernandez did not reach maximum medical improvement until August 16, 2002, but that he would still require some continuing medical treatment due to his continuing pain in his right hand, arm, and shoulder.

Mr. Hernandez was an illegal alien and he did misrepresent his legal status on his employment application.

On October 15, 2002, Commissioner Sherry Shealy Martschink held a Hearing on this matter and on June 10, 2003, the Hearing Commissioner issued her Order which ruled that Mr. Hernandez sustained a compensable injury by accident during his course and scope of his employment. The Order further provide that he was entitled to payment of all medical expenses related to his treatment of injuries due to the accident. It further provided that he was entitled to Temporary Total Disability payments for a period of 33 weeks and for payment of an additional 50 weeks for disfigurement. The Order further provided that he was entitled to the payment for 220 weeks for his 100% permanent impairment to his right arm.

Within the statutory time period, the Employer filed an Application for Review before the Appellate Panel of the South Carolina Workers’ Compensation Commission.

On February 24, 2004, the parties appeared before the Appellate Panel of the South Carolina Workers’ Compensation Commission and on April 2, 2004, the Appellate Panel issued its Decision and Order, in which it unanimously approved the Hearing Commissioner’s Findings of Fact and Rulings of Law, and that the Appellate Panel sustained the June 10, 2003 Order in its entirety.

The Employer filed a Notice of Intent to Appeal the April 2, 2004 Decision and Order of the Appellate Panel of the South Carolina Workers’ Compensation Commission on April 28, 2004 in the Circuit Court for the Twelfth Judicial Circuit in Florence, South Carolina. This Appeal was given Case Number 2004-CP-12-792. The basis for the Employer’s Appeal was that Mr. Hernandez was prohibited from compensation due to the federal Immigration Reform and Control Act of 1986 ‘pre-empting’ South Carolina Law.

This Appeal was heard before the Honorable James E. Brogdon, Jr., Judge of the Twelfth Judicial Circuit, and on October 20, 2004, Judge Brogdon issued his Order, consisting of seventeen (17) pages, which South Carolina Workers’ Compensation Commission. The undersigned prepared this Order pursuant to the instruction from Judge Brogdon.

After the October 20, 2004 Order, The Employer paid to Mr. Hernandez the benefits to which he was entitled.

The significance of this case was that the rulings followed the Law of South Carolina that an employee, even if he was an illegal alien, could recover for his injuries sustained in a work related accident. If the Appellate Panel or the Circuit Court had ruled against Mr. Hernandez, such ruling could have been a precedent for other cases involving illegal aliens who were employed and then injured on the job.’

(c) Leon C. Pennington, Jr. and Beverly J. Pennington v. City of Hartsville, 2003-CP-16-679.

‘I represented the homeowners, Mr. Leon C. Pennington, Jr. and Beverly J. Pennington, in an action for damages sustained as the result of a sewage back-up into their residence located within the City of Hartsville.

The residence sustained substantial damage as the sewage back-up occurred during a time period when the homeowners were out of town. The bottom floor of their residence was totally inundated with sewage and it contaminated not only the floors, rugs, walls, appliances, and furnishings, but also the clothing of the Penningtons and their children (including everything upstairs).

The Penningtons had to move out of their house for the repairs to be made. Many of the appliances, rugs, furnishings, and clothing had to be disposed of. Some of the furnishings and clothing were able to be cleaned by a special and expensive disinfectant cleaning process.

Even after the repairs had been made to the house, Beverly J. Pennington still suffered from an allergic reaction to what toxins may have remained in the house.

Also, since it was common knowledge in the community as to what had transpired, the house was looked upon as being ‘tainted’, which affected the valuation of the house. The Penningtons had planned to try to sell the house prior to the sewage back-up, but due to the ‘stigma’ on it after the back-up, they were unable to sell it.

During the lawsuit, Discovery was conducted and it was discovered that the City was aware of some prior minor sewage back-ups to the Penningtons’ house, but these had been only minor back-ups in the tub, and when noticed by the Penningtons, they called the City, and the City sent some workers out to fix the sewage line. The City was under notice that it needed to periodically check the sewage line to prevent such sewage back-ups, but the City had failed to check on that sewage line for an extended period of time.

The City strongly contested its liability.

However, shortly before trial, the parties agreed to submit this case to Mediation. During the daylong Mediation, the City finally agreed to pay to the Penningtons the sum of $219,000.00.’

The significance of this case was that it was a very difficult case in which to prevail, but due to the outcome of the Discovery, we were able to place the liability squarely on the City of Hartsville due to its failure to take steps in which to lessen the possibility of such an extreme sewer back-up after it had notice of prior problems.

(d) First National Bank v. John Kokontis and Shirley Kokontis, 1977-CP-16-205.

‘In this case, I represented the Bank in a collection matter against Mr. Kokontis and Mrs. Kokontis. This case was tried by a Jury, and the Jury brought back a Verdict for the Bank.

The facts of the case were that Mr. and Mrs. Kokontis had obtained a loan (secured by an automobile and restaurant equipment) from the Bank on September 3, 1976. Sometime during the term of the loan, a Bank employee mistakenly marked some loan documents as ‘paid’ and mailed out the said documents. These mistakenly marked ‘paid’ documents included the loan documents of Mr. and Mrs. Kokontis along with the loan documents of several other customers.

The other customers called the Bank and inquired about their having received their loan documents marked ‘paid’ when they had not paid off their loans. Based upon those calls by the other customers, the Bank became aware of the mistake of marking of the loan documents as ‘paid’. Upon contacting Mr. and Mrs. Kokontis, they took the position that since their loan documents were marked ‘paid’, they did not owe any money to the Bank.

At trial, the Bank presented testimony from its employee who had mistakenly marked the loan documents as ‘paid’, together with testimony as to the payment history of Mr. and Mrs. Kokontis (which did not reflect the receipt of any payments from them around the time that the loan documents were marked ‘paid’). Also, another customer of the Bank testified that he had not paid off his loans and the Bank must have made a mistake when they were marked ‘paid.’

Mr. and Mrs. Kokontis continued to take the position that the loan was paid off and they stated that it had been paid off with cash given to a Bank employee. However, they could not identify that employee or prove where they had obtained the cash to have made the payment.

The Jury returned a Verdict for the Bank as they did not believe the testimony of Mr. and Mrs. Kokontis. The significance of this case was that when one (the Bank) unilaterally makes a mistake, another person cannot profit from that mistake made by the other person. It further showed that a Jury will weigh all of the pertinent facts and render a Verdict that the Jury believes is appropriate and correct.

(e) Major A. Kelly v. Nationwide Mutual Insurance Company, Edward Jack Smith and Edward L. Jennings, 278 S.C.488, 298 S.E.2d 454 (1982).

‘In this case, I solely represented Mr. Kelly in the Jury Trial in Circuit Court in regards to his claim for damages sustained to his automobile under a policy insured by Nationwide Mutual Insurance Company. Mr. Edward Jack Smith was the local agent and Mr. Edward L. Jennings was a Vice-President of Nationwide Mutual Insurance Company.

The facts of this case were that Mr. Kelly had purchased an insurance policy on his vehicle from Nationwide through a local agent. The insured automobile was destroyed by fire, and when Mr. Kelly made a claim for his damages, Nationwide, through his local agent, advised Mr. Kelly that his insurance policy had been cancelled for non-payment of premium prior to the fire which destroyed his automobile. Mr. Kelly had his vehicle financed with a local bank and he still owed money to the bank on his loan. The bank had also been listed as a ‘loss payee’ on the Nationwide insurance policy.

After Mr. Kelly made his claim, it was denied as Nationwide, his local agent, and Mr. Jennings all made assertions that the policy had been cancelled for non-payment of premium prior to the fire and that Mr. Kelly and his local bank had been given Notice of Cancellation of the policy. Mr. Kelly and Mr. Kelly’s bank did not recall having received any Notice of Cancellation from Nationwide.

Based upon the refusal to pay by Nationwide, I brought a lawsuit on behalf of Mr. Kelly in which the lawsuit alleged a cause of action for breach of contract (for actual damages) and a cause of action for breach of contract accompanied by a ‘fraudulent act’ (for punitive damages).

We took the Deposition of several people, including the postal employee who certified that Nationwide had mailed hundreds of document on a particular day as shown on a list prepared by Nationwide (which allegedly included the Notice of Cancellation of Mr. Kelly’s policy). However, upon cross-examination, this postal employee testified that he never checked to see if all of the documents contained on the list had been mailed as he merely ‘took Nationwide’s word’ that all documents contained on the list were in the container of documents which were mailed.

During a trip to Raleigh, North Carolina, when I was looking through Mr. Kelly’s records at Nationwide’s main office, I came across a ‘Memo’ written by Mr. Jennings that ‘cautioned’ people to be especially careful in handling the claim of Mr. Kelly.

During Trial, upon cross-examination of Mr. Jennings, the undersigned asked Mr. Jennings, about when he first knew of Mr. Kelly’s claim, and he stated that it was not until the lawsuit had been served. The undersigned then presented Mr. Jennings with a copy of his ‘Memo’ about cautioning people to handle the claim of Mr. Kelly especially carefully. Mr. Jennings could not explain the discrepancies between his answer and the ‘Memo’ that he wrote prior to the lawsuit being served.

The Judge submitted both causes of action to be decided by the Jury.

The Jury returned a Verdict for Mr. Kelly for several thousand dollars in actual damages on the breach of contract cause of action and for $125,000.00 in punitive damages on the breach of contract accompanied by a fraudulent act cause of action.

The Defendants made a Motion for Judgment N.O.V. on the cause of action for breach of contract accompanied by a fraudulent act (i.e. punitive damages).

The Trial Judge granted the Defendants’ Motion for Judgment N.O.V. as to the punitive damages cause of action.

Mr. Kelly appealed the disallowance of the $125,000.00 punitive damages awarded by the Jury. The undersigned requested Mr. J. Rutledge Young, Jr. to assist him in the Appeal. Both attorneys fully participated in the Appeal.

The Supreme Court ‘Affirmed’ the ruling of the Trial Judge in granting the Motion for Judgment N.O.V. as to the punitive damages award. The Supreme Court stated that there was not any evidence where fraudulent intent could be reasonably inferred and that Mr. Kelly did not rely on the alleged misrepresentation concerning coverage.

The problem which Mr. Kelly encountered in the breach of contract accompanied by a fraudulent act cause of action was to be able to prove ‘reliance’ on the misrepresentation made by Nationwide. It was clear that

Mr. Jennings had made an attempt to handle this claim especially carefully (i.e. the Memo), but there was no way that Mr. Kelly could prove that then relied on it to his detriment.

At this time, our Supreme Court had not yet recognized the tort of ‘Bad Faith’, which does not require the proof of all of the elements as required in a case for breach of contract accompanied by a fraudulent act cause of action.

The undersigned believes that this case may have had some bearing on the Supreme Court later recognizing the tort of ‘Bad Faith’.”

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

“(a) Major A. Kelly vs. Nationwide Mutual Insurance Company, Edward Jack Smith, and Edward L. Jennings, 278 S.C. 488, 298 SD 2d 454 (1982).

This was heard by the South Carolina Supreme Court and the Opinion was filed on December 21, 1982.

(b) Mutual Savings and Loan Association vs James Glee McKenzie and Eunice S. McKenzie, 274 S.C. 630, 266SE 2d 423 (1980).

This was heard by the South Carolina Supreme Court and the opinion was filed on May 13, 1980.

(c) W.F. Beasley vs Etta Mae Beasley

This was an Appeal by Mr. Beasley, whom the undersigned represented in a Darlington County Family Court Case Number 1978-DR-16-540. Briefs were filed by the undersigned, but the parties resolved this Appeal prior to it being heard by the South Carolina Supreme Court and the Appeal was dismissed by Order of the South Carolina Supreme Court on April 24, 1979.

(d) Eden Hernandez vs Labor Services

Reference the discussion of this case under Question Number 19– response of the undersigned under (b), which involved (1) an Appeal from the Order of the Hearing Commissioner to the Appellate Panel of the South Carolina Workers’ Compensation Commission and (2) an Appeal from the Decision and Order of the Appellate Panel of the South Carolina Workers’ Compensation Commission to the Circuit Court of the Twelfth Judicial Circuit.”

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

(9) Judicial Temperament:

The Commission believes that Mr. Stanton’s temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee found “Mr. Stanton to be a well-regarded candidate who would ably serve on the Family Court bench.”

Mr. Stanton is married to Betsy Catherine Hayes. He has two children.

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

“(a) Darlington County Bar Association

Member – 1974 to Present

President – 1992

Secretary/Treasurer – 1975-1976

(b) South Carolina Bar Association

Member – 1974 to Present

Member of Citizen’s Implementation Committee – 1980-1981

Sixth District Congressional Representative to the South Carolina Young Lawyers’ Division – 1982-1983

Appointee to the Panel of the South Carolina Board of Grievances (cannot recall dates)

(c) South Carolina Trial Lawyers Association

(now known as South Carolina Association for Justice)

I am a member, but I have never held any office.

(d) American Trial Lawyers Association (ATLA)

(now known as American Association for Justice)

I have previously been a member, but I have never held any office.

(e) American Bar Association

I have previously been a member, but I have never held any office.”

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

“Prestwood Country Club, Hartsville, S.C.

Member – 1977 to Present

President – 1980 to 1981

Vice-President – 1979-1980

Director – 1977-1979.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Stanton had an excellent personality, and a wide legal background for serving as a jurist. They noted that he was a very “down to earth” individual at the Public Hearing.

(12) Conclusion:

The Commission found Mr. Stanton qualified, but not nominated, to serve as a Family Court judge.

**Ralph K. Anderson, III**

**Administrative Law Court, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Anderson meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Anderson was born in 1959. He is 49 years old and a resident of Columbia, South Carolina. Judge Anderson 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 Anderson.

Judge Anderson 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 Anderson reported that he has made “$46.64 in campaign expenditures for: copies, $14.55; and paper, $32.09.”

Judge Anderson 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 Anderson 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 Anderson to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) The Evolving World of Administrative Law September 19, 2008;

(b) It’s All a Game – Top Trial Lawyers Tackle Evidence Feb. 13, 2009;

(c) 2007 SCAARLA Conference September 21, 2007;

(d) Southeastern Health Planning October 9, 2007;

(e) Ethics October 31, 2007;

(f) Ethics for Government Lawyers November 9, 2007;

(g) SCAARLA: Administrative Law Practice September 22, 2006;

(h) South Carolina Tort Law Update October 27, 2006;

(i) Ethics for Government Lawyers November 3, 2006;

(j) Preparing Communities for Public Health Emergencies

March 18, 2005;

(k) SCAARLA: Administrative Law September 23, 2005;

(l) Same Game, New Rules: Ethics 2000 November 15, 2005;

(m) SCAARLA: Administrative Law October 1, 2004;

(n) 14TH Annual Criminal Practice in South Carolina

November 19, 2004.”

Judge Anderson reported that he has taught the following law‑related courses:

“(a) Southeastern Health Planning – October 9, 2007 – Panel discussion concerning judicial review of health care decisions;

(b) S.C. CLE - Does a Difference Make a Difference? – Panel discussion concerning diversity in the law;

(c) SCAARLA - Lectured on S.C. Const., Art. I, Section 22;

(d) Bridge the Gap - Lectured on Administrative Law;

(e) Supreme Court Staff - Lectured on the Ethics Act;

(f) S.C. CLE – ‘Ethics Act’ - Lectured on the Ethics Act;

(g) S.C. CLE – ‘Hiring and Firing’ - Lectured on employment law.”

Judge Anderson reported that he has published the following:

“(a) ‘A Survey on Attributes Considered Important for Presidential Candidates,’ Carolina Undergraduate Sociology Symposium, April 17, 1980.

(b) ‘An Overview of Practice and Procedure Before the Administrative Law Judge Division,’ South Carolina Trial Lawyers, Summer 1996.”

(4) Character

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

The Commission also noted that Judge Anderson 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 Anderson reported that his Martindale-Hubbell rating is “AV.”

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

“Appointed Assistant Attorney General 1985 to January 1995.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Anderson was admitted to the South Carolina Bar in 1984.

Judge Anderson reported the frequency of his court appearances prior to his election to the bench as follows:

“(a) federal: Infrequently;

(b) state: At least 30 or more times a year.”

Judge Anderson reported the percentage of his practice involving civil, criminal, and domestic matters prior to his election to the bench as follows:

“(a) civil: 25%;

(b) criminal: 75%;

(c) domestic: 0%.”

Judge Anderson reported the percentage of his practice in trial court during the past five years as follows:

“(a) jury: 25%;

(b) non-jury: 75%.”

Judge Anderson provided that he most often served as sole counsel.

The following is Judge Anderson’s account of his five most significant litigated matters:

“(a) State v. Dwight L. Bennett - This was a felony DUI case in which the victim lost the baby she was carrying and suffered horrible injuries. Although the defendant was convicted, this case was used as a legislative example as the need to increase the maximum felony DUI punishment.

(b) Georgia v. Richard Daniel Starrett, aff’d., Richard Daniel Starrett v. William C. Wallace, - Starrett was convicted of several crimes in South Carolina. Afterwards, Georgia sought his extradition in an attempt to convict him under the death penalty. Starrett’s challenge to the Attorney General’s Office authority to hold extradition hearings was denied.

(c) State v. Michael Goings - Goings was a notorious City of Cayce police officer charged with assault and battery of a high and aggravated nature.

(d) State v. Herbert Pearson and Terrance Singleton - The Defendants in this case were accomplices in the armed robbery, attempted murder and murder of attendants at a gas station in Sumter, S.C.

(e) State v. William Keith Victor - After the Defendant was convicted of murder and kidnapping, he was given the death penalty. His case was later reversed on appeal and the prosecution was assumed by me. The prosecution, under difficult circumstances, resulted in the Defendant’s plea to murder and the aggravating circumstance of kidnapping.”

The following is Judge Anderson’s account of the five civil appeals he has personally handled:

“(a) Bergin Moses Mosteller v. James R. Metts, S.C. Supreme Court, Not known when this case was decided;

(b) Dennis G. Mitchell v. State of S.C., S.C. Supreme Court, Not known when this case was decided;

(c) Ex Parte, Bobby M. Stichert v. Carroll Heath, S.C. Supreme Court, Decided August 29, 1985 - 286 S.C. 456, 334 S.E. 2d 282;

(d) Patrick C. Lynn, et al. State of S.C., Supreme Court, Not known when this case was decided;

(e) Paul David Tasker v. M.L. Brown, Jr., S.C. Supreme Court, Not known when this case was decided.”

The following is Judge Anderson’s account of the criminal appeals he has personally handled:

“I handled several criminal appeals while serving as an Assistant Attorney General. However, my service with the Attorney General’s Office ended in February 1995 when I began serving as an Administrative Law Judge. As a result of the passage of time since that date, the briefs and specific case captions are no longer available.”

Judge Anderson reported that he has held the following judicial office:

“I was elected by the General Assembly to serve as an Administrative Law Judge, February 1, 1995, and have been serving continuously since that date.

Administrative Law Judges hear appellate, injunctive and trial cases in a broad range of administrative matters involving governmental agencies and private parties.

The appellate jurisdiction includes appeals involving Medicaid; driver’s license revocations and suspensions; licensing decisions from boards/commissions under the Department of Labor, Licensing and Regulation; Budget and Control Board’s Employee Insurance Program; AFDC benefits; operation of day care facilities and foster home licensing; food stamps; and revocations or suspensions of teachers’ certificates. The Administrative Law Court also hears appeals from final decisions of the Department of Corrections in “non-collateral” matters, and appeals from final decisions of the South Carolina Department of Probation, Parole and Pardon Services permanently denying parole eligibility.

The contested case litigation includes hearings involving environmental and health permitting; Certificates of Need; State Retirement Systems’ disability determinations; Disadvantaged Business Enterprises; state and county tax matters; alcoholic beverage issues; and wage disputes.”

Judge Anderson provided the following list of his most significant orders and opinions:

“(a) Kerr-McGee Chemical Corporation, et al. v. South Carolina Department of Health and Environmental Control, 99-ALJ-07-0290-CC;

(b) McNeil v. South Carolina Department of Corrections, 00-ALJ-04-00336-AP (September 5, 2001) (en banc). Holding reviewed in Sullivan v. South Carolina Dept. of Corrections, 355 S.C. 437, 586 S.E.2d 124 (2003);

(c) Paris Mountain Utilities, Inc., et al. v. South Carolina Department of Health and Environmental Control, Docket No. 01-ALJ-07-0462-CC;

(d) Providence Hospital v. South Carolina Department of Health and Environmental Control and Palmetto Richland Memorial Hospital, Docket No. 02-ALJ-07-0155-CC;

(e) Travelscape, LLC v. South Carolina Department of Revenue, Docket No. 08-ALJ-17-0076-CC.”

Judge Anderson further reported the following regarding unsuccessful candidacies:

“(a) Administrative Law Judge, Seat 3 (February 23, 1994);

(b) Fifth Judicial Circuit Court, Seat 3 (May 24, 2000) - Found qualified and nominated but withdrew prior to election;

(c) Circuit Court, At-Large Seat 9 (January 16, 2003) - Found qualified but not nominated;

(d) Court of Appeals, Seat 9 (March 10, 2008) - Found qualified but not nominated.”

(9) Judicial Temperament:

The Commission believes that Judge Anderson’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found “the Honorable Ralph King ‘Tripp’ Anderson, III, to be a most eminently qualified and a most highly regarded candidate, who would most ably serve Seat 1 of the Administrative Law Court in an outstanding manner.”

Judge Anderson is married to Linda Corley Anderson. He does not have any children.

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

“(a) South Carolina Bar;

(b) Administration and Regulatory Law Committee of the SC Bar.”

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

“Shandon Baptist Church.”

(11) Commission Members’ Comments:

The Commission commented on Judge Anderson’s strong work ethic on the Administrative Law Court for the past 14 years often as the first judge to handle cases involving the increased jurisdiction of the court, such as the most recent OSHA cases. They noted his great intellect has assisted him in discharging his duties as a jurist.

(12) Conclusion:

The Commission found Judge Anderson qualified and nominated him for election as Chief Judge of the Administrative Law Court.

**Carolyn C. Matthews**

**Administrative Law Court, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Matthews meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Matthews was born in 1950. She is 58 years old and a resident of Columbia, South Carolina. Judge Matthews 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 Judge Matthews.

Judge Matthews 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 Matthews reported that she has made $48.60 in campaign expenditures for stationery.

Judge Matthews 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 Matthews 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 Matthews to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

Conference/CLE Name Date(s)

2009:

(a) ‘Ethics - Unintended Consequences [Inn of Court]’ 1/20/09;

(b) ‘Alternative Dispute Resolution” [S.C. Bar Convention]’

1/22/09;

(c) ‘Environmental Permits” [S. C. Bar Convention]’ 1/23/09;

(d) ‘The Direction of Environmental Law” [S. C. Bar Convention]’ 1/23/09;

(e) ‘Peer Review and Medical Board Proceedings’ [S. C. Bar]

1/24/09;

2008:

(a) ‘Environment and Natural Resources’ – S. C. Bar Convention

1/24/08;

(b) ‘Government Law’ – S. C. Bar Convention 1/25/08;

(c) ‘S. C. Administrative and Regulatory Law Association Conf.’

9/19/08;

(d) ‘Central Panel Administration Conference’ 9/9/08 - 9/12/08;

2007:

(a) ‘IT 101 for Attorneys’ – SCWLA 6/14/07;

(b) ‘Punitive Damages, Due Process’ 9/7/2007;

(c) ‘John Belton O’Neall Inn of Court’ 9/18/07;

(d) ‘S. C. Administrative and Regulatory Law Association’

9/21/07;

(e) ‘The Changing Face of Justice’ – NC Bar/SC Bar Conference

10/19/07;

(f) ‘How to Avoid Major Missteps’ – SCWLA 0/19/07;

(g) ‘Enhancing Judicial Bench Skills’ NAALJ 10/28/07-10/31/07;

2006:

(a) ‘Health Care Law ‘- S. C. Bar Convention 1/27/06;

(b) ‘Environmental and Natural Resources’ – Bar Convention

1/28/06;

(c) ‘New Court Development’ 2/21/06;

(d) ‘SCAARLA Annual Seminar’ 9/22/06;

(e) ‘Ladder to Success – SC Women Lawyers Association’

10/13/06;

(f) ‘Ethics’ – Richland County Bar Association 11/3/06;

2005:

(a) ‘Health Care Law’ – S. C. Bar Convention 1/20/05;

(b) ‘Administrative and Regulatory Law’ – S. C. Bar Convention

1/21/05;

(c) ‘Environment & Natural Resources’ – S. C. Bar Convention

1/22/05;

(d) ‘Tort Reform’ 2/22/05;

(e) ‘S. C. Legal History’ 9/20/05;

(f) ‘SCAARLA Educational Seminar’ 9/22/05;

(g) ‘ABC’s of Ethics’ 10/14/05.”

Judge Matthews reported that she has taught the following law‑related courses:

2009:

(a) ‘Administrative Law-Bridge the Gap’ 3/10/2009;

2008:

(a) ‘Tips from the Bench – Administrative Law’ 2/14/08;

(b) ‘Administrative Law – Bridge the Gap’ 3/10/08;

(c) ‘Administrative Law – Bridge the Gap’ 5/12/08;

(d) ‘The State of Administrative Law in South Carolina’

9/10/08;

(e) ‘Rules! Rules! Rules! – Success with Judge and Jury’

12/12/08;

2007:

(a) ‘Tips from the Bench – Administrative Law’ 2/10/08;

(b) ‘Administrative Law – Bridge the Gap’ 3/12/07;

(c) ‘Administrative Law – Bridge the Gap’ 5/14/07;

(d) ‘Tips from the Bench VIII’ – Administrative Law 2/10/07;

2006:

(a) ‘Administrative Law – Bridge the Gap’ 3/10/06;

(b) ‘Administrative Law – Bridge the Gap’ 5/9/06;

(c) ‘Tips from the Bench VII – Administrative Law’ 2/15/06;

2005:

(a) ‘Administrative Law – Bridge the Gap’ 3/09/05;

(b) ‘Administrative Law – Bridge the Gap’ 5/12/05;

(c) ‘Tips from the Bench VI – Administrative Law’ 12/12/05;

2004:

(a) ‘Administrative Law – Bridge the Gap’ 3/11/04;

(b) ‘Administrative Law – Bridge the Gap’ 5/12/04;

(c) ‘Tips from the Bench V – Administrative Law’ 12/11/04;

2003:

(a) ‘Tips from the Bench IV – Administrative Law’ 12/12/03;

(b) ‘Ethics for State Government Attorneys’ 11/14/03;

(c) ‘The Lighter Side of the Law’ 8/07/03;

(d) ‘Bridge the Gap – Administrative Law’ 5/12/03;

(e) ‘How Judges Perceive Lawyers’ – USC Law School

3/26/03;

(f) ‘Bridge the Gap – Administrative Law’ 3/08/03;

2002:

(a) ‘Bridge the Gap – Administrative Law’ 3/10/02;

(b) ‘Bridge the Gap – Administrative Law’ 5/14/02;

(c) ‘Ethics and Professionalism – 8 Commandments’ 9/12/02;

(d) ‘Tips from the Bench III – Administrative Law’ 12/13/02;

2000:

‘Judicial Independence’ – SCWLA Seminar Panel 9/2000;

1994:

‘1994 Legislative Update – Natural Resources’ 6/3/94;

1993:

‘South Carolina State Government Restructured’ 9/1993;

1986:

‘Res Judicata & Collateral Estoppel’ – A. G.’s Office Seminar 1986;

1982:

‘Appellate Practice’ – Presentation to S. C. Circuit Judges 1982.

Judge Matthews reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Judge Matthews was punctual and attentive in her dealings with the Commission.

During the screening, a concern was raised regarding the work ethic of Judge Matthews while serving on the Administrative Law Court. This matter was thoroughly considered by the Commission in the course of the Commission’s examination of the candidate and in the Commission’s deliberations regarding Judge Matthews’ qualifications to serve as the Chief Judge of the Administrative Law Court.

(5) Reputation:

Judge Matthews reported that her last available Martindale-Hubbell rating was AV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Matthews was admitted to the South Carolina Bar in 1978.

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

Staff Attorney, South Carolina Supreme Court (1978-1981)

(a) Reviewed and researched civil and criminal appeals; Recommended disposition by Court; supervised junior Staff Attorneys. Assisted at settlement conferences; Drafted Court Rules.

(b) Law Clerk, South Carolina Supreme Court Justice George T. Gregory, Jr. (1981-1982)

Reviewed and researched civil and criminal appeals and motions; Drafted opinions, rules, and Orders for Justice Gregory; Assisted at hearings on Extraordinary Writs such as Mandamus and Supersedeas; reviewed Attorney Disciplinary proceedings.

(c) Assistant Attorney General, State of South Carolina (1982-1986)

Researched and wrote more than 200 appellate briefs and argued more than 80 appeals before S. C. Supreme Court, S. C. Court of Appeals, and U. S. Supreme Court; Coordinated appeals with Solicitors; Prosecuted Medical Board and other licensing board cases. Wrote opinions as directed by the Attorney General; Represented State Agencies; Coordinated Continuing Legal Education Seminars; Chaired first Law Enforcement Leadership Conference.

(d) Counsel, South Carolina House of Representatives Judiciary Committee, David H. Wilkins, Chairman (1986-1988)

Managed research and drafting of Legislation and amendments for all Legislation referred to Judiciary Committee. Coordinated legislative efforts with Governor’s Office, Legislative staff, and state agencies. Supervised staff attorneys and law clerks.

(e) Partner, Nelson Mullins Riley & Scarborough (1988-1996)

Administrative practice before State agencies such as DHEC, Department of Insurance, and Public Service Commission; Governmental Relations; Appellate practice.

(f) Partner, Woodward Cothran & Herndon (1996-1998)

Commercial Litigation; Appellate and Administrative Law practice before state agencies, including DHEC, Insurance Commission, and PSC. State and Federal Governmental Relations.

(g) Carolyn C. Matthews, Attorney and Counselor at Law (December 1998 May, 1999)

Administrative and Appellate Law Practice; State and Federal Governmental Relations

(h) Administrative Law Judge, Seat #3 (June 2, 1999-present; reelected February 9, 2000; reelected February 2, 2005)

Appeals from 49 Licensing Boards of LLR and DSS, HHS, DOC, OMVH, and DOC Contested Cases from State Agencies, including: DHEC, DOR, DNR, Department of Insurance, DHHS, DOT, DSS, OCRM, SLED, County Auditors and Assessors

Regulatory Hearings from State agencies governed by a single director;

Injunctions, Petitions for Stay. and other procedural Motions.

Judge Matthews reported the frequency of her court appearances prior to her service on the bench as follows:

“(a) Federal: 6-8 times per year;

(b) State: 6-8 times per year.”

Judge Matthews reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench as follows:

“(a) Civil: 90%

(b) Criminal: 10%

(c) Domestic: 0 %”

Judge Matthews reported the percentage of her practice in trial court prior to her service on the bench as follows:

“(a) Jury: 5%

(b) Non-jury: 95%”

Judge Matthews provided that prior to her service on the bench she most often served as sole counsel.

The following is Judge Matthews’ account of her five most significant litigated matters:

“(a) State v. Donald Henry “Pee Wee” Gaskins, 284 S.C. 105, 326 S.E.2d 132(1985):

Sole Counsel representing State of South Carolina in Death Penalty Appeal to SC Supreme Court. The case involved a 10,000 page transcript, more than 200 pages of briefs, on 19 issues, including (1) the scope of the 4th Amendment’s prohibition on unlawful searches and seizures in a jail cell; and (2) whether the admission into evidence at the sentencing phase of Gaskins’ confession to 7 prior murders forced him to testify against himself.

In favorem vitae [in favor of life] review required that I be prepared at oral argument not only on the briefed issues, but also to address any other issues which might be raised by the Supreme Court during argument, of which there were several. “Pee Wee” Gaskins was the most notorious serial killer in South Carolina history. [His seven prior death sentences had been commuted when South Carolina’s death penalty statute was declared unconstitutional.] The South Carolina and U. S. Supreme Courts upheld his conviction and death sentence.

(b) Grand Strand Water & Sewer Authority v. Water Resources Commission(1989)

Sole Attorney in obtaining first Interbasin Transfer Permit from the S. C. Water Resources Commission This new permit was required in order for Grand Strand Water & Sewer Authority to transfer more than one million gallons of water per day from the Waccamaw Basin to the Little Pee Dee Basin.

The permit was critical to the continued operation of one of the largest water systems in the state, which provides water and sewer service to more than 200,000 people in Horry County, the City of Myrtle Beach, North Myrtle Beach, Aynor, and upper Georgetown County. It was also a significant step toward increased usage of surface water rather than groundwater.

(c) Alexander S. v. Boyd, et.al., U.S.D.C, District of South Carolina, Civil Action No. 3:90-3062-17: [1990-2003]

This 13-year long Federal litigation involved numerous alleged violations of Constitutional Rights of Juveniles incarcerated at DJJ. It was a landmark case in the area of Prison Overcrowding, which involved numerous Federal Hearings, Mediations, Orders, Opinions, and Appeals. I represented the Department of Juvenile Justice in Federal Court, including at the Fourth Circuit Court of Appeals, for three years

(d) In re: Stucco Litigation, U. S. District Court, Eastern District of North Carolina, Civil action No. 5:96-CV-287-BR(2):

Numerous individual cases and preliminary orders and opinions; On behalf of my client, I traveled to several states for depositions and pretrial hearings, argued Motions and wrote Pretrial Briefs. These cases involved the alleged failure of EIFS [Exterior Insulated Finish Systems], or “fake stucco” in home construction. Plaintiffs had joined manufacturers, distributors, general contractors, and installers, and were attempting to certify the class in North Carolina. The judge refused to certify the class; thus, each claim was litigated individually.

(e) Public Hearing Report of the Administrative Law Judge, No. 98-ALJ-11-0609-RH July 28, 1999)

I represented the S. C. Association of Marriage and Family Therapists at this hearing on the “need and reasonableness of “these regulations before the Administrative Law Judge Division in January, 1999. The regulations, as promulgated, were opposed by Clinical Psychologists, who attempted to impose upon Marriage and Family Counselors and Licensed Professional Counselors rigid undergraduate and graduate course requirements, including that counselors possess a Doctoral degree before counseling a client with a “serious” problem.

After the hearing, the ALJ issued an order which did not require a Doctoral degree for all Counselors, and remanded the regulation to the Board to establish reasonable criteria. The regulations which were ultimately approved by the General Assembly both protected the public health and welfare, and were reasonable for these highly-trained professionals.”

The following is Judge Matthews’ account of the civil appeals she has personally handled:

“(a) City of Aiken v. Aiken Electric Cooperative, 305 S.C. 466, 409 S.E.2d 403 (1991)

This brief and this appeal were the result of a collaborative effort on behalf of Aiken Electric Cooperative, Inc., S. C. Public Service Authority [Santee Cooper],and Central Electric Power Cooperative, Inc. I drafted the brief, and worked extensively on the final product. The City of Aiken had brought an action for declaratory and injunctive relief when SCE&G attempted to extend its power lines to annexed areas of the city. The Trial Judge granted Summary Judgment in favor of the City. The Supreme Court affirmed, holding that the City of Aiken acted within its Constitutional authority to designate the electric supplier for new customers in the annexed areas.

(b) Alexander S. et. al. v. Flora Brooks Boyd, et.al., 113 F.3d 1373 (C.A.4 1997), cert. den. 118 S.Ct. 880, 139 L.Ed.2d 869 (1998):

Lead counsel on brief and sole counsel on oral argument to the Fourth Circuit Court of Appeals on case of first impression– the retroactive application of the Prison Litigation Reform Act’s limitations on Attorneys Fee Awards in Juvenile Prison Litigation under Section 1983. I also wrote the Petition for Writ of Certiorari to the U. S. Supreme Court; that Petition was denied.

(c) Designer Showrooms, Inc. v. Kelley, 304 S.C. 478, 405 S.E.2d 417 (S.C.App.1991)

I served as Counsel to the S. C. Association of Realtors in writing an Amicus brief on behalf of the National Association of Realtors at the Court of Appeals. The issue was whether by affirming a contract which it was induced to enter by fraud, Designer Showrooms waived its right to sue in tort. The Court held that if fraud gives rise to a breach of promise or warranty, the party induced by fraud may elect to affirm the contract and later bring a tort action.”

The following is Judge Matthews’ account of the criminal appeals she has personally handled:

“(a) State v. Donald Henry “Pee Wee”Gaskins, 284 S.C. 105, 326 S.E.2d 132 (1985):

Sole Counsel representing State of South Carolina in Death Penalty Appeal to SC Supreme Court. The case involved a 10,000 page transcript, more than 200 pages of briefs, and many issues of first impression under South Carolina’s Death Penalty statute. In favorem vitae review required that I be prepared at oral argument not only on the briefed issues, but also any other issues which might be raised by the Supreme Court.

(b) State v. Kiser, 288 S.C. 441, 343 S.E.2d 292 (1986)

Sole Counsel representing State of South Carolina in case of first impression– the constitutionality of South Carolina’s newly-enacted Drug Trafficking Statute, which imposed the strictest penalties of any state in the United States. Affirmed Per Curiam after argument.

(c) State v. Brantley, 279 S.C. 215, 305 S.E.2d 234 (1983)

Sole Counsel for the State of South Carolina in briefing and arguing the Constitutional issue of the scope of a Circuit Judge’s contempt power. The Supreme Court affirmed the Circuit Court’s inherent ability to punish for constructive contempt; even outside the Judicial Circuit.

(d) State v. McLellan, 283 S.C.389, 323 S.E.2d772 (1984)

Sole counsel for State on brief and at argument on several issues of first impression under Criminal Sexual Conduct statute: (1) Whether trial judge properly denied Motion for Mistrial based on the testimony of two sisters regarding evidence of prior abuse under the “common scheme” test of State v. Lyle; (2) whether the trial judge properly exercised his discretion in admitting evidence of Defendant’s use and sale of marijuana; and (3) whether the trial judge’s admitting opinion testimony by a lay witness constituted reversible error. The Supreme Court affirmed the Circuit Judge on all issues.

(e) In the Matter of Harry C., 280 S.C. 308, 313 S.E.2d (S.C. 1984)

This case, tried in Family Court because of the age of the minor, dealt with the novel issue of whether entering a home through a door which was ajar constituted a “breaking” sufficient to convict a Juvenile of the crime of “housebreaking”. It also involved the scope of Judicial Notice; i.e., of whether “tidy oil” was an Aromatic Hydrocarbon within the Legislature’s definition of that term. The Supreme Court affirmed on both issues.”

Judge Matthews reported that she has held the following judicial office:

“Administrative Law Judge, Seat #3, Elected June 2, 1999; reelected February 9, 2000; Reelected February 2, 2005

By statute, the Administrative Law Court has jurisdiction over (1) Contested Cases from State Agencies [including DHEC, DOR, DOT, DHHS, DSS, Department of Insurance, DNR, and SLED]; (2) Appeals from the 50 Licensing Boards of LLR and other agencies [including Medicaid Appeals, State Fire Marshal appeals; Appeals of Day care and Foster home license revocations] and (3) Hearings regarding the need for and reasonableness of Regulations promulgated by agencies governed by a single director, such as the Department of Insurance and LLR.

By Supreme Court case law, Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742(2000), the ALC was given jurisdiction over inmates’ appeals of non-collateral sentencing matters or administrative matters from the Department of Corrections.

The Supreme Court of South Carolina has held that the ALC does not have jurisdiction to rule on the constitutionality of statues or regulations. Administrative Law Judges have jurisdiction to rule only on whether a statute or regulation has been unconstitutionally applied.”

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

“(a) Heath Hill v. S. C. DHEC and SCE&G [08-ALJ-07-0183-CC, July 10, 2008]

This procedural order granted a Motion to Lift Automatic Stay under S. C. Code §1-23-600(H)(4), which became effective only 9 days before the hearing on this Motion. It is significant because it demonstrates the magnitude of the decisions entrusted to the Administrative Law Court—whether SCE&G would be allowed to proceed with construction of a landfill to dispose of byproducts of coal combustion during the pendency of the contested case. The new statute required me to hold a hearing within 30 days after the Motion To Lift Stay was filed, and to issue an Order within 15 days after the four-hour hearing on the motion.

I ruled that SCE&G had satisfied the statutory standard for lifting the stay; i.e. “..for good cause shown or if no irreparable harm will occur….” Moreover, If the legislature imposes a statutory time frame, Administrative Law Judges are required to comply with it. I am the only Administrative Law Judge who has ruled on a Motion to Lift Stay since the statute was revised.

(b) Sonoco Products Company v. S. C Department of Revenue

[03-ALJ-17-0440-CC, August 30, 2005], aff’d. Op. No. 26502

(S. C. Sup. Ct., filed 6/9/08)

In this property assessment case, the DOR assessed three of Sonoco’s corporate office buildings, located across a public street and a railroad from its manufacturing plant, at a 10.5% ratio as Manufacturing-related property.

Sonoco contended that the office buildings were not “contiguous” to the plant within the meaning of S. C. Code Ann. §12-43-220(a), and should be assessed at a 6.5% ratio.

I affirmed the DOR, ruling that the buildings were contiguous to the

Plant. The Circuit Court reversed; the S. C. Supreme Court reversed the Circuit Court and affirmed my Order.

This Order is significant because it addresses the primary rule of statutory construction--ascertaining the intent of the Legislature.

(c) Charleston County Public Works v. Office of Coastal Resource

Management, DHEC [02-ALJ-07-0262-CC, August 3, 2003]

OCRM , although ostensibly granting a permit to build a causeway, instead required Charleston County to build a bridge, which was outside the scope of the permit application. I reversed OCRM’s decision on the grounds that (1) its action constituted an “unwarranted exercise of discretion” under S. C. Code Ann.§1-23-380(A)(6) and (2) the public was denied sue process of law when OCRM failed to give notice of permit conditions which radically altered the original application.

This Order is significant because it affirms the public’s right to valid notice of agency environmental permitting decisions, and because it deals with the rare issue of “unwarranted exercise of discretion.”

(d) Oncology and Hematology Associates of SC, LLC d/b/a Cancer Centers of the Carolinas v. S. C. DHEC and Spartanburg Regional Medical Center

[03-ALJ-07-0158-CC, June 24, 2004]; DHEC Board affirmed; Circuit Courtaffirmed; appealed to Court of Appeals; Supreme Court granted certiorari.

This Order demonstrates the intricacy and complexity of the review accorded DHEC contested cases for Certificates of Need for hospitals. This case was tried for only one week, but with the intensive discovery which has become standard in CON cases, they are now requiring 3-4 weeks to try.

The Order includes extensive fact-finding and detailed analysis of the law.

(e) Anonymous No. 1, Registered Dental Hygienist, and Anon. No. 2, RDH v. S. C. Department of Labor, Licensing, and Regulation [06-ALJ-11-0562-AP. And 06-ALJ-11-0563-AP, October 25, 2007; on appeal to Court of Appeals]

Two Dental Hygienists were disciplined by the Board of Dentistry for failing to meet the standard of care in placing sealants on children’s teeth in a school setting. This Order is an example of the Administrative Law Court’s Legislative duty to review sanctions imposed by more than 40 Licensing Boards, including those who regulate Doctors, Nurses, Realtors, and Cosmetologists in order to protect the public health and welfare. An Appeal to the Administrative Law Court is vital to give the licensees and the licensing boards an opportunity to be fully heard.”

Judge Matthews further reported the following regarding unsuccessful candidacies:

“I was a candidate for Circuit Court in 1995, but withdrew when it became apparent I could not win. I was a candidate for the Court of Appeals, Seat #1 in 2004. I was found “Qualified, but not nominated” by the Judicial Merit Selection Commission. The Honorable Paul Short won that election.”

(9) Judicial Temperament:

The Commission believes that Judge Matthews’ temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found “the Honorable Carolyn Matthews to be a very eminently qualified and a most highly regarded candidate, who would most ably serve Seat 1 of the Administrative Law Court in an outstanding manner.”

Judge Matthews is married to John Andrew McAllister, Jr. She has three children.

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

“(a) S. C. Bar Association [November 8, 1978-present]:

S. C. Bar Task Force on Professional Satisfaction and Retention [2008 present]

S. C. Bar House of Delegates [1998-1999]

Mentor, S. C. Young Lawyers Division [1996-1999]

S. C. Bar Legislative Counsel Committee [1991-1996]

S. C. Bar Committee on Continuing Legal Education [1994-1997] S.C. Bar practice and Procedure Committee: Drafted Legislation creating Court of Appeals [19930-1994];

(b) Richland County Bar Association [1978-present]

Chair, Legal Services Committee [1996-1999]

Chair, Richland County Bar Programs Committee [1991-1992];

(c) S. C. Women Lawyers Association [1995-present; elected Secretary 2009]

Board of Directors [1995-2001];

(d) National Association of Women Lawyers [2003-present];

(e) National Association of Administrative Law Judges [1999-present];

(f) S. C. Administrative and Regulatory Law Association [2000-present];

(g) John Belton O’Neall Inn of Court [2002-present];

(h) Central Panel Administrative Law Courts Association [1999-present].”

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

“(a) Governors Advisory Committee to Study the Commission on Women (Jan.2004-2006);

(b) Leadership South Carolina (1993 Graduate);

(c) Furman University National Development Council (1998-1999);

(d) First Presbyterian Church of Columbia, SC.”

(11) Commission Members’ Comments:

The Commission commented that Judge Matthews is well qualified and has good ideas for evaluating and improving the Administrative Law Court. The Commission members noted that she is also very active as a leader in the South Carolina Bar and the legal profession in general.

(12) Conclusion:

The Commission found Judge Matthews qualified and nominated her for election as Chief Judge of the Administrative Law Court.

**Latonya D. Edwards**

**Administrative Law Court, Seat 5**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Edwards meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Ms. Edwards was born in 1970. She is 38 years old and a resident of Irmo, South Carolina. Ms. Edwards 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 1997. She was also admitted to the North Carolina Bar in 2003.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Edwards.

Ms. Edwards 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. Edwards reported that she has made $204.75 in campaign expenditures for large envelopes, labels, and postage.

Ms. Edwards 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. Edwards 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. Edwards to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Legal Update 02/18/04;

(b) 2004 Property Rights & Land Use 10/29/04;

(c) 2004 Revised Lawyer’s Oath 12/04/04;

(d) Workers’ Compensation Update 08/26/05;

(e) 29th Annual Education Conf. on Workers’ Comp.

10/23-26/05;

(f) 2005 Local Government Attorneys’ Institute 12/09/05;

(g) SC Workers’ Compensation 09/26/06;

(h) SC Black Lawyers’ Retreat 09/28/06;

(i) 30th Annual Educational Conf. on Workers’ Comp.

10/22-26/2006;

(i) Ethics For Government Lawyers 11/09/07;

(j) Government Law Update 06/20/08;

(k) Dissecting a Workers’ Compensation Case 09/05/08;

(l) Judicial Selection in SC 09/17/08.”

Ms. Edwards reported that she has taught the following law‑related courses:

“On September 26, 2006, I spoke to a group of insurance industry professionals about how to perfect a Second Injury Fund reimbursement claim. On September 5, 2008, I spoke at a Continuing Legal Education Seminar about the impact of the Workers’ Compensation Reform Act on the SC Second Injury Fund.”

Ms. Edwards reported that she has published the following:

“While attending Burke High School, in Charleston, South Carolina, one of my poems was published by the Charleston County Young Writers’ Conference on November 21, 1987. While I was a student at Johnson C. Smith University, five of my poems were published in the University magazine from 1990-1991. In 1999, one of my poems was published in an anthology by Gateway Publishers. My article entitled, The South Carolina Second Injury Fund Sunrise 1973-Sunset 2013, was published in the May 2008 edition of the South Carolina Lawyer.”

(4) Character:

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

The Commission also noted that Ms. Edwards 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. Edwards reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Edwards was admitted to the South Carolina Bar in 1997.

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

“(a) August 1996-February 1998: I served as Federal Judicial Law Clerk to Honorable Richard C. Erwin, Senior United States District Court Judge for the Middle District of North Carolina. As Federal Judicial Law Clerk, I drafted memorandum opinions on a variety of federal issues ranging from employment law to criminal matters. One memorandum opinion that I drafted involved a securities issue of first impression.

(b) May 1998-June 1998: I served as a contract attorney for John R. Harper, Esquire, and Hemphill P. Pride, Esquire, where I performed legal research and wrote briefs on employment and civil rights matters.

(c) July 1998-October 1999: I served as Assistant County Attorney for Richland County. I performed legal research, wrote briefs and represented Richland County before the Circuit Court, Federal Court, Master-in-Equity and Administrative Law Court on various matters. I drafted legal opinions for the Human Resources Department on employment issues, Americans with Disabilities Act, and Family Medical Leave Act. I also served as counsel to the Zoning Board of Appeals and the Procurement Review Panel.

(d) October 1999-July 2004: As Chief Legal Counsel for the South Carolina Commission for the Blind, I provided advice and counsel to the Board of Commissioners and agency administration on employment matters, Americans with Disabilities Act, and the Rehabilitation Act. I successfully defended the agency in arbitration, mediation, and in proceedings before the state grievance panel, South Carolina Human Affairs Commission and the Equal Employment Opportunity Commission. I also successfully represented the agency in Federal Court, and in unemployment compensation hearings conducted by the Employment Security Commission.

(e) July 2004-October 2005. I was on maternity leave. While on leave, I attended continuing legal education courses, and performed document review and analysis relative to the insurance and pharmaceutical industries.

(f) January 2000-September 2005: As a contract attorney for Karaton Services, I reviewed and drafted various contracts, provided legal advice to the owner of the company and performed legal research.

(g) October 2005 to present: As General Counsel for the South Carolina Second Injury Fund, I represent the agency before the South Carolina Workers’ Compensation Commission, Circuit Courts throughout the state, the Court of Appeals and the Supreme Court. I also provide advice to agency administration on various procedural and legal matters.”

Ms. Edwards further reported:

“As Assistant County Attorney for Richland County, I appeared before the Administrative Law Court on Richland County’s Motion to Intervene on a matter brought by the Department of Revenue. I have not appeared before the Administrative Law Court since that time.”

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

“(a) federal: 1;

(b) state: approximately 3-5 times a year. I also appear before the South Carolina Workers’ Compensation Commission on a weekly basis.”

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

“(a) civil: 100%;

(b) criminal: 0%;

(c) domestic: 0%.”

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

“(a) jury: 0;

(b) non-jury: 10-12 cases."

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

The following is Ms. Edwards’s account of her five most significant litigated matters:

“(a) Triton PCS, Inc. v. Richland County Zoning Board of Appeals United States District Court, Columbia Division, 3:98-2607-19

The Richland County Zoning Board of Appeals denied Triton’s request for a special exception to erect a cellular phone tower in an unincorporated area of Richland County. Triton sought relief in the US District Court under the Federal Telecommunications Act. Judge Dennis Shedd affirmed the decision of the Richland County Zoning Board.

The case was significant because it tested the power of county government to promulgate land use rules and regulations that serve the best interest of the county.

(b) Lillie Harvin d/b/a Secrets II v. SC Dept. of Revenue, 98-ALJ-17-0635-CC

The South Carolina Department of Revenue initiated proceedings to revoke the liquor license of Secrets II, a nightclub adjacent to a residential community. Richland County filed a motion to intervene in order to be heard on the significant number of resources that the Richland County Sheriff’s Department had expended in responding to various complaints of criminal activity occurring at the establishment. Judge John D. Geathers heard and granted Richland County’s motion. The liquor license was ultimately revoked and the club was closed.

The case was significant because it was an excellent example of how county and state entities combined resources to close an establishment that was fostering residential blight.

(c) Joe Urbanek v. SC Commission for the Blind United States District Court, Columbia Division, 3:03-1835-22

A blind vendor sued the SC Commission for the Blind because another vendor was selected to operate a full food service cafeteria at Fort Jackson. The aggrieved vendor sued alleging that the SC Commission for the Blind’s selection of another vendor violated federal law. Judge Cameron Currie held that the SC Commission for the Blind’s selection of another vendor was consistent with the Federal Randolph Sheppard regulations and upheld the agency selection of another vendor. This case was significant because I believe that Fort Jackson was the first federal facility in the state to utilize the Randolph Sheppard Act to choose a vendor for its vending and cafeteria facilities.

(d) Springs Industries v. SC Second Injury Fund, SC Court of Appeals, 2007-CP-46-00475

A self-insured carrier appealed the decisions of the SC Workers’ Compensation Commission and the South Carolina Circuit Court denying additional reimbursement pursuant to S.C. Code Ann. §42-9-400. The SC Second Injury Fund accepted this reimbursement case in 2003 and the Agreement to Reimburse had been signed by all parties and approved by the SC Workers’ Compensation Commission. The Fund had been reimbursing the Carrier per the Agreement for more than two years. Carrier sought to unilaterally amend the agreement to include reimbursement for additional medical costs not contemplated by the parties at the time the agreements were signed. This case is currently pending in the South Carolina Court of Appeals. Oral arguments have not been scheduled. This case is significant because it will clarify the extent and scope of contracts in the workers’ compensation arena.

(e) Transportation Insurance Co. v SC Second Injury Fund

The SC Second Injury Fund recently submitted a Petition in the Original Jurisdiction of the South Carolina Supreme Court requesting a judgment for declaratory relief regarding the application of S.C. Code Ann. §15-3-600 to reimbursement cases. That section provides a ten-year statute of limitations for certain cases not enumerated within that chapter. Since the passage of the Workers’ Compensation Reform Act, which requires the closure of the South Carolina Second Injury Fund effective July 1, 2013, there has been a surge of cases in which carriers are requesting reimbursement in cases where more than ten years have passed since the claimant was injured. The SC Workers’ Compensation Commission has held that there is no statute of limitations applicable to reimbursement cases. The SC Second Injury Fund has several cases on appeal in circuit courts throughout the state on this issue but is requesting that these cases be transferred to the South Carolina Supreme Court for final resolution. The SC Supreme Court has not ruled on this petition. This case is significant because an ultimate decision would allow the Fund to adequately forecast its liabilities as it approaches the critical winding down period.”

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

“(a) A.O. Smith Corp. v. SC Second Injury Fund, SC Court of Appeals, 2006-CP-13-089. The Carrier withdrew its appeal on the morning of oral argument.

(b) State Accident Fund v. SC Second Injury Fund, SC Court of Appeals, 2008-96866. This case is currently pending.

(c) Overnight Transportation v. SC Second Injury Fund, SC Court of Appeals, 2006-CP-1923. Carrier’s petition for rehearing was denied on January 26, 2009.

(d) Springs Industries v. SC Second Injury Fund, SC Court of Appeals, 2007-CP-46-00475. This case has not been scheduled for hearing in the SC Court of Appeals.

(e) Transportation Insurance Company v. SC Second Injury Fund, SC Supreme Court. This recently filed petition has not been ruled upon.”

Ms. Edwards reported that she has not personally handled and criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Edwards’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Ms. Edwards to be “a very highly qualified and a most highly regarded candidate, who would most ably serve on the Administrative Law Court.”

Ms. Edwards is married to Thomas Stephen Edwards. She has two children.

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

“(a) South Carolina Bar Association;

(b) South Carolina Black Lawyers’ Association;

(c) South Carolina Women Lawyers’ Association;

(d) North Carolina Bar Association.”

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

“(a) Alpha Kappa Alpha Sorority, Incorporated;

(b) Kingston Forest Homeowners’ Association, Secretary;

(c) Columbia Community Orchestra, cellist;

(d) Burke High School Foundation, member;

(e) State EEO professional certification.”

Ms. Edwards further reported:

“Prior to attending law school, I worked in the Reading Recovery Program at Angel Oak Elementary School in James Island, South Carolina and I volunteered at the Charleston Public Defenders’ Office. During law school, I worked at the Franklin County Public Defenders’ Office from May 1994 to December 1994. During the summer of 1995, I was a Summer Associate at Rosen, Rosen & Hagood in Charleston, South Carolina.”

(11) Commission Members’ Comments:

The Commission noted that Ms. Edwards has a great deal of determination and, throughout her education and professional life, exhibited the ability to achieve very favorable results. They also noted that Ms. Edwards is an extremely dynamic person, which would assist her in ably serving on the Administrative Law Court.

(12) Conclusion:

The Commission found Ms. Edwards qualified and nominated her for election to the Administrative Law Court.

**Christopher McG. Holmes**

**Administrative Law Court, Seat 5**

**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 Court 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 continuing legal or judicial education during the past five years as follows:

“Conference/CLE Name Date(s)

(a) SCAARLA The Evolving World of Administrative Law

9/19/08

CCBA What Works 2/13/09

(b) Lunch & Learn A&RL Committee 5/18/07

2007 SCAARLA Conference 9/21/07

CCBA 4th Annual “What Works” 12/20/07

(c) SCAARLA Seminar 9/22/06

SC Bar A&R Committee 11/3/06

CCBA “What works for me” 12/1/06

CCBA “What works for you” 12/15/06

(d) Attorney ECF Training 9/7/05

SCAARLA Educational Seminar 9/23/05

Anatomy of a Trial 11/29/05

CCBA “What works for me” 12/9/05

CCBA “What works for you” 12/16/05

(e) Revised Lawyer’s Oath CLE 7/22/04

SCAARLA Annual Meeting 10/1/04”

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.”

(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 Council in 1983 and Deputy Director in 1984. Advised agency staff and Board members on legal and regulatory matters, drafted regulations, reviewed contracts, represented agenct 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) 1985-1994 - 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 one exception, 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 storm water permits. Approximately 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 contested case hearings before the ALC annually.”

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

“(a) federal: 0;

(b) state: 3-4 times a year.”

Mr. Homes 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 was 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 the five civil appeals he has personally handled:

“(a) Brownlee v. SCHEC, SC Court of Appeals, January 29, 2007,372 SC 119, 641 SE2d;

(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 reported the following regarding unsuccessful candidacies:

“In February of 2006 I filed as a candidate for Administrative Law Court seat 5 and in September of 2008 I filed as a candidate for Administrative Law Court seat 4. Both times 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 submitted its October 2008 report for this candidate. The committee found with regards to Mr. Holmes the following, “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 and 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 & Regulatory Law Committee;

(c) Charleston County Bar;

(d) SC Administrative and Regulatory Law Association.”

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

“St. Andrews Episcopal Church”

(11) Commission Members’ Comments:

The Commission commented that Mr. Holmes is a well-experienced and very knowledgeable candidate who would ably serve on the Administrative Law Court. They noted his fine reputation in his local legal community.

(12) Conclusion:

The Commission found Mr. Holmes qualified, but not nominated, to serve as an Administrative Law Court judge.

**S. Phillip Lenski**

**Administrative Law Court, Seat 5**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Lenski meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Lenski was born in 1963. He is 45 years old and a resident of Columbia, South Carolina. Mr. Lenski 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 1995. He was also admitted to the Colorado Bar in 1989.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Lenski.

Mr. Lenski 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. Lenski reported that he has made “$312.17 in campaign expenditures for printing and postage to announce my candidacy.”

Mr. Lenski 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. Lenski 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. Lenski to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

Conference/CLE Name Date(s)

(a) 12th Legal Support Organization Law of Land Warfare 4/17/04;

(b) SC Bar, SC Admin. and Regulatory Law Assoc. Meeting

10/1/04;

(c) SC Senate Judiciary Court, Legislative Drafting Seminar

11/2/04;

(d) US Army JAG Corps, JAG Reserve Component On-Site 1/7/05;

(e) SC Bar, Children Issues in Family Court 3/18/05;

(f) US Army JAG Corps, Winning the Long War –

Law of Land Warfare 5/6/06;

(g) Lorman BCI, Basic Workers’ Compensation 9/27/06;

(h) SC Association of Counties, Local Government Att. CLE

12/8/06;

(i) SCJILB, Changes in Immigration Law 4/6/07;

(j) 12th Legal Support Organization,

JAG Reserve Component CLE 11/16/07;

(k) SC Association of Counties, 2007 SC Local Government

12/07/07;

(l) SC Solicitor’s Association, SC Solicitor’s Assoc. Fall

Conference 9/28/08;

(m) SC Admin. and Regulatory Law Assoc.

The Evolving World of Admin. Law 9/19/08;

SC Association of Counties

(n) SCAC Local Government Attorney’s Conference 12/12/08;

(o) 213th Legal Support Organization, Army Reserve CLE2/7/09.

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

“I have been teaching pre-law courses to undergraduate students at the Shaw Air Force Base extension campus of St. Leo University since 2000. I have taught the following courses: Criminal Law, Criminal Procedure, Constitutional Law, Business Law, Law Enforcement, and Employment Law. I generally teach three classes per year at St. Leo University.

In 2008 I gave four lectures at the University of South Carolina to undergraduate business and political science majors on the recently enacted South Carolina Immigration Reform Act of 2008. I lectured to two separate classes of business students and two separate classes of political science students.

In October of 2008 I lectured about the legislative process and the role of attorneys to a law school class at the USC School of Law.

In April of 2007 I lectured at a continuing legal education seminar sponsored by the South Carolina Journal of International Law and Business on the South Carolina Immigration Reform Act.

In March of 2005, I lectured on current legislation pending in the SC General Assembly relating to Family Court at a CLE sponsored by the SC Bar.

For nearly twenty years, while serving as a Judge Advocate for the United States Army, both while on active duty and in my current capacity as a Reserve officer, I have provided dozens of briefings (lectures) on subjects such as military criminal law, military justice, military administrative law, personnel law, claims processing, and federal legal benefits and protections for Reserve and National Guard soldiers who are called to active duty and deployed in support of military operations in the United States or abroad.”

(4) Character:

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

The Commission also noted that Mr. Lenski 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. Lenski reported that he is not rated by Martindale-Hubbell.

Mr. Lenski further reported: “Although I am listed in Martindale-Hubbell, I am not rated. I do not know the reason I am not rated.”

Mr. Lenski reported the following military service:

“I continue to serve in the United States Army Reserves. I was first commissioned a Second Lieutenant (2LT) in the United States Army on May 16, 1986. I went on active duty after graduating from law school from January 3, 1990 until August 30, 1995. I have been in the Army Reserves since that time and am currently a Lieutenant Colonel (LTC), serving with the 12th Legal Support Organization, headquartered at Fort Jackson, South Carolina.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Lenski was admitted to the South Carolina Bar in 1995.

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

(a)United States Army, Judge Advocate General’s Corps, Active Duty, January 1990 - August 1995**.**  I served in numerous capacities during nearly six years on active duty as a JAG officer in the U.S. Army. I served as a Defense Counsel and Administrative Law Attorney from 1990 - 1993 while stationed at Fort Richardson, Alaska. I represented soldiers at all levels of courts-martial in forty-five cases for offenses including rape, child sexual abuse, drug distribution, drunk driving, aggravated assault, and economic crimes. As an administrative law attorney, I directly supervised one attorney and one support staff member, and I provided legal representation to commanders in the areas of real property law, administration of Army Regulations, environmental law, and legal issues involving the day-to-day operation of the installation. I provided instruction to soldiers in the area of the code of conduct and the law of war. I served as Chief, Criminal Law Division while stationed at Fort Jackson, South Carolina from 1993 - 1995. While there, I directly supervised and managed the caseloads of three attorneys and three support staff members. I served as lead prosecutor in five jury trials, and provided guidance to junior counsel in twelve other trials. I tried cases with charges including involuntary manslaughter, felony drunk driving and rape. I provided legal instruction to soldiers in the area of criminal law and the law of war.

(b) United States Army, Judge Advocate General’s Corps, Reserve Duty, January 1996 to present**.** I have served as a Judge Advocate for the United States Army Reserves since January of 1996. In that part-time capacity, I have held numerous positions and served in many capacities. I conducted numerous administrative separation boards for Reserve soldiers who committed various acts of misconduct including illegal drug use and being convicted of crimes in civilian courts. I have provided legal assistance to over one thousand soldiers and family members in the area of estate planning, debtor/creditor law, family law, and administrative law. I have served as a training officer, a mobilization officer, and am currently a Deputy Commander of my Reserve Unit. In February of 2003 I was activated and mobilized to Kuwait, and then Iraq, where I served as the chief prosecutor for the Coalition Forces Land Component Command, which was the Joint Command that invaded and occupied Iraq. As the chief prosecutor, I tried fifteen general courts-martial and advised on over two dozen other courts-martial pending in the theater of operations. I tried the first five courts-martial in a combat zone since Vietnam. I also was the lead prosecutor on the first prisoner abuse cases reported during the Iraq war, which occurred at Camp Bucca, Iraq (Southern Iraq outside the city of Um Quasr) in May of 2003.

(c) Associate General Counsel, South Carolina Department of Insurance, December 1995 - February 1997.Senior Staff Attorney at the Department and worked directly for the General Counsel. I managed a junior counsel and an administrative specialist. I was responsible for all legal aspects of the regulation of the insurance industry in South Carolina. I drafted legislation, litigated rate hearings and administrative disciplinary actions, and provided legal opinions to Department administrators.

(d) Adjunct Professor, Saint Leo University, Shaw Air Force Base Campus, Sumter, South Carolina, January 2002 - Present**.** I teach undergraduate level law courses to students of the University in an adjunct capacity. Courses include criminal law, criminal procedure, and introduction to law and the legal process.

(e) Associate General Counsel, South Carolina Department of Labor, Licensing and Regulation, February 1997 - October 2002. I provided all litigation support to eleven state regulatory boards, including the South Carolina Real Estate Commission, the Contractor’s Licensing Board, the Board of Architectural Examiners, and the Board of Engineers and Land Surveyors. I was responsible for all litigation for my boards, including prosecuting disciplinary hearings and handling all appeals at all levels of State and Federal Courts. Provided assistance in drafting and reviewing proposed legislation for the boards.

(f) Counsel to the Clerk, South Carolina Senate. October 2002 - September 2004**.** I provided legal support to the Clerk of the South Carolina Senate, Senators, and to the Senate Committees. My duties included providing general legal research for Senators and Committees, researching and drafting legislation and amendments, and providing litigation services in all cases where the Senate was a party.

(g) Staff Attorney, South Carolina Senate Judiciary Committee. September 2004 - Present.I provide legal support to the largest committee of the South Carolina Senate. My duties included researching and drafting legislation, amendments, and legal memoranda for the President *Pro Tempore* of the South Carolina Senate and the members of the Committee. My additional duties include tracking and managing legislation through the legislative process.

Mr. Lenski reported the frequency of his court appearances during the past five years as follows:

“(a) federal:

(b) state:

Since October 2002, I have been employed as an attorney for the South Carolina Senate. In my capacity as Counsel to the Clerk, I was one of the counsel involved in the case of *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005).which case was heard by the South Carolina Supreme Court in 2004 and decided in 2005. However, aside from that case, my practice has not involved making court appearances since 2003.

From 1996 through 2002, when I served as staff counsel for the Department of Insurance and then the Department of Labor Licensing and Regulation, I appeared exclusively before state courts on a weekly basis.

My answers to the remaining questions regarding my court appearances and caseload apply to the period of time when I was conducting litigation as a staff counsel for the Department of Insurance and the Department of Labor, Licensing and Regulation from 1996 – 2002.”

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

“(a) Civil: (administrative) ‑ 95%;

(b) Criminal:

(c) Domestic: Less than 5% (court appointment in DSS matters)

Since 1995, my only criminal experience has been when I served as a prosecutor in the Army in Iraq and Kuwait in 2003, where I prosecuted fifteen courts‑martial (federal court) over a seven month period.”

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

“(a) Jury:

(b) Non‑jury: 100%.

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

The following is Mr. Lenski’s account of his five most significant litigated matters:

“(a) *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005). This case, held in the original jurisdiction of the Supreme Court of South Carolina, addressed the “one subject” requirement in the South Carolina Constitution mandating that all legislation enacted by the General Assembly must be about one subject. The General Assembly was sued by an individual who claimed that a large piece of legislation enacted in 2004 violated the one subject requirement, and I was one of the attorneys who represented the General Assembly in the ensuing litigation. The Supreme Court’s order in that case represented the latest interpretation of that constitutional provision.

(b) *U.S. v. Gorman, U.S. v. Canjar, and U.S. v. Edmunds* (May – August 2003). These cases were unreported general courts-martial (criminal proceedings) filed in southern Iraq against 3 soldiers from the 800th Military Police Brigade in June of 2003. These were the first prisoner abuse cases filed against U.S. military personnel (pre Abu-Ghraib). I was the chief prosecutor who led the investigation, filed the charges, and conducted the pre-trial hearings pursuant to Article 32 of the Uniform Code of Military Justice (tantamount to grand jury proceedings). These cases were the most difficult I have ever handled. Logistically, I had to conduct a detailed criminal investigation at a prisoner of war camp located in a combat zone. I had to arrange counsel for the soldiers and schedule their travel from Germany, into Kuwait, and then across the border into Iraq. I had to locate and arrange the transportation of witnesses from across the area of combat operations, and I had to conduct a detailed pre-trial hearing, complete with international media scrutiny, in a tent city constructed at the prisoner of war camp. The cases were ultimately pleaded out, and the soldiers were all discharged.

(c) *SCDLLR (Real Estate Commission) v. James E. MacDonald*, (97 ALJ 11 0374 IJ, 97 ALJ 11 0598 AP, 99 ALJ 11-0527 AP). This case, or rather, series of cases involving a South Carolina Real Estate broker, was ultimately a very important decision in professional licensing law in that it demonstrated that professional licensing boards could ultimately force disciplined licensees to stop engaging in the unlicensed practice of their profession. In this case, the Respondent continued to practice real estate despite his license being revoked and no stay being granted. Ultimately, after being ordered by the Administrative Law Court to cease and desist, I brought the Respondent back before the Administrative Law Court and proved that he had violated the court’s order. For the first time in the history of the Administrative Law Court, the Respondent was held in contempt and sent to jail. This case has been used in numerous continuing legal education seminars discussing the power of the Administrative Law Court.

(d) *SCDLLR (Board of Veterinary Medicine) v. Stan Gorlitsky, D.V.M.,* (01-ALJ-11-0403-AP). This was a case before the Board of Veterinary Medicine. The case was significant because it received a huge amount of publicity in both Columbia and Charleston, where the veterinarian was practicing, which made the investigation and prosecution of the complaint very difficult. The case involved numerous allegations of maltreatment of animals by the Respondent. The Board suspended the license of the Respondent, and I was able to successfully get the appeal dismissed for untimely filing.

(e) *W.F. Hewitt and Associates v. SCDLLR (Contractor’s Licensing Board)*, (91-ALJ-11-0486-AP). This case was significant because in this case the Contractor’s Licensing Board determined that, in addition to other misconduct committed by a licensed contractor, the failure of a general contractor to pay his sub-contractors, even when he was not paid by the homeowner himself, constituted misconduct. On appeal, the Administrative Law Court upheld the decision of the Board on this issue.”

The following is Mr. Lenski’s account of the five civil appeals he has personally handled:

“(a) *James E. MacDonald v. SCDLLR (Real Estate Commission),* (before the Administrative Law Court on appeal from the Real Estate Commission) (multiple appeals):

97 ALJ 11 0598 AP, dates of decisions – 3/25/98 and 8/20/98;

99 ALJ 11-0527 AP, date of decision – 10/27/99.

(b) *Stephen P. Herlong v. SCDLLR,* (before the Administrative Law Court on appeal from the Board of Architectural Examiners), 00-ALJ-11-0001-AP, date of decision – 1/9/2001.

(c) *James F. Johnston, III v. SCDLLR*, (before the Administrative Law Court on appeal from the Real Estate Appraiser’s Board), 01-ALJ-0015-AP, date of decision – 8/8/2001 (my client was ultimately successful before the South Carolina Supreme Court [365 S.C. 293, 617 S.E.2d 363 (2005)], and while I worked on this appeal through the Circuit Court, I left the agency before the final decision was rendered by the Supreme Court.

(d) *Mary C. Hofer v. SCDLLR*, (before the Administrative Law Court on appeal from the Real Estate Commission), 01-ALJ-11-0127-AP, date of decision – 3/20/2002.

(e) *Thomas P. Smarsh, RN v. SCDLLR* (before the Administrative Law Court on appeal from the Nursing Board), 01-ALJ-11-0255-AP, date of decision – 12/7/2001.”

Mr. Lenski reported that he “has not personally handled any criminal appeals except as a law clerk.”

(9) Judicial Temperament:

The Commission believes that Mr. Lenski’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Mr. Lenski to be “a most highly qualified and a most highly regarded candidate, who would most ably serve on the Administrative Law Court in an outstanding manner.”

Mr. Lenski is married to Laura Brant Lenski. He has three children.

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

“(a) South Carolina Bar (member since 1995);

(b) Richland County Bar Association (member since 1995);

(c) Colorado Bar (member since 1989);

(d) Colorado Bar Association (member since 1989).”

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

“I am an adjunct professor at St. Leo University’s Shaw Air Force Base campus where I teach pre-law classes in the evening.”

Mr. Lenski further reported:

“Since I began my legal career upon entering law school, I have attempted to take advantage of every opportunity to develop my legal skills as broadly as possible. I have always believed that wisdom and understanding are learned through a life full of many and varied experiences. In law school, I tried to gain experience in as many areas of the law as possible. I worked for a criminal defense lawyer after my first year of law school, and then for an insurance defense firm across the country the following summer. During school, I worked for a professor researching corporate law issues, and I was a member of, and ultimately an officer of the moot court team.

After graduation, I served my country on active duty for nearly six years as a Judge Advocate for the U.S. Army. I practiced criminal law, administrative law, environmental law, labor law, and I assisted soldiers with trust and estate matters, consumer credit problems, and landlord tenant issues. When I decided to leave active duty and practice law in South Carolina, I began practicing administrative law with the Department of Insurance. I learned a tremendous amount about administrative law and the Administrative Law Court, and it was during that eighteen month period of employment that I developed an interest in the Administrative Law Court. At my next position with the Department of Labor, Licensing and Regulation (LLR), I regularly appeared before the Administrative Law Court, and as my knowledge of and experience before the court grew, so did my interest in it.

In late 2002, I left LLR to take a position with the South Carolina Senate. While my new position, as well as my service in Iraq and Kuwait in 2003, took me away from practicing directly before the Administrative Law Court, I have still been involved with the court in that I have participated in drafting numerous statutes to amend various parts of the Administrative Procedures Act. I have maintained both my interest in and knowledge of the court by participating in administrative law continuing legal education seminars. My position on the Senate Judiciary Committee has given me a very broad view of the entire judicial system in South Carolina, including the Administrative Law Court. And so while it has been some years since I tried cases in the Administrative Law Court, I believe that these years in the Senate have given me a richer understanding of the court and the various groups, agencies, and individuals who appear before the judges.

I believe that all of my experiences, coupled with my longstanding and strong interest in the Administrative Law Court, will enable me to be a professional, competent, and understanding jurist. I appreciate the time the Commission has spent considering my application, and I look forward to answering any questions any member of the Commission may have about me or my desire to serve our state as the next Administrative Law Court judge.”

(11) Commission Members’ Comments:

The Commission commented on Mr. Lenski’s excellent grasp of the legal issues on the Administrative Law Court was demonstrated by his performance on the Commission’s Practice and Procedure test. They noted his patience, an attribute, which would greatly assist him as jurist.

(12) Conclusion:

The Commission found Mr. Lenski qualified and nominated him for election to the Administrative Law Court.

**Carol I. McMahan**

**Administrative Law Court, Seat 5**

**Commission’s Findings: QUALIFIED, BUT NOT 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 Court 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 “$80.96 in campaign expenditures for:

“Paper $ 26.99

Name Tag: 6.99

Envelopes 26.99

Business Cards 19.99

Total: $ 80.96.”

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 continuing legal or judicial education during the past five years as follows:

“Conference Name Date(s)

(a) SCARLA Seminars 9/19/2008;9/21/2007;

9/22/2006,9/23/2005;

10/1/2004, 9/20/2002;

(2003 not in my records);

(b) Dramatic Changes in Criminal Law 7/13/2007;

(c) ALI-ABA Confidentiality and Attorney

Client Communications 12/30/2008;

(d) Ethics Roadshow 12/10/2007;

(e) Multistate Tax Commission – Tax Nexus

Training (no CLE requested) 10/2007;

(f) Top Trial Lawyers Tackle Evidence 2/8/2008;

(g) Domestic Violence 5/31/2006;

(h) The Truth About Opinions 11/21/2006;

(i) Secrecy and the Courts 4/19/2005;

(j) Managing Litigation w/Technology 12/19/2005;

(k) S.C. Association of Counties 12/9/2005;

(l) Advocacy 12/10/2004;

(m) Beyond the Bar II 11/05/2004;

(n) Circuit Court Arbitration 02/15/2002.”

Ms. McMahan reported that she has taught the following law‑related courses:

“As a part of the South Carolina Bar’s program: ‘Law School for Non-Lawyers’ taught ‘An Overview of South Carolina Courts’ on September 11, 2007 in Anderson, South Carolina. I am scheduled to teach this same course in October, 2009. I have 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. Assoc. of CPAs;

(c) ‘Are Settlement Procedures the Way to Resolve Tax Nexus Issues’ - Journal of Multistate Taxation, Nov/Dec. 1992; also reprinted in South Carolina Lawyer, May/June, 1993;

(d) ‘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. Assoc. of CPAs;

(d) ‘Manufacturing and Business Personal property Tax Returns, Did You Know?’ – 1992 Tax Commentaries, S.C. Assoc. of CPAs;

(d) ‘Katie Bar the Door the Tax Person Is Here’ – 1992 Tax Commentaries, S.C. Assoc. 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 that she is not rated by Martindale‑Hubbell.

Ms. McMahan reported the following military service:

“From 1974 to 1977 I served in the United States Army Security Agency (now a part of the U.S. Army). 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 Administrative Law Court (ALC) in 1996. Since 1996 I have served as sole counsel on a variety of contested cases to include regulatory, tax and disciplinary matters.

In July of 2006 I was also assigned as counsel to various tax maters. I have also served as an Assistant Attorney General in tax matters in the absence of Thomas McDermott (deployed to Iraq). To date I continue to handle criminal tax cases as assigned.

I currently represent the Department in a variety of contested cases before the ALC. Additionally I have had the unique opportunity to work as a mentor with the attorneys in the Honors Program at the Department. This is a fairly new program developed by the Department’s Director, to hire and mentor new members of the S.C. Bar.”

Ms. McMahan further reported:

“On a monthly, at times weekly basis I represent the Department of Revenue in a variety of matters before the ALC. For the most part I serve as sole counsel for the Department. I also serve as counsel on the appeal of such matters to the Court of Appeals and Supreme Court. At times I appear in Circuit Court on foreclosure, surplus fund matters and other cases as assigned.

For a list of many of the ALC cases that I have handled to date see: http://scalc.net/search.aspx?q=mcmahan.”

Ms. McMahan reported the frequency of her court appearances during the past five years as follows:

“(a) Federal: 0%;

(b) State: 100%.”

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

“(a) Civil: 98%;

(b) Criminal: 2%;

(c) Domestic: 0%.”

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

“(a) Jury: 0%;

(b) Non‑jury: 100 %.”

Ms. McMahan provided that she most often served as sole counsel. Specifically, she reported that, “[a]s a litigation attorney for the Department of Revenue the vast majority of my case load concern administrative, regulatory and civil tax matters. In the last year and a half I have also appeared in General Sessions for criminal tax cases.

With the exception of two cases, Lexington Medical vs. S.C. Department of Revenue and Anonymous Taxpayers. S.C. Department of Revenue I served as sole counsel.”

The following is Ms. McMahan’s account of her most significant litigated matters:

“(a) McNickels 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.

(b) Sonoco Products Company v. S.C. Dept. of Revenue, 2008 WL 2329754 (2008). (I handled the oral argument only). This case involved a real property tax matter regarding the meaning of the word ‘contiguous’ for determining the applicable tax base of an office building. This case 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 v. S.C. Dept. of Revenue 358 S.C. 647, 595 S.E. 2d 890 (CA, 2004). (Oral argument only). The Court of Appeals ruled that the Department 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 the five civil appeals she has personally handled:

“(a) McNickels 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, 2008 WL 2329754 (2008). (I handled the oral argument only with implications as to other taxpayers similarly situated;

(c) Video Gaming Consultants v. S.C. Dept. of Revenue 358 S.C. 647, 595 S.E. 2d 890 (CA, 2004). (Oral argument only);

(d) Evans v. S.C. Dept. of Revenue, (Unpublished); (Court of Appeals);

(e) S.C. Dept. of Revenue v. Stardust Amusement Co., 534 S.E.2d 698 (2000).”

Ms. McMahan reported that she has not personally handled any criminal appeals.

Ms. McMahan further reported the following regarding unsuccessful candidacies:

“On December 4, 2008 the Judicial Merit Selection Commission found me qualified and nominated me as a candidate for ALC Seat No. 4. I was not successful in that endeavor.”

(9) Judicial Temperament:

The Commission believes that Ms. McMahan’s temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee submitted its fall 2008 report for this candidate. The committee reported the following regarding Ms. McMahan, “Based on the investigation of this committee, we find that Ms. McMahan 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. 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:

“(a) S.C. Bar Association 1986 to Present;

(b) S.C. Bar 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, Riverside Middle School (Current) School Improvement Council, Pendleton High School 2003-2006;

(b) St. Joseph’s Catholic Church, Catechist (Sunday School Teacher) 2001-2006;

(c) St. Andrews Catholic Church, 2006-Present;

(d) Teakwood Plantation Homeowners’ Association: (Bd Member 2003-2007, President-2003);

(e) Special Olympics Volunteer- 2008 to present;

(f) Law School Award: The Prentice Hall Income Tax Award.”

(11) Commission Members’ Comments:

The Commission stated that Ms. McMahan appeared to be a very intelligent and well-rounded candidate. They commented that her military and tax law background would be helpful in serving as a judge on the Administrative Law Court.

(12) Conclusion:

The Commission found Ms. McMahan qualified, but not nominated, to serve as an Administrative Law Court judge.

**Shirley C. Robinson**

**Administrative Law Court, Seat 5**

**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 Court judge.

Ms. Robinson was born in 1951. She is 58 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 $38 in campaign expenditures for printing costs.

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) SC Association of Counties Local

Government Attorney’s Workshop 12/12/08;

(b) 2008 SCAARLA Conference 09/19/08;

(c) SCWLA/Judicial Selection in SC 09/17/08;

(d) National Association of Hearing Officers 11/5-6/07;

(e) SCAARLA Ethics 10/31/07;

(f) Federation of Administrative And Regulatory Boards

10/05/07;

(g) 2007 SCAARLA Conference 09/21/07;

(h) SC Association of Counties Local

Government Attorneys’ Workshop 12/08/06;

(i) SC Atty. Gen’l Ethics Workshop 11/03/06;

(j) 2006 SCAARLA Conference 09/22/06;

(k) 2005 SCAARLA Conference 09/23/05;

(l) DHEC Seminar 03/18/05;

(m) SC Association of Counties Local

Government Attorneys’ Workshop 12/10/04;

(n) SC Black Lawyers 2nd Annual Retreat 10/22/04;

(o) 2004 SCAARLA Conference 10/01/04;

(p) SC Association of Counties Local

Government Attorney’s Workshop 12/12/03;

(q) 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 seasoned attorneys on cases in the areas of personal injury, family law and workers’ compensation.

(b) 1991 thru mid-1992, 8th Circuit Solicitor’s Office

Greenwood, South Carolina

Served as Assistant Solicitor prosecuting juveniles, and abuse and neglect cases.

(c) 1992 thru 1994 South Carolina Legislative Black Caucus

Columbia, South Carolina

Served as Executive Director performing duties that included research, speech writing, management of the office and staff, fundraising, and coordinator of intern program.

(d) 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 senior associate in offices in Columbia and Lake City, South Carolina. Seventy-five percent of my practice was in the areas of consumer bankruptcy and family law, and the remaining twenty-five percent 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 are found to be incompetent after the board conducts a full evidentiary hearing. The evidentiary hearings are conducted in accordance with the notice and procedural requirements of the SC Administrative Procedures Act (the APA), and the boards’ final orders must include findings and conclusions that are supported by a preponderance of the evidence produced at the hearings. The majority of board members are individuals who practice the profession being regulated and have little knowledge of the procedural aspects of conducting contested hearings or evaluating evidence. As the advisor, it is my responsibility to advise the boards on jurisdictional boundaries, rules of evidence, proper disposal of prehearing motions and objections raised during hearings, and all other matters involved in ensuring that the hearings are fair and that individuals’ due process rights are protected. I also have responsibility for assisting boards in maintaining proper order and decorum during the hearings, and I prepare the final orders for the board chairman/president signature.”

Ms. Robinson further reported:

“It has been several years since I appeared before former Administrative Law Judge Ray Stevens in a contested hearing in protest of DHEC’s approval of a permit for a chicken farm. Although I don’t make frequent personal appearances before the Administrative Law Court, in my capacity as advisor to LLR’s POL boards, I provide guidance on applying the appropriate standard of proof (preponderance of the evidence), how to properly rule on motions and objections, and assist with maintaining order and a judicial atmosphere during the hearings. I also write the final orders. It should be noted that LLR’s contested hearings mirror contested hearings held by Administrative Law Judges in terms of procedures, evidentiary rules and general protocol.”

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. 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%, however while in private practice it was 60%;

(b) criminal: 0%;

(c) domestic: Currently, 0%, however, while in private practice it was 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%, however while in private practice it was 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 were contesting DHEC’s granting of a permit for a chicken farm in their rural community. A contested hearing was held before Administrative Law Court Judge Ray Stevens, and was significant because it represented my first appearance before the ALC.

(b) In Re: The Estate of Herbert O. Pointer vs. Phyllis Pointer. The case was tried before the Richland County Probate Court, and was significant because of the novel issue addressed. The personal representative sought to exclude my client as an heir because she was not the decedent’s natural child and was never legally adopted, although the decedent, after marrying my client’s mother, caused his name to be added to her birth certificate and raised her as if she was his child. The court ruled in my client’s favor.

(c) Manson Robinson, Jr., et al. vs. John Q. Hammond Corporation, et al. The case was my first and only significant federal civil case, and involved complex issues that required extensive pre-trial preparation. Numerous witnesses were deposed and prepped for trial testimony. A settlement was reached just prior to the trial.

(d) Page vs. Page. The case was significant because it involved a hotly contested child custody dispute. My client ultimately prevailed.

(e) McFadden vs. McFadden. This case also involved a heavily contested child custody and property dispute in which both parties raised issues of alleged marital misconduct. Because of the bitterness and hostility between the husband and wife, I am of the opinion that neither party prevailed.”

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 vs. 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 that she has not personally handled any criminal appeals.

Ms. Robinson reported the following regarding unsuccessful candidacies:

“I ran unsuccessfully for the SC Administrative Law Court in 2005 and 2006. I was a candidate for the SCLC Seat filled on February 11, 2009, however I withdrew prior to the election.”

(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 most highly qualified and a most highly regarded candidate, who would most ably serve on the Administrative Law Court in an outstanding manner.”

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) James L. Belin Trust Board of Trustees – Chairman;

(b) Board of Directors, Columbia Bethlehem Community Center;

(c) 1988 recipient of Am Jur Award in Contracts;

(d) Formerly member of Babynet Interagency Coordinating Council (appointed by Governor Carroll Campbell).”

(11) Commission Members’ Comments:

The Commission commented that Ms. Robinson was very poised at the Public Hearing and a good listener which would assist her in serving as a judge. They noted that her current position for the past nine 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 Ms. Robinson qualified and nominated her for election to the Administrative Law Court.

**Lee W. Zimmerman**

**Administrative Law Court, Seat 5**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Zimmerman meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Zimmerman was born in 1951. He is 58 years old and a resident of Columbia, South Carolina. Mr. Zimmerman 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. He was also admitted to the Colorado Bar in 1981 and the New York Bar in 1993.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Zimmerman.

Mr. Zimmerman 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. Zimmerman reported that he has made “$84.00 in campaign expenditures for postage.”

Mr. Zimmerman 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. Zimmerman 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. Zimmerman to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

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

“Conference/CLE Name Date(s)

(a) Pros and Cons of Tort Reform 1/20/2004;

(b) Administrative and Regulatory Law 1/23/2004;

(c) Environmental and Natural Resources 1/23/2004;

(d) Coming Technology 2/24/2004;

(e) 33rd Annual ABA Env. Law Conference 3/11/2004

(f) Revised Lawyer’s Oath 9/21/2004;

(g) Best Ethical Practices 9/24/2004;

(h) Effective Mediation Strategies 10/26/2004;

(i) Admin and Reg. Law Committee

Seminar (Presenter) 1/21/2005;

(j) Environmental and Natural Resources 1/22/2005;

(k) Attorney EDF Training 1/10/2005;

(l) Civility, Presidents and Professions 1/25/2005;

(m) Civil Court Mediation Certification 2/10/2005;

(n) Tort Reform or Torts Deformed 2/22/2005;

(o) Current Issues Update 10/28/2005;

(p) Legal Jeopardy 1/24/2006;

(q) New Court Developments 2/21/2006;

(r) Loss Prevention 3/25/2006;

(s) SCARLA Seminar and Annual Mtg. 9/22/2006;

(t) Loss Prevention Team 10/6/2006

(u) Act 387 11/3/2006;

(v) Loss Prevention 4/21/2007;

(w) SCARLA Conference 9/21/2007;

(x) US Supreme Ct. and Punitive Damages 10/16/2007;

(y) SC Bar – Env. And Nat. Res. Section 1/24/2008;

(z) SC Bar - Gov’t and Admin. Law Section 1/25/2008;

(aa) Attorney Disciplinary Counsel 1/22/2008;

(bb) Trial by Jury 4/9/2008;

(cc) Government Law Update 6/20/2008;

(dd) Loss Prevention Presentation 10/4/2008;

(ee) Expert Witnesses on Parade 10/14/2008;

(ff) SCARLA Conference 9/19/2008;

(gg) Discovery Problems and Abuses 11/18/2008;

(hh) Municipal Attorneys Assoc. Mtg. 12/5/2008;

(ii) Flowing from Bates v. State Bar 1/20/2009.“

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

“(a) S.C. Bar Convention, Multi-jurisdictional Law Practice (1/2005).

(b) N.Y.S. Bar CLE – Practice before the Dept. of Environmental Conservation (1999).

(c) Toxic Tort Presentations, Regional Installation Restoration Program Workshops, Air Force Environmental Law Division (1986-1988).

(d) Adjunct Faculty, Air Force Judge Advocate General’s School, Environmental Law and Advance Environmental Law (1989-1993).”

Mr. Zimmerman reported that he has published the following:

“Federal Agency Participation as a Potentially Responsible Party in CERCLA Section 122 Settlements at Third-Party Sites,” LL.M. Thesis, The National Law Center, George Washington University, 1991.”

(4) Character:

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

The Commission also noted that Mr. Zimmerman 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. Zimmerman reported that he is not rated by Martindale-Hubbell.

Mr. Zimmerman reported the following military service:

“June 1969 – July 1993, USAF, Lt. Colonel, Honorable.”

Mr. Zimmerman reported that he has held the following public office.

“Elected to Williamsville Central School District Board of Education, Williamsville, New York. Served 1999-2000.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Zimmerman was admitted to the South Carolina Bar in 2000.

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

“(a) Assistant Staff Judge Advocate, United States Air Force Academy, 1981-1983.

Claims Officer and Chief, Military Justice and Labor Law. Investigated tort and medical malpractice claims and adjudicated personnel and tort claims filed at the USAFA; represented management in administrative hearings before the EEO and Merit Systems Protection Boards; Hearing Officer in cadet disenrollment cases; represented the Air Force in Special and General Courts-Martial, including a two-week premeditated murder case; Cadet Squadron Professional Ethics Advisor.

(b) Deputy Staff Judge Advocate, Eielson AFB, Alaska, 1983-1985.

Chief, Military Justice and Labor Law. Responsible for all military justice actions at a base with over 4,000 military and 600 civilian personnel; Article 32, UCMJ, Investigating Officer and Legal Advisor on Administrative Discharge Boards; lead prosecutor in ten courts-martial; Alaskan Air Command nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.

(c) Staff Attorney and Chief, Environmental Torts, Air Force Claims and Tort Litigation Staff, Headquarters, USAF, 1985-1989.

Analyzed major tort claims against the Air Force; represented the United States in over fifteen toxic tort cases alleging personal injury from asbestos exposure, radiation exposure, and ingestion of contaminated waste; negotiated and coordinated settlement of cases with the U.S. Department of Justice and U.S. Attorneys throughout the United States; provided inputs for responses to Presidential and Congressional inquiries; lectured on “toxic tort” liability to over 500 lawyers and engineers at seven regional workshops; appointed as a Special U.S. Attorney and a member of the Department of Justice trial team in Clark v. United States, the first toxic tort case litigated against the Department of Defense; Headquarters, Air Force nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.

(d) Student, The National Law Center, The George Washington University, 1989-1990.

Competitively selected by U.S. Air Force to obtain LL.M. in Environmental Law; one semester legal internship at Headquarters, U.S.E.P.A.

(e) Regional Counsel, Air Force Central Region Environmental Office, Dallas, Texas, 1989-1993.

Managed the legal office responsible for providing environmental legal services to the Air Force’s Central Region Compliance Office and 40 major Air Force installations in the central United States; coordinated the resolution of potential liability with Department of Justice, EPA and private party attorneys at 45 Superfund sites; negotiated Compliance Agreements and Consent Decrees with EPA, state regulatory agencies, private potentially responsible parties, and contractors; developed a guidance manual for federal agencies named as potentially responsible parties at Superfund sites; conducted environmental compliance audits at Air Force facilities.

(f) Attorney, East Amherst, New York, 1993-1994.

Provided legal and environmental forensic consulting services to environmental contractors; kept clients informed of developments in environmental laws and regulations and advised clients on the marketing of environmental services to government and private entities.

(g) Attorney, Division of Environmental Enforcement, New York State Department of Environmental Conservation, Western Field Unit, Buffalo, New York, 1994-1995.

Provided legal support in enforcement of the state’s Inactive Hazardous Waste Site Program; identified parties that were potentially responsible for site cleanup costs; negotiated consent orders for site investigation and remediation; coordinated site cleanup activities with other government agencies; ensured parties complied with consent orders.

(h) Staff Attorney, Ecology and Environment, Inc., 1995-1996.

Provided in-house corporate and environmental legal support; advised corporate officers on statutory and regulatory initiatives; conducted Applicable or Relevant and Appropriate Requirements (ARARs) analysis in the preparation of Remedial Investigations/Feasibility Studies at Superfund Sites; prepared protocols for environmental audits at major industrial facilities; supervised outside counsel in litigation involving remedial action contractor issues.

(i) Hearing Officer, Office of Administrative Hearings, New York State Department of Social Services, Buffalo, New York, 1996-1998.

Designated by the Commissioner of the Department of Social Services to conduct administrative fair hearings in nine counties in Western New York; elicited testimony from parties and directed cross-examination; identified and analyzed issues raised at the hearings; prepared complete and accurate records of the hearings; compiled and organized documentary evidence; reviewed hearing records, weighed the evidence, and drafted recommended decisions for the Commissioner’s signature.

(j) Assistant Regional Attorney, New York State Department of Environmental Conservation, Region 9, Buffalo, New York, 1998-2000.

Provided legal advice, counsel and assistance to Department of Environmental Conservation program staff; conducted legal and factual research on specific environmental legal issues; prepared notices of violation, administrative complaints, consent orders, litigation referrals, litigation papers, memoranda of law, and briefs; represented the DEC in environmental violation settlement negotiations; administratively settled 19 cases with total penalties of $323,000; represented the DEC and staff in hearings and served as liaison with the Office of the New York Attorney General in litigation involving the DEC.

(k) Senior Corporate Counsel, Safety-Kleen Corp., Columbia, S.C., 2000-2002.

Provided legal advice to hazardous waste and solvent recycling facilities throughout the United States; negotiated settlement of regulatory and enforcement actions with state environmental agencies; assisted outside bankruptcy counsel in identifying, evaluating, and resolving creditors’ claims against company; established legal foundation for closure and post-closure care of the Pinewood Hazardous Waste Landfill.

(l) Special Counsel, McNair Law Firm, P.A., Columbia, S.C., 2002-Present.

Member of the Administrative/Regulatory Practice Unit. Represent industry and business in regulatory, land use, government relations, and health and safety matters; advise clients on regulatory permitting and compliance issues, including environmental due diligence in the sale/purchase of business and real property assets; represent companies named as potentially responsible parties at federal and state Superfund sites; represent clients before the South Carolina Administrative Law Court in environmental/agricultural permitting actions, Certificate of Need actions, and Alcohol Beverage Control Act matters; serve as Town Attorney for the Town of Blythewood, South Carolina.”

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

“(a) Federal: none;

(b) State: ALC: 9; Circuit Court: 1.”

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

“(a) Jury: None;

(b) Non‑jury: 100%.”

Mr. Zimmerman provided that he most often serves as “Chief counsel in Alcohol Beverage Control Act matters and environmental/agricultural permitting matters. Associate counsel in health care matters.”

The following is Mr. Zimmerman’s account of his five most significant litigated matters:

“(a) United States v. Garries, General Court-Martial, USAF Academy, 1983. This was a capital murder case. I served as assistant trial counsel in this two and a half week General Court-Martial before a ten member jury. Over 30 fact and expert witnesses presented evidence. I conducted the direct examination of seven prosecution witnesses, including a forensic chemist. I also had primary responsibility for opposing a defense motion for dismissal based on lack of jurisdiction and presented the oral argument on the issue of priest-penitent privilege that arose unexpectedly during the course of the proceeding. Airman Garries was convicted of premeditated murder and was sentenced to confinement for life.

(b) United States v. Mayes, General Court-Martial, USAF Academy, 1982. This was a three day prosecution of an Air Force Academy cadet for theft and forgery. The case was significant because it was the first time in over 10 years that a cadet was criminally prosecuted by the Air Force. Prior to the Mayes case, cadets who committed criminal acts were administratively discharged from the Air Force or disenrolled for violating the Academy Honor Code. The conviction that resulted from the case was significant because it demonstrated to the Wing of Cadets that theft, especially from their fellow cadets, would be criminally prosecuted.

(c) Clark, et. al. v. United States, U.S. District Court, Western District of Washington, 1986. This case was significant because it was the first “toxic tort” case brought against the United States Department of Defense. The plaintiffs alleged that contaminated groundwater from an old landfill at McChord AFB, Washington contaminated their drinking water well. At the time of this proceeding I was serving as Chief, Environmental Torts at the Air Force Claims and Tort Litigation Staff. The Department of Justice assigned me to the DOJ trial team for this case and I was responsible for the preparation of all Air Force fact witnesses. The judge-only trial lasted two weeks and resulted in a finding against the United States with a small monetary award to the plaintiffs.

(d) Valley Proteins d/b/a Carolina By-Products v. DHEC, 03-ALJ-07-0216-CC, 2004. This was an appeal of an Administrative Order issued by DHEC to Carolina By-Products. The appeal was based on DHEC exceeding the statutory authority granted by the General Assembly in the Pollution Control Act. The day before the scheduled hearing, DHEC decided to withdraw the Administrative Order. Before consenting to the withdrawal, Carolina By Products insisted on a Stipulated Order of Dismissal in which DHEC agreed to grant Carolina By-Products immunity from administrative and civil penalties for any future spills or discharges of raw material or offal from trailers during transportation. The case was significant because it resulted in DHEC acknowledging limits on its authority under the Pollution Control Act.

(e) Wasteco v. DHEC, 06-ALJ-07-0421-CC, 2007. This was an appeal of a DHEC decision that a proposed construction and demolition landfill was not consistent with a county’s solid waste management plan. In finding in favor of our client, the Administrative Law Judge agreed with our client’s position that DHEC has exclusive authority to issue, deny, revoke or modify solid waste permits and DHEC may not delegate this authority to local governments. This case also was significant because it was the first case interpreting the interplay between the Solid Waste Policy and Management Act and local ordinances.”

Mr. Zimmerman reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Zimmerman’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Advisory Committee found Mr. Zimmerman to be a “highly qualified and highly regarded candidate, who would most ably serve on the Administrative Law Court.”

Mr. Zimmerman is married to Nancy Picciano Zimmerman. He has two children.

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

“(a) South Carolina Administrative and Regulatory Law Association;

(b) Richland County Bar Association;

(c) American Bar Association;

(d) John Belton O’Neall Inn of Court.”

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

“(a) Town Attorney, Town of Blythewood;

(b) Air Force Association;

(c) St. Joseph Catholic Church;

(d) United States Air Force Academy Association of Graduates;

(e) American Red Cross of Central South Carolina, Development

Committee.”

Mr. Zimmerman further reported:

“Between the ages of 18 and 42 I served in the United States Air Force, rising from the rank of Basic Cadet to Lieutenant Colonel. Throughout my Air Force career I adopted and tried to internalize the Air Force’s core values – “Integrity First, Service Before Self, Excellence in All We Do.” These core values continued to guide my life after leaving the Air Force while serving as an attorney for the New York State Department of Environmental Conservation, a hearing officer for the Department of Social Services, Vice President of a School District’s Board of Education, Town Attorney for the Town of Blythewood, and Special Counsel with McNair Law Firm.

Whatever success I have achieved in my professional and personal life has been the result of applying these core values. I will continue to apply these values in the following ways if I am fortunate enough to be elected to a seat on the South Carolina Administrative Law Court.

Integrity is the foundation of an independent, trusted and respected judiciary. A judge with integrity is courageous, honest, responsible, and accountable for his actions. The judge with integrity will do what is right, even when no one is looking, or his decision may be unpopular. A judge without integrity cannot be effective.

Service Before Self means that a judge’s professional duties take precedence over personal desires. A judge’s professional duties are to follow the law, respect others, refrain from displays of anger, exercise self-control, and demonstrate faith in the judicial system.

Excellence in All We Do requires a judge to set the example for all who appear in court. Knowledge of the law and legal procedure is paramount, but only a judge who constantly strives for excellence is in a position to demand excellence from the attorneys, agency staff, and court staff who appear in the courtroom.

I expect serving as an Administrative Law Judge will present challenges, but I will approach these challenges with integrity, service, and legal competence – the core values I have applied to conduct my personal and professional life.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Zimmerman is known as a very hard working attorney, which would assist him on the Administrative Law Court. They noted his varied legal experience, including serving as a hearing officer in New York and his LLM in Environmental Law, would be an attribute for the court.

(12) Conclusion:

The Commission found Mr. Zimmerman qualified, but not nominated, to serve as an Administrative Law Court judge.

**CONCLUSION**

The following candidates were found qualified and nominated:

John C. Few Supreme Court, Seat 4

Kaye G. Hearn Supreme Court, Seat 4

Deadra L. Jefferson Supreme Court, Seat 4

Rame L. Campbell Circuit Court, Tenth Judicial Circuit, Seat 1

R. Lawton McIntosh Circuit Court, Tenth Judicial Circuit, Seat 1

Eric K. Englebardt Circuit Court, Thirteenth Judicial Circuit, Seat 3

Allen O. Fretwell Circuit Court, Thirteenth Judicial Circuit, Seat 3

Robin B. Stilwell Circuit Court, Thirteenth Judicial Circuit, Seat 3

W. T. Geddings, Jr Family Court, Third Judicial Circuit, Seat 2

Angela R. Taylor Family Court, Third Judicial Circuit, Seat 2

Michael S. Holt Family Court, Fourth Judicial Circuit, Seat 3

Salley Huggins McIntyre Family Court, Fourth Judicial Circuit, Seat 3

Elizabeth R. Munnerlyn Family Court, Fourth Judicial Circuit, Seat 3

Ralph K. Anderson, III Administrative Law Court, Seat 1

Carolyn C. Matthews Administrative Law Court, Seat 1

Latonya D. Edwards Administrative Law Court, Seat 5

S. Phillip Lenski Administrative Law Court, Seat 5

Shirley C. Robinson Administrative Law Court, Seat 5

Respectfully submitted,

/s/Senator Glenn F. McConnell

/s/Representative F.G. Delleney, Jr.

/s/Senator Robert Ford

/s/Senator John M. “Jake” Knotts, Jr.

/s/Representative Alan D. Clemmons

/s/Representative David J. Mack III

/s/Mr. John P. Freeman

/s/Mr. John Davis Harrell

/s/Mrs. Amy Johnson McLester

/s/Mr. H. Donald Sellers

On motion of Senator McCONNELL, ordered printed in the Journal.

ADJOURNMENT

At 11:08 A.M., on motion of Senator JACKSON, the Senate adjourned to meet next Tuesday, April 28, 2009, at 12:00 Noon.

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