~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

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

Our thought for today is from Proverbs 3:34: “To the humble he shows favor.”

Let us pray. Help us to know, dear God, that life is about You and not us. Guide each of these Representatives and staff to pursue the task set before them. Give them the knowledge to do the right things for the people of this great State. Under Your direction, the way is made plain. Bless our Country, her leaders, our State, Governor, Speaker, staff, and all who serve in these Halls of Government. Look upon our defenders of freedom as they protect us, and be their stronghold. Heal the wounds, those seen and those hidden, of our warriors. Hear us O Lord, as we pray. Amen.

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

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

**MOTION ADOPTED**

Rep. BARFIELD moved that when the House adjourns, it adjourn in memory of his sister, JoAnn Barfield Johnson, which was agreed to.

**SILENT PRAYER**

The House stood in silent prayer for the victims of the shootings in Tucson, Arizona.

**REPORT RECEIVED**

The following was received:

January 13, 2011

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 **12:00 Noon on Tuesday, January 18, 2011.**  **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 January 18, 2011. 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 212-6623.

Thank you for your attention to this matter.

Sincerely,

Glenn F. McConnell, Chairman

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

**Judicial Selection Commission**

Dear Fellow Members:

This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate’s contact with members of the General Assembly, as well as third parties contacting members on a candidate’s behalf. It is also to remind you of these issues for the Fall 2010 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 again like to remind members of the General Assembly that a violation of the screening law is likely a disqualifying offense and must be considered when determining a candidate’s fitness for judicial office. Further, the law requires the Commission to report any violations of the pledging rules by members of the General Assembly to the House or Senate Ethics Committee, as may be applicable.

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

Sincerely,

Glenn F. McConnell, Chairman

F. Greg 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 Court of Appeals, Circuit Court, and Family Court.

**STATEMENT BY**

**SENATOR MCCONNELL AND SENATOR KNOTTS**

We voted against waiving screening hearings, pursuant to Section 2-19-40, for the judges screened for re-election and continued retired status listed in the motion made to waive their appearance at the Public Hearing, as the investigation of these candidates did not reveal any significant issues to address, and no complaints were received. While we have no problems with the records of any of these judges and have confidence in their future service on the bench, we believe that each and every judge should have to be screened when they are offering for initial or continued service on the bench. Twenty minutes of time for a candidate with the commission is not too much to ask in return for the benefits of being a judge. The public deserves an open and transparent process wherein judges are put under oath and asked questions about their work ethic and prior service and experience.  This is the only chance the legislature has, as representatives of our constituents, to hear from judicial candidates and ask questions of them before entrusting them with the solemn duty of judging others.  We would like to remove the statute that allows for waiving of judge candidates and have offered bills to do so.  However, until that bill passes, we will continue to oppose efforts to waive candidates from screening.  People should at least expect that a judge every few years comes before the Commission and explains his past service and asks for future service. Waiving a candidate forecloses that expectation of the people and the opportunity to hear a candidate in person and under oath. For that reason, we voted no.

**COURT OF APPEALS**

**Paul E. Short, Jr.**

**Seat 1**

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

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

(1) Constitutional Qualifications:

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

Judge Short was born in 1947. He is 64 years old and a resident of Chester, South Carolina. Judge Short 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 1971.

(2) Ethical Fitness:

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

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

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

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

(a) Court of Appeals Workers' Comp. Seminar 10/15/10;

(b) Annual Judicial Conference 08/18/10;

(c) 4th Annual Judicial Symposium 07/11/08;

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

(e) Post-Conviction Relief Seminar 12/05/08;

(f) 7th Annual Civil Law Update 01/23/08;

(g) 24th Annual SC Criminal Law Update 01/23/08;

(h) NC/SC Appellate Judges' Conference 03/01/07;

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

(j) The Law Clerk & Staff Code of Conduct 12/19/07;

(k) 4th Annual Civil Law Update 01/27/06;

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

(m) EIJ/Economics Institute for Judges 03/20/06;

(n) NJC/Essential Skills for the Appellate Judges 07/01/06;

(o) NYUSCP/Appellate Judges Seminar 07/10/06;

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

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

(r) NJC/South Carolina Judges/Journalists 09/28/06;

(s) Crawford: A Hearsay Chimera 04/14/05;

(t) Post-Conviction Relief Seminar 06/09/05;

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

(v) Ethics 2005 Seminar 09/21/05;

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

(x) Appellate/Federal Judges Conference 05/26-27/05.

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

(a) I have made presentations to Circuit Court Judges on the Court of Appeals at the Circuit Court Judges' Conference.

(b) I spoke on the topic “Case File Development and Review, A View from the Judiciary” at the SC Solicitors' Conference.

(c) I have served as a Group Facilitator with the faculty for a General Jurisdiction Course at the National Judicial College/Reno, Nevada, for new Judges leading group discussions four hours each day on a wide variety of legal topics.

(d) I was an instructor for a Seminar for the SC Legal Secretaries Association on the topic of “Rules of Civil Procedure.”

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

(4) Character:

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

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

Judge Short reported the following military service:

“U.S. Army, June 1968; entered active duty August 1971; discharged from active duty November 1971; served SC National Guard until 1973; discharged U.S. Army Reserve 1974; highest rank attained was 1st Lieutenant; Present Status, Inactive Reserve; Honorably Discharged as Captain. Serial number: XXX-XX-XXXX.”

Judge Short reported that he has held the following public offices:

(a) SC House of Representatives, elected, 1982-91;

(b) Chester County Airport Commission, appointed, 1978-80;

(c) Chester County Attorney, appointed, 1980-82.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Short was admitted to the SC Bar in 1971.

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

I began the general practice of law in November 1971, in Chester, SC, with Mr. Fred H. Strickland and Mr. E. K. Hardin, who later became Probate Judge of Chester County.

In late 1972, I became a partner in the firm and, in approximately June 1973, Mr. Strickland was tragically killed in a house fire, and I became senior partner at the age of 26. Mr. William C. Keels graduated from law school in June 1973, and he and I began practicing law together at that time.

I was honored to have been elected to the SC Circuit Court At-Large Seat #8 on February 1, 1991, and served continuously until February 1999, when I was elected Resident Judge of the Sixth Judicial Circuit.

I was elected to the SC Court of Appeals in May 2004.

Judge Short reported that he has held the following judicial offices:

(a) July 1991-February 1999; SC Circuit Court At-Large, Seat #8;

(b) February 1999-June 2004; Resident Judge, Sixth Judicial Circuit;

(c) July 2004-Present; SC Court of Appeals, Seat #1.

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

(a) Cannon v. SCDPPPS, 361 SC 425, 604 S.E.2d 709 (Ct. App. 2004); 371 SC 581, 641 S.E.2d 429 (2007);

(b) Gillman v. City of Beaufort, 368 SC 24, 627 S.E.2d 746 (Ct. App. 2006);

(c) Lukich v. Lukich, 368 SC 47, 627 S.E.2d 754 (Ct. App. 2006), affirmed by 379 SC 589, 666 S.E.2d 906 (2008);

(d) Vortex Sports & Entertainment, Inc. v. Ware, 378 SC 197, 662 S.E.2d 444 (Ct. App. 2008);

(e) State v. Singley, 383 SC 441, 679 S.E.2d 538 (Ct. App. 2009).

Judge Short further reported the following regarding unsuccessful candidacies:

“I withdrew from the SC Court of Appeals, Seat #6 on February 4, 2003, after having been selected one of the three candidates selected by the Judicial Merit Selection Committee.

“I withdrew as a candidate from the SC Court of Appeals, Chief Judge Seat on approximately January 27, 2010.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee reported that Judge Short is “Well-qualified” in all evaluative areas: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Judge Short is married to Linda Huffstetler Short. He has two children.

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

(a) Chester County Bar Association;

(b) SC Bar Association;

(c) Appellate Judges Association.

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

(a) Purity Presbyterian Church; former Deacon, Elder;

(b) Sertoma International, Life Member;

(c) Chester Shrine Club;

(d) Chester Masonic Lodge;

(e) American Legion;

(f) Chester Men's Golf Association;

(g) Phi Delta Phi.

Judge Short further reported:

“While I was practicing law, I had the pleasure to serve and to gain valuable experience on the Board of Commissioners on Grievances and Discipline.”

(11) Commission Members’ Comments:

The Commission commented that Judge Short has served very well on the Court of Appeals for six years and is an asset to the bench.

(12) Conclusion:

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

**H. Bruce Williams**

**Seat 2**

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

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

(1) Constitutional Qualifications:

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

Judge Williams was born in 1956. He is 54 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 not made any campaign expenditures.

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

(a) Annual Judicial Conference 8/03 – 8/09;

(b) National Foundation for Judicial Excellence (Judicial Symposium) 7/05-7/10;

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

(d) Essential Skills for the Appellate Judge, (National Judicial College) 7/1/06;

(e) SC Drug Court Conference 8/23/06, ’07, ’08;

(f) Civil Law Update 1/27/06, 1/08;

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

(h) Family Court Judges Conference 4/03 – 4/08;

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

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

(k) Family Court Bench and Bar 12/01/06;

(l) New Appellate Judge Conference (New York University) 7/10/05;

(m) Criminal Law Update 1/21/05;

(n) Trial and Appellate Advocacy 1/22/05;

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

(p) Annual Judicial Symposium 7/15/05-07;

(q) SC Defense Lawyers Annual Meeting 11/05 – 11/09;

(r) SC Bar Family Law Section 1/23/04;

(s) Revised Lawyers Oath Seminar 8/27/04;

(t) Wofford and the Law 9/24/04;

(u) SC Bar Family Law 1/24/03;

(v) SC Association for Justice Conference 8/04-08;

(w) Annual Solicitors Conference 9/03,’05, ’06;

(x) N.C./SC Appellate Judges Conference 3/05, 3/07;

(y) National Association of Drug Court Professionals 6/04, ‘06, ’08.’10.

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 as well as numerous presentations at SC Bar sponsored CLE events

(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; and presented professionalism seminars to first-year students on the courts and civility.

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

(f) I had the 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 Conferences relating to juveniles, case law updates, drug court, and civility in the courts. In addition, I have spoken at the SC Public Defenders Conference.

(h) I had the opportunity to speak at locally sponsored CLE events 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 that his 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 SC Bar in 1982.

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

(a) 1982-95: General practice of law with primary emphasis on family law and personal injury law;

(b) 1982-91 Scott, Mathews, and Williams, PA;

(c) 1991-95 Trotter and Williams, PA;

(d) 1991-95 Part-time municipal judge for Irmo, SC;

(e) 1995-2004 Judge, SC Family Court;

(f) 2004-present Judge, SC Court of Appeals.

Judge Williams 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 for criminal defendants.

(b) SC 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) SC Court of Appeals – Seat #2, June, 2004–to present. 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 SC 281, 573 S.E.2d 358, (1999);

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

(c) State v. Lynch, 375 SC628, 654 S.E. 2d 292 (Ct.App.2007);

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

(e) McLaughlin v. Williams, 379 SC 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 SC 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 SC Bar in my effort to serve on the SC 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 SC 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.

(d) In 2009, I was found qualified by the SC Bar in my effort to serve on the Supreme Court. I was found qualified but not nominated by the Judicial Merit Selection Committee.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Judge Williams to be “Well-qualified” for all nine criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee further stated in summary, “Judge Williams is truly an asset to our State and our Judiciary. The Committee has the utmost appreciation for his honorable service on the Court of Appeals, in the Richland County Drug Court and in the community. The Committee believes he is most eminently qualified to continue his service on the Court of Appeals, and the Committee is confident he would continue to serve in an 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) SC Bar, 1982-present;

(b) Richland County Bar, 1982–present; Family Law Chairman 1993; Family Law Committee, 1991-93;

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

(d) SC Association of Drug Court Professionals; President 2000-01, Board Member, 2006–present;

(e) John Belton O’Neall Inn of Court, 2007-present; and

(f) American Bar Association - 2010.

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, 1989–90; Board of Directors, 1987-91 and 1994-95; Key Club and Keywanettes – Advisor, 1983-96;

(c) The Country Club – Wildewood and Woodcreek Farms; Chairman of the Golf Committee, 2005-06, 2009; committee member, 2003-04. The club is now known as The Members Club at Woodcreek Farms and Wildewood.;

(d) Tarantella;

(e) Palmetto Club; and

(f) SC Association of Drug Court Professionals-President (2007-08).

Judge Williams further reported:

I assisted in the design and implementation of the Richland County Juvenile Drug Court Program, a comprehensive drug treatment court for juvenile offenders with serious drug problems. I continue to preside over the drug court on Monday evenings. We recently celebrated our 13-year anniversary of the Richland County Juvenile Drug Court.

I am gratified and appreciative the support and encouragement received from members of the Bar since serving on the bench. I will continue to strive to improve in hopes of better serving the people of South Carolina.

I believe my 13 years of experience as a practicing lawyer, nine years of experience on the Family Court, and six years of experience on the Court of Appeals gives me a broad range of experience to continue serving on the Court of Appeals.

(11) Commission Members’ Comments:

The Commission commented that they were very impressed by Judge Williams’ 13 years of service on the Richland County Drug Court and with his six years of service on the Court of Appeals.

(12) Conclusion:

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

**DeAndrea Gist Benjamin**

**Fifth Judicial Circuit, Seat 1**

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

(1) Constitutional Qualifications: Based on the Commission’s investigation, Judge Benjamin meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Benjamin was born in 1972. She is 38 years old and a resident of Columbia, South Carolina. Judge Benjamin 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.

(2) Ethical Fitness:

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

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

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

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

(a) Investigation and Prosecution of CDV June 16, 2010;

(b) Domestic Litigation May, 21, 2010;

(c) Child Welfare in SC January 23, 2010;

(d) Criminal Law Update January 22, 2010;

(e) SC Bar Family Law Update January 22, 2010;

(f) SC Black Lawyers Annual Conference October 1, 2009;

(g) Ethics 2008 July 14, 2009;

(h) 24th Annual Criminal Law Update I & II January 23, 2009;

(i) SC Black Lawyers Annual Conference October 30, 2008;

(j) Ethics 2007 July 14, 2008;

(k) CDV: Law Enforcement Response October 10, 2008;

(l) A Day in Discovery Part 2 January 26, 2008;

(m) 23rd Annual Criminal Law Update I & II January 25, 2008;

(n) STOP Domestic Violence July 19, 2007;

(o) Ethical Considerations in Criminal Cases June 29, 2007;

(p) 22nd Annual Criminal Law Update I & II January 26, 2007;

(q) SC Bar Young Lawyers Division CLE January 28, 2007;

(r) SC Black Lawyers Retreat September 28, 2006;

(s) STOP Domestic Violence September 21, 2006;

(t) 21st Annual Criminal Law Update I & II January 27, 2006;

(u) Orientation School for Municipal Judges July 25, 2005;

(v) SC Black Lawyers Retreat October 2004;

(w) ABA Young Lawyers Division Meeting August 5, 2004;

(x) Electronic Courtroom March 24, 2004;

(y) 19th Annual Criminal Law Updates January 23, 2004.

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

(a) While employed at the Attorney General’s Office, I assisted in training Summary Court Judges Criminal Domestic Violence classes. (1999-2001);

(b) SC Black Lawyers Association – Family Law Panel Discussion (Fall 2008);

(c) I have also presented to the Young Lawyers Division Section at the Division’s Conferences in the past;

(d) I recently presented at a Family Court Seminar on the drafting of Family Court orders. (May 2010).

Judge Benjamin reported that she has published the following:

“Why Doesn’t She Leave? The Psychology of a Domestic Violence Victim.” The American Bar Association Affiliate Newsletter, Volume 26 Number 2, Nov/Dec 2000.

(4) Character:

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

A complaint was filed by Dr. Marie Faltas against Judge Benjamin’s candidacy for this judicial position. In summary, the complaint alleged that Judge Benjamin’s conduct during a preliminary hearing in municipal court showed a lack of legal knowledge and integrity. Specifically, Dr. Faltas stated that Judge Benjamin erred in not allowing Dr. Faltas to argue that a city ordinance was unconstitutional, and that Judge Benjamin erred by telling Dr. Faltas that yelling and screaming were not protected forms of speech. The Commission heard testimony from and reviewed documents provided by Dr. Faltas, and the Commission heard testimony from Judge Benjamin in response to the Dr. Faltas’ allegations. After careful consideration, the Commission determined that this complaint was without merit, and found that Judge Benjamin exhibited great patience with Dr. Faltas during her hearings.

The Commission also noted that Judge Benjamin 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 Benjamin reported that she is not rated by Martindale-Hubbell. She further reported, “I have never applied for a rating.”

Judge Benjamin reported that she has held the following public office:

“I served on the Juvenile Parole Board from July 2001–June 2004. I was appointed by Governor James H. Hodges, Jr.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Benjamin was admitted to the SC Bar in 1997.

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

(a) South Carolina Judicial Department, Judicial Law Clerk, The Honorable L. Casey Manning. (August 1997–August 1998);

(b) Fifth Circuit Solicitor’s Office, Assistant Solicitor, Juvenile/Family Court Division. (August 1998–November 1999) – I prosecuted felonies and misdemeanors involving juvenile offenders. I also served on the local Juvenile Drug Court;

(c) South Carolina Attorney General’s Office, Assistant Attorney General (November 1999-July 2001). I was assigned to the prosecution division where I prosecuted cases involving violent acts against women and children, sexual assault offenses, elder abuse cases, and civil commitments under the Sexually Violent Predator (SVP) law;

(d) South Carolina Juvenile Parole Board, Member and Vice Chair (July 2001–June 2004). I was a member of a ten-member board that presided over the retention and release of juveniles from the South Carolina Department of Juvenile Justice. I served as Vice-Chair from July 2002-June 2003;

(e) Gist Law Firm, Partner (July 2001–present). I am a partner in my family law firm. I handle all of the family court cases in our office. My family law practice includes marital litigation, child custody disputes, child support cases, DSS abuse and neglect cases, adoptions, and representation of juveniles in family court. My practice also includes Employment Law, Criminal law, and some Personal Injury work. I have also been appointed in the past to serve as a Guardian ad Litem in DSS cases and in child custody disputes;

(f) City of Columbia Municipal Court, Municipal Judge (July 2004–present). Presides over the municipal courts for the City of Columbia. I handle misdemeanor criminal and traffic offenses, specialized Criminal Domestic Violence court and Quality of Life court. I preside over a term of Jury Trials every six weeks.

Judge Benjamin made the following statement regarding her experience:

Criminal Court – My criminal experience as an attorney dates back to my days as an Assistant Solicitor in the Richland County Solicitor’s office. I was assigned to the Juvenile prosecution section and handled detention hearings, juvenile trials, Juvenile truancy cases and I participated on the Juvenile Drug Court team.

After leaving the Solicitor’s office, I worked in the Prosecution division of the Attorney General’s Office. There I was assigned as a special prosecutor handling Violence against Women and children matters. I traveled the state prosecuting criminal domestic violence cases, criminal sexual conduct cases, criminal sexual conduct with minor cases and other related offenses. I also was assigned to handle elder abuse cases and serve on the Elder Abuse interagency task force.

I entered private practice when I left the Attorney General’s office and handled criminal matters of all types in State court. I also was appointed to serve on the Juvenile Parole Board from 2001-04. I was elected by the board as Vice-Chair from 2002-03.

I currently serve as a Municipal Judge for the City of Columbia. I handle a range of misdemeanor crimes to include Criminal Domestic Violence cases and Driving Under the Influence cases. I have been a Municipal Judge for the past six years. I preside over bond court, criminal court, preliminary hearings and jury trials.

Civil Court - While employed at the Attorney General’s office I was assigned to handle the then new Civil Commitments of Sexually Violent Predators. I handled these cases statewide and won one of the first jury trials of this kind.

In addition to working part-time at the City of Columbia municipal court, I practice law with my father at the Gist Law Firm. Our office focuses on employment law, family law, contract law, and civil litigation. Most of our work is representing Plaintiffs although at times, we have represented defendants. A huge part of our employment practice is in federal court with the remaining part of our civil practice being in state court. I have primarily handled contract disputes and personal injury matters in state court.

Judge Benjamin reported the frequency of her court appearances during the past five years as follows:

(a) Federal: A part of my private practice is employment law. I currently have five pending Civil Federal Court cases;

(b) State: I appear in the Family Court bi-weekly, Court of Common Pleas bi-monthly, and I handle approximately 5-6 criminal cases a year in my private practice and I exclusively handle criminal matters as a Municipal Judge. I have limited my criminal private practice due to potential conflicts with my Municipal Judgeship and City of Columbia criminal cases.

Judge Benjamin reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 40%;

(b) Criminal: 10% of my private practice, 100% of my Municipal Court work is criminal;

(c) Domestic: 50% of my private practice is domestic.

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

(a) Jury: 40%;

(b) Non-jury: 60%.

Judge Benjamin provided, “My law partner and I work together during federal court trials. I solely handle my Family Law trials and civil trials.”

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

(a) Weston v. Margaret J. Weston Medical Center – This was a contract dispute between my client and his former employer. It was significant because my client was a trailblazing doctor who was wronged by his employer. The jury returned a verdict in my client’s favor. The case was appealed to the SC Court of Appeals and SC Supreme Court where both courts upheld the jury’s verdict.

(b) In the Matter of the Care and Treatment of Billy Ray Tucker – I tried this case in Aiken County not long after the Sexually Violent Predator Law was enacted. This case was one of the first cases that was tried and won under the Sexually Violent Predator Law.

(c) McKinney vs. Richland County Sheriff’s Department (431 F.3d 415, 4th Cir. 2005) – This was a civil action in the Federal District Court of SC. My client was successful at the District level and the Defendant appealed the case to the Fourth Circuit Court of Appeals. Although the case was not decided in my clients favor, it afforded me the opportunity to appear before the Fourth Circuit Court of Appeals in Richmond, Virginia.

(d) Staley v. Brown – This was a family court child support/child custody case that was tried in Richland County. The issues in the case dealt with child support outside the guidelines and custody of an incorrigible child. My client ultimately prevailed in a case where the custodial parent was seeking an increase in support and a significant amount of attorney’s fees and cost.

(e) State vs. Adam Self – This was a Criminal Domestic Violence Case that I handled in Lexington County involving a husband that not only abused his wife but assaulted his mother in law. The Defendant was sentenced to jail time, the wife later made a plea to the court to have his sentence lifted because of the financial hardship on her family. This case sparked a debate about the financial sustainability of a family when the husband is incarcerated for domestic abuse.”

The following is Judge Benjamin’s account of the civil appeal she has personally handled:

McKinney vs. Richland County Sheriff’s Department, 431 F.3d 415 (4th Cir. 2005)

Judge Benjamin reported that she has not personally handled any criminal appeals.

Judge Benjamin reported that she has held the following judicial office:

I am a City of Columbia Municipal Judge. I was appointed in July of 2004.

Judge Benjamin provided the following regarding her significant orders:

As a Municipal Judge I handle traffic court, criminal court, Criminal Domestic Violence court and Quality of Life court. These cases do not usually warrant formal judicial opinions and orders other than form orders. I recently had a case upheld on appeal regarding the constitutionality of a City Ordinance, City of Columbia vs. Boatwright.

Judge Benjamin further reported the following regarding an unsuccessful candidacy:

“I had an unsuccessful bid for Family Court (Fifth Circuit, Seat 1) in February 2010.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Benjamin to be “Well-qualified” for all nine criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary: “Judge Benjamin is both an eminently qualified and a most highly regarded candidate. The committee is confident that she would make an outstanding judge on the Circuit Court.”

Judge Benjamin is married to Stephen K. Benjamin. She has two children.

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

(a) SC Bar Board of Governors - 2007-09;

(b) SC Bar, Chair, Children’s Law Committee – 2010-11;

(c) SC Bar, Chair, Young Lawyers Division – 2006-07;

(d) SC Bar, House of Delegates – 2002-09;

(e) SC Bar, Young Lawyers Division, Fifth Circuit Representative 2001-03;

(f) American Bar Association, Young Lawyers Division, District Representative – 2003-05;

(g) American Bar Association, Minorities in the Profession Scholar–1998-99;

(h) Women Lawyers Association;

(i) SC Black Lawyers Association;

(j) Columbia Lawyers Association;

(k) Appleseed Legal Justice Center, Board Member.

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

(a) Edventure Children’s Museum;

(b) Congaree Girls Scouts;

(c) Appleseed Legal Justice Center Board;

(d) St. John Preparatory School Board;

(e) Columbia Alumnae Chapter of Delta Sigma Theta;

(f) USC Community Advisory Board.

Judge Benjamin further reported:

My experience as a prosecutor, private attorney, Parole Board Member, and Municipal Judge has afforded me the opportunity to practice in many areas of the law. My experience reflects positively upon my candidacy, I have experience in both civil law and criminal law.

During my time as a Municipal Judge I have received excellent ratings from my peers, lawyers appearing before me, police officers, jurors and community members. I have been a fair and impartial judge and I believe in treating everyone with dignity and respect.

(11) Commission Members’ Comments:

The Commission commented that Judge Benjamin exhibited extreme patience and judicial temperament during the Public Hearing and as a municipal Court judge. They noted her poise and her respectfulness, which would be an asset on the Circuit Court.

(12) Conclusion:

The Commission found Judge Benjamin qualified and nominated her for election to the Circuit Court.

**Robert E. Hood**

**Fifth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Mr. Hood was born in 1975. He is 35 years old and a resident of Columbia, South Carolina. Mr. Hood 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 2001.

(2) Ethical Fitness:

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

Mr. Hood 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. Hood reported that he has made $86.55 in campaign expenditures for postage, paper, and envelopes.

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

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

(a) SCAJ August 2010;

(b) Sporting Clays Ethics with the Judges 2010;

(c) Sporting Clays CLE 2009;

(d) SCAJ August 2009;

(e) SCTLA August 2008;

(f) Beginning Westlaw 2008;

(g) Guideline Seminar 2008;

(h) Federal Criminal Practice Seminar 2008;

(i) Sporting Clays/Skeet Shoot 2008;

(j). Fighting to Win your DUI 2008;

(k) Skeet Shoot 2007;

(l) AILA Annual Conference 2006;

(m) Criminal Law Update 2006;

(n) Federal Sentencing Guidelines 2005;

(o) Attorney ECF Training 2005.

Mr. Hood reported that he has not taught any law-related courses.

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

(4) Character:

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

The Commission also noted that Mr. Hood 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. Hood reported the following regarding his Martindale-Hubbell rating: “Rated 2.9 out of 5 and I have met the very high criteria of General Ethical Standing.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Hood was admitted to the SC Bar in 2001.

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

(a) 5th Judicial Circuit Solicitor’s Office – Fall of 2001 to 2003:

Handled prosecution cases as an Assistant Solicitor including violent crimes, property crimes, white collar crimes, and misdemeanors.

(b) South Carolina Attorney General’s Office – 2003 to 2005:

Prosecutor for the Statewide Grand Jury. Handled multi-county drug trafficking cases, large scale securities fraud cases, and white collar/public corruption cases throughout the state.

(c) Strom Law Firm, LLC 2005 – Present:

I handle mainly criminal defense cases involving white collar crime, property crime, violent crimes, drug crimes, and all levels of misdemeanor crimes. I practice extensively in state and federal court almost on a daily basis. I also handle all levels of civil litigation mainly focused on representation of plaintiff’s.

Mr. Hood made the following statement regarding his experiences:

Experience in Criminal Matters:

I have extensive experience in handling criminal matters both as a prosecutor and as a criminal defense attorney. I served as an Assistant Solicitor and an Assistant Attorney General during my first four years of practice. While serving in these capacities, I have handled jury trials, bench trials and hundreds of guilty pleas. I have tried murder cases both as a prosecutor and as a defense attorney. I have worked on a capital murder trial as a prosecutor. I have handled violent crimes, property crimes, drug crimes, and misdemeanors both as a prosecutor and as a defense attorney. I have practiced almost daily in a federal, state, magistrate, or local criminal court. I have represented victims as a prosecutor and as a defense attorney. I have represented defendants charged with all levels of crimes from murder to disorderly conduct. I have also practiced extensively in federal criminal court throughout my time as a criminal defense attorney. I have handled issues involving search and seizure, admissibility of statements, complex legal issues, securities law, change of venue in high profile cases, and complex plea negotiations involving corporations both as the victim and as the defendant. While at the Attorney General’s office, I worked in the Statewide Grand Jury division and prosecuted the first ever criminal securities fraud trial in South Carolina. Also, while at the Attorney General’s office, I successfully tried and convicted the largest methamphetamine dealer in the state (at the time), whose case was affirmed on appeal. I have also handled multiple PCR cases from basic guilty plea PCRs to murder cases that went through a full trial.

Experience in Civil Matters:

All of my dealings with civil matters have been on the plaintiff’s side of the case. I have drafted and argued motions, taken depositions, and prepared multiple cases for trial. I have also been involved in settlement negotiations on multiple cases and have a strong understanding of the civil system in South Carolina. I have handled cases from the pleadings and discovery stages through to jury or bench trial. I continue to research and study cases and authoritative sources concerning procedure and substantive aspects of civil law.

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

(a) Federal: Weekly to Monthly;

(b) State: three to five days a week.

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

(a) Civil: 10%;

(b) Criminal: 90%;

(c) Domestic: 0%.

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

(a) Jury: 99%;

(b) Non-jury: 1%.

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

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

(a) State v. Larry C. Owen – In this trial I was an assistant attorney general for the state grand jury. The case was a large scale securities fraud trial which took place in Greenville, South Carolina. After one week of a three-week trial, Mr. Owen pled guilty to all charges pending against him. What makes this case significant is the fact that it was the first ever securities fraud prosecution in South Carolina and at the time it was the largest fraud case ever in South Carolina State court history.

(b) State v. Earle Morris – In this trial I was an assistant attorney general for the state grand jury. This case was part of the same basic fact pattern as the Larry Owen trial above. The difference is that Mr. Morris did not plead guilty after the first week of trial. This was a three week trial in Greenville County before the Honorable James Johnson. During this trial the number of complicated legal issues that arose are too many to name. During the trial the judge listened to arguments and ruled with no precedent from South Carolina courts to rely on. The case went to jury and Mr. Morris was convicted on all counts pending against him. The case was upheld on appeal.

(c) State v. Denise Hagan – In this trial I was an assistant attorney general for the state grand jury. At the time, Ms. Hagan was considered by law enforcement to be the largest methamphetamine dealer in the state. Ms. Hagan was represented by Jack Swerling at trial and the case went through to jury verdict. Ms. Hagan was convicted of all charges pending against her. The case had complicated search issues, admissibility of statements issues, co-conspirator hearsay issues, and confrontation clause issues. Ms. Hagan’s case was upheld on appeal.

(d) State v. Eugene King – In this trial, I was appointed by the Honorable James C. Williams, Jr., to represent Mr. King in his pending Murder trial. Mr. King had been previously represented by the public defender’s office in Orangeburg County, when he asked the court to have them removed as his counsel. Over a year after his arrest and just a few months short of trial, I was appointed to represent him. In his murder trial, there were complicated issues dealing with the admissibility of his statements, his mental health, and the evidence located at the crime scene. Mr. King was eventually convicted by the jury for Murder. Based on my legal arguments, Judge Williams agreed to charge the jury on the crime of involuntary manslaughter, to which the solicitor greatly objected. Mr. King appealed his case and his case was upheld on appeal.

(e) Campbell Soup Company v. Mehder – In this civil case, our firm was retained by Campbell Soup to bring a civil action against Ms. Mehder for inappropriately taking in excess of one million dollars from the Corporation. I have handled all of the pleadings, motions, settlement negotiations, and hearings in this case. The case is significant due to the amount of fraud alleged and complications that have occurred throughout the proceedings.”

Mr. Hood reported that he has not personally handled any civil appeals.

The following is Mr. Hood’s account of a criminal appeal he has personally handled:

United States of America v. Jamar Robinson

4th Circuit Court of Appeals

No. 05-5276

Unpublished

January 11, 2007.

Mr. Hood further reported the following regarding an unsuccessful candidacy:

“The Citadel, Board of Visitors, Spring of 2010. I ran for the At-large Board of Visitors seat and withdrew weeks prior to the election.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Mr. Hood “Well-qualified” in each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee further stated in summary: “The Committee was very impressed by Mr. Hood, and we believe he has the character, work ethic, and experience to make an outstanding Circuit Court Judge. We are confident that he is eminently qualified to serve on the Circuit Court and that he would serve in an outstanding manner.”

Mr. Hood is married to Kristina Kirk Hood. He has two children.

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

(a) SCAJ;

(b) Richland County Bar Association;

(c) SCACDL.

Mr. Hood provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Mr. Hood further reported:

“I believe that my unique experiences throughout my legal career provide me with the skill set to effectively be a competent, courteous, compassionate, and concerned judge. My experience in both sides of criminal matters and in civil matters gives me a broad and balanced perspective on the legal system.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Hood has a great feel for the role of a Circuit Court judge in the court room. They noted his intellect and his wealth of trial experience which would ably serve him in discharging his responsibilities on the Circuit Court.

(12) Conclusion:

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

**John P. Meadors**

**Fifth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Mr. Meadors was born in 1961. He is 49 years old and a resident of Columbia, South Carolina. Mr. Meadors provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

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

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

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

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

(a) 2010 Mid-Year Bar Association 1/21/2010;

(b) 2009 SC Solicitor’s Conference 9/27/09;

(c) 2008 SC Solicitors’ Association 9/28/08;

(d) Capital litigation Prosecution 9/11/08;

(e) Prosecuting the Impaired Driver 7/17/08;

(f) 2007 Solicitor’s Conference 9/23/07;

(g) 2006 Solicitor’s Conference 1/27/06;

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

(i) 2005 Solicitor’s Conference 9/25/05.

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

(a) SC Solicitors’ Association 1997 Annual Conference - Taught “Back to the Basics”;

(b) Boot Camp for New Prosecutors 2/18/2009 - Taught and instructed new attorneys in criminal prosecution.

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

(4) Character:

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

The Commission also noted that Mr. Meadors 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.

A complaint was filed by Dr. Marie Faltas against Mr. Meadors’ candidacy for this judicial position. In summary, this complaint alleged that Mr. Meadors showed no respect for the integrity of the courts. Specifically, Dr. Faltas stated that Mr. Meadors refused to review evidence that Dr. Faltas said was proof that attorneys in Mr. Meadors’ office had misled the circuit court in a criminal matter involving Dr. Faltas. The Commission heard testimony from and reviewed documents provided by Dr. Faltas, and the Commission heard testimony from Mr. Meadors in response to the Dr. Faltas’ allegations. After careful consideration, the Commission determined that this complaint was without merit.

(5) Reputation:

Mr. Meadors reported that he is not rated by Martindale-Hubbell. Mr. Meadors further reports: “Not listed. I have been a prosecutor my entire career.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Meadors was admitted to the SC Bar in 1988 after taking the bar exam twice.

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

I started my legal career in the Fifth Judicial Circuit Solicitor’s Office as an assistant solicitor. From 1988-91, I prosecuted everything from magistrate court offenses to rapes, armed robberies and murders.

From 1991-95, I worked for the SC Attorney General's Office in the State Grand Jury Division. Under the supervision of (now) Judge Cameron Currie, I was part of a team that prosecuted major drug conspiracies statewide. In addition to presenting evidence to the State Grand Jury and prosecuting the cases, we also handled the civil forfeiture aspect of the cases. During this time I personally prosecuted numerous cases around the state, including a multi-county drug conspiracy case involving 8 defendants that culminated in a conviction after a three week jury trial in Kershaw County. I also was the lead prosecutor in the second child pornography prosecution and the first money laundering case for the State Grand Jury. In addition, I was also appointed a Special Assistant US Attorney and worked with the US Attorney's Office in the presentation of evidence to the Federal Grand Jury and preparation of a joint federal/state drug conspiracy prosecution.

From 1995-2003, I was the First Assistant Solicitor in charge of the Kershaw County Solicitor's office in the Fifth Judicial Circuit. I was responsible for the prosecution of all General Sessions Court and Family Court cases in Kershaw County.

From 2003 to the present, I have been the Deputy Solicitor for Fifth Judicial Circuit (Richland and Kershaw). I have been responsible for the supervision of over 30 attorneys and the prosecution of criminal cases in the Fifth Judicial Circuit. As Deputy Solicitor, I have primarily tried murder cases.

Throughout my career I have prosecuted over ten thousand cases, and more than 100 murder cases.

Mr. Meadors made the following statements regarding his experience:

I have been involved in the prosecution of hundreds of jury trials including non violent and violent felonies. In the past five years I have primarily prosecuted murder cases including Homicide by Child Abuse and Felony DUI Resulting in Death cases.

Cases I have tried in the past year:

(a) State v. Andrea Pearson: The defendant worked as a daycare worker and was convicted of killing one of the babies in her care (Homicide by Child Abuse). The victim died in 1998 and two other babies in her care died in the ten years following. She was tried and convicted for the first death. In this case I cross-examined an expert in false confessions who was presented by the defense.

(b) State v. Johnny Gaskins: The defendant shot and killed a bouncer and customer at a Super Bowl party at Club 360 in Richland County after being asked to leave the bar. He was also charged with three counts of Assault and Battery with Intent to Kill (ABIK) for wounding three other individuals at the establishment.

(c) State v. John Portee: The defendant, an employee at Wendy's restaurant on Two Notch Road in Richland County, killed his supervisor and another employee after a dispute earlier that week regarding working at the drive thru window.

(d) State v. Christopher Arant: The defendant slammed his wife’s head into his truck window the morning after her son had beaten him for previously assaulting the victim (his mother). The victim died as a result of her injuries.

(e) State v. Rafael Goodwin, State v. Timark Hammonds, State v. Isiah Smith, State v. Terran Clark: This case involved a gang related retaliation which resulted in homicide. All defendants pled guilty.

(f) State v. William Jenkins: The defendant killed three people at Wellesly Place Condominiums in Richland County.

I handled a case in Kershaw County juvenile court where a child shot and killed his brother.

Some of the cases I have tried over the past five years:

(a) State v. Oliver, State v. Gallman, State v. Joy: A triple homicide case involving three co-defendants and statements which had to be redacted according to Bruton v. United States, 391 U.S. 123, 88 S.Ct. 1620 (1968).

(b) State v. Whitehead, State v. Robert Cannon, State v. Derreck McDonald: Three co-defendants beat a young man to death in his home in Kershaw Country. This case had numerous legal issues including redaction of defendants’ statements pursuant to Bruton and voice identification.

(c) State v. Tobias Lee: A Georgia man killed an elderly victim and stole his car. The defendant was wanted for several armed robberies in Columbia and also wanted in Georgia for murder and rape. The defendant was ultimately captured in Monroe, LA after being featured on America’s Most Wanted.

(d) State v. Christopher Caldwell: The defendant was a young man who pled guilty to murder; he decapitated his mother with a medieval axe.

(e) State v. Jaime Marrero: The defendant killed the clerk at a Kangaroo convenience store on Garners Ferry Road. This case went unsolved for years. Co-defendants and the defendant’s ex-girlfriend testified at his trial, which resulted in a murder conviction.

(f) State v. Christopher Pittman: The defendant, a twelve year old boy, killed his grandparents in Chester County. His defense counsel unsuccessfully attempted to blame the killings on the anti-depressant Zoloft.

(g) State v. Dwaine Herring: The defendant, a local attorney, killed a bouncer at a night-club in Richland County. The defense unsuccessfully attempted an involuntary intoxication defense.

(h) State v. Jason Dickey: The defendant was a night watchman at Cornell Arms Apartments in downtown Columbia who killed an unruly young man who was visiting a resident. The case involved issues surrounding the Castle Doctrine and its application. The defendant shot the victim on the sidewalk in front of Cornell Arms and presented expert testimony regarding the difference between public and private property. The defendant was convicted of voluntary manslaughter.

(i) State v. Kevin Goodwin: The defendant killed a Forest Acres physician who came home while the defendant was burglarizing his house. The defendant was identified through a C.O.D.I.S. hit by DNA left on a cigar butt which was discarded at the scene.

(j) State v. John Moore: This case involved road rage; the defendant shot and killed a passenger in a vehicle on I-20. This case went unsolved for years but was resolved by a witness’ cooperation and defendant’s statements.

(k) State v Timothy Green, State v. Curtis Harris: Two teenagers killed an elderly store owner in Hopkins. One of the defendants stated he wanted to rob the store for his birthday.

(l) State v. Lawrence Crawford: The defendant killed his child by beating her to death. He would not allow his family to leave their home without him and initially coerced another child to claim she had committed the act. He was ultimately convicted of murder for killing his daughter.

(m) State v. Vincent Filyaw: The defendant kept a young girl in an underground bunker for ten days and raped her repeatedly. The young victim escaped after law enforcement tracked the text messages that she sent to her mother. The defendant received 421 years imprisonment.

(n) State v. Dennis Kirk: The victim had asked the defendant for directions to the post office and the defendant offered to ride with him. The defendant pulled a gun on him, ordered him to drive to a remote area, shot him in the head, and later burned his truck.

(o) State v. Carmen Rice: A female defendant shot the victim five times in a remote area of Richland Country. The defendant planned on robbing the victim; the case involved a female accomplice’s testimony.

(p) State v. Sharon Smith: Female defendant stabbed her husband to death and unsuccessfully argued that she did not intend to kill him.

(q) State v. June Harris: Three children testified as eyewitnesses against their mother’s ex-boyfriend who shot their mother and killed her new boyfriend.

(r) State v. Christopher Commander: The defendant suffocated his wife and for over a month led her family to believe she was still alive. Several weeks after he had killed her mother, the defendant sent her daughter a text message from the victim’s phone saying “I’m alive.” He was ultimately captured by the New Orleans Police Department and was brought back to Richland County for trial, where he was convicted of murder.

(s) State v. Keith Sims: Richland County defendant killed a victim and then dumped the body in Molly’s Rock Park in Newberry County and then disposed of the victim’s clothes in Charleston. Defendant unsuccessfully claimed self-defense.

I have also prosecuted five Capital Murder cases, two of which went to trial. In one of these cases, I conducted the first hearing in the state on the applicability of Capital Punishment to a defendant claiming mental retardation.

My significant experience trying cases in General Sessions Court has provided me a solid foundation to become a circuit court judge. As a result of my trial experience I have dealt with all aspects of criminal law including evidentiary issues such as eyewitness identification, DNA evidence, competency of defendants, search and seizure, and other related issues. I have presented and cross-examined experts in forensic psychiatry, forensic pathology, statistics, bloodhounds, eyewitness identification, fingerprints, crime scenes, firearms and ballistics, gun-shot residue and other fields of expertise.

My experience in civil matters includes assisting in handling asset forfeitures in drug cases, driving offenses, and judicial commitment proceedings. Because the rules of evidence are the same in both criminal and civil trials, my trial experience in General Sessions Court provides me with a good foundation which I can build upon to become proficient in Common Pleas Court. Furthermore, I have studied the rules of civil procedure and have followed the changes in the law by reading the Advance Sheets. Prior to taking the bench, I will continue to educate myself by attending Common Pleas Court when possible and reviewing CLE materials involving civil matters.”

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

(a) Federal: minimal -Have appeared in Federal Court to inform Judge of state defendant’s cooperation for downward departure sentencing;

(b) State: extensive.

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

(a) Civil: 5%;

(b) Criminal: 85%;

(c) Domestic: 0%;

(d) Other: 10% Family Court - Helped prosecute juveniles in Kershaw County this past year.

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

(a) Jury: 80%;

(b) Non-jury: 20%.

Mr. Meadors reported that he most often served as Chief Counsel.

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

(a) State v. Pittman, 373 SC 527, 647 S.E.2d 144 (2007) - This case drew national attention because the defendant was twelve years old at the time of the murders and the anti-depressant Zoloft was a potential issue. The defense had argued that the drug had caused the defendant to lose control and that he was not responsible for the death of his grandparents. Legally this case was significant because the opinion held that lay testimony may be used to rebut the presumption of incapacity regarding children under fourteen years of age. Court held that the M’Naughten test is the correct standard for determining criminal responsibility at the time of the offense. This includes the defense of involuntary intoxication.

(b) State v. Herring, 387 SC 291, 692 S.E.2d 290 (2009) - An attorney shot and killed a bouncer in a local nightclub. Police responded to the defendant’s residence and peeked into his garage where they saw the defendant’s vehicle that was seen earlier on a videotape. The South Carolina Supreme Court discussed the Fourth Amendment and its exceptions. Held that the officer’s minimal intrusion was objectively reasonable and did not constitute a Fourth Amendment violation. Held it was objectively reasonable for the officer to take precautions to protect his own safety, and the safety of the other officers by looking in the garage, to see if suspect was present. After seeing no one in the garage, police knocked on the front door and waited to get a search warrant. Looking in garage yielded no evidence, in as much as the police already knew the make and model and license tag of the car, as well as the address of the suspect.

(c) State v. Goodwin, 384 SC 588, 683 S.E.2d 500 (2009) - The victim, a retired Forest Acres physician, was shot in the head inside his home after he surprised the intruder. The defendant was linked to the crime by a cigar butt he left outside of the window of the residence which was determined to be the point of entry. This was the first case in this jurisdiction where a suspect was identified from the SLED DNA database, C.O.D.I.S. Held that probable cause was established at least for the burglary from the fact that the defendants DNA was on the cigar butt outside the point of entry. The court further held that the statement of defendant was freely and voluntarily given.

(d) State v. Childers, 373 SC 367, 645 S.E.2d 244 (2007) - The opinion discussed the difference between murder and voluntary manslaughter. The opinion held that an overt act from a third party is not sufficient legal provocation to entitle a defendant who is charged with murder to a voluntary manslaughter charge. The provocation must come from some act of or related to the victim in order to constitute sufficient legal provocation.

(e) State v. Adams, 319 SC 509, 462 S.E.2d 308 (1995). Edward Gray, IV, was arrested and began cooperating with law enforcement in the investigation of an active cocaine conspiracy. This organization was bringing drugs from New York, New Jersey and Georgia into South Carolina for distribution to third parties. The conspiracy continued after Gray’s arrest. Gray made a purchase of drugs from the Atlanta source while working on numerous occasions prior to Gray’s arrest. The Court of Appeals held that even though Gray was working for the police during the transaction in question, the act of purchasing cocaine from the source, a co-conspirator, was an act in furtherance of the conspiracy and admissible to prove the existence of the conspiracy.”

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

Mr. Meadors further reported the following regarding unsuccessful candidacies:

(a) Fifth Circuit Solicitor - 1994;

(b) Circuit Court Judge 2002 - found qualified;

(c) Fifth Circuit Solicitor - 2010 - lost in run-off.

(9) Judicial Temperament:

The Commission believes that Mr. Meadors’ temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Mr. Meadors to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee further stated in summary that they were “most impressed by Mr. Meadors. He is the most experienced candidate we interviewed, and his character and temperament are outstanding in every way. We believe Mr. Meadors is most eminently qualified to serve on the Circuit Court, and we are confident he would serve our state in an outstanding manner.”

Mr. Meadors is married to Patricia Ann (Rogers) Meadors. He has four children.

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

(a) Richland County Bar;

(b) Kershaw County Bar;

(c) SC Bar.

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

(a) Camden Rotary Club:

Board of Directors, July 1999 - 2002;

Chair of the Club Service Committee, July 1999 - 2002

Health and happiness committee 2007 - present.

Paul Harris Fellow.

(b) Columbia Classical Ballet Company

Board of Directors - January 2009 - present.

(c) Kershaw County Board of Disabilities and Special Needs -

Prior Board member.

Mr. Meadors further reported:

The biggest influence on my life has been my father and mother, Bishop Jack Meadors and the late Hannah Meadors. My siblings and I were raised to treat people with fairness and respect. My parents instilled in all of us the value of service to others. These values have shaped my personal life and professional career. We were also taught that there are rules and that there are consequences when the rules are not followed. I learned early in life that my greatest power was my power to choose. After 22 years as a prosecutor, dealing with victims, law enforcement, attorneys and judges I have the temperament, experience and judgment to be an effective Circuit Court Judge

As an assistant solicitor I was named “Victim/Witness Assistant of the Year” in the State of Maryland in 1989. I was nominated by the parents of a murder victim in a case I prosecuted in Richland County. The family was from Baltimore and their son was attending Columbia Bible College.

I was appointed by the Governor to the State Child Fatality Review Board – 2007 -present.

In 2005, I was the recipient of the Ernest F. Hollings Award for excellence in State Court prosecution. I received this award for my work on six murder cases in 2005.

I am a member of Shandon United Methodist Church in Columbia and periodically teach the Sunday school. In addition I have coached the girls’ basketball team for over twenty years. I am currently chairperson of the Staff- Parish Relations committee at my church.

(11) Commission Members’ Comments:

The Commission commented that Mr. Meadors has an outstanding reputation as an attorney. They noted that his extensive criminal trial experience would be a great asset to the judicial system if he were elected as a Circuit Court Judge.

(12) Conclusion:

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

**Andrea Culler Roche**

**Fifth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Ms. Roche was born in 1966. She is 44 years old and a resident of Columbia, South Carolina. Ms. Roche 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. She was also admitted to the Louisiana Bar in 1996.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Roche.

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

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

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

(a) SCAJ Annual Convention 8/5/10;

(b) SCWCEA Medical Seminar 2/28/10;

(c) SCWCC Annual Education Requirement 11/17/09;

(d) SCWCEA Educational Conference 10/18/09;

(e) SCAJ Annual Convention 8/6/09;

(f) SCDTAA Joint Meeting 7/23/09;

(g) SCWCEA Medical Seminar 3/1/09;

(h) SCWCC Annual Education Requirement 12/16/08;

(i) Injured Workers Advocates Convention 11/6/08;

(j) SCWCEA Educational Conference 10/19/08;

(k) SC Bar-Dissecting a Workers’ Comp Case 9/5/08;

(l) SCAJ Annual Convention 8/7/08;

(m) SCDTAA Joint Meeting 7/24/08;

(n) SCWCEA Medical Seminar 2/24/08;

(o) SCWCC Ethics and Administrative Procedure 12/18/07;

(p) SCWCEA Educational Conference 10/21/07;

(q) SCDTAA Joint Meeting 7/26/07;

(r) SCWCEA Medical Conference 3/9/07;

(s) Assoc. of Claimant’s Attorneys Convention 11/2/06

(t) SCWCEA Educational Conference 10/22/06;

(u) SC Trial Lawyers Convention 8/3/06;

(v) SCDTAA Joint Meeting 7/27/06;

(w) SCWCEA Educational Conference 10/24/05;

(x) USDCOC Attorney Training 7/20/05;

(y) SCWCEA Medical Seminar 2/25/05.”

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

(a) I participate in panel discussions involving workers’ compensation several times per year, including at educational conferences and meetings of SCDTTA, SCAJ, SCWCEA, Self- Insured’s Association, and IWA.

(b) I have taught CLEs on workers compensation.

(c) I have taught CLEs on legal writing

(d) I have taught legal writing at the USC Law School

(e) I have taught several classes to undergraduate students at South University including International Law, Legal Writing, Workers’ Compensation, Employment Law, Administrative Law, and Business Law.

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

(4) Character:

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

The Commission also noted that Ms. Roche 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. Roche reported that she is not rated by Martindale-Hubbell. She further reported, “As a Workers’ Compensation Commissioner, I am not listed.”

Ms. Roche reported that she has held the following public office:

Member, Commissioner, SC Workers’ Compensation Commission from July, 2006 to present. Chairman from July, 2008 to present. This is an appointed position.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Roche was admitted to the SC Bar in 1994.

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

(a) The Honorable Robert F. Chapman, U.S. Court of Appeals for the Fourth Circuit, September 1994-October 1996. Law Clerk. Duties included preparing bench memoranda and drafting opinions.

(b) Phelps Dunbar, New Orleans, LA, October 1996-December 1996. Associate Attorney. Areas of practice were commercial and construction litigation.

(c) South Carolina Court of Appeals, June 1997-August 1998. Law Clerk to the Honorable Carol Connor and Staff Attorney. Duties included preparing bench memoranda and drafting opinions.

(d) Barnes, Alford, Stork and Johnson, August 1998-June 2006. Associate/Partner. My practice consisted of more than half workers’ compensation. I also dealt with medical malpractice, construction and general litigation, and appellate advocacy.”

Ms. Roche made the following statements regarding her experience:

I have no experience in criminal matters. I worked on one post-conviction relief case while I was practicing. I recently, however, spent six months on the Richland County Grand Jury as a juror. Because of that, I spent time studying the elements of various felonies and received first-hand knowledge of the grand jury. I feel strongly that with study and a period of observation, I can confidently preside over criminal proceedings.

Before being appointed to the Workers’ Compensation Commission, my practice was a defense practice mostly before state court and the South Carolina Workers’ Compensation Commission. My practice was approximately 75% workers’ compensation. I also worked on medical malpractice cases. I did some work on construction litigation and general litigation as well. Because of my clerking background, I did a fair amount of the firm’s appellate work on various issues. I have argued various motions before the circuit court and federal district court, tried cases before the Workers’ Compensation Commission and magistrate’s court, and appeared before the South Carolina Court of Appeals and South Carolina Supreme Court.

Ms. Roche reported the frequency of her court appearances during the past five years as follows:

(a) federal: 5%;

(b) state: 95%.

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

(a) civil: 99%;

(b) criminal: 0%;

(c) domestic: 1%;

(d) other: 0%.

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

(a) jury: 25% associate counsel;

(b) non-jury: 75% lead counsel.

The following is Ms. Roche’s account of her five most significant litigated matters:

(a) MB Kahn Construction Co, Inc. v. Three Rivers Bank & Trust Co.

354 SC 412, 581 S.E.2d 481 (2003)

This case revolved around whether South Carolina had personal jurisdiction over a plaintiff for cross-claims in a foreclosure action. The supreme court decided the issue on one of the grounds argued.

(b) Dawkins v. Jordan, 341 SC 434, 534 S.E.2d 700 (2000)

This case involved whether an employer/employee relationship existed between the workers’ compensation claimant and the employer. Although I lost this case at the Supreme Court, after winning below, the Supreme Court recently reversed itself and overruled this case.

(c) William White v. SCE&G

This workers’ compensation case involved whether the claimant could recover for mental injuries without underlying physical injuries. The case went through many levels of appeals with the defendants prevailing.

(d) Norman McIntyre v. Darlington County School District

This workers’ compensation case involved the heart attack standard and the doctrine of laches.

(e) Sandy v. Miller Tire

This worker’s compensation case involved issue of notice and injury by accident arising out of and in the course and scope of employment. The case went through many levels of appeals.

The following is Ms. Roche’s account of five civil appeals she has personally handled:

(a) Brunson v. American Koyo Bearings, 367 SC 161, 623 S.E.2d 870 (Ct. App. 2006), decided November 28, 2005 by the South Carolina Court of Appeals.

(b) M.B. Kahn Construction Co. v. Three Rivers Bank & Trust Co., 354 SC 412, 581 S.E.2d 481 (2003), decided May 19, 2003 by the South Carolina Supreme Court.

(c) Dawkins v. Jordan, 341 SC 434, 534 S.E.2d 700 (2000), decided July 10, 2000 by the South Carolina Supreme Court.

(d) Gray v. Club Group, LTD., 339 SC 173, 528 S.E.2d 435 (Ct. App. 2000), decided February 22, 2000 by the South Carolina Court of Appeals

(e) William White v. SCE&G, not cited.

Ms. Roche’s reported that she has not personally handled any criminal appeals.

Ms. Roche further reported the following regarding an unsuccessful candidacy:

“In 2009, I was an unsuccessful candidate for Circuit Court, Judge, At-Large, Seat 8.”

(9) Judicial Temperament:

The Commission believes that Ms. Roche’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens’ Committee found Ms. Roche “Well-qualified” in all nine evaluative areas: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. In summary, they stated that they were “most impressed by Ms. Roche. She has a most outstanding academic background and a sincere commitment to service to our state. She is eminently qualified to serve as a Judge of the Circuit Court, and we are confident that she would continue to serve our state in an outstanding manner.”

Ms. Roche is married to James Lawrence Roche, Jr. She has one step-child.

Ms. Roche reported that she was a member of the following bar association and professional association:

SC Bar.

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

Ex officio board member of the SC Workers’ Compensation Education Association.

Ms. Roche further reported:

“Because of my position as a workers’ compensation commissioner, I have experience in hearing contested cases, running a courtroom, dealing with attorneys and their clients as well as dealing with pro se litigants. I also have experience in ruling on cases and issuing orders. Although I have a great deal of academic ability, I also have the common sense and temperament to be an effective judge.”

(11) Commission Members’ Comments:

The Commission commented that Ms. Roche is poised and has an excellent reputation as a Commissioner on the Workers Compensation Commission. They noted that she expressed an excellent attitude on temperament, respect for litigants, and writing orders.

(12) Conclusion:

The Commission found Ms. Roche qualified but not nominated to serve on the Circuit Court.

**James Shadd, III**

**Fifth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Mr. Shadd was born in 1974. He is 36 years old and a resident of Columbia, South Carolina. Mr. Shadd provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000.

(2) Ethical Fitness:

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

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

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

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

(a) Attorney ECF Training 03/15/05;

(b) 60 Tips to Build a Successful Law Practice 04/22/05;

(c) The Promise of Voter Equality 10/21/05;

(d) YLD Spring Conference 05/19/06;

(e) Fifth Annual Federal Practice 09/08/06;

(f) Hot Tips from Coolest Domestic Practitioners 09/22/06;

(g) Solo and Small Firm Conference 10/05/06;

(h) Hot Tips from the Coolest Domestic Practitioners 09/21/07;

(i) Federal Sentencing Guidelines 10/02/2007;

(j) Family Law Training 03/28/08;

(k) CJA Mini-Seminar 06/20/08;

(l) Federal Guideline Seminar 10/06/08;

(m) Federal Criminal Practice Seminar 10/16/08;

(n) Annual Summit and Retreat 10/30/08;

(o) CJA Mini-Seminar 05/01/09;

(p) Federal Sentencing Guidelines Seminar 10/15/09.

Mr. Shadd reported that he has not taught any law related courses.

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

(4) Character:

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

The Commission also noted that Mr. Shadd 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. Shadd reported with regard to his Martindale-Hubbell rating, “I am listed in Martindale-Hubbell, but it does not appear that I have any rating. If I am, I am not sure of the rating.”

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

(a) Commission on Appellate Defense-June 2003-June 2005-Appointed;

(b) Commission on Indigent Defense-August 2007-present-Appointed.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Shadd was admitted to the SC Bar in 2000.

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

“I began my legal career at Johnson, Toal & Battiste, PA as an associate from graduation until December 2006 specializing in criminal defense, plaintiff’s personal injury and domestic and family law. I started the Shadd Law Firm, LLC in January 2007 specializing in the same areas of law. I am a solo practitioner.”

Mr. Shadd made the following statements regarding experience:

I have handled several criminal cases in the past five years ranging from small misdemeanors to those involving the death of a child. I have only represented those accused of crimes from magistrate’s court, juvenile court, Circuit Court as well as in federal court. These cases have been throughout the state but primarily in this Circuit. Most cases have ended in either a plea, prosecutorial and judicial dismissals or some pretrial intervention program. A few have resulted in trial.

I have also been involved in some civil cases including, but not limited to, personal injury, defamation, contractual disputes and medical negligence. These have also been handled on the magistrate level, Master in Equity and in the Court of Common Please. While I have gone to trial on a minority of these cases, most end in a settlement prior to trial. I have primarily represented plaintiffs but have also represented a few individual and institutional defendants. I recognize that I may be lacking in this area but will compensate for the shortfall through CLE’s, researching of case law and counsel with other members of the Bench.

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

(a) Federal: Monthly;

(b) State: Weekly (almost daily).

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

(a) Civil: 25%;

(b) Criminal: 35%;

(c) Domestic: 35%;

(d) Other: 5%.

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

(a) Jury: 90%;

(b) Non-jury: 10%.

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

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

(a) State v. Ken Hall, 02-GS-40-4587,02-GS-40-4589, 02-GS-40-4590,03-GS-40-3787,03-GS-40-3816,03-GS-40-3817-Client, a high school special education teacher from my alma mater, was accused of molesting and having sex with his students-Trial ended in a guilty verdict on some charges, deadlocked on others and not guilty as to one victim. The Solicitor’s office wrote my boss, I.S. Leevy Johnson, a letter of commendation regarding my performance in and outside of court and the trial judge shared his assumption that he thought I was a sole practitioner and had been practicing for several years.

(b) State v. Derrick James, 03-GS-38-2237, Client, assistant principal, charged with attempted criminal sexual conduct with a minor, a teen-aged church member who babysat his children. Trial judge directed a verdict in the defendant’s favor. The Department of Education subsequently attempted to revoke his educator’s license which I handled in a full hearing. He ultimately was allowed to retain the license.

(c) United States of America v. Terrence Daniels, CR-3:04-330, single defendant trial (cases rarely go to trial on the federal system) where multiple co-defendants testified. Client was found guilty but found not guilty on one-count (also rare). I was the third attorney appointed to the case given the prior difficulties with the defendant and his attorneys. I filed a brave motion for recusal of the trial judge who appointed me. Despite own difficulties in representation and subsequent life sentence, client referred other potential clients to me

(d) Peter L. Proctor, Appellant v. Teresa Spires, Respondent, 673 S.E.2d 841(SCApp. 2009); I successfully argued for a reversal of a termination of parental rights matter. The case was remanded for a new trial before the same judge who granted my client’s visitation rights with his daughter.

(e) Vernon Sulton et al. v. Healthsouth Corporation et al., 09-CP-40-1477, co-counsel and initial attorney on a medical negligence case involving a decubitus sore. On July 30, 2010, after a weeklong trial, the jury a verdict in favor of the plaintiffs for a total amount of $12.3 million. It was personally rewarding given the plaintiffs are my cousins and the primary plaintiff, who died prior to the trial, was tragically shot in an armed robbery, paralyzed from the chest down as a result and ultimately was treated by the Defendant and its staff. The case is in the post-trial motion phase.”

The following is Mr. Shadd’s account of the civil appeal he has personally handled:

“John and Jane Doe, as Parents, Natural Guardians and Next Friends of Anonymous Child, Appellants v. Cassius Rojas and Richland County School District #2, Respondents (Unpublished Opinion, SC Court of Appeals), I represented the individual defendant. The District’s counsel won summary judgment which was appealed and affirmed.”

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

US v. Anthony R. Hutchinson, 04-5093-Unreported (4th Cir.)

Mr. Shadd further reported the following regarding an unsuccessful candidacy:

Fifth Circuit Solicitor-lost in primary election 2010.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Mr. Shadd to be “Well-qualified” for all nine criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary, “[We were] very impressed with Mr. Shadd and enjoyed his interview. We are equally impressed by his commitment to the community. We feel certain that he is eminently qualified to serve our State on the Circuit Court and knows that he would serve in an outstanding manner.”

Mr. Shadd is married to Taminika Lashelle Shadd. He has four children.

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

(a) ABA;

(b) NBA;

(c) Federal Bar Association;

(d) SC Bar-Young Lawyers Division Hunger Project Chair (2003-04)

Annual Conventions Co-Chair (2006-07)

Standing Committee Member (2006-07)

Membership Publicity Chair (2008);

(e) National Football League Players Association-Contract Advisor (Agent).

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

(a) Omega Psi Phi Fraternity, Inc.;

(b) Boys and Girls Club of the Midlands Board of Directors

Board Chair 2007-09

2009 Distinguished Service Award recipient;

(c) SC Appleseed Board of Directors;

(d) Renaissance Foundation Board

Board Chair 2007-09;

(e) Bethel AME Singles and Singles Again Ministry Co-Leader; Class Leader Steward Board Appointee;

(f) YMCA Uptown Board of Directors-2010 Chairman’s Roundtable Member.

Mr. Shadd further reported:

Throughout my practice and in my life experience, I have represented all walks of life and come into contact with people of all stripes. I have seen that in every person, they want fairness. Oftentimes, it is about winning and losing, but in the end, litigants want to have a fair shake or fair shot. They despise when things are stacked against them or they perceive that the judge did “not like them” or have some special relationship with opposing counsel. I have advocated for people in my profession as well as with certain charitable organizations. I believe I have done well so far. Helping people was the main reason I became an attorney. It still remains so. I believe everyone should respect the rule of law, which I love and will defend. There should also be a feeling amongst our society of confidence in fairness, equity and the courtroom is open, blind, and unbiased for anyone with a legitimate dispute that can be resolved in the courtroom. A judge should promote those things and shun personal biases. She should apply the law and rules to the facts while not rewarding friends or punishing enemies. Our society depends on it. Now I would like to play a different role as a member of our great Bench. Judges should be prepared, kind, humorous, unbiased and take their jobs seriously. I have been that way in my career and life and would bring those same qualities if honored to be chosen to do so.

(11) Commission Members’ Comments:

The Commission commented that Mr. Shadd made an impressive presentation at the Public Hearing. They noted his excellent reputuation and his active involvement in his local community.

(12) Conclusion:

The Commission found Mr. Shadd qualified but not nominated to serve on the Circuit Court.

**Jeffrey M. Tzerman**

**Fifth Circuit, Seat 1**

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

1) Constitutional Qualifications:

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

Judge Tzerman was born in 1955. He is 55 years old and a resident of Camden, South Carolina. Judge Tzerman provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

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

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

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

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

(a) Master-in-Equity Bench/Bar 10/09/09;

(b) Annual Judicial Conference 8/19/09;

(c) Master-in-Equity Bench/Bar 10/10/08;

(d) Annual Judicial Conference 8/20/08;

(e) Master-in-Equity Bench/Bar 10/12/07;

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

(g) Annual Master-in-Equity Meeting 2/23/07;

(h) Master-in-Equity Bench/Bar 10/13/06;

(i) Annual Judicial Conference 8/23/06;

(j) Master-in-Equity Bench/Bar 10/14/05;

(k) Annual Judicial Conference 8/24/05.

Judge Tzerman reported that he has not taught any law related courses.

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

(4) Character:

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

The Commission also noted that Judge Tzerman 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 Tzerman reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Tzerman was admitted to the SC Bar in 1981.

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

(a) Associate; Oswald & Floyd (1981-84);

(b) Partner; Ehrenclou, Colvin & Tzerman (1984-87);

(c) Partner; deLoach & Tzerman (1987-92);

(d) Sole Practitioner (1992 - Present).

Mr. Tzerman made the following statements regarding his experience:

My experience in criminal matters in Circuit Court is more limited than my experience in civil matters. However, I have represented defendants in guilty pleas and have handled probation violations, including during a term of Court in Kershaw County the week of July 19, 2010. The last jury trial I handled in General Sessions was more than (5) years ago. It was a DUI 2nd trial.

I have handled many civil matters since being admitted to practice in 1981. I have represented plaintiffs and defendants. I recently tried a case in the Court of Common Pleas in Kershaw County the week of August 2, 2010. I represent two (2) defendants. Early in my career, I represented the plaintiff in the matter of Lever v Wilder Mobile Home Corp. which was a trespass/nuisance case in Richland County before retired Justice, then Judge James Moore. The verdict was affirmed on appeal and the case is often cited for the South Carolina definition of nuisance. Recent civil cases I have handled include Brown v Brazel and Russell and Jeffcoat, 08-CP-28-811, a fraud and conversion case in Kershaw County. The matter was settled through mediation in 2009. Another recent matter in Common Pleas was Rohrig v Durham, State Farm Insurance and Phoenix Life Insurance, 2008-CP-29-1082, a Lancaster County case involving securities fraud and unfair trade practices that was settled after discovery.

Judge Tzerman reported the frequency of his court appearances during the last five years as follows:

(a) Federal: 0%;

(b) State: 100%.

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

(a) Civil: 10%;

(b) Criminal: 10%;

(c) Domestic: 40%;

(d) Other: transactional 40%.

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

(a) Jury: 25%;

(b) Non-jury: 75%.

Judge Tzerman reported that he most often served as sole counsel.

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

(a) Vernon Lever v Wilder Mobile Homes Inc.; 82-CP-40-1720- This matter was significant to me on a personal level as being my first successful jury trial in the Court of Common Pleas. It has significance as being cited in may appellate cases and in other matters (most recently I saw it cited in written materials for a lecture at the annual bench/bar Master in Equity seminar) for the definition of what is a nuisance.

(b) CC Wilson v Camden Developers Inc.; 82-CP-28-20 & 96-CP-28-228 - This matter has personal significance to me as being my first successful jury trial in the Court of Common Pleas in Kershaw County (my new home). It was a trespass/nuisance case with a similar fact pattern as the previous case mentioned.

(c) Charlie Branham, et al v Hardwicke Chemical; 87-CP-40-607 - This matter was the most substantial and complex case I ever handled. I represented approximately twenty (20) Plaintiffs in an action against the chemical company, again for trespass/nuisance. The trial lasted a week. There was a fair amount of media coverage. It was quite exciting.

(d) Jackson v Jackson; 92-CP-28-245 - This matter is significant to me as it was the first heir property case I handled. It was a Quiet Title and Partition in kind matter. I learned a lot of property law handling this case that was beneficial to my career.

(e) Plyler v Gentiles; 92-DR-28-778 - Though the only Family Court case on my list, this matter is significant to me as demonstrating the importance of equity and doing justice. My client, Mr. Gentiles, raised his daughter from birth primarily. Her mother had many problems during the child’s life and Mr. Gentiles and she were often separated. On her deathbed she made a dying declaration that Mr. Gentiles was not the father of the child, who, by this time, was older. Paternity tests were done proving that he was not the biological father. The Plylers, maternal grandparents, sought custody. I amended my pleadings to seek an adoption, which the Plylers contested. There was insurance money involved as well. The Court granted the adoption and custody to my client which was an appropriate conclusion. The path on this case had twists and turns, but I received much satisfaction that justice prevailed. As an aside, I prepared the annual accounting each year for the child’s money she received from life insurance proceeds and there was no squandering of the funds as it claimed would happen in Court.

The following is Judge Tzerman’s account of the civil appeal he has personally handled:

Lever v Wilder Mobile Homes, Inc., decided 11/5/84 - 322SE2d692.

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

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

Kershaw County Master-in-Equity April 2000 - Present (appointed).

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

(a) Wells Fargo Bank Minnesota v Peggy Luter, et al; 01-CP-28-0175;

(b) Midfirst Bank v Pierce C. Newman & estate of Jessie W. Banks, et al 04-CP-28-143;

(c) Imogene C. Grandon v Joanna Frances Parker Rowe; 04-CP-28-408;

(d) L. Brownell Combs II v Wilhelmina Combs; 03-CP-28-238;

(e) Estate of Clifton G. Aycock v T. Rowe Price Trust Co. & Roberta Aycock; 00-CP-28- 571.

Judge Tzerman reported the following regarding an unsuccessful candidacy:

Family Court Judge in 2008.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midland’s Citizen’s Committee on Judicial Qualification found Judge Tzerman to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary: “Judge Tzerman is a very eminently qualified and highly regarded candidate. We are confident that he would most ably serve on the Circuit Court in an outstanding manner.”

Judge Tzerman is married to Mitzi G. Rutland Tzerman. He has one child.

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

(a) Kershaw County Bar Association;

(b) SC Bar Association.

Judge Tzerman reported that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

(11) Commission Members’ Comments:

The Commission commented that they were impressed by Judge Tzerman’s service as a Master-In-Equity for ten years, and they were grateful for his dedication to his duties in that court. They noted that Judge Tzerman is well-experienced and has great integrity.

(12) Conclusion:

The Commission found Judge Tzerman qualified but not nominated to serve on the Circuit Court.

**CIRCUIT COURT**

**Eric K. Englebardt**

**Thirteenth Circuit, Seat 2**

**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 46 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 was admitted to the NC Bar in 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 not spent any money on campaign expenditures.

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:

(a) SCDTAA Joint Meeting 7/28/05;

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

(c) Changes to South Carolina 2/25/06;

(d) SCDTAA Joint Meeting 7/27/06;

(e) Changing the Rules, a Review 11/08/06;

(f) SCDTAA Annual Meeting 11/09/06;

(g) Uni-State Lawyers 3/03/07;

(h) NBI The Art of Settlement 4/24/07;

(i) SCDTAA Trial Academy 6/06/07;

(j) NBI Mediation A Valuable Tool 7/24/07;

(k) SCDTAA Annual Meeting 11/01/07

(l) Ounce of Prevention is Worth a Pound of Cure 2/27/08;

(m) SCDTAA Joint Meeting 7/24/08;

(n) SCDTAA Annual Meeting 11/13/08;

(o) TPGL Mandatory Insurer Reporting to Medicare 3/21/09;

(p) SCDTAA Trial Academy 6/03/09;

(q) SCDTAA Annual Meeting 11/05/09;

(r) SCDTAA Corporate Counsel Seminar 4/21/10;

(s) SCDTAA Joint Meeting 7/22/10.”

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

(a) I have taught sections on opening and closing arguments, expert cross-examination as a group leader at the SCDTAA Trial Academy;

(b) 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”;

(c) I served as a judge at the 2009 SCDTAA Trial Academy, presiding over a civil case tried by young attorneys, and critiquing them during jury deliberations;

(d) I also spoke at the Greenville Bar year end CLE and at the recent SCDTAA Joint Meeting, both on the topic of effective communication at mediation.

Mr. Englebardt reported that he has published the following books and/or articles:

I have authored course materials for NBI Seminars “What to Expect in Your First Civil Trial in South Carolina,” December 2004 and “How a Mediator Can Help You,” a chapter in course materials for NBI Course “Mediation, A Valuable Tool for Litigation,” July 2007. I also wrote course materials on the February 2010, Greenville Bar CLE.

(4) Character:

The Commission’s investigation of Mr. Englebardt did not reveal evidence of any found 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.

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 NC 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 cases in State Court of North Carolina as well as many 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. Also, I am now serving with regularity as an arbitrator, requiring me to make rulings and decisions as a nonjury judge. I was recently honored by my selection as a South Carolina “Super Lawyer” in the General Litigation category.”

Mr. Englebardt made the following statements regarding his experience:

Criminal: My experience in criminal matters is admittedly limited. 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. I have also participated in Youth Court, presiding 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, 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 past 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 reported that he has 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 unsuccessful candidacies:

(a) 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.

(b) Thirteenth Judicial Circuit, Seat 3 in 2009, I was once again honored to have been found qualified and nominated, and withdrew prior to election.

(c) At-Large, Seat 8 in 2009, I was once again honored to have been found qualified, however, I was not nominated.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen’s Committee on Judicial Qualification found Mr. Englebardt to be “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.”

Mr. Englebardt is married to Helen Elizabeth Burris. He has three children.

Mr. Englebardt reported that he was a member of the following bar association and professional association:

(a) NC Bar;

(b) SC Bar;

(c) Greenville County Bar;

(d) SCDTAA (Executive Committee Member since 2000);

(e) NC Bar Association;

(f) Upstate Mediation Network (Vice President 1999-2001); and

(g) SC Bar Resolution of Fee Disputes Board (2008-present).

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

(a) The Family Effect (Board Member);

(b) Temple of Israel Board of Directors (2nd VP 2005-2007);

(c) Greenville Little League (Coach);

(d) PTAs of Stone Academy, League, Academy and Greenville High School;

(e) Greenville High All-Star Booster Club;

(f) Educational Foundation of the University of North Carolina (Upcountry Chapter Development Committee);

(g) UNC and UNC School of Law Alumni Association;

(h) Best Lawyer’s in America (included from 2007 to the present); and

(i) SC “Super Lawyers” for General Litigation (2010).

Mr. Englebardt further reported:

When I ran for Circuit Court seat in 2003, I wrote about watching my parents work as volunteers as drug counselors while I was a child and how their experiences affected my views on equal justice under the law. While I still have those feelings, obviously a great deal has happened in my life since that time.

In 2005, my wife, sons and I made the decisions to add the 13 year old daughter of a family friend who had passed away to our family. This child had been adopted by her grandmother (the family friend who died) at a young age after her birth parents lost their parental rights. This forced me to quickly learn to have a great deal of patience and to be firm with my judgments in dealing with not only the normal issues of a larger family but also with raising a teenager (now two teenagers).

Additionally, obviously there are some special issues that arise in raising someone who has been through what my daughter has been through. Not only did her birth parents lose custody of her and both eventually ended up in prison, but also she had to deal with losing the only parent she ever really new to cancer. As a result I think I have had to develop a sensitivity and at the same time a toughness that I am not sure I had previously.

Moreover, I have been exposed to a different side of our legal system as I watched her birth parents work in and out of the criminal justice and prison system. While I have only been an interested observer as to these machinations, I have found the actions of the solicitor’s office, the appointed defense counsel, the parole officers, and even the sentencing judges to be quite educational, especially since that area of the law is one I have had the lease exposure to in my career.

As a result of all this, I believe I am better suited to sit on the circuit court bench than I was at the time of my first campaign. I also believe that the patience and friendships I have made during my previous runs for a seat n the Circuit Judge bench will serve me well if elected.

(11) Commission Members’ Comments:

The Commission noted that Mr. Englebardt has excellent legal experience and enjoys an exemplary reputation in the legal community. The Commission commented on Mr. Englebardt’s extensive Alternative Dispute Resolution experience and considered that it would positively assist his service on the Circuit Court.

(12) Conclusion:

The Commission found Mr. Englebardt qualified and nominated to serve as a Circuit Court judge.

**J. Anthony Mabry**

**Thirteenth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Mabry was born in 1963. He is 47 years old and a resident of Simpsonville, South Carolina. Mr. Mabry provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

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

Mr. Mabry 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. Mabry reported that he has made $91.62 in campaign expenditures for postage and stationary.

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

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

(a) Capital Litigation Conference Spring/10;

(b) Pee Wee Gaskins: A Big Trial for a Little Man 2/18/10;

(c) Annual Ethics and Professional 11/20/09;

(d) Capital Litigation Practice Tips 7/17/09;

(e) Capital Litigation 6/26/09;

(f) Ethical Considerations and Pitfalls for the Crim. Lawyer 2/20/09;

(g) Capital Litigation Prosecution 8/14/08;

(h) NAAG/Conf. on Appellate Practice 3/05/08;

(i) Legal Writing 10/18/07;

(j) 2007 Annual Conference (Solicitor’s Conf.) 9/23/07;

(k) Assoc. of Govt. Attys. in Cap. Litigation Ann. Conf

(not approved) 7/25/07;

(l) Will Our Past Sustain Us? 2/27/07;

(m) Rules, Rules, Rules 2/16/07;

(n) Nonprofit Corp. from A to Z 2/9/07;

(o) Sidebar SC Torts/Paul Reeves 12/21/05;

(p) Conducting Depositions in SC/Strategies that Win 12/14/05;

(q) Ethics 2000 12/13/05;

(r) Legal Ethics in SC 2/21/05;

(s) Updating Your Advocacy Skills 12/10/04;

(t) What it was, what it is, what it shall be? 12/17/04;

(u) New Lawyer’s Oath/Civility 12/29/04.

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

(a) I lectured at the Capital Litigation Seminar in Columbia;

(b) I lectured at the Capital Litigation Seminar in Greer/Taylors;

(c) I lectured at the Capital Litigation Seminar in Charleston.

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

(4) Character:

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

The Commission also noted that Mr. Mabry 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. Mabry reported that he is not rated by Martindale-Hubbell. Mr. Mabry further reported: “I have never sought a rating in Martindale-Hubbell nor has anyone recommended me for a rating.”

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

(a) Assistant Attorney General, 2007-10;

(b) Deputy Solicitor/7th Judicial Circuit, 1994-2001;

(c) Assistant Solicitor, 1989-94;

(d) Law Clerk/United States Attorney’s Office, 1988-89.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Mabry was admitted to the SC Bar in 1988.

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

(a) Assistant Attorney General 2007-10

South Carolina Attorney General’s Office, (Capital Litigation Section),

Capital appeals/Capital post-conviction relief/Federal habeas corpus;

(b) Haynesworth, Sinkler, Boyd, P.A. 2001-06

Civil Litigation/Primarily insurance defense/Some Plaintiff’s work;

(c) Deputy Solicitor/7th Judicial Circuit 1994-2001

Office Management /Criminal prosecution/Docket Administration;

(d) Assistant Solicitor/7th Judicial Circuit 1989-94

Criminal prosecution;

(e) J. Anthony Mabry, Attorney at Law 1988-89

(General Practice) Civil litigation (Plaintiff), Criminal defense, Real Estate, Preparation

of Wills/Powers of Attorneys/Etc.

(f) Duggan, Reese, & McKinney 1988

Law Clerk (Awaiting Bar Results), After passing the Bar Exam did some limited

Plaintiff’s and Criminal Defense work.

Mr. Mabry made the following statements regarding his experience:

Criminal Matters: I have almost fifteen (15) years’ experience handling criminal matters in the circuit and appellate courts of this state. From 1989 to 2001, I tried criminal cases in the circuit courts of Spartanburg and Cherokee Counties and one case in Greenville County. During those years, I tried approximately 100 jury trials.

For the past three years, as an Assistant Attorney General, I have represented the State of South Carolina in handling capital and non-capital murder appeals. During that time period, I represented the State in three capital murder appeals that were argued before the South Carolina Supreme Court: State v. Freddie Eugene Owens, State v. Stephen Stanko, and State v. Mikal Mahdi. All three convictions and corresponding death sentences were affirmed by the South Carolina Supreme Court in published opinions. In addition to those appeals, I have briefed numerous non-capital murder appeals to the South Carolina Court of Appeals. All of these convictions have been affirmed. I am currently preparing the briefs to be filed before the South Carolina Supreme Court in State v. Harry Justus (Capital Appeal), and State v. Jeffrey Motts (Capital Waiver of Appeals).

As Deputy Solicitor (1994-2001), I prosecuted five (5) capital murder cases. All five defendants were convicted of murder, four (4) were sentenced to death. The only defendant who was not sentenced to death, the jury deadlocked on what sentence to impose. That defendant was later sentenced to death after he murdered his cell-mate at Perry Correctional Institution. While Deputy Solicitor, I also prosecuted and tried other major high profile felony cases such as non-capital murders and a felony DUI death case.

As an assistant solicitor for the 7th Judicial Circuit (1989-94), I prosecuted murder, armed robbery, burglary, DUI, rape, and drug cases for the 7th Circuit Solicitor’s Office. The largest drug case I tried involved the seizure of over 700 pounds of marijuana.

My criminal practice has not been limited to criminal prosecution. I also defended a young man charged with Reckless Homicide in Greenville County. The case was tried to a jury verdict, and the defendant was acquitted.

Additionally, as both an Assistant Solicitor and a Deputy Solicitor, I have handled hundreds of guilty pleas before the circuit courts of Spartanburg and Cherokee Counties. These involved guilty pleas to Murder, Felony DUI, Trafficking in Drugs, Kidnapping, Rape, and other felony and non-felony offenses.

Additionally, as Deputy Solicitor, I administered the criminal docket for Spartanburg County for several years. As part of my responsibilities as Deputy Solicitor, I set goals and deadlines for the Assistant Solicitor’s in the office to dispose of old cases. As a result of the setting of these goals and the accomplishment of them by the Assistant Solicitor’s, the 7th Circuit had the lowest percentage of cases over one (1) year old among the sixteen (16) judicial circuits. The 7th Circuit also led all circuits in the swift disposition of criminal cases These accomplishments were confirmed by South Carolina Court Administration records at the time and by a published newspaper article in the Greenville News in approximately 1996-97. (I do not remember the exact date of the article)

Civil Matters: For the past three years, as an Assistant Attorney General, I have represented the State in several capital post-conviction relief (PCR matters). Under South Carolina law, these matters are considered civil matters and are subject to the Civil Rules of Procedure. I have been involved in the trial of four (4) capital PCR matters. I am currently drafting a proposed order for circuit judge Casey Manning in the capital PCR matter of Charles Shuler v. State. I just finished handling a Capital PCR trial before the Honorable “Ned” Miller in Greenville County. I am currently handling three (3) pending capital PCR matters throughout the State: Mahdi v. State (Calhoun County), Stanko v. State (Georgetown County), and Evins v. State (Spartanburg County).

From 2001-06, as an associate with the law firm of Haynsworth, Sinkler, Boyd, P.A., in Greenville SC, I was a civil litigator. My practice was predominantly defending personal injury lawsuits, including wrongful death, catastrophic injury, and minor injury. While an associate at the Haynsworth Law Firm, I tried jury trials in Circuit Court of Common Pleas and one case in United States District Court. I also tried cases in the magistrate’s court of Spartanburg and Greenwood County. My civil practice has not been limited to defense work. I have acted as a plaintiff’s attorney in two civil cases, obtaining jury verdicts on behalf of my clients in both cases in the Court of Common Pleas of Greenville County.

One major case I successfully defended while at the Haynsworth Law Firm was recently affirmed by the South Carolina Court of Appeals. The case dealt with whether a local oil jobber and Motiva (a Texaco oil distributor), had control over the driver of a wrecker for an independent operator of a Texaco branded filling station, so as to impose agency liability.

Additionally, I handled numerous civil lawsuits that were resolved prior to trial. Most of these cases were resolved through the mandatory mediation program imposed in Greenville County. Some of these cases involved negotiation after the mediation in order to successfully resolve these cases in the best interests of both clients.

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

(a) Federal: 50% (pleadings only)(federal habeas corpus);

(b) State: 50% (Pleadings and appellant briefs);

Physical appearances: trials/motions/appellant arguments, 100% of my practice has been in state court.

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

(a) Civil: 50%;

(b) Criminal: 50%.

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

(a) Jury: 25%;

(b) Non-jury: 75%.

Mr. Mabry stated: “I served as sole counsel, chief counsel, and associate counsel in these matters over the past five years.”

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

(a) State v. Owens, 378 SC 636, 664 S.E.2d 80 (2008).

Owens was sentenced to death twice for the murder of Irene Graves. During his first trial, Owens murdered his cell-mate Christopher Lee. Both of Owens’ first two death sentences were overturned by the SC Supreme Court. In Owens third sentencing proceeding, he was sentenced to death a third time. The above cited decision finally affirmed Owens’ death sentence for the murder of Irene Graves. I handled the appeal from Owens’ third sentencing proceeding for the State.

(b) State v. Locklair, 341 SC352, 535 S.E.2d 420 (2000)

Locklair murdered Tammy Bridges in Spartanburg County while out on bond for the murder of Chris Jones in Laurens County. Locklair was convicted of Bridges murder and sentenced to death. The South Carolina Supreme Court affirmed the death sentence. As far as I am aware, it was the first decision by our Supreme Court recognizing that the aggravating circumstance of “the use of a dangerous instrumentality” can be applied to the use of a firearm. The Supreme Court also held that it was proper for the trial judge to order the defendant to undergo a psychiatric examination by the State’s expert where the defendant was going to assert mental illness as a defense or as a mitigating circumstance, equaling the playing field for both sides in cases where psychiatric testimony will be offered. I prosecuted this case at the trial level.

(c) Richitelli v. Motiva Enterprises, LLC d/b/a Texaco & H.D. Payne Oil Co., Opinion No. 4707 (Ct. App. filed July 12, 2010)

The Court of Appeals affirmed the trial judge’s grant of summary judgment to Motiva (a Texaco oil distributor) and a local “jobber”, finding there was no evidence of actual agency regarding the operation of a wrecker belonging to a local independently owned and operated but Texaco branded filling station. I argued and won the summary judgment motion below.

(d) Mahdi v. State, 383 SC 135, 678 S.E.2d 807 (2009).

Mikal Mahdi murdered Captain James Myers, an off duty police officer on his own farm in Calhoun County. Mahdi had already murdered a convenience store clerk in North Carolina prior to murdering Captain Myers. The South Carolina Supreme Court affirmed Mahdi’s death sentence in the above opinion. I handled the appeal for the State.

(e) State v. Stanko, 376 SC 571, 658 S.E.2d 94 (2008)

Stephen Stanko murdered his girlfriend and sexually assaulted and attempted to murder his girlfriend’s teenage daughter in Georgetown County. Stanko then withdrew money from his girlfriend’s bank account and drove to Conway in his girlfriend’s car. Stanko then murdered a friend, stole his friend’s truck and drove to Columbia, SC. Stanko then drove to Augusta, Georgia, where he was apprehended a few days later by U.S. Marshalls. Stanko was convicted of his girlfriend’s murder and the assault on the daughter and sentenced to death. The Supreme Court affirmed Stanko’s convictions and death sentence in the above opinion. I handled the appeal for the State. Stanko has subsequently been sentenced to death for the Conway murder as well.

Mr. Mabry reported that he has not personally handled any civil appeals.

The following is Mr. Mabry’s account of five criminal appeals he has personally handled:

(a) State v. Owens, 378 SC 636, 664 S.E.2d 80 (2008);

(b) State v. Stanko, 376 SC 571, 658 S.E.2d 94 (2008);

(c) Mahdi v. State, 383 SC 135, 678 S.E.2d 807 (2009);

(d) State v. Harris, 382 SC 107, 674 S.E.2d 532 (Ct. App. 2009);

(e) In the Interest of Walter M., 386 SC 387, 688 S.E.2d 133 (Ct. App. 2009).

Mr. Mabry further reported the following regarding an unsuccessful candidacy:

“I ran for at-large seat 11 in 1998, but withdrew before public hearing.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen’s Committee on Judicial Qualification found Mr. Mabry to be “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.”

Mr. Mabry is married to Mary Yvonne Knabe Mabry. He has two children.

Mr. Mabry reported that he was a member of the following bar association and professional association:

SC Bar Association.

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

Fountain Inn First Baptist Church (Deacon, but not in the past 5 years).

Mr. Mabry further reported:

My 21 years’ of experience as a practicing trial attorney will be invaluable in serving as a Circuit Court Judge. Over the past 21 years, I have observed Circuit Court Judges in our state and what does work and does not work in the administration of justice. I have observed this while acting as a prosecutor, a criminal defense attorney, a plaintiff’s attorney, and a civil defendant’s attorney.

I have learned that a Circuit Judge must be calm, patient, courteous, understanding, and possess a sense of humor. A Circuit Judge should never abuse a party, witness, juror, clerk, court reporter or an attorney. It has been my experience that more work gets done, when everyone involved in the judicial system is relaxed, not anxious and fearful. While a Circuit Judge must be firm, productive, and focused, he must also remember that he is working with fallible human beings, like himself. These are only a few of the things I have learned in 21 years of interacting with judges, juries, attorneys, and court personnel.

I also believe my prior work experience uniquely qualifies me to be elected as a Circuit Court Judge. As Deputy Solicitor for the 7th Judicial Circuit, I routinely reviewed all SLED investigations of misconduct by law enforcement or public officials in Spartanburg County. As part of this responsibility, in several of these cases, the elected Solicitor required me to write legal or formal memoranda regarding whether criminal charges should be brought or not brought against a particular individual. Solicitor Gossett routinely relied on my opinion letters or memoranda in making charging decisions. While Deputy Solicitor, I also routinely reviewed criminal investigations being conducted by the Spartanburg County Sheriff’s Office and other law enforcement agencies and gave legal advice during those investigations, such as whether police had sufficient evidence to obtain a search warrant or issue an arrest warrant.

While Deputy Solicitor, and acting as docket administrator, I interacted extensively with resident Circuit Judges and those judges rotating through our circuit. As an Assistant Attorney General, I still interact with Circuit Judges throughout this state in scheduling and trying Capital PCR matters. While an Assistant Solicitor and Deputy Solicitor, I also dealt extensively with victims of crime and their families.

As a civil litigant’s attorney, I came to learn what civil litigant’s expect from the judicial system, and how resolution of matters prior to a jury verdict is often in the best interests of all parties and the judicial system. In representing a criminal defendant through trial, I learned the stress and anxiety that a charged individual goes through. All of these experiences, I believe, uniquely qualify me to serve as the resident Circuit Judge for the 13th Judicial Circuit.

(11) Commission Members’ Comments:

The Commission commented that Mr. Mabry’s twenty-two years of legal experience, especially in the criminal area, would serve him well on the Circuit Court. They noted his public service, first with the Solicitor’s office and now with the Attorney General’s office.

(12) Conclusion:

The Commission found Mr. Mabry qualified but not nominated to serve on the Circuit Court.

**Andrew R. Mackenzie**

**Thirteenth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Mackenzie was born in 1966. He is 44 years old and a resident of Greenville, SC. Mr. Mackenzie provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1993.

(2) Ethical Fitness:

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

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

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

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

(a) Legal Ethics in South Carolina 2/11/05;

(b) 15th Annual Criminal Law Practice in South Carolina 11/18/05;

(c) South Carolina Family Court Bench Bar 12/2/05;

(d) 5th Annual Federal Criminal Practice in SC 9/8/06;

(e) 22nd Annual SC Criminal Law Update 1/26/07;

(f) SC Civil Procedure Update 2/16/07;

(g) Divorce Mediation Training for Professionals 11/29-12/3/07;

(h) Ethical Issues for Lawyers in Electronic Age 2/20/08;

(i) Federal Criminal Practice Seminar 10/16/08;

(j) Family Law Intensive Workshop 11/21/08;

(k) 6th Annual Federal Practice 12/16/08;

(l) Federal Rules of Evidence (Tangled Web) 12/17/08;

(m) 2009 Hot Tips from the Coolest (Family Law) 9/18/09;

(n) Federal Criminal Practice Fall 2009 10/29/09.

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

(a) I once spoke at a C.L.E. seminar in approximately 1996. I was still an assistant solicitor at the time. The seminar was held in Columbia and broadcast live throughout the state. The seminar was held to help launch the publication of the new treatise Handling Traffic Cases in South Carolina (SC Bar CLE Division, copyright 1996). I was a contributing author to the treatise. I spoke on the subject of Driving Under the Influence at the seminar.

(b) On March 19, 2010, I participated in the Christ Church Episcopal School Alumni Career Program Panel Discussion in Greenville. This is a program held each year at the school to inform high school students about what it is like to work in different vocations. I spoke about the practice of law especially criminal law.

Mr. Mackenzie reported that he has published the following article:

Handling Traffic Cases in South Carolina (SC Bar CLE Division, copyright 1996), contributing author.

(4) Character:

Mr. Mackenzie disclosed to the Commission that he had been charged with certain criminal violations during the time he was in high school and college. The Commission commented that Mr. Mackenzie had been forthright in discussing the problems he had when younger and had learned from his experiences.

The Commission’s investigation of Mr. Mackenzie did not indicate any evidence of a troubled financial status. Mr. Mackenzie has handled his financial affairs responsibly.

The Commission also noted that Mr. Mackenzie 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. Mackenzie reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Mackenzie was admitted to the SC Bar in 1993.

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

I began my legal career as an Assistant Solicitor at the Thirteenth Circuit Solicitor’s Office in Greenville. I began working there as an attorney in August of 1993, and I left the office in September of 1998. I was initially assigned to the Traffic Unit where I prosecuted automobile related offenses such as Driving Under the Influence, Felony Driving Under the Influence and Reckless Homicide. I handled hundreds of such cases. I personally tried numerous D.U.I. cases before a jury. I personally tried one felony D.U.I. case to a jury and obtained a guilty verdict. I was eventually promoted to be the head of the Traffic Unit.

After a couple of years, I was promoted to the Violent Crimes section of the Solicitor’s Office. There I prosecuted felonies such as murder, manslaughter, arson, armed robbery and burglary, etc. I handled hundreds of these kinds of cases. Most of them resulted in guilty pleas. I personally tried two murder cases before a jury and obtained guilty verdicts in both. I also personally tried armed robbery and burglary cases before juries and obtained guilty verdicts. Three of these cases resulted in sentences of life without parole. As an Assistant Solicitor, I personally participated in numerous jury trials in circuit court. I also assisted in a death penalty prosecution.

During my latter years at the solicitor’s office, I was one of two Team Leaders for the office. All of the attorneys in the office were assigned to one of the two teams. As team leader, it was my duty to ensure that the members of my team were prepared to conduct jury trials and guilty pleas in circuit court. It was also my duty to oversee the General Sessions jury trial and guilty plea dockets. I generated the jury trial docket and published it. I then coordinated it with the circuit court judges and made sure that court remained in session and ran smoothly from one jury trial to the next. I also oversaw the guilty pleas docket to make sure that criminal cases moved efficiently through circuit court.

While working at the solicitor’s office, I was also appointed to be a Special Assistant United States Attorney during the years 1994 through 1998. I was a member of the Upstate Violent Crimes Task Force which was focused on the investigation and prosecution of firearms offenses in federal court. I personally tried one Felon in Possession of a Firearm case before a jury in United States District Court and obtained a guilty verdict. While working as a Special Assistant United States Attorney, I underwent and passed a Full Field F.B.I. Background Investigation and Security Clearance.

I went into private practice in 1998. I worked as an associate for the firm of Brown, Massey, Evans, McCleod and Haynsworth from September through December 1998. There I practiced general civil litigation, some probate matters and criminal defense.

I have been a partner with the firm of Barrett-Mackenzie, LLC since December, 1998. My business partner is my wife, Lynn Barrett. Lynn practices exclusively in the area of domestic relations/family court. My practice is about fifty per cent criminal defense and fifty per cent family court. I practice before the following courts: The United States Court of Appeals for the Fourth Circuit, United States District Court for the District of South Carolina, General Sessions Court, The Court of Common Pleas, Family Court, and various magistrate courts.

Mr. Mackenzie made the following statements regarding his experience:

I have extensive experience in criminal matters. I was a prosecutor for five years. I prosecuted a wide variety of cases in both circuit and magistrate court. This included violent crimes, drug crimes, traffic offenses, burglaries, larcenies, shoplifting, etc. When I first went into private practice, I worked as a contract attorney through the Greenville office of Indigent Defense. Criminal Defense remains about fifty percent of my practice today. I believe that at one time or another I have handled every kind of General Sessions Court case. These cases have involved a multitude of legal issues. I have handled thousands of cases in General Sessions Court. Most of these cases were resolved prior to trial. However, I have also personally tried numerous cases before a jury.

I have some experience with death penalty cases. I was certified to be lead counsel for death penalty defense by the South Carolina Supreme Court on July 7, 2000. A few years ago I served as second chair in a death penalty case in Greenville. In that case the solicitor eventually withdrew the death penalty notice and the defendant pled guilty to voluntary manslaughter.

I also have a lot of experience in federal criminal cases both at the trial and appellate levels. I have twice orally argued cases before the Fourth Circuit Court of Appeals in Richmond, Virginia. I won both of these cases by published opinion. I have been appointed by the Fourth Circuit to both its CJA Appellate Panel and Capital Appellate Panel of Attorneys.

I have handled numerous cases in federal district court. Most of these cases have related to drugs or unlawful possession of firearms.

Since 1998, I have also practiced extensively in family court. I have handled a wide variety of cases involving a multitude of legal issues. I have handled cases involving divorce, child custody, child visitation, child support, decrees of separate maintenance and support, alimony, asset and debt division, adoption, child abuse and neglect, and termination of parental rights. I have handled hundreds of family court cases. I have participated in a wide variety of motions and merits hearings. With these cases, I have become very experienced in the rules of civil procedure.

In December 2007, I completed a 42-hour training course in Divorce and Family Mediation conducted by Atlanta Divorce Mediators, Inc. For the last few years I have served on a volunteer basis as a mediator at the Upstate Mediation Center in Greenville. I mediate family court cases about once or twice a month.

I have also handled some cases in the Court of Common Pleas. My experience in Common Pleas is not as extensive. However, I have handled some cases such as cases under the Sexually Violent Predator Act, appeals from magistrate court cases, actions for Post Conviction Relief and a couple of mortgage foreclosures before the Master in Equity. I believe that I represented the accused in the first Sexually Violent Predator case that went to trial in Greenville County. The accused was committed under the Act, but his commitment was reversed on appeal.

I believe that my extensive experience in General Sessions Court has prepared me to preside over circuit court including the Court of Common Pleas. I have personally participated in numerous jury trials. The rules of evidence are the same in both General Sessions and Common Pleas Courts. I have also become quite experienced with the rules of civil procedure through my experience with hundreds of cases in family court. Although I do not have much experience in jury trials in Common Pleas Court, the breadth of my legal experience easily compensates for this.

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

(a) federal: about once every few months;

(b) state: about 10 times per month.

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

(a) civil: 5%;

(b) criminal: 50%;

(c) domestic: 45%;

(d) other: 0%.

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

(a) jury: 10%;

(b) non-jury: 90%.

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

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

(a) State v. Lowell J. Washington, 338 SC 392, 526 S.E.2d 709 (2000). In this case, the defendant was charged with Burglary First Degree in Greenville Circuit Court. I was the assistant solicitor who conducted the jury trial. The jury found the defendant guilty, and he was sentenced to life in prison without parole. He appealed. I did not handle the appeal. The Supreme Court of South Carolina affirmed the conviction by published opinion. The court held that the defendant’s prior common-law burglary conviction could be used to seek a life sentence without parole under South Carolina’s “repeat offender statute” even though common-law burglary was not specifically listed in the statute as a qualifying prior conviction.

(b) David Jackson, Jr. v. State, 355 SC 568, 586 S.E.2d 562 (2003). This was a murder case from Greenville Circuit Court. I was the assistant solicitor who conducted the jury trial. The jury convicted the defendant of murder, and he was sentenced to life in prison. I was not involved in any of the post conviction proceedings. I am not sure whether the defendant filed a direct appeal. However, he did apply for Post Conviction Relief. His application was initially granted at the circuit court level. Nevertheless, the Supreme Court of South Carolina reversed. The Supreme Court held that although the evidence at the defendant’s trial warranted giving the jury a self-defense instruction, his lawyer’s failure to request such an instruction did amount to ineffective assistance of counsel. The conviction survived.

(c) United States v. Carlos Lopez, 219 F.3d 343, (4th Cir. 2000). Lopez was convicted in federal court of distribution of marijuana. He was sentenced to 188 months in prison. I was not involved in the jury trial or sentencing. I represented Lopez in his appeal to the Fourth Circuit in Richmond, Virginia and his resentencing in district court. We appealed his sentence. I orally argued the case before the Fourth Circuit. The Fourth Circuit vacated the sentence and remanded the case to district court for resentencing by published opinion. The Fourth Circuit held that the government had agreed that statements in Lopez’s proffer agreement with the government would not be used against him, except to cross-examine him, and then, only if he gave testimony materially different from what was in the proffer. Although Lopez actively participated in his defense (for example, cross-examining government witnesses, giving the closing argument, and arguing at sentencing), no condition precedent to the use of the proffered statements was satisfied in the case. Absent a condition precedent, use of the statements in the proffer to determine drug quantity for purposes of sentencing was held to be reversible error. At resentencing in district court, Lopez’s sentence was reduced from 188 months to 60 months in prison.

(d) United States v. Baseem Shakir Williams, 326 F.3d 535 (4th Cir. 2003). Williams pled guilty in federal district court to being a felon in possession of a firearm. He was sentenced to 180 months in prison under the federal Armed Career Criminal Act. I did not represent Williams at his guilty plea and initial sentencing. I represented Williams in his appeal to the Fourth Circuit in Richmond, Virginia and his resentencing in district court. We appealed his sentence. I orally argued the case before the Fourth Circuit. The Fourth Circuit vacated the sentence and remanded the case to district court for resentencing by published opinion. To qualify as a “serious drug offense” for Armed Career Criminal purposes, a prior conviction must carry a maximum term of imprisonment of ten years or more. The issue in Williams’ case was whether two New Jersey convictions, one for possession with intent to distribute cocaine and heroin and the other for possession with intent to distribute heroin within 1000 feet of school property, met this requirement where the statutory maximum depended on drug quantity and/or other prior convictions. Noting that the quantity charged in one case only carried a five year maximum and that no quantity was alleged in the other, the Fourth Circuit rejected the government’s alternative arguments that: (1) the state court prosecutors could have sought enhancement of the prior sentence to a ten year maximum based on another prior conviction; and/or (2) if the New Jersey offenses had been charged federally, they would have carried the required maximums. At resentencing in district court, Williams’ sentence was reduced from 180 months to 84 months in prison.

(e) State v. Octavius Louis Nelson, 2005-GS-23-1953 and 1951. This is the latest case that I have had go to jury trial in circuit court. I represented Nelson who was charged with Trafficking Cocaine and Crack. If convicted, he was facing a mandatory minimum sentence of 25 years. We tried the case from October 12 through 15, 2009 before Judge Pyle. The jury returned a verdict of not guilty.”

Mr. Mackenzie reported that he has not personally handled any civil appeals.

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

(a) United States v. Lopez, 219 F.3d 343 (4th Cir. 2000), July 17, 2000.

(b) United States v. Williams, 326 F.3d 535 (4th Cir. 2003), April 17, 2003.

(c) United States v. Cline, 169 Fed.Appx. 759 (4th Cir. 2006), March 1, 2006.

(d) I have also handled several federal appeals wherein I submitted a brief pursuant to the dictates of Anders v. California, 386 U.S. 738 (1967).

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee reported that Mr. Mackenzie is “Qualified” in all evaluative areas: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Mr. Mackenzie is married to Gwendolynn Wamble Barrett. He has two children.

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

(a) SC Bar Association;

(b) National Association of Criminal Defense Lawyers;

(c) SC Association of Criminal Defense Lawyers;

(d) Greenville Association of Criminal Defense Lawyers (past president);

(e) Greenville County Bar Association.

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

(a) Saint Andrew’s Society of Upper South Carolina;

(b) Earle Street Baptist Church (Public Relations Committee and Boy Scout Liaison);

(c) Boy Scouts of America (parent);

(d) North Main Community Association;

(e) Washington and Lee University Alumni Association.

Mr. Mackenzie further reported:

“I have always been a hard worker. Any success I have had as a lawyer has been the direct result of hard work and dedication.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Mackenzie has a good reputation in the legal community. They noted that during his public hearing, he provided honest answers, and was very candid, which would be an asset on the Circuit Court bench.

(12) Conclusion:

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

**Letitia H. Verdin**

**Thirteenth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Judge Verdin was born in 1970. She is 40 years old and a resident of Greenville, South Carolina. Judge Verdin 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.

(2) Ethical Fitness:

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

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

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

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

(a) Thirteenth Circuit Solicitor’s Conference 05/08-10/05;

(b) Fifteenth Annual Criminal Practice in South Carolina Update 1/18/05;

(c) Thirteenth Circuit Solicitor’s Conference 05/06-08/06;

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

(e) 7th Annual Meeting Thirteenth Circuit Solicitor’s Conference 05/13/-15/07;

(f) Hot Tips from the Coolest Domestic Law Practitioners 09/21/07;

(g) 2007 Annual Solicitor’s Conference 09/23/07;

(h) Family Court Bench/Bar 12/07/07;

(i) 2008 SC Bar Convention Family Law Section Meeting-

Bits, Bytes, and Clips: The Brave New World of E-Discovery and Evidence 01/25/08;

(j) 2008 SC Bar Convention Children’s Law Committee Meeting-Child Advocacy: It’s Not For Babies-Emerging Issues in Children’s Law 01/26/08;

(k) Technology in Prosecution 05/11/08;

(l) 2008 Orientation for New Judges 06/04/08;

(m) 2008 Judicial Conference 08/20/08;

(n) 2008 SC Family Court Bench/Bar 12/05/08;

(o) 2009 SC Bar Convention 01/23/09;

(p) Family Court Judge’s Conference 04/22/09;

(q) 2009 Annual Judicial Conference 08/19/09;

(r) 2009 Annual SC Solicitor’s Conference 09/28/09;

(s) 2009 SC Family Court Bench/Bar 12/04/09;

(t) 2009 SC Bar Convention 01/22/10;

(u) Family Court Judges’ Conference 04/22/10.

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

(a) Effective Direct Examination of Witnesses, Thirteenth Circuit Solicitor’s Conference, Pawley’s Island, SC;

(b) Appellate Practice in South Carolina, Lecture to the Greenville Technical College Paralegal Program;

(c) Presiding Judge, American Mock Trial Association Regional Tournament, Furman University, Greenville, SC;

(d) Striking a Balance in the Practice of Law, Women in Law Seminar, Greenville, SC;

(e) Family Court Interaction with General Sessions Prosecution, Thirteenth Circuit Solicitor’s Conference, Clemson, SC;

(f) Careers in the Legal Field, Furman University, Greenville, SC;

(g) How Family Court Can Make You a Better Prosecutor, South Carolina Solicitor’s Conference, Myrtle Beach, SC;

(h) Civility in the Practice of Law, Thirteenth Circuit Solicitor’s Conference, Clemson, SC;

(i) Judges’ Panel Discussion, Women in Law, Greenville, SC;

(j) What Makes an Attorney Great, Greenville County Bar Association Luncheon, Greenville, SC;

(k) What Judges Really Expect, Guardian ad litem Training, Greenville, SC.

Judge Verdin reported that has not published any books or articles.

(4) Character:

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

The Commission also noted that Judge Verdin 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 Verdin reported regarding her Martindale-Hubbell rating, “I was not listed in Martindale-Hubbell prior to my election, and my understanding was because I was employed by a government agency and did not request a listing.”

Judge Verdin reported that she has held the following public office:

“I have never held any public office other than Family Court Judge.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Verdin was admitted to the SC Bar in 1997.

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

I believe that my experience for the Circuit Court bench is unique and encompasses all areas of Circuit Court. Before being elected to the Family Court bench, my legal experience was evenly divided between criminal and civil law. I practiced for five years in the Solicitor’s Offices in the Thirteenth and Eighth Circuits. During that time, I prosecuted cases in every unit of the office, with my final years there spent prosecuting violent crimes. Furthermore, while at the Greenville County Solicitor’s Office, I participated in a death penalty trial.

I also practiced for five years with the law firm of Clarkson, Walsh, Rheney and Terrell, P.A., focusing mainly the in areas of government liability defense and insurance defense. I did at times represent Plaintiffs in lawsuits and also represented criminal defendants. My practice was varied, encompassing probate, real estate, general corporate and family law, as well.

I have had the privilege of serving my state in the capacity of Family Court for two years. During that time, I sat with the South Carolina Supreme Court as an Acting Justice on a probate case. I have also served as the Chief Administrative Judge in Greenville County for the past year. During that time, I have worked closely with all agencies involved with Family Court, the Sheriff’s Office, the Detention Center director, and the Clerk of Court to develop policies and administer cases more efficiently and effectively for all involved.

Judge Verdin reported the frequency of her court appearances during the past five years, prior to her service on the bench, as follows:

(a) Federal: Rarely;

(b) State: While a practicing attorney, approximately twice a week.

Judge Verdin reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years, prior to her service on the bench, as follows:

(a) Civil: 35%;

(b) Criminal: 50%;

(c) Domestic:10%;

(d) Other 5%.

Judge Verdin 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 Verdin provided that she most often served as sole counsel.

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

(a) Barnes v. Kevin Matheson, Anderson County Sheriff’s Department, the City of Clayton Police Department, and the Rabun County Sheriff’s Department - This was a case while I was in civil practice that alleged excessive use of force and other Section 1983 claims against law enforcement officials. I represented Deputy Kevin Matheson and the Anderson County Sheriff’s Department. The case involved an escapee, who when eventually surrounded by officers, attempted to run over an officer. Deputy Mathen shot and killed the woman in order to save the officer’s life. The case involved numerous constitutional law issues, including that of extra-jurisdictional pursuits. Our motion for summary judgment was granted as to all claims against Deputy Matheson and the Anderson County Sheriff’s Department.

(b) John Bednar v. Helene Riley, et al - In this civil litigation, a professor at Clemson sued fellow professors for defamation. We represented the five defendant professors and successfully defended this action at trial.

(c) State of South Carolina v. Ricky Sanders - This defendant was charged with Criminal Sexual Conduct with a Minor 1st Degree for sexually abusing his girlfriend’s daughter. This case was significant for me because it was the first time our office was successful in having a Forensic Interviewer qualified as an expert witness in the Court of General Sessions. The interviewer’s testimony, coupled with the testimony of the child, was instrumental in securing a guilty plea from the defendant during trial.

(d) State of South Carolina v. Shad Shepherd - This case concerned a father who shook his four month old baby violently causing permanent brain damage and partial blindness. This matter was not only significant because of its facts, but also because it was one of the earlier shaken baby syndrome cases successfully prosecuted by our office. The case also necessitated very sophisticated medical evidence and expert testimony in order to establish that the child had not been accidentally dropped thereby causing her injuries.

(e) State of South Carolina v. Freddie Owens - This sentencing phase of a death penalty case was tried on remand from the South Carolina Supreme Court. I assisted the Solicitor in the prosecution of this matter and participated in the trial. The jury recommended that Mr. Owens be given the death penalty for brutally killing a mother of two during a robbery of a convenience store.

The following is Judge Verdin’s account of the civil appeal she has personally handled:

Cox and Rider v. City of Charleston, Rueben Greenberg, Joseph Riley, Captain Chin, Charleston Police Department, Officer Davis, City of Travelers Rest, Mann Batson and Timothy Christy, Fourth Circuit Court of Appeals, July 26, 2005, 416 F.3d 281.

Judge Verdin reported that she has not personally handled any criminal appeals.

Judge Verdin reported that she has held the following judicial office:

Seat 3, Greenville County Family Court; June 2008-present.

Judge Verdin provided the following regarding her significant orders or opinions:

(a) In re Campbell, 379 SC 593, 666 S.E.2d 908 (2008) (as Acting Justice with the South Carolina Supreme Court);

(b) Michael P. v. Greenville County Dept. of Social Services, 385 SC 407, 684 S.E.2d 211 (Ct. App. 2009).

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge Verdin “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Judge Verdin is married to Charles Smith Verdin, IV. She has two children.

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

(a) Greenville County Bar Association;

(b) SC Bar Association

a. Criminal Law Section;

b. Family Law Section.

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

(a) Safe Harbor, Board Member;

(b) United Way, Young Philanthropist Board Member;

(c) United Way Strengthening Families and Neighborhoods Allocation Committee;

(d) Trinity Presbyterian Church, Sunday School Teacher;

(e) Greenville County Juvenile Drug Court, Presiding Judge.

Judge Verdin further reported:

“I appreciate the Legislature giving me the opportunity to serve as a Family Court judge for the past two years. My experience as a Family Court judge has been the most rewarding of my professional life. I have been faced with what may be some of the toughest decisions in the legal field, but I have attempted to approach these matters with an open, and hopefully, fair mind. I have endeavored to deal with matters before me efficiently and justly. I would like to bring to the Circuit Court bench the knowledge that I have gained as a Family Court judge. I also believe that my legal experience, equally divided between civil and criminal law, would give me a broad base of knowledge to effectively carry out my duties as a Circuit Court Judge.”

(11) Commission Members’ Comments:

The Commission commented that Judge Verdin has been a respected Family Court Judge during her two years on the bench. They noted that Judge Verdin’s excellent score on the Commission’s Practice and Procedures test and her able intellect would assist her in serving on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Verdin qualified and nominated her for election to the Circuit Court.

**CIRCUIT COURT**

**Kellum W. Allen**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Judge Allen was born in 1951. He is 59 years old and a resident of West Columbia, South Carolina. Judge Allen provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1976.

(2) Ethical Fitness:

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

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

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

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

(a) SC Bar Mid-Year Family Law Section 01/21/05;

(b) Family Court Judges Conference 04/27/05;

(c) SCTLA Annual Convention 08/04/05;

(d) Judicial Conference 08/25/05;

(e) Family Court Bench/Bar Seminar 12/02/05;

(f) SC Bar Family Law Section 01/26/06;

(g) Family Court Judges Conference 04/26/06;

(h) SCTLA Annual Convention 08/03/06;

(i) Mini-Summit – Justice for Children 08/22/06;

(j) Judicial Conference 08/23/06;

(k) Family Court Bench/Bar Seminar 12/01/06;

(l) SC Bar Family Law Section 01/25/07;

(m) Family Court Judges Conference 04/25/07;

(n) SCTLA Annual Convention 08/02/07;

(o) Judicial Conference 08/22/07;

(p) Family Court Bench/Bar Seminar 12/07/07;

(q) SC Bar Family Law Section 01/27/08;

(r) Family Court Judges Conference 04/23/08;

(s) Judicial Conference 08/20/08;

(t) Family Court Bench/Bar Seminar 12/05/08;

(u) SC Bar Family Law Section 01/23/09;

(v) Family Court Judges Conference 04/22/09;

(w) Judicial Conference 08/19/09;

(x) Family Court Bench/Bar Seminar 12/04/09;

(y) SC Bar Family Law Section 01/22/10;

(z) Family Court Judges Conference 04/22/10;

(aa) Judicial Conference 08/19/10.

Judge reported that he has taught the following law related course:

“I spoke at the ‘Cool Tips’ Family Law CLE at the USC Law School on 4/25/03.”

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

(4) Character:

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

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

Judge Allen reported that he has held the following public offices:

(a) 1981-84 Lexington County Council Appointee to Lexington Medical Center Board of Trustees;

(b) 1988-91 Governor’s Appointee to Joint Legislature Committee on Solid Waste;

(c) 1990-95 Governor’s Appointee to Advisory Committee for the Improvement of Worker’s Compensation Law.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Allen was admitted to the SC Bar in 1976.

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

1976-78 Greenville County Public Defender’s Office – General Sessions & Family Court Juvenile;

1978-98 Kirkland, Wilson, Moore, Allen, Taylor, & O’Day, P. A. – General Trial Practice with emphasis on Civil & Family Court;

1998-Present Family Court Judge, 11th Judicial Circuit – Seat 1.

Judge Allen made the following statements regarding his experience:

I have the broad experience needed by a Circuit Judge. Immediately, after law school, I worked for 2 years, first as an assistant and then was promoted to the position of Deputy Public Defender in Greenville County. These years were exclusively devoted to criminal cases. I tried dozens of cases in General Sessions of all types including murder.

Thereafter, I went into private practice from 1978-98 with the West Columbia law firm of Kirkland, Taylor, Wilson, Moore, and Allen. My practice was all types of litigation, particularly complex torts such as medical malpractice and products liability. I primarily represented plaintiffs, but I did some defense work, as well. This was in both Common Pleas and the Federal system. I maintained a substantial practice of Worker’s Compensation, Family Court, and continued some criminal defense in General Sessions Court.

I handled appeals in all these areas, as well. During those 20 years, I served three stints as a Municipal Judge for the City of West Columbia where I presided over criminal jury trials, signed warrants, and set bonds.

Now in my 13th year as a Family Court Judge for the 11th Circuit, I have heard thousands of domestic cases, child support contempt cases, DSS cases, and juvenile criminal cases in these years on the Bench.

Therefore, because I have substantial experience in all fields, I am immediately prepared and qualified to hear any matter that would come before the Circuit Court.

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

(a) Federal: several times per week;

(b) State: several times per week.

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

(a) Civil: 60%;

(b) Criminal: 5%;

(c) Domestic: 35%.

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

(a) Jury: 50%;

(b) Non-jury: 50%.

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

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

(a) Chambers of S. C., Inc. v Entrepreneur, Inc. 354 S.E. 2nd 921, 292 SC 97

My Client, the plaintiff, successfully appealed a directed verdict by the trial Judge. The South Carolina Court of Appeals reversed the trial Court and ruled for the plaintiff. This is a frequently cited case for the doctrine of apparent authority.

(b) Accordini v Security Cent, Inc. 320 S. E. 2nd 713, 283 SC 16

My client, the plaintiff, successfully appealed the trial Court’s sustaining of the defendant’s demurrer. The case was reversed in favor of the plaintiff by the South Carolina Court of Appeals. This was an “important question of novel impression in South Carolina”. It establishes law in the area of foreseeability and proximate cause.

(c) Delk v South Carolina Farm Bureau Mutual Insurance Co., Memorandum Opinion No. 91-MO-102 – The Delk Case went up on appeal to the South Carolina Supreme Court at the same time as South Carolina Farm Bureau Mutual Insurance Co. v Mooneyham, 405 S. E. 2nd 306 \_ S. C. \_ (1991). The position of my client, plaintiff, was affirmed by the Mooneyham decision. These cases established via declaratory judgment motorist’s entitlement to stack underinsured motorist coverage.

(d) Snipes v McAndrew, 313 S.E. 2nd 294, 280 SC 320 – My client, a school principal, was a companion case with Shaw v McAndrew, et al, 313 S.E. 2nd 294, 280 SC 320, in which the plaintiff was represented by current Supreme Court Chief Justice Toal. The case defined the parameters of the Teacher Employment and Dismissal Act. The litigation analyzed the Act with respect to Constitutional rights under the Fourteenth Amendment.

(e) Hooper v Rockwell, 334 SC 281, 513 S.E. 2nd 358 (SC, 1999) – I represented the plaintiffs in their successful TPR and adoption of children following DSS intervention. This case settled numerous questions in the TPR statute and is often cited by our Courts.

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

(a) Lacy W. Brigman, III v Amaryllis P. Brigman Ford, A. Lewis Powell and Mrs. Doris Powell, South Carolina Supreme Court, December 30, 1982, Memorandum Opinion 82-MO-390;

(b) Tethel Strother v Columbia OB/GYN Associates, P. A. and John Hooker, Jr. M.D., Opinion No. 95-UP-098 (SC Ct. App. April 13, 1995);

(c) South Carolina Dept. of Social Services v Wheaton, South Carolina Supreme Court, 474 S.E. 2nd 156 (1996);

(d) Benton v. Roger C. Peace Hosp., 313 SC 520, 443 S.E. 2nd 537 (SC, 1994);

(e) Estate of Covington by Montgomery v AT & T Nassau Metals Corp., 304 SC 436, 405 S.E. 2nd 393 (SC, May 06, 1991).

The following is Judge Allen’s account of two criminal appeals he has personally handled:

(a) The State of SC v Robert Earl Mauldin, Memorandum opinion No. 78-11;

(b) The State of SC v Kirk R. Leonard and Richard E. Harrison, Jr., 287 SC 462, 339 S.E. 2nd 159 (1986).

Judge Allen reported that he has held the following judicial offices:

(a) Elected by City of West Columbia City Council to three stints as Associate Municipal Judge as follows with jurisdiction limited to traffic and minor criminal offenses:

(1) April 3, 1979-March 8, 1982;

(2) May 7 1991-March 3, 1992;

(3) September 15, 1994-April 10, 1995.

(b) Elected by the SC Legislature to SC Family Court to three stints as follows:

(1) July 1, 1998 – June 30, 2004;

(2) July 1, 2004 - June 30, 2010;

(3) July 1, 2010 - Present.

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

(a) Daniel K. Brookshire, et al v. Toby Blackwell, et al (Op. No. 4587 Filed 7/13/09);

(b) Matthew S. Walrath v. Stephanie A. Pope (Op. No. 4562 – Filed 6/12/09);

(c) Kathleen M. Bartlett v. James P. Rachels (Op. No. 4303 – Filed 10/11/07);

(d) Don Allyn Ray v. Melinda Hodges Ray (Op. No. 26343 – Filed 6/25/07);

(e) Lyn Cherry Stribling as Personal Representative of Joseph Neal Stribling v. Linda

Diane Stribling (Op. No. 4129 – Filed 6/26/06).

Judge Allen further reported the following regarding unsuccessful candidacies:

(a) Candidate in 1980 for Republican nomination to South Carolina House of Representatives from Lexington County;

(b) Candidate for 11th Judicial Circuit Court – Seat 2. Found qualified by Judicial Screening Commission. Withdrew candidacy before General Assembly election in February 2006.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Judge Allen to be “Well-qualified” for all nine criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary: “This committee believes that Judge Allen is truly an asset to our State and our judiciary. We have the utmost respect and appreciation for his honorable service on the Family Court for the Eleventh Circuit. We believe he is most eminently qualified to continue his service to our State on the Circuit Court, and we are confident he would continue to serve in an outstanding manner.”

Judge Allen is married to Jane Inman Allen. He has two children.

Judge Allen reported that he is a member of the following bar associations and professional associations:

(a) Honorary Member of Lexington County Bar Association, President 1986;

(b) SC Bar Association;

(c) SC Family Court Judges Association.

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

(a) Mt. Hebron United Methodist Church – I have served as adult and youth Sunday School teacher, MYF leader, Lay Leader, and Chairman or member of numerous church committees including chairman of Church Council which is the administrative body of the church;

(b) Quail Hollow Community Association;

(c) Brookland-Cayce High School Foundation;

(d) Appointed by the SC Supreme Court as a member of the Commission on Lawyer Conduct;

(e) Appointed by the SC Supreme Court as a member of the Commission on CLE;

(f) Appointed by the SC Supreme Court as a member of the Commission on Judicial Conduct.

Judge Allen further reported:

I suppose my first notions of justice were formed as a child when I had the blessing and influence of growing up in a stable two-parent household. My parents with their marriage of 61 years lived lives which demonstrated fairness and compassion to all people which included a deep respect for each other.

During my private practice of 22 years I represented many clients and participated in the management of the law firm. All of these experiences gave me a deeper understanding of business relationships and finances which has proven extremely valuable in my judicial career.

Further, I feel certain that my wife of 32 years and I have gained maturity and wisdom in raising two children, ages 29 and 27. I have therefore experienced many of the day-to-day situations which surely confront litigants who appear before me.

(11) Commission Members’ Comments:

The Commission commented that Judge Allen has an outstanding reputation as a jurist on the Family Court Bench, which would serve him well in transitioning to the Circuit Court. They noted his excellent presentation and demeanor at the public hearing.

(12) Conclusion:

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

**Charles “Chuck” Juel Brooks II**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Brooks was born in 1961. He is 49 years old and a resident of Lexington, South Carolina. Mr. Brooks provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

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

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

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

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

(a) SC Bar Convention 2009;

(b) 18th Annual Criminal Practice 2008;

(c) Ethics Seminar 2008;

(d) Family Court CLE 2008;

(e) Attorney ECF Training 2008;

(f) Breakfast Ethics Seminar 2007;

(g) Torts and Insurance II 2007;

(h) Torts and Insurance I 2007;

(i) Trial and Appellate Advocacy 2007;

(j) Consumer Law 2007;

(k) Breakfast Ethics Seminar 2006;

(l) Torts and Insurance Practice 2006;

(m) Employment and Labor Law 2006;

(n) Corporate, Banking and Securities Law 2006;

(o) Law Office Technology 2006;

(p) SC Family Court Bench and Bar 2005;

(q) The Unforgiving Minute with Jim Blackburn 2005;

(r) Tips from the Bench and Bar 2005.

Mr. Brooks reported that he taught the following law related course:

“Criminal Law at Orangeburg-Calhoun Technical College.”

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

(4) Character:

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

The Commission also noted that Mr. Brooks 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. Brooks reported that he is not rated by Martindale-Hubbell. Mr. Brooks further reported: “I have never sought a rating by Martindale-Hubbell.”

Mr. Brooks reported that he has held the following public office:

“I was appointed to the Richland County Solid Waste Committee from 1991-1995.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Brooks was admitted to the SC Bar in 1990.

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

(a) 1990-1994 - Brooks Law Firm - I was an associate in a general practice with an emphasis on criminal and civil litigation;

(b) 1994 - present - Law Offices of Charles J. Brooks, II - I am the owner of a general practice with an emphasis on criminal and civil litigation.

Mr. Brooks made the following statements regarding his experience:

“I have been a trial lawyer my entire legal career. I have tried many criminal matters in our Court system from the beginning of the cases at bond hearings; to preliminary hearings that deal with probably cause issues; to motions hearings that usually deal with evidentiary issues; to trials and/or [sic] pleas. I have also tried many civil cases in which I have represented Plaintiff’s and Defendant’s. I have represented clients in a range of cases that involve contractual disputes, personal injury and malpractice, family law, and probate.”

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

(a) Federal: None;

(b) State: Twice per month.

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

(a) Civil: 45%;

(b) Criminal: 45%;

(c) Domestic: 5%;

(d) Other: 5%.

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

(a) Jury: 75%;

(b) Non-jury: 25%.

Mr. Brooks reported that he most often served as sole counsel.

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

(a) Betty Talbert v. Estate of William C. Talbert, Jr. - This case involved a doctor who was killed in an automobile accident and claims made against his estate. His first wife had passed away and his children from that marriage were adults. His second marriage was to Betty Talbert. Lawsuits were filed in several different courts challenging the validity of agreements, property ownership and division of estate assets.

(b) Pamela Black v. Wal-Mart - This case involved the false imprisonment and assault of a female minor child by a Wal-Mart employee. The child was accused of stealing merchandise from the store. Male security personnel detained her in a back room and forced her to lift her shirt and groped her private body parts for an extended amount of time. No store merchandise was ever found and she was not charged. Evidentiary issues along with discovery issues and jury charges were litigated.

(c) State v. Ervin Lopez - This was a criminal case in which Lopez was charged with kidnapping, assault and battery of a high and aggravated nature and grand larceny involving the defendant and the victim at an ATM machine. The case involved forensic DNA testing and video enhancement issues. Additional issues involving statements made and by the defendant, and character evidence were litigated at trial.

(d) State v. Felton Yawn - This was a drug case in which a Florida resident was stopped for speeding. The police were suspicious and arrested the defendant. An investigation ensued and the police entered a motel room where the defendant was staying and found a large quantity of drugs. Issues of search and seizure, and hearsay evidence were prevalent in this case.

(e) State v. Marjorine Laws - This drug case involved a woman who as [sic] selling drugs from her home near the police department. The police filmed this activity from the second story of the police department. A search warrant was executed and the police found a large quantity of drugs. Issues involved quashing the indictment; search issues; hearsay issues; and jury charge issues.

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

Mr. Brooks further reported the following regarding an unsuccessful candidacy:

“I was a candidate for Circuit Court Judge in 2002, but withdrew my name from consideration.”

(9) Judicial Temperament:

The Commission believes that Mr. Brooks’ temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Mr. Brooks to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary, “The Committee was very impressed with Mr. Brooks and we enjoyed his interview. We believe his temperament and character are outstanding in every way. Mr. Brooks is eminently qualified to serve on the Circuit Court and we believe he would serve our State in a most outstanding manner.”

Mr. Brooks is married to Anne Wilkins Brooks. He has three children.

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

(a) SC Bar Association;

(b) Richland County Bar Association;

(c) Lexington County Bar Association.

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

(a) Mr. Horeb United Methodist Church;

(b) Aircraft Owners and Pilots Association;

(c) MSKP Foundation - Director.

(11) Commission Members’ Comments:

The Commission commented that Mr. Brooks has an outstanding reputation as an attorney in his community. They noted his keen intellect and his kind demeanor.

(12) Conclusion:

The Commission found Mr. Brooks qualified but not nominated to serve on the Circuit Court.

**William Patrick Frick**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Frick was born in 1975. He is 35 years old and a resident of Winnsboro, South Carolina. Mr. Frick 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 2001.

(2) Ethical Fitness:

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

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

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

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

(a) SC Association for Justice Annual Conference 8/06/09;

(b) SC Trial Lawyers Annual Conference 8/07/08;

(c) SC Public Defender Assoc. Annual Conference 9/29/08;

(d) SC Trial Lawyers Annual Conference 8/05/07;

(e) SC Public Defender Assoc. Annual Conference 9/28/07;

(f) ABA/YLD Fall Conference 10/20/06;

(g) Jessie’s Law CLE 6/30/06;

(h) Prosecuting Homicide Case 5/07/06;

(i) SC Solicitor’s Assoc. Annual Conference 9/25/05;

(j) SC Methwatch Program 3/11/05.

Mr. Frick reported that he has not taught any law-related programs.

Mr. Frick reported that he has not published any books and/or articles. He further reported, “I have spoken to school children, community groups, and law enforcement about various legal issues in the past.”

(4) Character:

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

The Commission also noted that Mr. Frick 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. Frick reported that he is not rated by Martindale-Hubbell. He further reported, “I have not found it necessary to subscribe to the services of Martindale-Hubbell.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Frick was admitted to the SC Bar in 2001.

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

(a) 2001-02 Aiken County Public Defender

Assistant Public Defender;

(b) 2002-03 4th Circuit Solicitor’s Office

Assistant Solicitor-Gun Crime Prosecutor & Juvenile Prosecutor for Darlington County;

(c) 2003-05 SC Office of the Attorney General

Assistant Attorney General- general prosecution & animal fighting prosecutions;

(d) 2005-06 6th Circuit Solicitor’s Office

Assistant Solicitor- Violent Crimes Prosecutor & Chief Prosecutor for Fairfield County;

(e) 2006-09 Law Offices of Koon & Cook PA

Associate & Winnsboro Office Manager-

General practice in criminal law, domestic law, personal injury, worker’s compensation, and social security disability;

(f) 2006-09 Lancaster County Public Defender

Assistant Public Defender (part time contract attorney);

(g) 2009-Present 6th Circuit Public Defender

Assistant Public Defender & Chief Public Defender for Fairfield County.

Mr. Frick made the following statements regarding his experience:

“Serving as a prosecutor in two judicial circuits, an Assistant Attorney General handling matters throughout the state, a public defender in two judicial circuits and a general practitioner attorney with a focus on criminal law, I have handled almost all criminal offenses from traffic tickets to murder. In my private practice I dealt with a wide variety of issues in personal injury from minor incidents to severely debilitating injuries, worker’s compensation, limited work in contract disputes and researched areas of employment law. While my experience is clearly skewed toward criminal law, I feel that my work in civil matters is broad enough to ensure my competence with any civil matters before the bench.”

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

(a) Federal: at least 5 times in district court and several times in social security disability hearings while in private practice;

(b) State: at least weekly.

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

(a) Civil: 20%;

(b) Criminal: 55%;

(c) Domestic: 25%.

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

(a) Jury: 90%;

(b) Non-jury: 10%.

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

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

(a) The State v. David Ray Tant- I served as lead counsel for the SC Attorney General’s Office in this matter in Charleston County in which the defendant was charged with some 40 counts of animal fighting. This was the largest animal fighting case in South Carolina history and received extensive national media attention, as the defendant was alleged to be one of the top breeders of fighting dogs in the country. Due to the media attention, the venue of the trial was moved to Greenwood County. The defendant pled guilty at the close of the State’s case and received a sentence totaling 40 years in the SC Department of Corrections, the largest sentence for animal fighting in South Carolina and one of the largest in the United States.

(b) The State v. Bobby Ray Hill-I served as sole counsel for the 6th Circuit Solicitor’s Office in this case in Fairfield County in which the defendant was charged with a double homicide. The defendant confessed shortly after his arrest, but due to a history of serious mental health issues pled Guilty But Mentally Ill (GBMI) to the charge of Murder. GBMI requires a showing of certain circumstances at a special hearing to determine the applicability of this type of plea. The defendant appealed his plea, but the SC Court of Appeals declared the appeal meritless and upheld the conviction in an unpublished opinion. 2008-UP-453.

(c) The State v. Jerry McGriff-I served as sole counsel and represented the defendant charged with murder in Lancaster County. While there was little forensic evidence, witnesses stated that the defendant and another person, who was not on trial, were involved in an argument with the victim, yet there were no eye witnesses to the fatal shooting. The State proceeded and ultimately prevailed on accomplice liability theory stating that while no one could determine who was the actual shooter and the defendant did not intend to kill the victim, the defendant arrived at the victim’s location to start a fight and the death of the victim was an expected result of those actions.

(d) The State v. Randolph Frazier- I represented this defendant as sole counsel in three separate trials in Lancaster County for Burglary First Degree. Each trial had unique issues regarding eye-witness identification and dog tracking evidence. Dog tracking evidence has very little case law history in South Carolina and I was required to request the court to apply legal precedent from other jurisdictions about search and seizure issues regarding the taking of sent from the defendant and a jury charge regarding the use of dog tracking evidence. While my client was acquitted at the first trial and the jury could not reach a verdict in the second trial, the State ultimately succeeded in convincing a jury of his guilt in the third trial.

(e) The State v. Larry William Smith-I served as sole counsel for the SC Attorney General’s Office in this case in Darlington County in which the defendant was charged with Criminal Sexual Conduct with a Minor. The defendant was alleged to have forced the 12 year old victim into his house where he sexually assaulted the victim. The defendant maintained that the victim wanted to have sex with him, but he refused to do so and the victim made up this story as a result. As these cases are always quite difficult to prosecute, the State was fortunate to have DNA evidence, however the results stated that the likelihood of finding a person with similar DNA was 1 in 1200, whereas, the typical results in a successful prosecution put this likelihood to be 1 in several quadrillion. Despite these difficulties, the defendant was convicted of the charge.

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

Mr. Frick further reported the following regarding unsuccessful candidacies:

“I announced I would run as a candidate for SC House of Representatives Seat #41 in the 2008 election, however, I ultimately did not file to run. In 2009, I was a candidate for Circuit Court at Large Seat #8. I was found qualified, but not nominated by the committee.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizen’s Committee found Mr. Frick “Qualified” for eight of the evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and judicial temperament. The Committee found him “Unqualified in the category of experience and noted that he “needs additional and more varied experience and is not ready to assume a judgeship.” Mr. Frick reported that he believed that he has the experience necessary for the position.

Mr. Frick is married to Ruxandra Elena Tudor. He has one child.

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

(a) Fairfield County Bar- Secretary (2006-present);

(b) SC Association for Justice.

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

(a) Winnsboro Rotary Club- President;

(b) Fairfield Behavioral Health Services- Chairman - Board of Directors;

(c) First Steps of Fairfield County-Chairman - Board of Directors;

(d) Pine Tree Players- Board of Directors.

Mr. Frick further reported:

“In my career, I have thus far handled legal matters in some 30 of the 46 counties of our State. In each county, I have heard someone say that some particular issue “only happens in…” I can expressly say that in my experience that the judicial system essentially metes out justice in the same way, with the same type of cases, and the same circumstances throughout South Carolina. With my experience I can most assuredly say that defendants are rather much the same throughout the state, law enforcement proceeds in much the same way throughout the state, cases are prosecuted and defended in rather much the same way, and all entities are suffering from a want of funding, whether perceived or real. However, I have found that, particularly in the world of prosecution and public defenders, information is not readily exchanged on how to deal with particular issues. I would like to work toward the facilitation of the exchange of ideas that would help in expediting the handling of cases in our legal system. I would particularly like to do this in the criminal justice system and would like to work toward seeing “best practices” in all facets of the justice system, criminal and civil, implemented for the betterment of the seeking of justice for all involved in our court systems be they civil litigants, victims of crime, or criminal defendants.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Frick has a good reputation in his local community. They also noted his public service as an assistant solicitor, assistant attorney general, and work as a public defender.

(12) Conclusion:

The Commission found Mr. Frick qualified but not nominated to serve on the Circuit Court.

**Daniel Dewitt Hall**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Hall was born in 1954. He is 56 years old and a resident of York, South Carolina. Mr. Hall provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988. He was also admitted to the NC Bar in 1988.

(2) Ethical Fitness:

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

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

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

Mr. Hall testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) 2009 Annual Solicitor’s Association Conference 9/27/-9/30, 2009;

(b) 2008 Annual Solicitor’s Association Conference 9/28-9/30, 2008;

(c) Evidence for Prosecutors – Tucson, Arizona 11/4-11/8, 2007;

(d) 2007 Annual Solicitor’s Association Conference 9/23/-9/26, 2007;

(e) 2006 Annual Solicitor’s Association Conference 9/24/-9/27, 2006;

(f) 2005 Annual Solicitor’s Association Conference 9/25/-9/28, 2005.

Mr. Hall reported that he has not taught any law-related programs.

Mr. Hall reported that he has published the following:

*Clergy Confidentiality: A Time to Speak and a Time to Be Silent*, by Lynn Buzzard and Dan Hall, 1988 Christian Management Association.

(4) Character:

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

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

(5) Reputation:

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

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Hall was admitted to the SC Bar in 1988.

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

(a) Sixteenth Judicial Circuit Solicitor’s Office Assistant Solicitor, 1988-90;

(b) Sole Practitioner 1991-99; General practice with focus on personal injury, worker’s compensation and criminal defense;

(c) Sixteenth Judicial Circuit Solicitor’s Office Assistant Solicitor, 1999-present.

Mr. Hall made the following statements regarding his experience:

“I have been an Assistant Solicitor for the past eleven years. I currently prosecute class A, B, or C felonies. I am employed as an assistant solicitor. I have no experience in civil matters in the past five years. I was in private practice from 1991–99 and had a limited experience in the court of common pleas. My practice included criminal defense, personal injury, probate and some limited litigation in common pleas. I took and passed the North Carolina and SC Bar exams during the same week in 1988. I believe that I have the intellectual ability to quickly develop the necessary skills to preside in common pleas court.”

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

(a) federal: 0%;

(b) state: 100%.

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

(a) civil: 0%;

(b) criminal: 100%;

(c) domestic: 0%.

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

(a) jury: 10%;

(b) non-jury: 90%.

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

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

(a) State v. Russell Holley 2002 GS 46 0698

Murder trial in which boyfriend stabbed girlfriend to death in a rage of domestic violence. Defendant was sentence to life without parole;

(b) State v. Aaron Williams 2003 GS 46 2745

Burglary First Degree trial in which a seventy year old widow’s home was invaded while she was alone. Victim was physically attacked. Defendant was sentence to a thirty year prison sentence;

(c) State v. Sakima McCullough 2006 GS 46 0110

Burglary First Degree, Armed Robbery and Kidnapping trial in which the defendant was involved in a home invasion, robbery and assault on the victim. Defendant was sentence to a thirty year prison sentence;

(d) State v. Edward Miller 2003 GS 46 0557

Defendant was charged with murder. The case was trued billed by the grand jury. In preparing for trial and investigating this case evidence was discovered absolving this defendant of the murder. The defendant had been wrongfully charged. I dismissed this case;

(e) State v. Penny Sue Price 1994 GS 46 2784

I defended at trial an indigent, mentally handicapped defendant charged with threatening public housing officials. The defendant was found not guilty at trial.

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

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

Municipal Judge – City of York, SC – appointed by York City Council. January 1993 – May 1999. Signed criminal warrants, set bonds and held preliminary hearings for General Sessions criminal matters occurring in the city limits. Presided over plea court, bench trials and jury trials for criminal or traffic charges in the City of York in which the statutory penalty was no greater than 30 days in jail or the fine was not more than $200.

Mr. Hall further reported the following regarding unsuccessful candidacies:

(a) Republican Primary candidate for Solicitor, Sixteenth Judicial Circuit, June 1996.

(b) Candidate for Judge, Sixteenth Judicial Circuit Family Court, 1998, withdrew.

(c) Candidate for Judge, Circuit Court At-Large, Seat 9, March 2006. Qualified but not nominated.

(d) Candidate for Judge, Circuit Court At-Large, Seat 6, January 2009. Qualified and nominated, withdrew prior to February election.

(e) Candidate for Judge, Circuit Court At-Large, Seat 8, January 2010. Qualified but not nominated.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee found Mr. Hall “Well-qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They stated in summary: “The Committee was impressed by his extensive experience including his work and employment outside the legal profession. We find him to be physically and ethically fit. We believe his judicial temperament would be excellent. He has an excellent reputation.”

Mr. Hall is married to Cathleen McCreight Hall. He has four children.

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

(a) York County Bar Association, Treasurer, 1992;

(b) SC Bar Association;

(c) NC Bar.

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

(a) Filbert Presbyterian Church, Clerk of Session;

(b) York County Beekeepers Association;

(c) National Cutting Horse Association.

(11) Commission Members’ Comments:

The Commission commented that Mr. Hall has an excellent reputation and noted the Piedmont Citizens’ Committee’s highly favorable description of his character. They noted that Mr. Hall had proven himself a very capable trial lawyer who has good life experiences which would serve him well on the Circuit Court.

(12) Conclusion:

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

**Donald B. Hocker**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Judge Hocker was born in 1952. He is 58 years old and a resident of Laurens, South Carolina. Judge Hocker provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

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

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

Judge Hocker reported that he has made $100.00 in campaign expenditures for paper, postage and stationery.

Judge Hocker testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) SC Association of Probate Judges 02/19/02;

(b) SC Probate Bench/Bar 09/13/02;

(c) Annual Judicial Conference 09/22/02;

(d) SC Association of Probate Judges 03/25/03;

(e) SC Association of Probate Judges 05/16/03;

(f) FN-Real Estate 02/07/03;

(g) SC Probate Bench/Bar 09/12/03;

(h) Annual Judicial Conference 09/21/03;

(i) SC Association of Probate Judges 02/04/04;

(j) Judicial Oath of Office 10/11/04;

(k) SC Probate Bench/Bar 09/17/04;

(l) Annual Judicial Conference 10/10/04;

(m) Lawyer’s Oath of Office 09/24/04;

(n) SC Association of Probate Judges 02/28/05;

(o) LandAmerica-Title Insurance 09/14/05;

(p) SC Probate Bench/Bar 09/16/05;

(q) Annual Judicial Conference 09/21/05;

(r) SC Association of Probate Judges 02/06/06;

(s) LandAmerica-Title Insurance 08/23/06;

(t) SC Probate Bench/Bar 09/15/06;

(u) Annual Judicial Conference 10/04/06;

(v) SC Probate Bench/Bar 09/14/07;

(w) SC Association of Probate Judges 02/13/07;

(x) Annual Judicial Conference 09/09/07;

(y) SC Probate Bench/Bar 09/14/07;

(z) SC Association of Probate Judges 02/05/08;

(aa) SC Association of Probate Judges 09/12/08;

(bb) SC Association of Probate Judges 02/24/09;

(cc) SC Association of Probate Judges 09/11/09;

(dd) SC Association of Probate Judges 10/18/09;

(ee) SC Association of Probate Judges 05/07/10.

Judge Hocker stated that he has taught the following law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs:

(a) 1999-Jury Trials in Probate Court;

(b) 2000-Basic Evidence in Probate Court;

(c) 2001-Order Writing;

(d) 2002-Contempt Issues in Probate Court;

(e) 2003-Will Construction Cases;

(f) 2006-Awarding Attorney’s Fees in Probate Court;

(g) 2007-Reopening the Record, Contempt Revisited, Pro Se Litigants, Brown v. Coe;

(h) 2009-Probate Court Bench Bar (September 2009).

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

(4) Character:

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

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

(5) Reputation:

Judge Hocker reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Hocker was admitted to the SC Bar in 1981.

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

“May 15, 1981 to current: I have been a sole practitioner in Laurens, South Carolina. I have had a general practice with significant experience in Circuit Court-both criminal and civil. I have also been the Associate Probate Judge for Laurens County since March of 1984 which will be discussed [below].”

Judge Hocker made the following statements regarding his experience:

Criminal: I would incorporate by reference my response to [my most significant litigated matters (c) and (d)] concerning two significant cases in General Sessions that I have handled. I have represented criminal clients in General Sessions (and even Magistrate’s Court) my entire practice. I typically will receive 8-12 court appointments a year and approximately at least this same number of privately-paid cases annually. I have represented clients charged with a variety of offenses, i.e. murder, felony DUI, possession and distribution of drugs. The vast majority of criminal cases result in a guilty plea but I have experience throughout my 29 1/2 years in trying cases before a jury.

Civil: I would incorporate by reference my response to [my most significant litigated matters (a), (b), and (e)] concerning three significant cases in Common Pleas that I have handled. I have extensive experience dealing with a wide variety of cases, both jury and non-jury. The two most recent cases that I have tried in Court were (1) a breach of contract/fraud case dealing with a sale of an antique automobile. I represented the Defendant. The case was tried before a jury with a verdict in favor of the Defendant. (2) A deed-set-aside case. I represented the Plaintiff. The case was tried non-jury with a verdict in favor of the Plaintiff. My practice has been more Plaintiff-oriented but I do represent Defendants. A sampling of what I currently have pending in my Common Pleas practice is as follows: A quiet title action representing the Plaintiff; Representing the Defendants in a fourteen causes of action land dispute case. I also represent The Palmetto Bank and The City of Laurens Commission of Public Works, which provides additional cases in the civil area.”

Judge Hocker reported the frequency of his court appearances during the last five years as follows:

(a) federal: None;

(b) state: Average of five times a week.

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

(a) Civil: 25%;

(b) Criminal: 25%;

(c) Domestic: 40%.

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

(a) Jury: 5%;

(b) Non-jury: 95%.

Judge Hocker provided that he most often served as sole counsel.

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

(a) Charles Gray and Corey Gray vs. Georgia Pacific Corp., 97-CP-30-110, 111, 112.

I represented the Plaintiffs. This case involved a horrible vehicle accident with these two brothers. They both sustained severe 2nd and 3rd degree burns over most of their bodies. Suit was filed and a settlement was reached in 1997. This case is significant for several reasons. One, novel computer technology was used by the Plaintiff in the mediation process.

Secondly, it is significant because the Plaintiffs were and are a living example of a true will to live and remain productive citizens, which they are today. Thirdly, significant discovery took place.

(b) Glen Meadows, LLC, et. al. vs. The Palmetto Bank, et. al., 03-CP-23-4541.

I represented the Defendant Palmetto Bank. This case involved a suit by the Plaintiff-employer against three Banks. The Plaintiff had an employee who stole $145,000.00 over several years by making out and endorsing numerous checks written on accounts with the Defendants. These checks were made payable to the Bank and each time a deposit was made to The Palmetto Bank. Extensive discovery took place. The case was significant because the law was very competitive between the UCC code and the requirements and duty of care placed upon a customer in contrast to the basic principals governing a banking institution’s duty of care.

(c) State of South Carolina vs. Allenna Ward, 07-GS-30-359, 362, 364, 365, 369.

This criminal case dealt with a teacher charged with criminal sexual misconduct with five underage students. There was a tremendous amount of publicity nationwide. I was one of the two lawyers representing this Defendant. The case was significant for several reasons. One, the vast majority of teachers charged in this state and other states were only involved with one student and this case had five. Secondly, it was significant simply because of the media attention it had from the day of the arrest to the sentencing.

(d) State of South Carolina v. Comest S. Allen, 99-GS-30-661.

I represented the Defendant who had been charged with armed robbery. He had been in jail/prison the majority of his life. He was accused of going into a Subway restaurant in Clinton, SC at midnight (closing time) and robbing the store. The robbery was on surveillance video. The Defendant was very accustomed to the legal system so he continuously filed motions, briefs, objections, etc. contrary to my advice. This case was significant for several reasons. First, he required me to file a Motion with the Court to allow a “re-enactment” of the crime wherein he would be allowed to wear what the “person” was wearing and would act out exactly as the person on the video in an attempt to offer the comparison of the videos as not being him. To the shock of everyone, the Court granted the Motion. The “re-enactment” was done but never an issue. This is due to the fact the only real evidence that the State had (and it was not the video) was the identification by the store clerk. However, under legal principles, we were successful in getting the photo identification line-up and the resulting testimony/in-court identification suppressed. The trial Judge agreed with our defense that the identification was clearly tainted hereby justifying a suppression of the clerk’s testimony. Consequently, a motion for directed verdict was made and granted.

(e) Ernest Sullivan vs. John Walk, et. al., 06-CP-30-890.

A lady died and left a significant life insurance policy naming, not her husband-the Plaintiff, but an uncle-the Defendant. This lady died of cancer and made the beneficiary change from the husband to the uncle in the latter stages of her illness. I represented the Defendant uncle. He claimed that she made the change to him because she trusted him to insure that her three children (not all by the husband) would be taken care of. The significant issue in the case was whether or not she had the mental capacity to effectuate the change of beneficiary. Significant also was the fact that we had to recreate the last months of this cancer-stricken lady’s life on the issue of competency. The case was resolved with the Plaintiff receiving nothing and the Defendant receiving the entire policy proceeds (he agreed to put a portion of the money in trust for the children). Also, it should be noted that a companion Interpleader action was filed by the Insurance Carrier.”

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

(a) Shorb v. Shorb 372 SC 623 (Ct. App 2007)

I was the trial lawyer but associated another lawyer for the appeal. I was not shown as counsel but was copied with all correspondence from the Court of Appeals and I assisted counsel with the appeal. The case was novel on the issue of equitable division of Walmart stock options in a divorce. I represented the Wife who was awarded 55% of the Husband’s stock options along with a monetary award concerning these options. The Wife prevailed on the amount of stock options awarded her by the trial court.

(b) South Carolina Department of Social Services vs., Defendants (Court of Appeals 2000-unpublished opinion)

I represented the father of a teenage daughter who accused him of sexual abuse. The significance of this case was the Court’s defining “sexual abuse” to the facts of the case. We were successful in obtaining a reversal and remand in the case.

(c) Hellams v. Harnist 284 SC 256 (1985)

I represented the Defendants in this deed reformation case. I was successful in getting the Court to reverse the trial court’s reformation of the subject deed. The case sets out good law with respect to deeds, mutual mistakes in deeds, and property descriptions. (Note: I had only been out of law school four years when the appeal was decided).

(d) Bobby Tucker vs. Debra Wasson 90-759

This case was appealed by the mother in a visitation case. I represented the father. The issue being whether the father’s previously ordered supervised visitation should be changed. The Lower Court ruled in favor of the father. The Court of Appeals affirmed. The case was significant for several reasons. During the time the case was tried, issues of visitation being supervised or unsupervised were fairly uncommon. Too, the Guardian ad Litem played a role in this case possibly somewhat differently than a Guardian ad Litem today.

(e) Flinn v. Crittenden, 287 SC 427 (1985)

I represented the Plaintiff in a nursing home liability suit against the Defendant nursing home. The Lower Court granted summary judgment in the Defendant’s favor. The appellate court affirmed the ruling finding no liability. Justice Goolsby gave a strong dissent which is significant because it sets out a good review of nursing home liability.”

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

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

I have been the Associate Probate Judge for Laurens County since March of 1984 (26 1/2 years) and appointed by the elected Probate Judge. Probate Courts in South Carolina have jurisdiction over Estates, Mental Commitments, Conservatorships and Guardianships. During my tenure on the bench, I have presided over numerous cases not only in Laurens County but across the State. I have had the honor and privilege of being appointed by the Supreme Court to preside over many cases in other counties for a variety of reasons. I have had the opportunity to preside over jury trials as well as non-jury cases during my tenure. Even though non-jury cases are the most prevalent in Probate Court, I would like to give some of the following examples of jury trials I have presided over (non-exclusive list). (Note: Probate jury trials are identical to Circuit Court jury trials in all respects. A jury trial in Probate Court is conducted either in conjunction with a term of Common Pleas Court in Circuit Court or a special Probate jury term is authorized by the Supreme Court. In either situation, a Circuit Court jury pool is utilized).

Examples:

(1) Barnett Estate-Anderson County: Six day jury trial with five lawyers and numerous lay and expert witnesses. Since this was the only case for that week of Circuit Court, I did all the initial jury pool qualification before the jury pool was *voir dired* for the particular case.

(2) Owings Estate-Laurens County: Four day jury trial with five lawyers and numerous lay and expert witnesses. The same is true in this case concerning jury pool qualification.

(3) Lester Estate-Newberry County: Two day jury trial in September 2008. A special term of court was scheduled with a Circuit Court jury pool summoned and used. As in the above cases, I presided over all aspects of the trial including jury qualification, jury voir dire, pre-trial and post-trial matters.

(4) Grice Estate-Greenville County: Four day jury trial in October 2009 concerning a Will contest.

The point being to the above summary of jury trial Judicial experiences is that I exercised the same role as that of a Circuit Court Judge and did everything that is required of a Circuit Court Judge presiding over a civil jury trial. It should also be noted that the Probate Court handles a wide variety of civil issues. The rules of evidence are the same in Probate Court as in Circuit Court. The Probate Court follows the South Carolina Rules of Civil Procedure.

Judge Hocker provided a list of his most significant orders or opinions:

(a) Melvin Weathers v. Robert P. Bolt as Administrator of the Estate of Virginia B. Morris, 293 SC 486.

The Primary issue in this case was whether the Plaintiff had a common-law marriage with the decedent thus allowing him to inherit from the Estate. I ruled against the Plaintiff and my Order was appealed to Circuit Court and then to the Court of Appeals. Both appellate Courts affirmed my ruling.

(b) Department of Health and Human Services vs. Moses L. Miller, Personal Representative of the Estate of Genobia Washington, 2005-UP-154

There were several issues in this case: 1. Jurisdiction of a DHHS claim; 2. The distinction between a Medicaid lien for nursing home services and a Medicaid lien for medical services provided as a result of an accident; 3. The right of the Court to sua sponte reopen the record. Both the Circuit Court and Court of Appeals affirmed my ruling.

(c) In the Matter of Mildred Williams, 97-ES-30-035

An emergency action was filed by a banking institution seeking a Protective Order and seeking a declaration as to the competency of Ms. Williams with respect to a very substantial investment account held by the bank. Several hearings were held in the case. At one time eight lawyers were involved. Ms. Williams also filed an extraordinary Writ of Prohibition in the SC Supreme Court (case number unknown) objecting to my jurisdiction over the case. This Writ action was ultimately dismissed. The merits of the case before my court were ultimately dismissed after the competency issue was resolved.

(d) In the Matter of Merrilee O. DeVinney, 01-GC-100/104

This case involved a very significant and somewhat novel issue related to the effect, if any, of a trust on a spouse’s claim to an elective share in the Estate. My Order was appealed to the Court of Appeals.

(e) In the Matter of the Estate of Bobby Gene Barnett, 03-ES-04-174

This case is ongoing which involves a large Estate and a substantial controversy among the family members along with a companion case involving two bonding companies which had bonds in place when a prior Personal Representative was in office. There have been 15-20 separate hearings along with a six day jury trial on the issue of the validity of the Last Will and Testament.

Judge Hocker further reported the following regarding unsuccessful candidacies:

I was found qualified but not nominated as a candidate for the Eighth Circuit Seat No. 2 in the fall of 2008.

I was found qualified and nominated as a candidate for the Eighth Circuit Seat No. 1 in the fall of 2009 and went to a close floor vote in February 2010.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee found Judge Hocker “Well-qualified” for constitutional qualifications, ethical fitness, professional and academic ability, and mental stability and found him “Qualified” for physical health. They noted his ethical fitness as “excellent.” For his professional and academic ability, they noted: “He appears to be well-qualified concerning his professional and academic ability. For his experience, they stated “extensive, well qualified.” When staff questioned the Chair of the Committee why the categories of character, reputation, and judicial temperament received no comments or findings, he stated that no members from the Committee in the area where Judge Hocker practiced attended the meeting or gave him a report of their investigation. Thus, the Chair contended that the Committee members who were present were unable to make a determination regarding these criteria.

Judge Hocker is married to Susan Gayle Lindler Hocker. He has two children.

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

(a) Laurens County Bar Association;

(b) SC Bar Association;

(c) SC trial Lawyers Association;

(d) SC Association of Probate Judges;

(e) Certified Circuit Court Mediator/Arbitrator (ADR).

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

“I am active in my church which is First United Methodist Church in Laurens. I serve as Chairman of the Church Council and I teach an adult Sunday school class. I have been active with the Boy Scouts serving as Troop Committee Chairman. I belong to the Kappa Alpha Order Court of Honor which is an elite organization of men across the State who are Kappa Alpha alumni. Several years ago, I received the South Carolina Pro Bono Service Award. Finally, I was voted ‘Best Attorney’ in 2009 by the subscribers to the Clinton Chronicle.”

Judge Hocker further reported:

I believe I am qualified for the position of Circuit Court Judge for the following reasons:

(a) I have 29 1/2 years experience practicing in Circuit Court both in Common Pleas-civil and General Sessions-criminal. I have tried cases jury and non-jury. I believe that I have more than sufficient legal experience to qualify me for this position.

(b) I have 26 1/2 years on the Judicial Bench as the Associate Probate Judge for Laurens County. I have tried cases jury and non-jury. I have presided over cases across this State. I believe that I have more than sufficient judicial experience to qualify me for this position.

(c) I have never had any grievances or ethical complaints filed against me in the 29 1/2 years I have been a practicing attorney.

(d) I have never had any grievances or ethical complaints filed against me in the 26 1/2 years I have been a Judge.

(e) I am a Christian and active in my Church and community to the extent that my part-time judicial position allows.

(f) I have a stable and loving marriage of 34 years with two wonderful children who are both adopted.

(g) I believe that I have the right judicial temperament and sense of fairness and compassion that will allow me to be a good Circuit Court Judge.

(h) That I meet the nine criteria used by the Commission in determining that I am qualified:

1. I meet the Constitutional qualifications;

2. I am ethically fit;

3. I have the necessary academic and professional abilities;

4. I have the required character;

5. I have a positive reputation;

6. I have excellent physical health;

7. I have no mental health problems;

8. I have the necessary legal and judicial experience;

9. I have the necessary judicial temperament.

Finally, I am humbled in having the opportunity to apply for this position. I believe that the above factors that I have listed have influenced me in being the type of Judge I have been and the type of Judge that I will continue to be whether (and hopefully) in the Circuit Court arena or continue in the Probate Court arena.

(11) Commission Members’ Comments:

The Commission commented that Judge Hocker has an excellent reputation as an Associate Probate Judge. They noted his “down-to-earth” demeanor and his legal experience would benefit him on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Hocker qualified but not nominated to serve on the Circuit Court.

**Angela McCall-Tanner**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. McCall-Tanner was born in 1973. She is 37 years old and a resident of Bluffton, South Carolina. Ms. McCall-Tanner provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1998.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. McCall-Tanner.

Ms. McCall-Tanner 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. McCall-Tanner reported that she has not made any campaign expenditures.

Ms. McCall-Tanner 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. McCall-Tanner 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. McCall-Tanner to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

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

(a) Annual Solicitor’s Conference Sept. 2005;

(b) Prosecution of Exploitation of Vulnerable Adults April 2006;

(c) Annual Solicitor’s Conference Sept. 2006;

(d) Advocacy in the US District Court Mar. 2007;

(e) Lethal Weapon DUI Homicide April 2007;

(f) Capital Litigation Seminar May 2007;

(g) Annual Solicitor’s Conference Sept. 2007;

(h) Capital Litigation Seminar April 2008;

(i) Annual Solicitor’s Conference Sept. 2008;

(j) Forensic Science April 2009;

(k) Annual Solicitor’s Conference Sept. 2009;

(l) Prosecution of Homicide by Child Abuse Feb. 2010;

(m) Death Penalty legal update June 2010.

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

(a) I have lectured at the SC Bar Program “Law School for Non-Lawyers” on several occasions.

(b) I have made presentations on the topics of case analysis and case preparation to lawyers attending the Commission on Prosecution program “Bootcamp for Prosecutors”.

(c) I have made presentations on the topic of criminal domestic violence at the CLE program sponsored by the 14th Judicial Circuit Solicitor’s Office for assistant solicitors, magistrates, and law enforcement officers.

(d) I have lectured at the Technical College of the Lowcountry for their criminal justice program.

(e) I have lectured at the Beaufort County Sheriff’s Office Reserve Deputy training program on Constitutional Law, Search and Seizure Law, and Evidence.

(f) I have made presentations on the topic of the Criminal Justice System to members of the Senior Leadership of Beaufort.

Ms. McCall-Tanner reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Ms. McCall-Tanner 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. McCall-Tanner reported that she is not listed in Martindale-Hubbell. She further reported, “I guess this is because I have been a prosecutor the majority of my career.”

(6) Physical Health:

Ms. McCall-Tanner appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. McCall-Tanner appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. McCall-Tanner was admitted to the SC Bar in 1998.

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

I graduated from law school in May 1998. Admitted to the SC Bar in November 1998.

Worked for Perrin, Perrin, Mann, & Patterson in Spartanburg, SC until August 1999. This was a general practice law firm that was involved in civil plaintiff and defense, real estate, and probate work. I worked on a contract basis and was paid by the hour to do legal research and basic file preparation.

I went to work for the 14th Judicial Circuit Solicitor’s Office in August 1999. I handled juvenile, magistrate, misdemeanor, felony, and death penalty cases.

In November 2001, I went to part-time status with the Solicitor’s Office and focused on the prosecution of criminal sexual conduct against minor cases for them.

From November 2001 until January 2003, I also worked part-time with the Law Office of Duffie Stone. This was a general civil practice firm but primarily focused on Insurance Reserve cases.

I left the Law Office in 2003 and returned to work full-time with the Solicitor’s Office.

In January 2006, I was promoted to Deputy Solicitor in the 14th Circuit and this is my current position. Since January 2009, I have headed a trial team that focuses on the prosecution of career criminals and violent offenders.

In March 2010, I was sworn in as a Special Assistant United States Attorney and have been working with federal prosecutors and law enforcement agencies on a multiple defendant murder case and various other drug and gun offenders.

Ms. McCall-Tanner made the following statements regarding her experience:

I have handled criminal matters of all varieties. I have been involved in several death penalty cases. While the guilt phase of a death penalty trial involves heightened concentration on all the usual areas of criminal procedure, the penalty phase is a unique procedure. It is a rare opportunity to present victim impact and defendant history to a jury for consideration.

In prosecuting other violent felonies the issues have been as diverse as the facts surrounding them. Constitutional matters involving searches, seizures, arrests, detention, interrogation, discovery, and representation are daily concerns.

In handling misdemeanors and lower court charges, when incarceration is not the most desired option, there is an effort to explore solutions involving restitution and behavior management. Alternative programs such as drug court, batterer’s counseling, and public service become important components of the process.

This is similar to issues faced when prosecuting juvenile court matters in Family Court. By its nature, Juvenile Court does not seek to punish but attempts to rehabilitate youths. I often found myself dealing with agencies such as the Department of Social Services and School Counselors more than the Department of Juvenile Justice.

While my experience in handling civil cases is much more limited than my criminal experience, I have had a lot of exposure to civil matters. Criminal cases often involve issues of restitution, forfeiture, and liability. Balancing these competing interests is a constant part of plea negotiation.

My career in criminal law has also exposed me to Domestic and Probate matters. There is no doubt that many criminal matters are born out of domestic situations. Likewise, mental illness and substance abuse are frequent elements.

Therefore, limiting the description of my experience as a prosecutor to only criminal would be a huge understatement.

Ms. McCall-Tanner reported the frequency of her court appearances during the past five years as follows:

(a) Federal: 2;

(b) State: approximately 300 (5 appearances a month x 5 years).

Ms. McCall-Tanner reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: (dealt with civil issues 10% of the time - but not cases);

(b) Criminal: 100%;

(c) Domestic: (dealt with domestic issues 30% of the time - but not cases);

(d) Other: (dealt with probate issues 5% of the time - 2 cases handled there).

Ms. McCall-Tanner reported the percentage of her practice in trial court during the past five years as follows:

(a) Jury: 50%;

(b) Non-jury: 50%.

Ms. McCall-Tanner provided that she most often served as sole counsel.

The following is Ms. McCall-Tanner’s account of her five most significant litigated matters:

(a) State of SC vs. Samantah Morgan Major

This was a death penalty trial for a woman charged with kidnapping, robbing, torturing, and murdering a young, handicapped man. The significance of this case was the exposure to what can only be described as a void of humanity. This young woman gave an audio-taped confession that detailed what she did to her victim. There were many points on the tape where she laughed through her description of events. Someone like her, and something like her crime, puts many other things into perspective.

(b) State of SC vs. Kenneth Williams

This was the trial of a man charged with burglarizing, robbing, and murdering an elderly man in his own home. The significance of this case was the unique “method” of murder. During the robbery, Williams severely beat the victim. The excitement of the attack caused the victim to suffer a sudden and lethal heart attack. While the cause of death was heart attack - the manner of death was homicide. It was a novel and interesting case to argue. But for the defendant’s actions, the victim might still be alive today. The jury agreed and convicted Williams of murder. I suspect that as our population ages we will unfortunately see more of these scenarios.

(c) State of SC vs. Alphonso Howard

This was the trial of a man who, along with a co-defendant that testified against him, was charged with the kidnapping and robbery of a couple visiting our town on vacation. Howard was also charged with the rape of the woman. The significance of this case was the complexity of the evidence and its presentation. There were extensive pre-trial arguments over DNA, lab contamination, discovery, handwriting samples, and many other topics. While the evidence against the defendant was primarily circumstantial, it was overwhelming once put together.

(d) State of SC vs. Preston Costa

This was the trial of a young man who was charged with the Armed Robbery of a little family owned grocery store. The significance of this case was the lessons I learned while trying it three times. The victim was by far one of the most credible witnesses I have ever encountered and the fact that she and her 80 year old grandmother had a gun pointed in their faces motivated me to continue. The first trial was a hung jury. I had an opportunity to speak with some of the jurors after the trial and they gave me some “pointers”. I discovered there was a mistake when the second trial was a hung jury. I focused on the details the first jury thought were important instead of just trying the case. By the time the third jury convicted Costa I had reevaluated many things about how I prepared for and presented cases. Almost as important, I came to believe what I’ve heard seasoned lawyers say: “if you ever get a chance to listen at the jury deliberation door - don’t!” It’s true - they are not talking about what you think or wish they were…

(e) State of SC vs. Louis Staples

This was the case of a mentally challenged man who was charged with a criminal sexual assault on a child. The significance of this case was that it shows the limitations of the Criminal Justice System and forced me to search for other alternatives. Staples had been charged with raping a child before. The prosecutor who handled that case dismissed the charges once a mental evaluation indicated he was mentally retarded and therefore not competent to stand trial. Years passed, Staples molested another child, and the case came to me. The mental evaluation obviously presented the same challenge as before. He could not be prosecuted in General Sessions. However, the option of just turning him loose back into the community didn’t seem adequate. I made it my job to educate myself enough to take Staples through the Probate Court system.

Ms. McCall-Tanner reported that she has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. McCall-Tanner’s temperament would be excellent.

(10) Miscellaneous:

The Low Country Citizens Committee found Ms. McCall-Tanner “Well-qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Ms. McCall-Tanner is married to P.J. Tanner. She has no children.

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

(a) SC Bar;

(b) SC Women Lawyers Association;

(c) Beaufort County Bar;

(d) National District Attorney’s Association.

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

(a) Beaufort County Fire Scene Investigations Oversight Committee;

(b) Technical College of the Lowcountry Criminal Justice Advisory Board;

(c) Humane Society of the U.S.

Ms. McCall Tanner further reported:

I come from a humble background. I don’t take anything for granted and I don’t forget where I come from. I don’t believe that anyone owes me anything in this world. I have always been a hard worker and I have earned everything that I have. I believe that you never take something that doesn’t belong to you. I also believe that people can make honest mistakes, be remorseful, and therefore deserve a second chance.

I believe that mutual respect and honest communication are must haves for any success. I believe that listening is actually a skill. Nothing offends me more than someone thinking that I don’t care. I want to be respected for my work, not a title I may hold or by an association I may have made. That is the kind of Judge I would be.

(11) Commission Members’ Comments:

The Commission commented that Ms. McCall-Tanner is very intelligent and was well-spoken at the Public Hearing. They also noted her dedication to public service as a deputy solicitor.

(12) Conclusion:

The Commission found Ms. McCall-Tanner qualified but not nominated to serve on the Circuit Court.

**Stephanie Pendarvis McDonald**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. McDonald was born in 1969. She is 42 years old and a resident of Charleston, South Carolina. Ms. McDonald 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. McDonald.

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

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

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

(a) SC Association for Justice – various CLE courses 8/5/2010;

(b) Crime and Punishment Symposium – Charleston School of Law 2/19/2010;

(c) SC Bar Convention – Criminal Practice and Procedure 1/22/2010;

(d) SC Conference and CLE on Lawyer and Judicial Conduct 10/22/2009;

(e) SC IRF Law Enforcement Defense Seminar 10/2/2009;

(f) Chief Justice Toal’s Annual Ethics/Baseball Seminar 8/13/2009;

(g) SCAJ Annual Convention CLEs 8/6/2009;

(h) “Domestic Violence and the Criminal Justice System” SC Attorney General’s Office Special Prosecutor Training 07/09/2009;

(i) “It’s All a Game – Top Trial Lawyers Tackle Evidence” 02/13/2009;

(j) SC Bar Convention 24th Annual Criminal Law Update Seminar 01/23/2009;

(k) SCIRF Law Enforcement Defense Seminar 10/3/2008;

(l) Federal Bar Association Ethics Seminar 09/11/2008;

(m) Training - Commission on Judicial Conduct 09/2008;

(n) SC Trial Lawyers Annual Convention CLEs 08/3/2008;

(o) Chief Justice Toal’s Ethics/Baseball Seminar 07/08/2008;

(p) SCIRF Law Enforcement Defense Seminar 10/05/2007;

(q) Chief Justice Toal’s Ethics/Baseball Seminar 07/12/2007;

(r) SCIRF Law Enforcement Defense Seminar 11/17/2006;

(s) “Steroids and the Ethics of Baseball” 08/12/2006;

(t) SC Trial Lawyers Annual Convention CLEs 08/3/2006

(u) SCIRF Law Enforcement Defense Seminar 9/30/2005;

(v) U.S. District Court Electronic Filing System CLE05/03/2005;

(w) “Police Indiscretion: Litigation and Liability” 02/15/2005.

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

(a) In 2006, I spoke at the Insurance Reserve Fund’s Law Enforcement Defense Seminar (CLE) on recent developments in constitutional law and the changing composition of the Fourth Circuit and the United States Supreme Court.

(b) At the 2004 SC Conference of Countywide Elected Officials (SCACEE Conference), I spoke about the operation of South Carolina’s Freedom of Information Act and provided an update on recent South Carolina cases impacting countywide elected officials.

(c) In June of 2003, I taught a one-hour session at the SC Defense Trial Lawyers’ Trial Academy. I believe it was on cross-examination, but I honestly cannot remember.

(d) I presented the “Ethics” portion for the 2001 Charleston Lawyers Club Law Week CLE. The topic was “Ten Ways to Avoid the Office of Disciplinary Counsel and Tips for Handling that Dreaded Letter.”

(f) At the 2000 Conference for Attorneys to Assist Disciplinary Counsel, I provided an investigation checklist for Attorneys to Assist and spoke on how to conduct a thorough investigation.

(g) In 1998, I spoke at the American Bar Association’s Affiliate Outreach Seminar in Las Vegas. The presentation was about the SC Bar Young Lawyer’s Division’s “Lawyers as Mentors” project and provided instruction for other YLDs interested in starting similar programs in their states.

(h) In 1997, I spoke at the American Bar Association’s Affiliate Outreach Seminar in Tampa. The presentation was about the SC Bar Young Lawyer’s Division’s “Citizenship in Schools” project and provided instruction for other YLDs interested in starting similar programs in their states.

(i) On December 16, 2010, I will be on the faculty at a CLE seminar entitled “The Mechanics of Civil Procedure.” I will be preparing the materials for and presenting both the ethics section of the course and the section addressing the structure and overview of our court system.

Ms. McDonald reported that she has published the following:

Co-author, *Recent Developments in Government Operations and Liability Law: Annual Update on Public Official Immunities,* The Urban Lawyer, 1997.

(4) Character:

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

The Commission also noted that Ms. McDonald 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. McDonald reported that her Martindale-Hubbell rating is BV.

Ms. McDonald reported that she has held the following public offices:

“I have not held an elected public office, but I have been appointed by the SC Supreme Court to positions affiliated with the Office of Disciplinary Counsel. From 1999-2002, I served as an Attorney to Assist Disciplinary Counsel. In January of 2003, I was appointed to the SC Commission on Judicial Conduct. I am currently serving my second term on the Commission.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. McDonald was admitted to the SC Bar in 1994.

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

Stuckey & Senn: August 1994 through June 1997:

After taking the Bar exam, I worked as an associate at Stuckey & Kobrovsky in Charleston. This firm later became Stuckey & Senn.

Although this was a general practice, and I worked on some probate matters and business litigation, my primary areas of work involved constitutional and governmental issues. The first three cases that I tried on my own involved constitutional claims in United States District Court.

I became quite ill while pregnant with my only child and was forced to take a two-month leave of absence for home intravenous treatments. Upon my return to work in August of 1997, I decided to go out on my own and focus on the handling of appellate matters for several law firms. I maintained this solo practice from August of 1997 through approximately 2003. During this time period, I handled appeals for:

(1) Stuckey Law Firm;

(2) Sandra J. Senn, P.A.;

(3) Clawson & Staubes;

(4) Rhoad Law Firm (Bamberg);

(5) Padgett Law Firm (Bennettsville);

(6) Jennings and Harris (Bennettsville);

(7) Jay Ervin (Darlington).

I also did other work for:

(1) Joye Law Firm (Mark Joye and Ken Harrell);

(2) David Whittington;

(3) Robert Gailliard;

(4) John Price Law Firm;

(5) E. Bart Daniel;

(6) J. Brady Hair;

(7) Larry Kobrovsky;

(8) Stanley Feldman.

The bulk of my work during this time period, however, was with Sandy Senn, with whom I have worked since graduating from law school. We continued to try cases together until forming the firm of Senn, McDonald & Leinbach, LLC, where I am currently the managing partner.

My current practice focuses on a variety of appellate matters (for plaintiffs and defendants) and the defense of public officials, law enforcement agencies, state agencies, and local governments in state and federal courts.

I am a prosecutor for the SC Attorney General’s Criminal Domestic Violence Task Force. Most of this work occurs in Orangeburg County. I handle some trial level cases for plaintiffs, primarily in the field of employment discrimination and harassment, but I estimate that about 60% of my practice is in the area of civil defense.”

Ms. McDonald made the following statements regarding her experiences:

Although my trial practice has focused on civil defense, the other areas in which I have worked will assist with the duties required of a judge in General Sessions Court as well. I have practiced constitutional law for sixteen (16) years, working on cases involving allegations of illegal search and seizure, violation of the right to counsel, Brady v. Maryland and the requirements of Rule 5, entrapment, and various questions of probable cause.

I have tried over forty (40) cases as either lead counsel or co-counsel, and our work requires that I remain cognizant of decisions in the areas of constitutional and criminal law. In addition, I have personally handled at least forty-five (45) appeals, and I have assisted attorneys at other firms with at least twenty (20) others.

On a pro bono basis, I serve as a prosecutor for the Attorney General’s Criminal Domestic Violence Task Force. Most of the cases that I prosecute are in Orangeburg County (my last trial was in July); however, I recently assisted a Dorchester County CDV victim referred to me by the Task Force Coordinator.

I have also worked with the Attorney General’s Office on the appeal of a case interpreting portions of South Carolina’s Sexually Violent Predator Act and the Federal Prison Litigation Reform Act. See Michau v. Charleston County, 434 F.3d 725 (4th Cir. 2006). I argued this case in Richmond in 2005.

I have handled numerous post-conviction relief matters, as assigned to me pursuant to Rule 608 and for other attorneys. The criminal offenses in the matters I have handled have varied from minor offenses to assault and battery with intent to kill, voluntary manslaughter, and murder.

Since our firm serves as counsel for the SC Sheriffs’ Association, I have also had the honor of working with Sheriffs from all across the State of South Carolina.

I have represented juveniles in Family Court as both appointed defense counsel and as a Guardian ad Litem, and I believe that the administrative skills gained through my community service leadership will assist with docket management and control.

Finally, as my law partner is a member of the Attorney General’s Dogfighting Task Force, in 2004, I was able to assist with the “custody trial” following the confiscation of 47 abused dogs from David Ray Tant, one of the nation’s worst offenders in the area of dogfighting. We tried the forfeiture/custody case in Charleston County.

I have handled a variety of civil matters over the past five years. Five of these are discussed in detail in response to [my most significant litigated matters]. Some others include:

(a) Hamilton v. Charleston County Sheriff’s Office, Charleston County (June 2009): This case involved allegations of negligent hiring and negligent supervision of an employee of the Charleston County Detention Center. After a four-day trial, we received a directed verdict on all causes of action. The case is currently on appeal.

(b) Brown v. County of Berkeley, Berkeley County (2004-2009): In this case, the Berkeley County Clerk of Court sued the former County Supervisor, the members of County Council, and the County for defamation and a variety of other causes of action after the County called for a special audit pursuant to SC Code Section 4-9-150. Plaintiff also sought a temporary restraining order to stop the special audit. Plaintiff appealed the denial of the motion for injunctive relief, but the SC Supreme Court affirmed. See Brown v. County of Berkeley, 366 SC 354, 622 S.E.2d 533 (2005). Defendants were granted summary judgment on all causes of action in 2009.

(c) Bynum v. SC Dept. of Corrections: Sandy Senn and I tried this medical malpractice case for seven (7) days in Clarendon County in 2006. The jury returned an $825,000.00 verdict for the plaintiff, reduced by 40% for the plaintiff’s comparative negligence.

(d) Mills v. City of North Charleston (2004): Plaintiff was arrested for attempting to solicit an undercover officer, but following his claim that he was entrapped, the charges were dropped. A subsequent civil rights claim followed. After Judge Houck ruled that the tape of the incident would be admitted for purposes of the Motion for Summary Judgment and any subsequent trial, the plaintiff took a voluntary dismissal.

(e) Davis v. SC Dept. of Corrections, U.S. District Court (2007). This case alleged medical malpractice and constitutional rights violations. It was settled following the submission of the summary judgment memoranda.

(f) Sunset Cay v. City of Folly Beach, 357 SC 414, 593 S.E.2d 462 (2004).

This was a declaratory judgment action seeking to require Folly Beach to provide sewer service to a remote property. The Honorable A. Victor Rawl dismissed the case, Sunset Cay appealed, and the SC Supreme Court affirmed.

(g) Demetre v. City of Folly Beach (2009): I handled only the appeal of this case, which involved a landowner’s claim that a certain street had not been properly dedicated to Folly Beach back in the 1930s. In an unpublished opinion, the SC Court of Appeals affirmed the Master’s ruling for the City. Last year, the SC Supreme Court denied plaintiff’s petition for a writ of certiorari.

(h) Jamison v. Ford Motor Company, 373 SC 248, 644 S.E.2d 755 (Ct. App. 2007), cert. dismissed (2009). I was retained at the post-trial motions stage to represent the plaintiffs in this products liability matter. Plaintiffs’ daughter was killed in a 15 mile-per-hour accident when the seatbelt that was supposed to protect her lacerated her liver. The jury returned a verdict for the defendant, and the SC Court of Appeals affirmed. The SC Supreme Court granted certiorari, and heard oral arguments in September of 2009. Although the Court subsequently dismissed the writ, it did so only after issuing a stern warning to Ford Motor Company about proper SC discovery practices.

These are just a few of the cases that I have handled over the past few years. I am happy to provide additional information should the Commission need it.

Ms. McDonald reported the frequency of her court appearances during the past five years as follows:

(a) Federal: 1-2 times per month;

(b) State: 5-7 times per month, unless we were in trial.

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

(a) Civil: 70%;

(b) Criminal: 15%;

(c) Domestic: 15%.

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

(a) Jury: 85% (this figure includes matters in which summary judgment or dismissal was granted prior to trial);

(b) Non-jury: 15%.

Ms. McDonald provided that she most often served as “sole counsel or co-counsel with another of my law partners.”

The following is Ms. McDonald’s account of her five most significant litigated matters:

(a) Erickson v. Winner, Charleston County Court of Common Pleas (March 2006). This case arose from the “Domestic Court Reform Movement” that took place in South Carolina in the early 1990s. The plaintiff, a former Dorchester County Guardian ad Litem, sued a number of defendants following the issuance of “The Winner Report,” which offered a scathing view of South Carolina’s private Guardian ad Litem system. A lengthy article in the Charleston City Paper followed the issuance of the report, and the plaintiff subsequently sued several defendants for defamation and other torts. My law partner and I represented the SC Governor’s GAL Office and a county office supervisor, receiving a directed verdict on all causes of action after three weeks of trial. Following the fourth week of trial, the jury returned a 6.5 million dollar verdict against several of the remaining defendants. The appeal against our trial clients was dismissed; however, I was subsequently retained to represent two of the defendants again whom the verdict had been returned. The SC Supreme Court heard oral arguments in the case last February, and on March 1, 2010, the Court vacated the 6 million dollar punitive damages verdict. See Erickson v. Winner, Memorandum Opinion No. 2010-MO-006 (2010);

(b) Pelaccio v. Charleston County Sheriff’s Office, Berkeley County Court of Common Pleas (April 2005).

This wrongful death action arose after a father held his infant hostage and threatened to kill the child and blow up the family’s home. He also threatened several members of law enforcement responding to the scene. After an all-night stand-off, the father emerged from the house, holding a knife to the baby’s neck. When he refused to remain in a location safe for the Charleston County SWAT team to retrieve the baby from the porch, a police sniper shot him in order to ensure the safety of the child and the officers on the scene. We were honored to represent the Charleston County Sheriff’s Office in this matter, and after a four-day trial, the jury returned a defense verdict;

(c) Cowsert v. Brown, Charleston County Court of Common Pleas (April 2006).

My law partner and I represented the plaintiffs in this matter, which arose after Betty Sue Cowsert fell from the elevated, second-story porch of her Folly Beach home. The contractor who built the Cowsert home had failed to secure a portion of the porch railing in any way – it was not nailed, glued, or secured to the main railing area. When the railing gave way, Mrs. Cowsert fell, suffering serious injuries. Following the four-day trial, the jury returned a significant verdict for the plaintiffs;

(d) Gregory v. Zumalt, U.S. District Court, Charleston Division (February 2007).

This highly-publicized case arose after an officer with the City of North Charleston shot a man threatening officers with a knife and a screwdriver. The screwdriver had been sharpened to resemble an ice pick. After threatening an eight-months pregnant Piggly Wiggly cashier with the knife, the suspect led the officers across a busy parking lot and Rivers Avenue. He refused to drop the weapons and stabbed one of the officers in the chest, puncturing his shirt and vest. After repeated verbal commands to drop the weapons, the suspect charged the officers and was shot. The decedent’s family subsequently filed a civil rights suit, alleging that the officers had violated the decedent’s constitutional rights and committed excessive force against him. Following a five-day trial, the Honorable P. Michael Duffy granted all defendants judgment as a matter of law on all causes of action. The Fourth Circuit affirmed Judge Duffy’s decision without oral argument. See Gregory v. Zumalt, 294 Fed.Appx. 792, 2008 WL 4410375 (4th Cir. Sept. 26, 2008)(unpublished);

(e) The City of Charleston “Sofa Super Fire” aftermath:

My law partner and I represent the City of Charleston in the cases arising from this tragic 2007 fire which took the lives of nine Charleston firefighters. This work has involved numerous matters, including representation during the SC-OSHA investigation, before the OSHA hearing officer, and throughout the investigations conducted by various federal agencies and law enforcement entities. Currently, our firm represents the City of Charleston in the pending wrongful death and personal injury lawsuits.”

The following is Ms. McDonald’s account of five civil appeals she has personally handled:

(a) Henry v. Horry County, 334 SC 461, 514 S.E.2d 122 (1999)(amicus brief);

(b) Brown v. Daniel, 230 F.3d 1351, 2000 WL 1455443 (4th Cir. Sept. 9, 2000) (unpublished opinion);

(c) Mentavlos v. Anderson, 249 F.3d 301 (4th Cir. 2001), cert. denied, 534 U.S. 952 (Oct. 9, 2001);

(d) Eargle v. Horry County, 344 SC 449, 545 S.E.2d 276 (2001);

(e) Sunset Cay v. City of Folly Beach, 357 SC 414, 593 S.E.2d 462 (2004).

The following is Ms. McDonald’s account of the criminal appeals she has personally handled:

(a) United States v. Luther Ray Cyrus, 132 Fed.Appx. 441 (4th Cir. May 24, 2005) (for attorney Jay Ervin);

(b) United States v. Dalton, 477 F.3d 195 (4th Cir. 2007) (I assisted attorney Stanley Feldman with his preparation of the brief and with oral argument preparation).

I have also advised attorneys handling criminal appeals in cases in

which I have not otherwise been personally involved.

Ms. McDonald further reported the following regarding an unsuccessful candidacy:

In 2009, I was found to be qualified, but not nominated, for the position of Circuit Judge, At-Large, Seat 8. The SC Bar found me to be “Well-qualified” in six of seven categories and “Qualified” in the seventh category.

(9) Judicial Temperament:

The Commission believes that Ms. McDonald’s temperament would be excellent.

(10) Miscellaneous:

The Low Country Citizens Committee found Ms. McDonald “Well-qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Ms. McDonald is not married. She has one child.

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

(a) SC Bar Association

Positions held for the Young Lawyers Division:

Chair, Law School for Non-Lawyers project (1998)

Co-Chair, Lawyers as Mentors project (1997)

Chair, “Citizenship in Schools” project at Fraser Elementary School (1996)

Co-Chair, Lawyers for Literacy project (1995)

Delegate, American Bar Association Annual Meeting (Young Lawyers

Division), San Francisco (Summer 1997);

(b) Charleston County Bar Association;

(c) Charleston Lawyers Club (1994-2004)

President, 1998-99;

(d) Federal Bar Association;

(e) SC Women Lawyers Association;

(f) Former member of American Bar Association.

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

(a) Mentor, SC Lawyer Mentoring Program (2009-10);

(b) Board Member, SC Bar Foundation, 1998-2001;

(c) Board Member, Association of Junior Leagues International, Inc.

New York, NY (June 2006 – June 2009);

(d) President, Junior League of Charleston, June 2010 – present

(This is my fourth term on the Board of Directors since 2000);

(e) Commissioner, City of Charleston Mayor’s Office for Children, Youth & Families (2000- 03);

(f) Chair and Parliamentarian, 120th Annual Meeting of the Episcopal Church Women of the Diocese of SC (Spring 2004);

(g) President, St. Philip’s Episcopal Church Women (ECW) (1993-94);

(h) Member, City of Charleston Leadership Team, National League of Cities

Municipal Leadership in Education Project (2001-03);

(i) Board Member, Youth Service Charleston (2001-03);

(j) Graduate, Leadership Charleston Class of 2001;

(k) Youth Mentor, Mitchell Elementary School (1998-2001);

(l) Advisory Board, Charleston County School District Parenting Center,

District #20 (2000-01).

Honors:

Junior League of Charleston Community Impact Award (2002)

Law School:

(a) American Jurisprudence Award for Evidence;

(b) American Jurisprudence Award for Moot Court;

(c) First Year Section Legal Writing Award;

(d) Order of the Barristers.

Undergraduate:

(a) Algernon Sydney Sullivan Award;

(b) Phi Beta Kappa;

(c) Mortar Board Graduate Fellowship;

(d) Dorothy Shaw Leadership Award (National Sorority Award);

(e) USC Hall of Leaders;

(f) Josiah Morse Award for Philosophy.

Ms. McDonald further reported:

“My daughter, Susanne, starred as “Scout” in the Charleston Stage production of “To Kill a Mockingbird” in February of 2009. Watching her in that role - - and watching the character of Atticus Finch multiple times in a three-week period - - reaffirmed for me the knowledge that treating others fairly, with impartiality, with integrity, and with dignity is critical to the practice of law and our judicial system. These are characteristics that I would like to bring to the bench. If elected, I plan to be a judge known for her good temperament, patience, scholarship, work ethic, and willingness to make a decision.”

Service has been an important part of my life for as long as I can remember, and I can think of nothing that I would rather do than serve the people of South Carolina in this position.

(11) Commission Members’ Comments:

The Commission commented that Ms. McDonald made the highest score on the Commission’s practice and procedure test and her great intellect would serve her well on the Circuit Court bench. They noted her active involvement with the Bar and in her community.

(12) Conclusion:

The Commission found Ms. McDonald qualified and nominated her for election to the Circuit Court.

**Tara Lyons McGregor**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. McGregor was born in 1974. She is 36 years old and a resident of Irmo, South Carolina. Ms. McGregor 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 1999.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. McGregor.

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

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

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

(a) Project Safe Childhood Seminar September 28-October 1, 2010;

(b) Professional Responsibility Issues in

Personal Liability Litigation February 18, 2009;

(c) Criminal Immigration Seminar March 17-21, 2008;

(d) Financial Litigation November 14-15, 2007;

(e) Basic Human Trafficking May 30- June 1, 2007;

(f) Prosecuting Federal Sexual Assault Cases January 25-27, 2006;

(g) Forensics for Criminal Prosecutors February 22-24, 2006;

(h) Project Safe Neighborhoods May 2-6, 2006;

(i) Methamphetamine Conference July 19-21, 2006;

(j) USAO- Annual Training December 8, 2006;

(k) Financial Investigations August 1-5, 2005;

(l) USAO- Criminal Division Training February 11, 2005;

(m) Title III Seminar June 1-3, 2005.

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

(a) I have lectured on the subject of Federal Grand Jury to Department of Justice employees at a Criminal Paralegals course at the National Advocacy Center, Columbia, SC;

(b) I have lectured on the subject “Being an Effective AUSA” to new Assistant United States Attorneys at the Department of Justice, Washington, DC;

(c) I have served as a trial advocacy instructor for Department of Justice attorneys at the National Advocacy Center, Columbia, South Carolina.

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

(4) Character:

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

The Commission also noted that Ms. McGregor 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. McGregor reported that she is not rated by Martindale-Hubbell and that she is not listed because, “I have never been employed in private practice.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. McGregor was admitted to the SC Bar in 1999.

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

After graduating from law school, I began a judicial clerkship with the Honorable Henry F. Floyd in the Thirteenth Judicial Circuit, State of South Carolina. Under the general supervision of the judge, I performed legal research, composed legal memorandums, opinions and orders.

In July 2000, I was offered a job at the Richland County Public Defender’s Office as an Assistant Public Defender. For three and a half years, I provided quality representation to the indigent population of Richland County in misdemeanor and felony criminal cases. I managed a team of four junior attorneys; my responsibilities included case review and mentoring. I also served as coordinator for Drug Court, which provided alternative dispositions for those convicted of drug offenses. I remained with that office until October 2003.

In October 2003, I became an Assistant United States Attorney in the United States Attorney’s Office, District of South Carolina. As a federal prosecutor, I handled a wide variety of complex federal violations including crimes of violence, firearms, narcotics, human trafficking, child pornography, and immigration. From 2003 to 2007, I served as the District’s Project Sentry Coordinator, responsible for community outreach and creation of initiatives related to the prevention of school gun violence.

In October 2007, I accepted a temporary detail to the National Advocacy Center, Executive Office for United States Attorneys within the Department of Justice. As an Assistant Director I was responsible for the development, execution and management of federal training for Department of Justice and other Executive Branch personnel. While assigned to the Legal Programs and Legal Support Staff Training Teams I coordinated appearances of the Attorney General, Deputy Attorney General and Solicitor General of the United States. During my tenure, I was asked by Department of Justice leadership to assist with special projects including Professionalism Training for Department of Justice Attorneys, as well as with background investigations for United States Attorney and United States Marshal candidates.

In August 2010 I returned to the Criminal Division of the United States Attorney’s office where I am currently serving as the district’s Project Safe Childhood Coordinator, responsible for the prosecution of childhood exploitation cases, community outreach and interdiction, and the district’s Criminal Civil Rights contact, responsible for the prosecution of civil rights violations such as hate crimes and police misconduct matters.

In early November, I was offered permanent employment with the Department of Justice, Executive Office for United States Attorneys. As of November 22, 2010 I will return to the National Advocacy Center where I will serve as an Assistant Director.

Ms. McGregor made the following statements regarding her experience:

Over the past five years I have prosecuted criminal matters in federal court. I have had the opportunity to master issues related to narcotics, violent crimes, illegal weapon possession, bank robbery and homicides. My experience also extends to white collar crimes such as police misconduct, human trafficking, hate crimes, child pornography, social security fraud, and identity theft and immigration violations. The prosecution of these cases has allowed me to use become familiar with the grand jury and Title III (telephone wire taps), and even policy and procedures regarding the federal death penalty.

Prior to working with the Department of Justice, United States Attorney’s Office, I spent approximately three and a half years as a public defender. As a public defender in Richland County Circuit Court I have experience with everything from a preliminary hearing to jury trial.

In order to balance my experience as it relates to civil issues, I would review the rules of civil procedure, rely on relevant continuing legal education materials, as well as using research tools like Westlaw and Lexis. Furthermore, when faced with a novel issue, I would turn to my fellow judges for advice.

Ms. McGregor reported the frequency of her court appearances during the past five years as follows:

(a) Federal: January 2005 - January 2008 weekly

January 2008 - July 2010 none

August 2010 – present weekly;

(b) State: none.

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

(a) Jury: 100%;

(b) Non-jury: 0%.

Ms. McGregor provided that she most often served as “sole counsel in 70% of matters.”

The following is Ms. McGregor’s account of her five most significant litigated matters:

(a) United States v. Ernest Wrenn: the federal prosecution of a licensed firearms manufacturer and dealer for illegally manufacturing and distributing machine guns, mail fraud and lying to a federal law enforcement agent. This case was significant because it was the first of its kind in the country. With approximately twenty uncooperative purchasers, we began a trial. After we had presented 50% of our case, the defendant offered to plead guilty and was ordered to pay over $200,000 in restitution.

(b) United States v. Perez Laguna: the federal prosecution of three defendants on charges on human trafficking. This case was significant because it involved a thirteen year old immigrant victim who was forced into prostitution. Based on our investigation we were not only able to convict two of three defendants (third defendant is still a fugitive) but we were able locate and provide assistance to other victims of the prostitution ring.

(c) United States v. Kenneth Reid: the federal prosecution of a drug dealer from Rock Hill, South Carolina for various narcotics violations and the related murder of a witness. This case is significant because it required that we file documentation with the Attorney General of the United States regarding death penalty eligibility. Furthermore, it allowed us to assist state and local law enforcement in Rock Hill to seek justice for the victims and community.

(d) United States v. Marion Mays: the federal prosecution of a drug dealer from Aiken, South Carolina for various narcotics violations and the related murder of a witness. Furthermore, it allowed us to assist state and local law enforcement in Aiken to seek justice for the victims and community.

(e) State of South Carolina v. Bennie Black: the state charged a homeless man with arson, alleging that he had burned down a law office. This case was significant because after serving a year of pre-trial incarceration, as defense counsel I successfully argued a motion for directed verdict. The judge granted the motion citing that the state had failed to prove an essential element of the arson statute during their case in chief.”

Ms. McGregor reported that she has not personally handled any civil appeals.

The following is Ms. McGregor’s account of five criminal appeals she has personally handled:

(a) United States v. Tron Anderson, United States Court of Appeals, Fourth Circuit, November 14, 2005

(b) United States v. George Cummings, United States Court of Appeals, Fourth Circuit, September 20, 2005

(c) United States v. Rodrick Williams, United States Court of Appeals, Fourth Circuit, November 15, 2007

(d) United States v. David Simpson, United States Court of Appeals, Fourth Circuit, May 10, 2006

(e) United States v. Benjamin Bolin, United States Court of Appeals, Fourth Circuit, September 10, 2007.

(9) Judicial Temperament:

The Commission believes that Ms. McGregor’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Ms. McGregor to be “Well-qualified” in all evaluative areas: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary: “The Committee was very impressed with Ms. McGregor and we enjoyed her interview. We believe she has the character, work ethic, and energy to be an outstanding Circuit Court Judge. Ms. McGregor is eminently qualified to serve on the Circuit Court bench, and we believe she would serve our state in an outstanding manner.”

Ms. McGregor is married to Keith Shon McGregor. She has two children.

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

(a) SC Bar Association;

(b) National Association of Assistant United States Attorneys.

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

Friends of the Richland County Public Library, Board Member.

Ms. McGregor further reported:

“I have had the opportunity of serving as a law clerk, defense attorney, prosecutor, and juror. I have also been involved in the criminal justice system as the victim of a crime. I believe the combination of each one of these experiences has afforded me a unique perspective which renders me well suited for the bench. My experiences will allow me to empathize with victims, treat litigants professionally, and appreciate the sacrifices made by members of the community when they serve on our juries.”

(11) Commission Members’ Comments:

The Commission commented that Ms. McGregor appeared articulate and poised in her presentation at the Public Hearing. They noted that they were impressed by her attitude; that confidence and competency in the courtroom comes from good preparation.

(12) Conclusion:

The Commission found Ms. McGregor qualified but not nominated to serve on the Circuit Court.

**John Reaves McLeod**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Judge McLeod was born in 1973. He is 37 years old and a resident of Walterboro, South Carolina. Judge McLeod 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 November 18, 2002. Judge McLeod met the jurisdictional requirement of practicing law for eight years on November 18, 2002, and this requirement must be met at the time of the candidate’s election (proposed to be February 2, 2011) pursuant to SC Constitution Article V, § 15.

(2) Ethical Fitness:

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

Judge McLeod 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 McLeod reported that he had made $74.80 in campaign expenditures in mailing letters of introduction of members of the General Assembly.

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

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

(a) 2010 SC Association for Justice Annual Convention 08/05-07/10;

(b) SC Bar Convention; Criminal Law Update 01/22/10;

(c) SC Bar Convention; ADR 01/21/10;

(d) SC Bar Convention; Torts and Insurance Sections 01/23/10;

(e) Sporting Clays; Ethics with Judges 04/29/10;

(f) 2009 SC Association for Justice Annual Convention 08/06-09/09;

(g) Magistrates Mandatory School 10/30/09;

(h) Sporting Clays; Ethics with Judges 10/22/09;

(i) Special Courts Jurisdiction; Advanced 06/08-18/2009;

(j) Hot Topics in Tax & Estate Planning 01/24/09-12/13/05;

(k) 7th Annual Civil Law Update 01/23/09;

(l) Magistrates Mandatory School 11/07/08;

(m) 2008 SCTLA Annual Convention 08/07-10/08;

(n) 2006 Annual SC Solicitor’s Convention 09/24-27/06;

(o) 2006 SCTLA Annual Convention 08/03-06/06;

(p) Truck Accident Litigation 06/26/06;

(q) Solo & Small Firm Practitioners 01/28/06

(r) Torts and Insurance Practice 01/28/06;

(s) Forth Annual Civil Law Update 01/27/06;

(t) Partnerships, LLC’s & LLP’s organization & operation 11/09/05;

(u) South Carolina Solicitor’s Annual Conf 09/25-28/05;

(v) Attorney EFC training 06/30/05.

Judge McLeod reported that he has not taught any law-related programs.

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

(4) Character:

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

The Commission also noted that Judge McLeod 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 McLeod reported that he is not rated by Martindale-Hubbell, but reported, “George Cone, a partner in the office has recently approached me regarding this, and we have tried to start the process. My law firm’s rating is an ‘A’.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge McLeod was admitted to the SC Bar in 2002.

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

(a) August 2002 – August 2003; Law Clerk for SC Circuit Court Judge Jackson V. Gregory. Duties- research and scheduling for the Judge.

(b) August 2003 – Present; Attorney, McLeod, Fraser, and Cone. Duties- general practice, civil, criminal, insurance defense, tort, wills, trust, estates.

(c) August 2003 – August 2007; Prosecutor of the City of Walterboro. Duties- prosecuted all criminal trials for the City of Walterboro, prepared and interviewed officers, prepared and interviewed victims and witnesses.

(d) August 2007 – Present; Magistrate for Colleton County. Duties- preside over jury and bench trials, preside over hearings for motions, evictions, claims and deliveries, traffic court, preliminary hearings, bond court, issue arrest and search warrants. Until the office was consolidated, I was in charge of the Green Pond, SC office to which I was assigned. Recommended to Gov. by Senator Clementa Pinckney and Colleton County Senate Delegation, Appointed by Gov. Mark Sanford, Confirmed by the SC Senate.

Judge McLeod made the following statements regarding his experience:

I have handled criminal matters since 2003. Most of the criminal matters handled were done initially as the Prosecutor for the City of Walterboro. I prosecuted all criminal matters in which the defendants requested a jury trial. The issues ranged from DUIs and DUSs to assault and batteries. I also prosecuted shop lifting, simple larceny, speeding, simple possession of marijuana, and other minor drug offense. In General Sessions, I defended two criminal sexual conduct with a minor cases. Both were resolved in my clients favor. Because of my involvement with the City, I was limited in General Session matters. Since I became a Magistrate for Colleton County, I have heard and handled all cases that would come before a magistrate. As a magistrate, I not only hear criminal matters, but also civil matters. I hear all misdemeanor level crimes and crimes with jail time less than 30 days, and those others allowed by law. I hear all civil matters with jurisdiction less $7,500.00. In addition, I hear evictions, claims and deliveries, preliminary hearings, restraining orders, and also hold bond court.

My civil litigation experiences, in my private law practice, consist of mostly insurance defense matters. I handle private insurance companies but also handle insurance defense claims for state entities such as the Colleton County School District, Hampton County, the Town of Allendale and Allendale County to name a few. I have had experience in plaintiff tort actions as well.

Two civil matters that I have been involved with post verdict were Bewersdorf v. SC DOT and Colleton County and Padgett v. Colleton County. I represented Colleton County in both matters. In the latter, I represented Colleton County solely and in the former, my father, Peden B. McLeod and I represented Colleton County. In both cases my client was granted a directed verdict. In the Bewersdorf case, a directed verdict was granted based on the Public Duty Doctrine and that there was no negligence on the part of the county. The Bewersdorf case was appealed to the Court of Appeals. I handled the appeal solely. The Court of Appeals upheld the lower court’s ruling pertaining to both defendants. The Appellant then asked for a writ of certiorari to the SC Supreme Court on the Court of Appeals’ ruling in regards to the SC DOT only and did not ask for a writ of certiorari on the basis on the Court’s ruling for my client.

In the Padgett case, the lower court granted a directed verdict to my client on the open and obvious condition of the area in which the plaintiff fell. The plaintiff appealed the directed verdict and such ruling was overturned. A writ of certiorari was denied and the case was settled prior to a retrial.

I do feel as if my experience as a prosecutor, private attorney, and a magistrate has given me a well-balanced approach in the law and would serve me well as a Circuit Court Judge. For any areas of the law where I lack experience from my law practice, I have had extensive experience in all facets of court while serving as a Law Clerk for a Circuit Court Judge. During law school, I worked in the Fifth Circuit Solicitor’s Office and in the South Carolina Legislative Council, which consist of the Speaker of House, Lieutenant Governor, Secretary of State, Chairman of the Senate Judiciary Committee, Chairman of the House Judiciary Committee, the Code Commissioner and Director. All three positions, although none were long term, have helped prepare me for matters that would come before me as a Circuit Court Judge.

In addition to the above, I would like to note that I am a certified mediator for both Common Pleas and Family Courts, both of which are now mandatory in my home circuit, the 14th Judicial Circuit. I have been certified since 2007. The training and mediations that I have been involved with also will help me gain experience in areas I may not have otherwise been exposed to in my practice of the law.

My involvement with mediation, the magistrate court system, as prosecutor, as defense and plaintiff’s attorney in a general practice setting, as well as knowledge gained from my time behind the bench as a law clerk has instilled in me, what I consider a well rounded legal, temperament that is well suited for the position as a Circuit Court Judge.

Judge McLeod reported the frequency of his court appearances during the past five years as follows:

(a) Federal: 5%;

(b) State: 95% (for my private or prosecutor positions, not magistrate position).

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

(a) Civil: 65%;

(b) Criminal: 10%;

(c) Domestic: 25% (all for my private or prosecutor positions, not magistrate position).

Judge McLeod reported the percentage of his practice in trial court during the last five years as follows:

(a) Jury: 90%;

(b) Non-jury: 10% (both for my private or prosecutor positions, not magistrate position).

Judge McLeod provided that he most often served as sole counsel.

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

(a) Jorg Bewersdorf v. SC DOT and Colleton County and Evette Bewersdorf v. SC DOT and Colleton County, 2007-UP-063; Court upheld the directed verdict granted to my client, Colleton County. The directed verdict was based on the Public Duty doctrine and the fact that there was no actionable negligence on the part of the County. The Court of Appeals upheld the directed verdict granted to my client.

(b) Padgett v. Colleton County. Opinion #4542, 2009 WL1313240 (SCApp.) Court reversed lower court’s directed verdict for the County. A writ of certiorari was denied and the case settled prior to a retrial.

(c) Carla Jackson v. Town of Fairfax. 2007-CP-03-114. Jury awarded plaintiff $250,000.00 in a case in which the plaintiff only had $2,500.00 in actual damages. My post-verdict motions were based on, what I thought to be, an excessive verdict. All of my post verdict motions were denied.

(d) City of Walterboro v. Leon Bennett d/b/a B & B Recreation Center. Case no. 01-CP-15-85. Case involved the City’s attempts to have the Recreation Center shut down as a public nuisance due to the numerous criminal matters that originated from and around the Center, including but not limited to drugs and violence. The Center was a blight on the community in which it was situated and most, if not all, the criminal matters were committed by those visiting the Center and not from the people that lived in the neighborhood. It was testified to that the Walterboro Public Safety Department responded to over fifty calls weekly to the Center. After several days in trial, the matter was settled out of court with the City taking control of the property on which the Center was located as well as some surrounding property. It is significant because, even today, the community has virtually been rid of the criminal element that was brought in by the Center. The police now receive essentially no calls from the community.

(e) Felicia Maxwell v. SC Department of Transportation, 2001-CP-15-287. In a wreck case, the jury found for the Plaintiff but found the Plaintiff more negligent than the SC DOT. The Plaintiff had over $150,000.00 in medical expenses. The Plaintiff appealed a jury issue, but such appeal did not succeed. The SC DOT was my firm’s client.

The following is Judge McLeod’s account of two civil appeals he has personally handled:

(a) Bewersdorf v. SC DOT and Colleton County. 2007-UP-063;

(b) Padgett v. Colleton County. Opinion #4542.

Judge McLeod reported that has not personally handled any criminal appeals.

Judge McLeod reported that he had held the following judicial office:

Magistrate for Colleton County--Appointed in August 2007 - Presently serving.

Jurisdiction: -Civil- Up to $7,500.00; Criminal- Misdemeanors and other offenses with jail time no more than 30 days or fine of $500.00; Countywide jurisdiction

Appointed by Governor, Recommended by Senate County Legislative Delegation.

Judge McLeod provided the following regarding his significant orders or opinions:

“Orders generated by Magistrate Court are generally form orders. Upon appealed issues, a magistrate’s Return is prepared and sent to the Circuit Court for a hearing.”

Judge McLeod further reported the following regarding an unsuccessful candidacy:

“Unsuccessful candidate of South Carolina House of Representatives, District 121. June 2005, Special Election.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Judge McLeod “Well-qualified” in the following evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and judicial temperament. They found him “Qualified” in regards to experience. The committee noted that it has “concerns over the candidate’s lack of experience.”

Judge McLeod is not married. He does not have any children.

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

(a) SC Bar; House of Delegates, Delegate for 14th Circuit, 2009- present;

(b) Colleton County Bar;

(c) American Bar.

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

(a) Lions Club of Walterboro;

(b) Dogwood Hills Country Club, past member of Board of Directors;

(c) Colleton County Historical Society, past member of Board of Directors;

(d) Colleton County Arts Council;

(e) Coastal Conservation Association, ACE Basin Chapter;

(f) Ducks Unlimited;

(g) Sandlapper Society;

(h) Walterboro Elks Lodge.

Mr. McLeod further reported:

After completing the bar exam, I was hired to serve as a Law Clerk for Jackson V. Gregory, Circuit Court Judge for the 14th Judicial Circuit. During my year of service with Judge Gregory, I conducted research for all stages of litigation that was coming before Judge Gregory. Such research was done for summary judgment motions, motions to change venues, motions to dismiss, and all other types of pre-trial motions. Also research was conducted on trial rulings, jury charges, and post-trial motions such as Judgments Notwithstanding the Verdict, Motions for New Trials, and Motions to Alter and Amend. In addition, research and composition was performed on rulings and orders that were to be issued by Judge Gregory. I was present at all the motion and non-jury terms of court as well as the General Sessions and Common Pleas terms of Court throughout the entire year, which obviously subjected me to many entire trials, many more than a practicing attorney would participate in over several years.

After completing my law clerkship with Judge Gregory, I was hired by McLeod, Fraser, and Cone, primarily as a trial attorney, and subsequently hired by the City of Walterboro to serve as its City Prosecutor. During this time as City Prosecutor, I was responsible for preparing and prosecuting all jury trials involving city charges. I also was called upon to present evidence for the City at preliminary hearings. When I was appointed as City Prosecutor, the backlog of jury trials in City Court was tremendous. Municipal Court Judge Ray Woodard and I worked at the direction of City Council to reduce the backlog of cases. Although most attorneys did not like the remedy, the day for jury trials was moved to Saturdays, thus limiting the conflicts, which defendants and their attorneys had with schedules and judicial matters in other courts, which took priority over Municipal Court. With cooperation between the Municipal Judge and myself, the backlog of cases was drastically reduced. During my three-year tenure as City Prosecutor, I was, not only handling matters for the City, but also actively engaged in private general practice with McLeod, Fraser, and Cone.

In August 2007, Governor Sanford appointed me as a Colleton County Magistrate. Senators Clementa Pinckney, John Matthews, and Larry Grooms, all of the Colleton County Senate Delegation, recommended my appointment to Governor Sanford. As a Magistrate, I have handled every stage of a criminal proceeding. I have issued arrest warrants and search warrants, issued bonds, held arraignments, and presided over preliminary hearings to decide whether to dismiss the criminal complaint or bind the matter over to the grand jury. Further, I have held bench trials as well as jury trials, with both pro se defendants and defendants represented by counsel. I have heard and ruled on procedural matters, evidentiary matters, and all other issues that are associated with criminal procedure and the protection of the rights of defendant as well as the rights of victims. At the end of each trial where guilt has been established, I, as the Judge, have the duty to decide on the penalty to impose, be it fine or jail time under the appropriate state statutes. I have tried, and always try to render justice to all persons involved. As a Magistrate, from my appointment through June 30, 2010, my service yields the following criminal docket statistics:

General Criminal Docket-matters disposed of:

Bench Trials- 570

Jury Trials- 10

DUI Docket-matters disposed of:

Bench Trials- 47

Jury Trials- 4

Traffic Docket-matters disposed of:

Bench Trials- 4,660

Jury Trials- 9

With respect to the cases assigned to me and disposed of on the Civil Docket (since my appointment date through June 30, 2010), the statistics show: Civil Docket-Cases/Matters Resolved- 1,192 via default, settlement, finding for plaintiff, finding for defendant, or dismissal. Those cases would include both bench trials and jury trials. In addition to the general civil docket cases assigned to me, I am assigned to hear eviction matters. I have disposed of more than 930 eviction matters in the time frame from my appointment through June 30, 2010.

Currently, I am assigned to two full days each week of presiding at Magistrate’s Court. The other three days of the week are dedicated to performing my duties in my current law practice. Because of my duties as a Magistrate Judge, I do not practice in General Sessions because of the obvious conflict of interest.

From July 1, 2008, to June 30, 2009, there were a total of 955,535 cases disposed of by Magistrates like myself in the State of South Carolina. Of that number 133,171 cases were on the criminal docket; 617,505 cases were on the Traffic Docket; 12,486 cases were on the DUI Docket; and 192,373 cases were on the Civil Docket. For the same time period in the State’s General Sessions, cases disposed of numbered 123,315. Out of that number 51% of the cases were ended Nol Pros, 40% were guilty pleas, 1% were trials where guilt was found, and less than 1% were trials where guilt was not found. The total conviction rate was 41% and the total non-conviction rate was 51%. For the same year, the State’s Common Pleas Courts had a total of 15,031 jury cases pending; 44,061 non-jury cases pending; and 11,803 Master-in-Equity cases pending. This is a total of 70,895 cases. The South Carolina Court Administration provided the above information via Internet.

The above information is being provided to the Judicial Merit Selection Commission because the information positively reflects my experience and positively reflects on my candidacy for Circuit Court At-Large Judicial Seat #9.

(11) Commission Members’ Comments:

The Commission commented that Judge McLeod articulated a good concept of what fairness means in the courts. They noted his dedicated involvement in his community and his service for the past three years as a magistrate.

(12) Conclusion:

The Commission found Judge McLeod qualified but not nominated to serve on the Circuit Court.

**Maité Murphy**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Judge Murphy was born in 1969. She is 41 years old and a resident of Summerville, South Carolina. Judge Murphy provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

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

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

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

Judge Murphy testified she has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) Revised Lawyers Oath 09/27/04;

(b) Annual Solicitors’ Conference 09/26/04;

(c) Avoiding Real Estate Malpractice Hazards 11/17/05;

(d) Attorney ECF Training 07/21/05;

(e) Criminal Law Update 01/21/05;

(f) Criminal Law Update 01/26/07;

(g) SC Civil Procedure Update 02/16/07;

(h) Sidebar Live 02/22/08;

(i) Criminal Law Update 01/25/08;

(j) Alternative Dispute Resolution 01/22/09;

(k) 7th Annual Civil Law Update, The Practice of Mediation 01/23/09;

(l) I’m a Construction Lawyer 01/23/09;

(m) Environmental Permits? No, Thanks 01/23/09;

(n) Growing Green: The Direction of SC Environmental Law 01/23/09;

(o) Real Estate Practice 01/24/09;

(p) Breakfast Ethics Seminar 01/25/09;

(q) Annual Chief Magistrate Meeting 06/23/09;

(r) Magistrates Orientation Program 07/20/09- 07/31/09;

(s) Mandatory Magistrate Training 10/30/09;

(t) Chief/Associate Magistrate Mandatory Meeting 6/23/09;

(u) Magistrate Mandatory Training 11/5/10.

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

(a) I taught business law courses at Midlands Technical College in Columbia in 1996 and 1997;

(b) I taught the Ethical Issues portion of the Children’s Law Center CLE in Orangeburg entitled Training for Attorneys Appointed in Abuse and Neglect

Cases on April 30, 2010;

(c) I taught Courtroom Procedure Training at the Dorchester County Sheriff’s Department January-May 2010.

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

(4) Character:

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

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

(5) Reputation:

Judge Murphy reported that she is not rated by Martindale-Hubbell. She further stated, “I am not subscribed to be listed in Martindale-Hubbell. I have not subscribed to this service in the past as it has been described by some as a form of advertising, which I did not feel was necessary for the success of our firm.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Murphy was admitted to the SC Bar in 1995.

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

I began practicing law in Columbia as a partner with the law firm of Holler, Dennis, Corbett & Garner. I began with said practice in January of 1996 and my practice was a general practice. My practice at that time was primarily focused on civil litigation in the Courts of Common Pleas and General Sessions. I also handled domestic matters in Family Court and cases in Magistrate and Municipal Courts. My husband and I then moved from Richland County to Dorchester County in March of 1998 and I was employed as an associate for Richard Wern in North Charleston where I handled civil litigation matters in State and Federal Court until I obtained a position at the First Circuit Solicitor’s Office in October 1998.

During my tenure at the Solicitor’s office I rose to the rank of Chief Deputy Solicitor for the First Judicial Circuit. I was second in command to the Solicitor for the entire circuit which is comprised of Calhoun, Dorchester and Orangeburg Counties. I operated under a grant dedicated to prosecuting crimes of violence against women. I was in charge of prosecuting all violent crimes against women and children. I successfully tried cases of murder, kidnapping, arson, armed robbery, burglary, criminal sexual conduct (all degrees), lewd act upon a child, unlawful conduct towards a child, felony child abuse, sexual exploitation of minors, assault and battery with intent to kill, assault and battery of a high and aggravated nature, drug and alcohol offenses and criminal domestic violence. I also assisted Solicitor Walter Bailey with the trials of four death penalty cases.

I left the Solicitor’s Office in 2005 to join the practice of Quattlebaum & Murphy, L.L.P. as a partner. The firm as of January 2009 is the Murphy Law Firm, L.L.C. Our firm is a general practice and I specialize in criminal and civil litigation matters in all courts and also handle domestic litigation. On April 30, 2009 I was confirmed by the Senate as a Magistrate Court Judge for Dorchester County. Chief Justice Jean Hoefer Toal appointed me as Associate Chief Magistrate for Dorchester County on June 17, 2009. I served in that capacity until I was appointed as Chief Magistrate by Chief Justice Toal on July 1, 2010. I serve as Chief Magistrate part-time and continue my general practice as well.”

Judge Murphy made the following statements regarding her experience:

“My experience in the Court of General Sessions is extensive as described [above]. I have successfully tried many criminal cases involving complex evidentiary issues. I have handled these matters from the beginning stages of having a bond set through trial. My experience as Chief Deputy Solicitor also gave me valuable experience in managing a docket which I believe is very important experience for a Circuit Court Judge to have considering the high volume of cases currently pending that need to be disposed of in an efficient and fair manner.

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

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

My duties as Chief Magistrate include not only the administrative functions of the day to day operation of the Court, but also hearing criminal and civil trials. I am confident that my work experience in private practice, the Solicitor’s office and the Magistrate’s Court has prepared me well to perform the duties of the Circuit Court impartially, fairly and competently.

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

(a) Federal: 2%;

(b) State: 98%.

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

(a) Civil: 40%;

(b) Criminal: 40%;

(c) Domestic: 20%.

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

(a) Jury: 30%;

(b) Non-jury: 70%.

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

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

(a) One of my most significant litigated matters that I personally handled was the murder case of State v. Robinson in Dorchester County. This was a significant trial for several reasons. It was a significant accomplishment to obtain a just verdict of guilty due to the fact that the case was based purely on circumstantial evidence. The victim in the case was a young mother who was brutally murdered with a tire iron tool in her home. Her body was then taken to a neighboring county and dumped in the woods and her home was set on fire. I worked closely with law enforcement to piece together the evidence necessary to try the murder case. Although the murder weapon was never found, we were able to establish that the tire iron tool from the victim’s car was missing. Through manufacturing records of the car companies I was able to obtain a tire iron tool from the car manufacturer which would have been like the one missing from the victim’s car. I was then able to match the skull fracture patterns to the missing tire iron tool shape through expert forensic testimony. I was able to establish the estimated time of death through expert testimony from analyzed larvae and the related growth stages of the larvae from the body at the autopsy. This testimony assisted in placing the defendant at the time and place of the murder. I worked with SLED arson and blood spatter experts to establish the manner in which she was murdered in the home and how the home was then set on fire in an attempt to destroy the evidence of the murder. There were many evidentiary and procedural issues in this trial which had to be handled effectively to ensure that the victim’s killer was properly brought to justice.

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

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

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

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

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

Judge Murphy reported that she has held the following judicial office:

I currently serve as Chief Magistrate for Dorchester County. I was appointed as a Magistrate by the Governor, with the advice and consent of the Senate. My appointment was confirmed on April 30, 2009. As a Magistrate Court Judge I have jurisdiction to hear civil actions within the County where the amount in controversy does not exceed $7,500.00. This includes actions for breach of contract, damages for injury to rights pertaining to the person or personal or real property as well as all landlord and tenant matters, and actions to recover the possession of personal property whose stated value does not exceed $7,500.00. I have limited jurisdiction over mechanics’ liens, agricultural liens, repair or storage liens and animal owner’s liens.

I also have jurisdiction in the county to handle criminal and traffic offenses which are subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not to exceed thirty days or both. I can also hear cases transferred from General Sessions Court where the penalty does not exceed one year imprisonment or a fine of $5,000.00, or both. These cases are transferred to the Magistrates Court upon petition from the Solicitor and with the consent of the defendant. I am also responsible for setting bail, conducting preliminary hearings and issuing arrest and search warrants.

As Chief Magistrate I work hard to ensure that both of our Magistrate’s Courts within the county operate effectively. We establish procedures to ensure compliance with Orders issued by the Chief Justice and the rules set forth by the Office of Court Administration.”

Judge Murphy provided the following regarding her most significant orders or opinions:

“Magistrate courts are not courts of record. Therefore, the proceedings are summary in nature, and orders and opinions are not reported or published.”

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

“I am a partner in the Murphy Law Firm which is located in Dorchester County. Our firm has three partners and four support staff employees. I am responsible for handling a variety of litigation cases in Common Pleas, General Sessions, Family and Federal Courts.”

Judge further reported the following regarding unsuccessful candidacies:

I was a candidate for Circuit Court Judge of the First Judicial Circuit in 2008. I was found qualified to serve, but was not nominated to the office. I was a candidate for Circuit Court Judge, At-Large Seat 8 position in 2009. I was found qualified to serve and nominated by the Judicial Merit Selection Commission but was not elected to the position by the Legislature.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Judge Murphy to be “Well-qualified” in each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

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

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

(a) SC Bar Association – 1995 to present;

(b) South Carolina Women’s Bar Association – 1995 to present;

(c) Dorchester County Bar Association

Immediate Past President- 2006-May 2010

Vice- President 2005

Treasurer 2003-04;

(d) Member of the Richland County Bar-1996-98.

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

(a) YMCA- Board of Directors-2006 to present. I serve on the Executive and Finance Committees and was the former Chair of Programs Committee;

(b) Summerville Rotary Club- 2005 to present. Programs Chair 2007-09;

(c) Summerville Meals on Wheels- Board of Directors 2007-08;

(d) Summerville Republican Women’s Club- Past President and Vice-President. Resigned during my past candidacy for the Circuit Court and upon being appointed Magistrate Court Judge;

(e) Dorchester Children’s Center Development Committee.

(11) Commission Members’ Comments:

The Commission commented that Judge Murphy has both criminal and civil experience, which would be an asset on the Circuit Court bench. They noted her good temperament in the courtroom and her dedicated service as Chief Magistrate for Dorchester County.

(12) Conclusion:

The Commission found Judge Murphy qualified but not nominated to serve on the Circuit Court.

**Catherine B. Templeton**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. Templeton was born in 1970. She is 40 years old and a resident of Mt. Pleasant, SC. Ms. Templeton 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 1999. She was admitted to the NC Bar in 1998.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Templeton.

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

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

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

(a) SC Defense Trial Attorneys (SCDTAA)/

Claims Managers Association of South Carolina (CMASC) Joint Meeting 7/22/10;

(b) Mentoring II: Best Practices in Building Sustainable Mentoring Programs 4/19/10;

(c) International Association of Defense Counsel (IADC) Mid Year Meeting 2/15/10;

(d) SCDTAA Annual Meeting 11/5/09;

(e) SCDTAA Joint Meeting 7/23/09;

(f) IADC Annual Meeting 7/5/09;

(g) SCDTAA Annual Meeting 11/13/08;

(h) SCDTAA Joint Meeting 7/24/08;

(i) IADC Mid Year Meeting 2/9/08;

(j) Charleston Bar Ethics CLE 11/12/07

(k) IADC Annual Meeting 7/7/07

(l) NC Association of Trial Lawyers Professionalism

& Substance Abuse/Mental Abuse Health Issues 12/31/06

(m) SCDTAA Joint Meeting 7/27/06

(n) All 2005 credits were carried forward from 2003 and 2004 because I had almost 36 hours in those years and was on best rest in 2005 during a portion of my pregnancy with the twins. These credits included: SCDTAA Trial Academy, DRI Nursing Home Litigation, NC Bar Substance Abuse CLE, and the SCDTAA Joint Meeting.

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

(a) I have presented worldwide webinars for the International Association of Defense Counsel and its corporate members regarding laws against age, disability, race, and gender discrimination.;

(b) I have crafted the Continuing Legal Education (CLE) topics for both the Annual and Joint Meetings of the SC Defense Trial Attorneys Association (SCDTAA) and spoken at the breakout sessions for both on the Ledbetter Act, the Employee Free Choice Act, and various other federal statutes.

(c) I have presented in South Carolina and nationwide to lawyers, educators, and the judiciary on iCivics, educating students on the three branches of government and their respective roles.

(d) I have lead the SCDTAA Trial Academy for young lawyers and lead a team through all aspects of trying a case during the Academy.

(e) I have been approached by various CLE contractors and have occasionally lectured on topics they have proposed.

Ms. Templeton reported that she has written the following published books and articles:

(a) *Our Courts South Carolina*, (Defense Research Institute, For the Defense, March 2010), Author;

(b) *Two Days with Sandra Day O’Connor*, (SC Defense Trial Attorneys Association, Defenseline, November 2009), Author;

(c) *iCivics Education*, (SC Association of School Administrators, Insights, January 2010), Author;

(d) *SC Employers’ Handbook*, (SC Chamber of Commerce, 2000-02), Contributing Author.

(4) Character:

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

The Commission also noted that Ms. Templeton 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. Templeton reported that she has a BV Distinguished 4.4 out of 5 Peer Review rating by Martindale-Hubbell. Ms. Templeton further reported: “until September 2009, an attorney was not eligible to be rated ‘AV’ until he or she had practiced for 10 years. I have not requested a new rating review since that anniversary.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Templeton was admitted to the SC Bar in 1999 after taking the bar exam twice.

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

In my third year of law school, the Columbia office of Ogletree Deakins broke away to become Ellzey & Brooks. I had previously accepted a job with the Columbia office of Ogletree Deakins a/k/a Ellzey & Brooks and so I worked there from 1998 to 2000. After Ogletree re-established another office in Columbia, I was invited to ‘return’ and did so in 2000. I have worked for Ogletree ever since, primarily as a civil defense litigator and a traditional labor lawyer.

In 2001, I began to split my time between the Charleston and Columbia offices of Ogletree to help manage the enormous amount of state court litigation being handled in Charleston. The Charleston office operated as a general insurance defense firm. In 2002, I transferred to the Charleston office of Ogletree permanently. Since 2002, I have handled medical malpractice, nursing home and hospital cases, premises liability and property damage cases, collective actions, and state and federal employment litigation.”

Ms. Templeton made the following statements regarding her experience:

I gained experience very early with the criminal justice system as an intern in the State Grand Jury at the SC Attorney General’s office, under the Chief Counsel Cameron Currie. I was exposed to a great number of aspects of the criminal system. I visited correctional facilities for witness interviews and to serve warrants for seizure of property. I accompanied the SC Law Enforcement Division officers on reverse drug buys (and transcribed even more transactions than I witnessed). I was present during the grand jury’s first prosecution of white collar crime. I monitored the grand jurors as they deliberated and handed down indictments for drug trafficking and I observed now [sic] Judge Currie prepare [sic] for and prosecute [sic] those criminal cases. Criminal and civil trials are different in some respects, but I am familiar with the Rules of Criminal Procedure and the Rules of Evidence. The judge’s job is to enforce the Rules by ensuring that the proper evidence is admitted and the proper procedure is followed. I am confident that I will be proficient in enforcing those rules and presiding competently over a criminal trial, should I be seated on the bench.

I am a civil defense attorney. The constant in my practice involves the multitude of federal and state employment laws encompassing Title VII, Fair Labor Standards Act, Americans with Disabilities Act, Family and Medical Leave Act, SC Trade Secrets Act, handbook, covenant, and contract law. However, I have handled a great deal of medical malpractice, premises liability, and property damage cases. Additionally, I have dealt with various issues such as ethical disputes regarding lawyer disqualification, temporary restraining orders related to corporations, and property disputes regarding zoning ordinances.

Generally, employment cases are brought and tried in federal court. While the Rules of Civil Procedure in federal court have different nuances than the SC Rules of Civil Procedure, the systems are largely based on one another. The greatest difference between the two systems is the finite deadlines in federal court. There are severe, case-altering consequences for missed deadlines in federal court. Having practiced under the federal system for the majority of my career has resulted in my having a tighter state practice.

Procedurally, most of my cases begin with a state or federal deferral administrative agency. Subsequently, the matter moves to state circuit or federal district court. If appropriate under the law, the matter is moved to federal court. Almost without exception, I move for summary judgment on briefs. If the case is not disposed of at this stage, a 1 or 2 week trial is likely indicated. If the matter stays in state circuit court, it is usually regarding a medical malpractice, premises liability, or property damage case; none of which are usually ripe for summary judgment. As a result, those cases either settle or command a 2 to 5 day trial. I have only had 2 cases appealed. One to the Fourth Circuit and one through the Fourth Circuit and on to the United States Supreme Court, where it is currently pending.

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

(a) Federal: 35 appearances;

(b) State: 71 appearances.

Ms. Templeton 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%

(d) Other: 0%.

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

(a) Jury: 100%;

(b) Non-jury: 0%.

Ms. Templeton reported, “I served as sole counsel in most of these matters and chief counsel if other attorneys were involved.”

The following is Ms. Templeton’s account of her five most significant litigated matters:

(a) Michele Kimrey v. Jimmy Isleta in Berkeley County was the first case I ever tried. With no knowledge of where in the courtroom it was permissible to sit, I arrived for a roster meeting on behalf of another attorney in my firm. I did not know anything about the case other than it was not likely to be called and my firm was ‘ready to go.’ Unfortunately, the attorney handling the case for my firm was trying another case in Dorchester County and the roster fell apart requiring me to pick a jury, produce a pre-trial brief, and submit voir dire to the judge. The next morning, with little command of the SC Rules of Evidence and after having read the file, I tried the case. Although I did not get a defense verdict, the client was ecstatic with the nominal damages, the plaintiff’s attorney told me he was disappointed that he did not ‘ring the bell,’ and the jurors congratulated me in the parking lot for a job well done.

(b) Tucker v. Oakbrook in Dorchester County was the first case in which I had deceased key witnesses, an entire family of plaintiff-heirs to wrangle, and requirements from the probate court that contradicted the (at the time) new SC Civil Rule of Procedure regarding filing documents under seal. This case was not groundbreaking by others’ standards, but it presented a number of very interesting situation that required inferential research, educated interpretations, and novel maneuvers.

(c) Sims v. Albemarle in SC Federal District Court, Orangeburg Division, was the first case in which a plaintiff in one of my cases appealed the District Court’s decision to the Fourth Circuit Court of Appeals. The case helped me understand the informal phrase to ‘make a federal case out of it.’ The damages in this case were not large, but the client chose principal over the business decision to settle the case for less than what attorneys’ fees would ultimately cost. It was probably the first time I had been given permission by a client to use all appropriate means at my disposal to win the case, instead of simply putting it in the best posture for settlement. It was refreshing to be able to chase ideas and to learn the briefing and hearing process for the Court of Appeals. The Fourth Circuit ultimately affirmed the district court’s decision and my client was vindicated.

(d) Keys v. Ryan’s Steakhouse in SC Federal District Court, Charleston Division, was a Fair Labors Standards Act collective action. Collective actions, unlike class actions or single party actions, involve separate facts and circumstances for each plaintiff involved in the trial. In effect, the trial consists of several different cases all being tried at once. I tried the case with a partner from Ogletree by dividing the plaintiffs. We each first chaired our own trials and then coordinated who would examine the common witnesses, such as the experts, and who would open, close, object, etc. The collaboration and coordination required to win that case were very satisfying and highly educational. The jury returned a verdict in our favor.

(e) Hamilton v. Dayco, U.S. Supreme Court, is a pro se case currently pending in the United States Supreme Court. It would be inappropriate to comment too specifically on the case because it is pending, but the experience of handling a case against a pro se party all the way through the US Supreme Court has been unique. There are numerous written and unwritten rules by which the courts abide in this situation that are not regularly encountered. Additionally, the deference given a pro se party is a study in patience that has proven very valuable.”

Ms. Templeton reported that she has handled the following civil appeals:

(a) Sims v. Albemarle, Fourth Circuit Court of Appeals, April 1, 2003;

(b) Hamilton v. Dayco, United States Supreme Court, pending.

Ms. Templeton reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Templeton’s temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Ms. Templeton to be “Well-Qualified” for the following eight evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and judicial temperament. The Committee found Ms. Templeton to be “Qualified” in experience. The Committee expressed concerns that Ms. Templeton lacks criminal experience.

Ms. Templeton is married to Morgan Stuart Templeton. She has three children.

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

(a) SC Bar Association 1999 to present;

(b) NC Bar Association 1998 to present;

(c) SC Defense Trial Attorneys Association 2001 to present

Board Member 2003 to present;

(d) Defense Research Institute 2002 to present;

(e) International Association of Defense Counsel 2008 to present

Substantive Law Committee Co-Chair 2008 to present

Major Continuing Legal Education Committee Member, 2010.

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

(a) Boy Scouts of America

Board Member Coastal Council, 2009-10;

(b) South Carolina Defense Trial Attorneys Association

Member, 2001-present

Board Member, 2003-present;

(c) Gibbes Museum of Art Women’s Council of the Carolina Arts Association

Officer and Board member, 2004-08;

(d) Junior Leagues of Columbia and Charleston

Chair of numerous committees including Low Country Food Bank and Smart Matters, 1999-2009;

(e) Garden Club of Charleston

Member, 2002 to present

Charitable Fund Treasurer, Board Member, 2008-10;

(f) International Association of Defense Counsel

100 year old merit based, invitation only organization of attorneys worldwide Member, 2008-present

Substantive Law Committee Co-Chair, 2008

Major Continuing Legal Education Committee Member, 2010;

(g) First Scots Presbyterian Kindergarten

Board Member and President, Parents’ Association, 2009-10;

(h) St. Michael’s Episcopal Church

Sunday School Coordinator, 2007-08

Sunday School Teacher and Children’s Chapel Coordinator, 2010;

(i) Appointed National Coordinator of Civics by United States Supreme Court (Ret.) Justice Sandra Day O’Connor-Georgetown Law School- 2010;

(k) Voted by fellow attorneys to be one of the Best Lawyers in America, 2009 and 2010;

(l) Appointed South Carolina Coordinator of Our courts by United States Supreme Court (Ret.) Justice Sandra Day O’Connor-2009.

Ms. Templeton additionally reported:

I have always worked tirelessly for causes about which I am passionate. I have spent the last almost 14 years engaged in some type of legal practice in South Carolina and I am invested in this profession. I believe when parties enter a courtroom, they have sacrificed enormous amounts of time, money, and emotions to prepare their case to be heard. I believe they should get a fair fight that is not in any way dependent on the judge’s personal beliefs or attitude. It is with conviction that I believe I can fairly and impartially referee proceedings while assuaging the fears of the parties.

I have lived and worked all over South Carolina; on the line in manufacturing facilities and behind a desk in a corporate office. I have worked for a plaintiff’s firm, a government prosecutorial agency, and a corporate defense firm. I have cleaned office building and lived in fishing trailers and I have hosted Governors, an Ambassador, and a United States Supreme Court Justice. I have learned one thing above all else; we are all equal and each individual should be afforded respect and access to the process.

(11) Commission Members’ Comments:

The Commission commented that Ms. Templeton has an outstanding reputation as an attorney and they were impressed by her presentation at the Public Hearing. They noted her significant involvement with the Bar and in her community.

(12) Conclusion:

The Commission found Ms. Templeton qualified but not nominated to serve on the Circuit Court.

**David Whitten Wolf**

**At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Wolf was born in 1971. He is 39 years old and a resident of Charleston, South Carolina. Mr. Wolf 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. Wolf.

Mr. Wolf 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. Wolf reported that he has made $21.91 in campaign expenditures for paper and postage.

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

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

(a) Criminal Law Update 01/21/05;

(b) US District Court ECF Training 01/27/05;

(c) Public Defender Conference 09/26/05;

(d) What Works For You 12/16/05;

(e) Law Office Technology Seminar 01/25/07;

(f) Corporate, Banking, and Securities Law 01/26/07;

(g) Solo and Small Firm Practitioners Section 01/26/07;

(h) Law Firm Management Seminar 01/27/07;

(i) Breakfast Ethics Seminar 01/28/07;

(j) Legal Issues for Non-Profits 3/30/07;

(k) Case Management Order 06/15/07;

(l) Law Office Technology Seminar 01/24/08;

(m) Law Firm Management Seminar 01/26/08;

(n) Ethics, Baseball, Shoeless Joe Jackson, etc. 02/12/08;

(o) Issues in Choice of Entity 08/28/08;

(p) Law Office Technology 01/22/09;

(q) Mastering Cross-examination 02/06/09;

(r) Ethics in E-Discovery 02/27/09;

(s) May Your Office Be With You 06/30/09;

(t) Law Firm Management Seminar 01/23/10;

(u) Lawyer Mentoring Orientation - Training Workshop 01/28/10;

(v) Masters in Opening Statements and Closing Arguments 02/12/10.

Mr. Wolf reported regarding teaching law-related courses or lectures at bar association conferences, education programs:

I have “spoken four or five times to law students at the Charleston School of Law about setting up a private practice; business and commercial law topics; and as a primer for solicitor/public defender summer clerks.”

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

(4) Character:

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

The Commission also noted that Mr. Wolf 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. Wolf reported that his Martindale-Hubbell rating is BV since 2005.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Wolf was admitted to the SC Bar in 1999.

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

(a) 1999- 2001 Law Clerk to the Honorable Daniel F. Pieper - Reviewed case files and prepared bench memoranda; kept notes of the evidence presented for each element of a cause of action, criminal offense, or defense; discussed and debated legal issues relevant to the case; and drafted judicial orders and otherwise assisted the judge in his decision making process for each hearing or trial.

(b) 2001-2003 Staff Attorney for the Charleston County Public Defender - Handled cases from assignment following arrest and bond hearing through preliminary hearing; discovery and investigation; pre-trial preparation; trials and post-trial pleadings for charges ranging from property crime enhancements and drug possession to burglary and murder.

(c) 2003-2006 Associate and Of Counsel to Savage & Savage, P.A. - Assisted the partners with handling civil and criminal matters; particularly involved in numerous high-profile criminal proceedings by reviewing discovery and investigating defenses and preparing pre-trial motions; participated in trials and post-trial pleadings; also participated in a limited number of appellate matters in Federal cases.

(d) 2005-2010 Partner in law practice primarily focusing on providing advice and services to small to medium sized businesses, including transactional and litigation matters and serving as counsel or local counsel for several large public entities. Continued to accept a limited number of criminal matters and remained on the criminal appointment list to continue my involvement in General Sessions court.

Mr. Wolf made the following statements regarding his experience:

As a staff attorney at the Charleston County Public Defender’s Office and an associate at Savage & Savage, P.A. working closely with Andy Savage, I have worked on hundreds of criminal cases at the Magistrate/Municipal Court, General Sessions Court and Federal Court levels. The types of cases I have handled include simple possession of marijuana, minor in possession of alcohol, property crime enhancements, drug trafficking, kidnapping, criminal sexual conduct, burglary and murder. For those cases, I typically developed trial notebooks, supervised the investigation of the charged offenses, attempted to develop meritorious defenses, prepared motions and participated in trials in those matters which weren’t resolved prior to trial. Significant issues I have addressed over the past five years include: 1) use of a necessity defense in a Murder/Leaving the Scene of an Accident Where Death Results [State v. Jerrod Herrin]; 2) the availability of an involuntary manslaughter charge for the killing of bystanders when a self-defense theory has been presented because a jury could find the defendant recklessly disregarded the bystanders’ safety [State v. Albert Nole, Jr.]; 3) enforcement of a plea agreement once the defendant has detrimentally relied on the agreement [State v. Andrew Hunt]; 4) the lawfulness of an arrest pursuant to a municipal arrest warrant which is executed in a different county without obtaining a counter signature from a Magistrate in the county which the defendant is to be arrested [State v. Demetrius Smalls]; 5) whether a fourteen year old should be waived to the General Sessions Court in a Murder case where the defendant was not the triggerman (handled in Family Court, but implicated General Sessions issues) [State v. Quinton Summers]; 6) factors relevant to determining the reliability of an identification [State v. Jacques Jefferson and State v. Demetrius Smalls]; 7) voluntariness of a defendant’s statement after numerous hours of custodial interrogation and limited rest and sustenance [State v. Demetrius Smalls]; 8) Admissibility of diatom (tiny fossil remains of micro-organisms found in water) evidence to attempt to determine whether a decedent drown [sic] in a pond or died elsewhere and was placed in the pond post-mortem [State v. Renee Britt]; and 9) transferred self-defense [State v. Albert Nole, Sr.]. Many of these cases were high profile cases which garnered substantial media attention and required additional poise in presenting our theory on the case.

While a law clerk to the Honorable Daniel F. Pieper, I was exposed to a wide variety of procedural and substantive issues in the Court of Common Pleas. During my tenure at Savage & Savage, P.A. and since establishing Wolf & Wolf, LLC, I have handled civil matters generally related to business and commercial transactions. I have represented large corporations, such as Rock-Tenn Company. AGFA Photo USA, Corp.; and Mueller Water Products, Inc., as well as smaller commercial enterprises. In addition to attempting to collect past due and wrongfully withheld obligations or to work out obligations due which could not immediately be paid on behalf of my clients, I have initiated mechanics lien foreclosures, consumer protection suits, protection of intellectual property rights, actions to dissolve Limited Liability Companies or Corporations, breach of contract claims, bailment liability, fair debt collection practices act violations, unfair trade practices acts, wrongful dishonor of a letter of credit and many others. I have handled such claims from the investigation and preparation of the Summons and Complaint, through the discovery process, pre-trial motions of hearings, preparation for trial and in some instances, trial of the matter. Additionally, I have defended clients who have been accused of premises liability, breach of contract on an account, fraud and misrepresentation, patent infringement, conversion, failure to pay business brokerage fees, and mechanics lien foreclosures. My representation of parties involved with these cases has been fairly evenly divided between plaintiffs and defendants. Significant issues I have addressed in civil cases over the past five years include: 1) fiduciary liability for conversion in a principal/agent relationship [Erica and Yolande Brooks v. Consumer Remedies, Inc. and Colleen Cole-Velasquez, 2006-CP-08-1585]; 2) does the repeated failure to pay a subcontractor’s invoices constitute fraud in order for punitive damages to be awarded [Walter M. Green, Jr., d/b/a Green Concrete Finishers v. D.R. Horton, Inc., Gregory E. Amirault, and James M. Prevatt, 2006-CP-08-771]; 3) does a debt collector violate the Fair Debt Collection Practices Act by misrepresenting to the parents of an adult debtor that the parents executed a guarantee of the debt when no such guarantee exists [Ed and Dawn Rice v. Greentree Associates, L.P., Stonemark Management, LLC, NCC Business Services, Inc. NCC Business Services of America, Inc. and NCC Holdings, Inc., 2009-CP-18-1426]; 4) what damage is a consumer permitted to recoup when a lender violates the statutory provisions related to a right to cure notice and the permissible period in which the consumer may cure [Marvetta S. Holmes and Daemeon Holmes v. Barnett Finance Company, Inc., 2009-CP-10-3463]; 5) is a warehouseman responsible for lost articles which the subject of a dispute between a foreign manufacturer and a local importer that lasted for more than a year before the importer was granted title [Accisris Company, Inc. v. The Burris Company of Charleston, LLC and M. Bruce Burris, 2009-CP-10-1360]; 6) common enemy rule with regard to water flowing from one property to another and interfering with the second property owner’s enjoyment of their property [H. Sandra Toney v. Gayle Meacher Boyd, Eunice Meacher, and John Boyd, 2007-CP-86-002107]; 7) tort liability for misrepresentations which induced an asset purchase agreement for the sale of a business [Ruben Kornfield and Tuscan Bistro, Inc. v. Scotto Company of Summerville, LLC, 2009-CP-18-3348 and China Gourmet, Inc. v. Robin Dale Cumbie and Trayco, LLC, 2009-CP-10-4998]; 8) Mental Capacity to enter into a contractual relationship [Wachovia Dealer Services, Inc. v. Amelia T. Coker as personal representative of the Estate of Theodore J. Coker and Freedom Roads, LLC, Holiday Kamper Company of Columbia, LLC d/b/a Camping World RV Sales, 2009-CP-10-1430]; 9) enforcement of an oral business brokerage agreement [Jonathan Kronsberg Consulting, LLC v. Raiford G. Trask, III, and Cape Fear Rod Company d/b/a Fin-Nor, 2005-CP-10-5089]; and 10) wrongful dishonor of a Letter of Credit when the bank was precluded from asserting a documentary discrepancy as a result of its failure to comply with the uniform customs and practices they elected to adopt [Rock-Tenn Company v. South Carolina Bank and Trust, N.A., 2007-CP-10-5017].

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

(a) federal: Infrequent (approximately ten appearances in 5 years, but currently have two cases pending, appearances are likely to increase).

(b) state: Frequently (approximately eighty or more appearances in the last 5 years).

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

(a) Civil: 50% (greater emphasis in more recent years);

(b) Criminal: 40% (greater emphasis in earlier years);

(c) Domestic: 2%;

(d) Other: 8% (administrative).

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

(a) Jury: 60%;

(b) Non-jury: 40%.

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

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

(a) Rock-Tenn Company v. South Carolina Bank and Trust, N.A., 2007-CP-10-5017 - This matter involved a claim of wrongful dishonor of a Letter of Credit issued by the bank to Rock-Tenn. While the bank asserted that my client failed to strictly comply with the documentary requirements of the Letter of Credit, we were able to undermine the bank’s position and invoked the preclusionary rule set forth in the Uniform Customs and Practice Documentary Credits 500, which were expressly adopted by the terms of the Letter of Credit prepared by the bank, that prohibited the bank from prevailing on its strict compliance theory and the matter was settled favorably to my client after each party filed motions for a summary judgment.

(b) State v. Albert Nole - Successfully argued that a former constable who became involved in a roadside dispute with a person who had been charged with drug related criminal activity was entitled to Involuntary Manslaughter and Transferred Self-Defense charges when the defendant shot the other person and two bystanders, killing the bystanders, after the defendant asserted the other person pulled a gun on him and the defendant shot to defend himself. After asserting that although the defendant’s conduct to suppress the threat presented by the other person was intentional, the jury could find that the deaths we [sic] unintentional but caused by the defendant’s reckless disregard for the safety of the two bystanders.

(c) Marvetta S. Holmes and Daemeon Holmes v. Barnett Finance Company, Inc., 2009-CP-10-3463 - After Holmes received a right to cure notice granting a certain period of time to pay the past due balance owed for a vehicle she purchased under an installment contract financed by the defendant, her car was repossessed prior o the cure date, thereby depriving Holmes of her statutory right to cure. The car was eventually returned to Holmes days later and the defendant eventually settled the claim rather than taking the matter to trial.

(d) United States v. Huffines - The defendant was charged with possession of child pornography for thumbnail images which were displayed on pages which popped up onto the defendant’s computer screen while performing searches on the internet. In preparation for the trial of the case, I prepared a motion requesting that the government be required to present the images to the jury in the context in which the images arrived on the defendant’s computer rather that in larger images utilized by the government during the inspection of the evidence. When the Court granted this motion, the government elected not to proceed with the case and the charges were ultimately dropped.

(e) DSS v. DC and KR - My client was a fourteen year old girl whose two month old child was slapped in the face by the child’s father after my client left the child with its paternal grandmother. After returning to find the child’s face red and one eye swollen shut, my client and the child’s paternal aunt (who was a nurse) took the child to the hospital. During examinations of the child, healed fractures to his legs were discovered and the child was taken into emergency protective custody. Handling the matter pro bono, I worked with my client’s family in an effort to have the child returned to the maternal grandmother’s custody in an effort to reunite the child with his family . After a three day trial on my client’s abuse and neglect charges, which resulted in a lesser finding of medical neglect rather than abuse and neglect alleged, my client was provided with a treatment plan to work towards reestablishing custody. In addition, the maternal grandparents were given conditions to fulfill before they could petition for custody of the child. Ultimately, the grandparents satisfied the conditions set for them and the child was placed in the custody of the grandmother, where he currently resides and is thriving. Despite the substantial time devoted to this case, the satisfaction of restoring a family unit was a very rewarding experience.

Mr. Wolf reported that he has not personally handled any civil appeals.

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

(a) United States of America v. Theodore Thomas Wagner, Fourth Circuit Court of Appeals, Decided February 23, 2004 in an unpublished opinion No. 03-4409 - I prepared the Anders brief while an associate at Savage & Savage, P.A. for Andrew J. Savage, III, who was counsel of record in this CJA case.

(b) United States of America v. Terrance Smalls, 134 Fed. Appx. 609, 616, 2005 WL 1395162 (4th Cir. 2005) (unpublished) - I prepared the appellate brief for Andrew J. Savage, III, who was counsel of record in this CJA case, asserting that the defendant’s sentence was imposed in violation of the Sixth Amendment pursuant to the Supreme Court’s ruling in United States v. Booker, 543 U.S. 220 (2005), because the sentencing court found facts beyond those admitted by the defendant to conclude a life sentence was appropriate under the sentencing guidelines. The defendant’s sentences were vacated and the matter was remanded for resentencing.

(c) United States of America v. Terrance Smalls, Fourth Circuit Court of Appeals, Decided Junes 13, 2006 in an unpublished opinion No. 05-4879 - I prepared the Anders brief while Of Counsel to Savage & Savage, P.A. for Andrew J. Savage, III, who was counsel of record in this CJA case.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Mr. Wolf “Well-qualified” in the following evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and judicial temperament. They found him “Qualified” in regards to experience. The committee noted that it has “concerns over the candidate’s lack of experience.”

Mr. Wolf is married to Heather Carey Wolf. He has two children.

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

(a) SC Bar Association;

(b) Charleston County Bar Association;

(c) James L. Petigru American Inn of Court.

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

(a) Charleston Chamber of Commerce;

(b) American Cancer Society;

(c) Charleston County Clemson Club;

(d) Clemson University College of Business and Behavioral Sciences’ Accounting, Finance and Legal Studies Advisory Board.

Mr. Wolf further reported:

“Since my admission to the SC Bar in 1999, I have endeavored to give back to the community both through legal assistance and through more traditional community service. I have participated in organizations such as Kiwanis, Habitat for Humanity, and The American Cancer Society to make our community a better place. Since I went into private practice in 2003, I have continued to set aside time to give back to the community through Young Lawyer Division community service projects such as donating school supplies, Wills for Heroes and participation in Law Week events. Additionally, I have contributed significant time in free and/or reduced fee representation to people who were not in a position to retain my services but desperately needed legal services. I believe my decision to seek the vacant At-Large Seat No. 9 is an extension of my desire to give back to the community by providing conflict resolution services on behalf of the State of South Carolina. Based upon my exposure to the judicial function as a law clerk, I have maintained an interest and sought to expand my experience in all aspects of a Circuit Court practice to maximize my effectiveness were I granted this opportunity. I would put the same effort into being a successful judge as I have into being a successful law clerk, staff attorney in a public agency, and private practitioner.”

(11) Commission Members’ Comments:

The commission noted Mr. Wolf’s dedicated service to his community. The Commission commented that Mr. Wolf’s legal ability and character would be assets on the Circuit Court.

(12) Conclusion:

The Commission found Mr. Wolf qualified but not nominated to serve on the Circuit Court.

**FAMILY COURT**

**Bernard “Ben” F. Mack**

**Ninth Circuit, Seat 1**

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

\(1) Constitutional Qualifications:

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

Mr. Mack was born in 1952. He is 58 years old and a resident of Charleston, South Carolina. Mr. Mack provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1980.

(2) Ethical Fitness:

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

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

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

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

(a) SC Bar Domestic Hot Tip 09/19/03;

(b) Charleston County Bar Annual Review 12/12/03;

(c) Notre Dame Univ. Law School Lawyers & Accounting

Recent Attacks on Confidentiality 10/18/03;

(d) Charleston County Family Court Bar CLE 11/19/04;

(e) Charleston Cty. Bar Association, What Works for Me, Pt.II 02/17/04;

(f) Charleston Cty. Family Law, Family Law 11/18/05;

(g) SC Bar, Family Court Bench/Bar 12/02/05;

(h) Charleston Cty. Bar, What Works for Me 10/09/05;

(i) Side Bar SC, Criminal Law – Gregory Harris 12/27/05;

(j) CCFC, Family Law CLE 11/17/06;

(k) CCBA, What Works for You 12/15/06;

(l) SC Bar, SC Civil Process Update 02/16/07;

(m) Charleston Bar, Child Custody & GAL 01/30/09;

(n) Charleston Bar, What Works for Me 02/13/09;

(o) Fed. Ct. Law Review, Ethics in the E-Discovery Age 02/27/09.

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

Charleston Southern University, Adjunct Professor, Business Law, Dates: 2004-2005.

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

(4) Character:

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

At the public hearing, Mr. Mack addressed a Letter of Caution with minor misconduct issued by the Commission on Lawyer Conduct on May 18, 2007. The letter stated that he had violated Rule 407 of the Rules of Professional Conduct, specifically Rule 3.4, Fairness for Opposing Party and Counsel but that the violation was minor and caused little harm. Thus, no sanction was warranted. The situation occurred when Mr. Mack was representing the father in a custody dispute before Family Court Judge Cate. Judge Cate appointed a guardian ad litem (GAL) to conduct an investigation into issues related to the child and retained jurisdiction for the purpose of completion of the GAL’s investigation and receipt of the report. Following the guardian ad litem’s initial investigation, the parties reached a temporary settlement of the custody matter and entered into a Temporary Consent Order. Mr. Mack explained that since Judge Cate was assigned outside the Ninth Circuit at the time, the Consent Order was presented to Judge Landis for his signature. Judge Cate subsequently became aware that the Consent Order was presented to Judge Landis at a time when she was not available. Mr. Mack testified that Judge Landis then vacated his Order and the matter was returned to Judge Cate for further proceeding. Mr. Mack stated that Judge Cate then filed a complaint against both lawyers with the Commission on Lawyer Conduct. The Commission noted that this was Mr. Mack’s first grievance and that he understood the significance of the letter of caution.

The Commission also noted that Mr. Mack 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. Mack reported that he is not rated by Martindale-Hubbell. Mr. Mack further stated in regards to his lack of rating: “Reason unknown. I have not participated in rating process.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Mack was admitted to the SC Bar in 1980.

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

(a) 1980 Charleston County Public Defender’s Office, Assistant Public Defender.

(b) 1981-84 Ninth Circuit Solicitor’s Office, Assistant Solicitor, Family Court Division; Assistant Solicitor, General Sessions Division

(c) 1984- Present Ameika, DeVane and Mack, Attorneys at Law, General Practice; 75% devoted to Family Court matters.

Mr. Mack made the following statements regarding his experience:

From 1984 to present I have practiced in all areas of Family Court litigation. I represented DSS as assistant solicitor in the early 1980’s in abuse and neglect cases. I have represented hundreds of parties in divorce proceedings, custody litigation and juvenile justice matters.

I have negotiated, mediated and litigated numerous divorce matters that included alimony issues, equitable division of property and child custody. I have served as counsel for adoptive parents and as Guardian ad Litem in numerous adoption proceedings including adoptions under the Interstate Compact.

I have represented numerous juvenile clients in both pleas and trials in the Family Court since 1980.

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

(a) Federal: one federal trial;

(b) State: appearance in Family Court on average of 1-5 times per week.

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

(a) Civil: 10%;

(b) Criminal: 10%;

(c) Domestic: 75%;

(d) Other 5%.

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

(a) Jury: 10%;

(b) Non-jury: 90%.

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

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

(a) South Carolina v. Deavero D. Green, 2009 Charleston County Court of General Sessions. Three indictments for Lewd Act on Minor. Two separate trials in which first trial resulted in not guilty verdict. Second trial resulted in conviction of defendant.

(b) United States v. Gregory Overton, 2000 United States District Court for South Carolina. Multi week trial involving ten co-defendants on charges of Conspiracy to Distribute Crack Cocaine. Involved participation with numerous co-counsel in coordination of defense and complicated plea negotiations with US attorney.

(c) True v. True, 00-DR-10-5189 Charleston County Family Court. Multiple day trial following a year of discovery and depositions in divorce action involving complicated issues of equitable division of marital property. Identification of marital property complicated by the use of trusts by client in ownership of real property assets.

(d) DSS v. Rigney, Baldwin and Loveless, 08-DR-08-1258; Loveless v. Rigney, 08-DR-08-1195. Berkeley County Family Court. Companion cases involving DSS abuse and neglect action against mother and boyfriend. I represented biological father in DSS proceeding and brought separate private action seeking custody of child. DSS action proceeded to trial following multiple depositions and discovery proceedings. Separate private custody action resulted in settlement following mediation of case.

(e) DSS v. Stewart 01-DR-08-1448 Charleston County Family Court. Abuse and neglect action brought by DSS. Involved jurisdiction issues with regard to alleged acts occurring in another jurisdiction. Trial held on issues of abuse that resulted in an Alford admission. Numerous follow-up hearing on treatment plan for father and his compliance with requirements of Final Order.

The following is Mr. Mack’s account of four civil appeals he has personally handled:

(a) Durden v. Durden, 06-DR-18-1348. Dorchester County Family Court appeal to SC Court of Appeals. Date of Decision Ruling without precedential value

(b) Ward v. Ward, 98-DR-26-2911. Horry County Family Court appeal to South Carolina Court of Appeals. May 2000

(c) Jenkins v. Jenkins, 98-DR-10-686. Charleston County Family Court appeal to South Carolina Court of Appeals September 2000. Ruling without precedential value.

(d) Spreeuw v. Barker, 01-DR-10-1046. Charleston County Family Court appeal to South Carolina Court of Appeals. Attorney for the Guardian *ad Litem*.”

The following is Mr. Mack’s account of a criminal appeal he has personally handled:

United States v. Gregory Overton, 2000. Appeal from the United States District Court of South Carolina to the United States Court of Appeals for the Fourth Circuit, Richmond, Virginia. Oral arguments held in Baltimore, Maryland. Appeal of Conviction for Distribution of Crack Cocaine. Case not reported.

Mr. Mack further reported the following regarding unsuccessful candidacies:

(a) Candidate for Ninth Circuit Family Court Seat: Fall 2000;

(b) Candidate for Ninth Circuit Family Court Seat: Fall 2001.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Mr. Mack to be “Well-qualified” in each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Mr. Mack is married to Angela D. Mack. He has three children.

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

(a) SC Bar;

(b) Charleston County Bar Association.

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

(a) St. Stephens Episcopal Church Vestry Member;

(b) Gibbes Museum of Art, Charleston, SC Harleston Fellow.

Mr. Mack further reported:

“I have had thirty years experience as a practicing attorney in Family Court. My thirty-year marriage and raising three wonderful children have contributed to my sense of the appropriate role of a Family Court Judge.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Mack has extensive experience as a Family Court practitioner and an outstanding reputation. They noted his excellent demeanor and temperament, which would serve him well as a Family Court jurist.

(12) Conclusion:

The Commission found Mr. Mack qualified and nominated him for election to the Family Court.

**Daniel E. Martin, Jr.**

**Ninth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Mr. Martin was born in 1963. He is 47 years old and a resident of Charleston, South Carolina. Mr. Martin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989.

(2) Ethical Fitness:

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

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

Mr. Martin reported that he has made $71.28 in campaign expenditures for postage.

Mr. Martin testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) Ethics in Digital Communications 02/18/10;

(b) Estate Planning for the Elderly 02/10/10;

(c) SCAJ Auto Torts XXXII 12/04/09;

(d) Criminal Law Update 01/25/08;

(e) SCTLA Auto Torts XXX 11/30/07;

(f) Pretrial Skills: Thinking on Your feet 11/28/06;

(g) Practice Before the Master 11/09/06;

(h) Advance Cross Examination 12/15/06;

(i) SCTLA Auto Torts XXVIII 12/02/05;

(j) Attorney ECF Training 09/28/05;

(k) Real Estate Seminar at Carolina’s 09/23/05;

(l) SC Family Court Bench Bar 12/03/04;

(m) Revised Lawyer’s Oath 07/22/04;

(n) SCLSA Heirs Property Training 04/02/04.

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

“I was a presenter at a Seminar sponsored by the Heirs Property Law Center and discussed the procedure for initiating quiet title and partition actions.”

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

(4) Character:

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

At the public hearing, Mr. Martin addressed a Letter of Caution issued by the Commission on Lawyer Conduct on December 14, 2007. The letter stated that he had violated Rule 407 of the Rules of Professional Conduct, specifically Rule 1.15 concerning safekeeping of property, but that the violation was minor and caused little harm. Thus, no sanction was warranted. The situation arose when Mr. Martin disbursed money from his IOLTA account thinking that the amount had been wired into the account. When the check could not be cashed for lack of funds, a notice was sent to the Bar. Mr. Martin received the Letter of Caution based on the notice to the Bar and not because of a complaint. When Mr. Martin learned of the discrepancy, he immediately verified that the funds had been wired and made the check good. He testified that he now checks that the money is in his account before making a disbursement.

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

(5) Reputation:

Mr. Martin reported that his Martindale-Hubbell rating is “unknown” to him.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Martin was admitted to the SC Bar in 1989 after taking the exam twice.

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

Since graduating from law school, I served for nearly four (4) years as a Magistrate for Charleston County (part-time) and presided over Small Claims Court, land lord tenant disputes, and claim and deliveries. I held that position from 1989–93 and resigned to dedicate myself to the full time practice of law. I have practiced law at 61 Morris Street with my father, Daniel E. Martin, Sr., since 1989.

I have been engaged in the general practice of law with a concentration in domestic relations and real estate. I have also had substantial experience in wrongful death cases, medical malpractice, excessive use of force, personal injury, wills and estates, general tort law, criminal defense and land disputes. I also served a town council for the Town of Lincolnville from 1991–98 and served as Grand Legal Advisor for the Prince Hall Affiliated Grand Lodge of the state of South Carolina. I am currently handling all title work for the Charleston County Roadwise Project and am responsible for real estate closings involving the purchase right-of-ways and land acquisitions. I also represent South Carolina State University in several lawsuits now pending in the Orangeburg County Court of Common Pleas.

Mr. Martin made the following statements regarding his experience:

For the past twenty (20) years, I have had an extensive family law practice which has included me handling hundreds of divorces, legal separations, child custody and support actions. While many cases are resolved through negotiation, mediation and by agreement of the litigants, a large percentage is contested and requires resolution at trial. My years of experience have helped me to gain a good understanding of the law of equitable distribution of property and the award of spouse support. The knowledge I have gained over these years has enabled me to be a good advocate for my client.

DIVORCE AND EQUITABLE DIVISION

My practice has involved representing clients in actions where the grounds for divorce include physical abuse, habitual drunkenness, adultery, abandonment and separation for a period of not less than one (1) year. I have also handled a number of annulments. The issue of equitable division of property is often disputed, especially where the litigants have accumulated substantial assets. I have gained experience by advocating for my clients, researching case and statutory law, participating in mediation and litigating the issues at trial. Equitable division requires consideration of many factors guided most importantly by fairness. In the matter of Rawlins v. Rawlins (Case No.: 05-DR-10-1220), the parties litigated a divorce involving issues of drug use, child custody, equitable distribution involving business assets. The represented the Defendant father. The parties presented motion prior to the trial including a motion to enforce a settlement which my client won. However, the parties’ failure to reach an agreement resulted in a trial over several days which did not end in a result that either party wanted to accept. The ordeal was rather emotional for all but allowed me an opportunity to zealously represent my client while displaying sensitivity to the fragile feelings that the parties held towards each other.

CHILD CUSTODY

Peterson v. Jenkins (Case No.: 2008-DR-10-3848)

In this case, my client sought custody of his teenage son who was formerly in the custody of his mother. The parties were never married to one another. The mother’s continued drug use and failure to adequately care for the minor was the basis of the Plaintiff’s pursuit. The case was vigorously defended. The Plaintiff won custody of his son; however, the mother has filed a motion for reconsideration of part of the judge’s ruling. Despite the aggressive defense of the mother, the Plaintiff was able to present his case in a professional manner without the need for destroying the character of the Defendant.

ADOPTION

I handled a number of adoptions over the years. I have also participated as the attorney and also the guardian ad litem in termination of parental rights actions. While the adoption actions are rarely controversial, the same may not often be true of termination of parental rights actions. In the matter of Charleston County Department of Social Services, et. al. vs. Christian Hoskins, et. al., (Case No. 04-DR-10-2887), the Defendant was a minor child who became a mother while she herself was in the custody of DSS. I served as the guardian for the oldest of her three children. The child was placed in the custody of a foster parent who would ultimately seek to adopt the child. However, when Ms. Hoskins became an adult and was no longer in the custody of DSS, she pursued an action for custody of her minor children. Her education, employment and limited contact with the children were among many other issues raised by the Department in seeking a termination of Ms. Hoskins’ parental rights. As guardian, my investigation led to me a decision opposite to that of DSS. I felt as though Ms. Hoskins had demonstrated that she was able to care for her children. Nonetheless, the Court determined that too much time had passed since the children’s placement with the foster parents and that termination of Ms. Hoskins’ parental rights was in their best interest. The decision was appealed but was upheld by the Court of Appeals.

ABUSE AND NEGLECT

SCDSS v. JUPITER

In this case, my client was accused of being physically abusive towards her teenage daughter. While the facts ultimately proved that the child was not abused, the intervention by DSS into the situation proved to be necessary and beneficial to all of the parties. While the initial action taken against my client was very emotional and therefore the response predictable, it was the treatment plan that reunited this family and has helped mother and child to build a stronger relationship. DSS v. Cherette Jupiter (Case No.: 09-DR-10-446). This case, like many others that I handled in the past, made me appreciate the hard work of the social workers and legal staff of the Department of Social Services and their indispensible contribution to the fabric of the community.

JUVENILE JUSTICE

In the Matter of Joe Baggett (2008-JU-08-582-583)

My client was accused of burglary after entering a closed pharmacy along with several acquaintances. Mr. Baggett was involved with the wrong crowd and failed to exercise good judgment. It was ultimately a co-defendant who named Mr. Baggett as a suspect. While Mr. Baggett ultimately pled guilty, it was the personal contact that I had with him and his family that seemed to touch him the most. I understand that Joe now works construction with his step father. This case has helped me become sensitive to the cause of bad behavior and yet the need for accountability and rehabilitation.”

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

(a) federal: 1 four-day trial in 2008;

(b) state: I have had at least 2 jury trials in the past five years, at least 5 bench trials, perhaps a dozen or more motions and non-jury hearings in the Court of Common Pleas. Also, I’ve had at least 2 jury trials and 10 bench trials in municipal/magistrate’s courts. I argued a case before the South Carolina Supreme Court in 2009 and appeared before the South Carolina Election Commission in 2009 and the Administrative Court in Columbia for a trial in May, 2010. My appearances in the Charleston County Probate Court and Master-in-Equity Court are much more frequent. I have had scores of hearings in probate courts for formal appointment of personal representatives, conservators and guardians, determination of heirs actions, and will contests. My appearances in the tri-county family courts normally average between 3 to 8 times per week. It is not unusual for me to have 3 hearings in one day in more than one family court.

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

(a) civil: 15%;

(b) criminal: 5%;

(c) domestic: 50%;

(d) other: 30%.

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

(a) jury: 10%;

(b) non-jury: 90%.

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

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

(a) USA v. Larry Blanding (Operation Lost Trust)

Case No.: CR-90-434-CHH

In this case, Larry Blanding, a member of the General Assembly, was charged with violating the Hobbs Act. Mr. Blanding was accused of accepting a cash bribe from a lobbyist working under cover with the FBI in exchange for supporting a para-mutual betting bill. This criminal trial was tried in federal court in Columbia. Although Mr. Blanding was found guilty, my law partner and I appealed his conviction to the Fourth Circuit Court of Appeals. The conviction was over turned. This case was significant because it allowed me to experience the federal criminal process at an early stage in my legal career. It also exposed me to the criminal appeals process and allowed me to witness oral argument before the US Court of Appeals. The case itself was significant because it involved the alleged corruption of a state official and is credited with making the South Carolina General Assembly more ethical and the lobbying process more transparent.

(b) Connell Brown and Illya Brown v. Adolpho Cofino, Joseph Gabe and the City of Charleston

Case No.: 2:92-1745-2 and 2:92-1744-2

This case involved the shooting of a citizen in his own home by a member of the Charleston Police Department. Illya Borwn, while walking home carrying his family’s typewriter, was followed onto his front porch by two officers of the Charleston Police Department. Mr. Brown was immediately attacked by the officers while they attempted to place him in handcuffs. His brother, Connell Brown, came to the front door and was in the doorway shot. He survived his injuries but suffered permanent damages. Both brothers filed actions in the United States District Court claiming violation of their civil rights and certain state torts claims. I, along with two other attorneys, represented him. The case received substantial press. The case was tried over the course of a week before Judge Westin Court. Verdicts were returned in favor of the Defendants. However, the state court claims were preserved and were litigated in the Charleston County Court of Common Pleas. The case involving Illya Brown resulted in a settlement after several days of testimony where I served as lead counsel. This case was significant because it challenged the over aggressive behavior of the Charleston Police Department. After the heavy publicity, claims of police brutality were reduced. I believe that the department subsequently placed more emphasis on the training of its officers.

(c) Julia T. Gregory v. vs. Chief John R. Zumult and the City of North Charleston

2:05-CV-0306-DCV

In this case, Asberry Wilder, a mentally ill adult, was shot to death by a member of the North Charleston Police Department after he was surrounded by officers on Rivers Avenue. It was alleged by the officers that Mr. Wilder had a screw driver and posed a threat to one of the officers. This case was tried over the course of several days and ended when the presiding judge reconsidered his prior decision to deny a directed verdict. During the trial, testimony revealed that the officer who claimed to suffer an injury at the hands of Mr. Wilder was actually struck by a fellow officer. Also, the Defendant’s expert witness confirmed that the Defendant’s fatal wounds were inflicted while the Defendant was already on the ground. Despite this significant development, the trial judge reversed his earlier ruling to deny the Defendant’s motion for a directed verdict just prior to submitting the case to the jury for deliberation. Although the lost was a painful result for the family of Asberry Wilder, the North Charleston Police equipped all of their officers with taser guns after the filing of the lawsuit. The use of such a gun would have prevented the death of Asberry Wilder and has perhaps save the lives of other mentally challenged people since. I feel that the case was significant for this reason and benefitted me in my experience with the family and understanding the mentally ill and the struggles of law enforcement in dealing with them.

(d) Dana E. Winters and Daniella C. Winters v. Joyce Fiddie, C.W. Burbage, Barbara Daniels and Prudential Carolina Real Estate

Case No. 07-CP-08-0973

SC Court of Appeal No.: 2009115366

Vol 7, Issue 10 of Verdict Search National, October 2008

In this case, the Dana and Daniella Winters purchased a house shown to them by a real estate agent who acted as a dual agent for the sellers and the buyers. The sellers and their agent had prior knowledge that the home contained toxic mold yet failed to disclose this information to the buyers. After learning about the dangerous conditions in the home, the buyers sued the sellers, the agent and Prudential Carolina for failure to disclose and violating other provision of the state code. The jury returned a verdict in favor of the Plaintiff’s for $125,000.00 in actual and punitive damages. The case is significant because it is the first verdict in the country against a real estate agent and real estate company for failure to disclose the presence of mold. The case has been published in several national publications including Verdict Search. The Defendants have appealed the decision. The appeal is pending before the South Carolina Court of Appeals.

(e) Fred Hamilton, Jr., and Allyne Mitchell v. Jeff Fulgham, Norman Thomas and the Beaufort County Board of Elections and Voter Registration

South Carolina Supreme Court Opinion No.: 26747

Fred Hamilton and Allyne Mitchell, the won the most votes for the two open seats on the Bluffton town council in the November, 2008 election. The town of Bluffton had no board of elections and commissioned the Beaufort County election board to conduct the election. Jeff Fulgham and Norman Thomas, the other two candidates, failed to win enough votes in the election. They filed a protest before the Beaufort County Board of Elections and a new election was ordered. Fred Hamilton and Alleyne Mitchell retained the service of my firm and appealed the decision to the South Carolina State Election Commission. The commission reversed the decision. Fulgham and Thomas filed an appeal to the State Supreme Court. I presented the oral argument on behalf of Hamilton and Mitchell before the South Carolina Supreme Court on May 13, 2009. Because the Bluffton township had not clarified the procedure for appeals in contest of elections, the Supreme Court remanded the case to the Beaufort County Circuit Court. Both Allyne Mitchell and Fred Hamilton, Jr., were sworn in and both are serving as duly qualified members of Bluffton town council. This case is significant because it allowed me to make an oral argument before the state’s highest court. Also, but for the challenge, the town of Bluffton may have been deprived two very deserving member of town council.”

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

(a) Dana E. Winters and Daniella C. Winters v. Joyce Fiddie, C.W. Burbage, Barbara Daniels and Prudential Carolina Real Estate

SC Court of Appeal No.: 2009115366

The appeal in this case is currently pending before the South Carolina Court of Appeals;

(b) Fred Hamilton, Jr., and Alleyne Mitchell v. Jeff Fulgham, Norman Thomas and the Beaufort County Board of Elections and Voter Registration

Decision issued on December 7, 2009

South Carolina Supreme Court Opinion No.: 26747.

Mr. Martin reported he has not personally handled any criminal appeals.

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

“I served as a Magistrate for Charleston County from 1989-1993. I was appointed to this position after being recommended by the Charleston County Delegation. The Court handled landlord-tenant disputes, claim and deliveries and small claims up to $5,000.00. As magistrate, I also issued arrest warrants, search warrants and presided over bond court as well as preliminary hearings.”

Mr. Martin provided the following regarding his most significant orders or opinions:

“I would not consider any of the decisions that I recall being particularly significant. They were all summary court matters which resolved small disputes. I don’t believe any of my decisions were appealed beyond the Court of Common Pleas or were reversed.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee reported Mr. Martin is “Well-qualified” in each of the nine criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Mr. Martin is married to Reba Zealena Hough-Martin. He has two children.

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

(a) SC Bar Association;

(b) Charleston County Bar Association

I served on the Executive Board (1994-95);

(c) Former member of the Fee Resolution Dispute Committee for the Ninth Judicial Circuit (2000-05);

(d) SC Black Lawyers Association, (former Treasurer);

(e) Former member of the House of Delegates for the SC Bar Association;

(f) Bench-Bar committee for the Charleston County Probate Court from 2007-09;

(g) Bench-Bar Committee for Charleston County Master-in-Equity Court from 2008 – present.

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

(a) Alpha Phi Alpha Fraternity, Inc.;

(b) Prince Hall Masons, Nehemiah Lodge No. 51;

(c) AAONMS, (Shriners) Arabian Temple No. 139, Past Potentate;

(d) George Washington Consistory No. 162;

(e) Untied Supreme Council of 33 Masons;

(f) Owl’s Whist Club.

Mr. Martin further reported:

During my life as a member of the bar, I have participated in many activities which have made me a well-rounded individual. In addition to the activities already mentioned, I have served as a member of the board of trustees of my church, served as a board member of the Cannon Street YMCA, and a board member for the Avery Center for African American History and Culture. I have served as a commissioner for Mayor Joseph Riley’s Commission for Children and currently serve on the City of Charleston Community Development Advisory Committee. I currently serve as the legal adviser for the Prince Hall Affiliated Grand Lodge of the State of South Carolina. As a husband and father, I have taken an active role in the rearing of my two children. My son enters Howard University this August as a freshman and my daughter will begin the seventh grade at Charleston Catholic. I have attended and participated in their parent-teacher conferences, extracurricular activities and sporting events through the years. I have been fortunate enough to travel with them out-of-the country and to have them exposed to different cultures. My wife of 21 years has been supportive of my career and she has established herself as an advocate for the needy as deputy director of the Charleston County Human Services Commission, a community action service organization.

Additionally, my training as a lawyer and a successfully businessman is due in no small part to guidance and inspiration of my father, Daniel E. Martin, Sr. My father’s experience as a lawyer, prosecutor, member of the General Assembly and Circuit Court Judge exposed me to the highest standards of ethics and judicial temperament. Most importantly, he has dedicated his life to service of the community and has demonstrated by example that sacrifice is required of all who have been afforded opportunities not available to others. It is for that reason that our office has remained consistent in offering quality legal service at fees we believe are below average for lawyers in the Charleston area.

(11) Commission Members’ Comments:

The Commission commented that Mr. Martin is poised and well respected in his community. The Commission noted he has good experience with Family Court matters, appears to be patient, and exhibits outstanding temperament, which would be an asset in the Circuit Court.

(12) Conclusion:

The Commission found Mr. Martin qualified and nominated him for election to the Family Court.

**Rita J. Roache**

**Ninth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Roache meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Roache was born in 1960. She is 50 years old and a resident of Mount Pleasant, South Carolina. Ms. Roache 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 1988.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Roache.

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

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

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

(a) Family Law Training 3/4/05;

(b) Legal Issues Affecting the Legal Services Practitioner 10/21/05;

(c) 2006 Education Law Training 2/24/06;

(d) Complex Issues in Family Law 3/31/06;

(e) Nuts and Bolts of Family Court 4/28/06;

(f) Retreat- assorted topics, including Family Law 9/29/06;

(g) NLADA Annual Conference 11/8/06;

(h) SC Legal Services Statewide Meeting 12/11/07;

(i) Family Law 3/28/08;

(j) Statewide Legal Services Meeting 11/12/08;

(k) Houston Intensive Family Law Trial Institute 5/16/09;

(l) Appleseed Family Law Training 3/26/10;

(m) Training for Attorneys Appointed in Abuse and Neglect Cases 4/30/10.

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

(a) Participated in an SC Bar CLE Panel Discussion;

(b) Made presentations for the SC Appleseed Legal Justice Family Law CLE on topics such as Discovery Tips, The Trial Notebook, and Adoption;

(c) Made presentations on Handling a DSS Case for the SC Black Lawyers Association Retreat;

(d) Made presentations on Frequently Asked Questions for Defense Attorneys at a CLE sponsored by the Children’s Law Center;

(e) Made presentations on family law at a CLE sponsored by the Charleston County Bar Association;

(f) Made presentations on family law issues for SC Legal Services and Neighborhood Legal Services;

(g) Taught a seminar on representing clients in order of protection hearings to students at the Charleston School of Law;

(h) Conducts Self-Represented Litigant Clinics on divorce and child support modification as a part of her duties at SC Legal Services. Also contributes to community education in a variety of family law issues;

(i) Presented and Facilitated for Legal Aid University with the Center for Legal Aid Education.

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

(4) Character:

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

The Commission also noted that Ms. Roache 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. Roache reported, “Previously I had a BV rating in Martindale-Hubbell when I was in private practice. I searched and could not find a rating in preparing this application.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Roache was admitted to the SC Bar in 1988.

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

(a) 1988-91, SC Department of Social Services, Office of Child Support Enforcement: State Attorney;

(b) 1991-2000, Brown & Roache Law Firm: Partner: handled family, tort and Social

Security matters mainly, some other matters in the general practice;

(c) 2001-Present, Neighborhood Legal Assistance Program and South Carolina Legal

Services: Staff Attorney and Family Law Unit Head, provided legal services to low; and Income South Carolinians, primarily in the areas of family and education law.

Ms. Roache made the following statements regarding her experience:

My practice has mainly been in the Family Court. I have handled cases on each of the grounds of divorce, both as the attorney for the Plaintiff and the Defendant, involving complex and simple issues of equitable division, including military retirements, real property and businesses.

I have represented parents, grandparents and third parties in custody matters. My cases have involved multi-day trials.

I have represented clients in adoptions and am familiar with the laws in this area. I have presented on the topic and also organized a CLE on Adoption Issues for SC Legal Services.

I have represented clients and served as a Guardian ad Litem in abuse and neglect cases in Charleston, Berkeley, and Dorchester counties.

I have also provided services for juveniles and their parents in juvenile matters.

Ms. Roache reported the frequency of her court appearances during the past five years as follows:

(a) Federal: No appearances;

(b) State: I maintain an active trial practice and appeared frequently in the Family Court in Charleston, Berkeley and Dorchester Counties. I also appeared in Magistrate and Municipal Courts in those counties occasionally.

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

(a) Civil: 0%;

(b) Criminal: 0%;

(c) Domestic: 90%;

(d) Other: 10%.

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

(a) Jury: 2%;

(b) Non-jury: 98%.

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

The following is Ms. Roache’s account of her five most significant litigated matters:

(a) Gabrish v. Gabrish. This case involved complex divorce, custody and visitation issues and also the division of a business and other assets. We engaged in protracted litigation, also discovery and mediation. Ultimately, on the day the matter was scheduled to start a two day trial, we settled the case favorably for my client. A very detailed settlement agreement was prepared and filed with the court.

(b) Cooper v. Brown. This matter was a custody case that involved relocation issues. We conducted significant discovery. An in camera meeting with the children was required during the trial. The case was tried over the course of 3-4 days and then reconvened for 2 more days. It provided significant trial and litigation experience.

(c) DSS v. Footman and Berkeley County DSS, et. al. This was a TPR and adoption matter that was tried for 6 days. Five attorneys litigated the case, including myself: the DSS attorney, the attorney for the Plaintiffs, the Guardian ad Litem and the attorney for the Guardian. Two sets of foster parents sought to terminate the rights of the natural parents and separately adopt twin children. The matters were consolidated for trial. It provided litigation and trial experience and more familiarity with DSS procedures and practices.

(d) Loe #1 and Loe #2 v. Mother, Father and Berkeley County DSS, 675 S.E.2d 807, 382 SC 457(SC App. 2009). I appealed the termination of parental rights and adoption in the above listed case. It was significant for the appellate experience it provided. The two cases were consolidated as at trial. The Records on Appeal were in excess of 1800 pages each. The Court of Appeals reversed and remanded the matter, and opposing attorney filed a petition for writ of certiorari, and that was denied by the Supreme Court.

(e) Milligan v. Johnson. This case was filed to obtain custody of two minor children and have them returned from the State of Texas back to the mother in South Carolina. We obtained emergency relief, which included the return of the children. Meanwhile the opposing party pursued actions in Georgia and Texas for which we provided pro se assistance for the Mother and obtained representation from the legal aid office in Texas. We were able to come to an agreement which provided for custody and an increased amount of child support.

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

(a) Loe #1 and Loe #2 v. Mother, Father and Berkeley County DSS, 675 S.E.2d 807, 382 SC 457(SC App. 2009);

(b) Loe#1 and Loe #2 v. Mother, Father and Berkeley County DSS, Opinion No. 4518, The Respondents filed a petition for a writ of certiorari, and that was denied by the Supreme Court.

Ms. Roache reported that she has not personally handled any criminal appeals.

Ms. Roache further reported the following regarding an unsuccessful candidacy:

"I was a candidate for the Family Court, Ninth Judicial Circuit in 2002. I emerged as one of the three candidates from screening, but ultimately was not elected.”

(9) Judicial Temperament:

The Commission believes that Ms. Roache’s temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Ms. Roache to be “Well-qualified” for seven of the nine criteria: constitutional qualifications, ethical fitness, character, reputation, physical health, mental stability, and experience. She was found “Qualified” for professional and academic ability and judicial temperament.

Ms. Roache is married to John Perry Buncum, Jr. She has two children.

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

(a) SC Bar;

(b) SC Black Lawyers Association, Assistant Secretary, approximately 1999;

(c) Formerly a member of the SC Women Lawyers Association, the American Bar Association, the National Bar Association and the Thurgood Marshall Law Society.

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

(a) Alpha Kappa Alpha Sorority, Inc., Reporter and Graduate Advisor;

(b) The Junior League of Charleston, Inc., Member at Large to Board of Directors;

(c) National Hampton Alumni Association, SC Vice President, Board of Directors, National Nominating Chair;

(d) The Charleston Chapter of Links, Inc., Journalist and Parliamentarian;

(e) Jack and Jill of America, Inc., Parliamentarian and Group Advisor;

(f) Outstanding Twenty Year Alumnus Award, Hampton University;

(g) Most Promising New Soror, Alpha Kappa Alpha Sorority, Inc.;

(h) Mentoring Award from Charleston School of Law BLSA;

(i) Woman of the Millenium, Sigma Gamma Rho Sorority, Inc.;

(k) Board of Directors, My Sister’s House;

(l) Board of Directors, South Carolina Coalition Against Domestic Violence and Sexual Assault.

(11) Commission Members’ Comments:

The Commission commented that Ms. Roache is known as an empathetic person and an excellent candidate for a judgeship in the Family Court. They noted that Ms. Roache says what she means and has a proven work record.

(12) Conclusion:

The Commission found Ms. Roache qualified but not nominated to serve on the Family Court.

**James A. Turner**

**Ninth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Turner meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Turner was born in 1957. He is 53 years old and a resident of Charleston, South Carolina. Judge Turner provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission’s investigation of Judge Turner revealed a letter of caution that the South Carolina Commission on Judicial Conduct issued to Judge Turner on August 9, 2002 because Judge Turner failed to report to the Judicial Screening Committee that he was the subject of an investigation by the South Carolina Law Enforcement Division (SLED). The panel found that this failure to report his impending SLED investigation constituted misconduct under Rule 7(a)(1) of the Rules for Judicial Disciplinary Enforcement. However, the panel found that this was a minor misconduct and that there was little or no harm to the public or administration of justice.

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

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

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

(a) Magistrate School 11/14/05;

(b) Magistrates Annual Convention 9/7/05;

(c) MUSC Judges and Attorneys Substance Abuse 12/2/05;

(d) Legislative Magistrate CLE 3/8/06;

(e) Bridge the Gap (presenter) 3/6/06;

(f) Bridge the Gap (presenter) 5/9/06;

(g) Magistrate Annual Convention 9/6/07;

(h) Magistrate Mandatory School 11/6/07;

(i) Magistrate Legislative Seminar 3/5/08;

(j) Bridge the Gap (presenter) 3/10/08;

(k) Bridge the Gap (presenter) 5/12/08;

(l) Magistrates Annual Convention 9/9/09;

(m) Bridge the Gap (presenter) 3/9/09;

(n) Magistrate Legislative Seminar 3/10/10;

(o) Judicial Ethics and Domestic Violence 6/17/10;

(p) Bridge the Gap (presenter) 8/3/10.

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

(a) Orientation for new magistrates at the criminal justice academy in the area of conducting preliminary hearings;

(b) Presenter at Tips From the Bench seminar sponsored by the SC Bar, lecturing in the area of civil and criminal practice in Magistrate Court;

(c) Presenter at College of Charleston CLE for local attorneys on the topic of practice procedure and substantive law in Magistrate Court (civil);

(d) Panel participant at yearly seminar on landlord-tenant issues sponsored by local apartment managers;

(e) Bridge the Gap Speaker, March 2005-2010, May 2005-2008, August 2009, 2010.

Judge Turner reported that he has published the following books and articles:

(a) The New Magistrate Court Rules, The Bar Tab 1998;

(b) The New Rules, South Carolina Lawyer, November 2008.

(4) Character:

The Commission examined Judge Turner regarding a sexual harassment claim made against him in 1989. The claim was previously investigated by SLED and determined to have no merit. The Commission also determined that the allegations had no merit. In fact, the Commission determined that the allegations were made in an effort to enhance the possibility of a civil settlement against Charleston County by the claimant.

The Commission’s investigation of Judge Turner did not indicate any evidence of a troubled financial status. Judge Turner has handled his financial affairs responsibly.

The Commission also noted that Judge Turner 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 Turner reported that he is not rated by Martindale-Hubbell. Judge Turner further stated that he “does not have a rating due to judicial service for the past several years.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Turner was admitted to the SC Bar in 1991.

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

(a) 1990-1991, Stucky and Kobrovsky-general practice, including insurance defense and 1983 actions;

(b) 1991, Rosen, Rosen, and Hagood-school voting rights;

(c) 1991-1994, Private Practice-general practice;

(d) 1992-1995, Magistrate Preliminary Hearing Court;

(e) 1994-present, Magistrate Small Claims Court.

Judge Turner made the following statements regarding his experience:

I was in private practice prior to becoming a summary court Judge and approximately forty (40%) percent of my work was in Family Law. This allowed me to represent clients whose cases dealt with all these issues with the exception of adoption and somewhat limited in the area of abuse and neglect.

However, I am familiar with the statutory scheme for adoption and do keep current concerning family law issues since it is a rapidly developing field of law.

Judge Turner reported the frequency of his court appearances during the five years prior to serving on the bench as follows:

(a) Federal: 20%;

(b) State: 80%.

Judge Turner reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years prior to serving on the bench as follows:

(a) Civil: 40%;

(b) Criminal: 20%;

(c) Domestic: 40%.

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

(a) Jury: 15%;

(b) Non-jury: 85%.

Judge Turner provided that he served as sole counsel, chief counsel, and associate counsel in these matters. He further provided, “I handle both jury and non-jury trials as judge.”

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

(a) Passailaigue v. McCants (Legal issues included Statute of Elizabeth, anti-assignment statute and fraudulent conveyance issues and included appeals);

(b) Ellis v. South Carolina Department of Highways and Public Transportation (Legal issues included Tort Claims Act and chain of custody issues);

(c) Lester v. Pasjon (The case concerned the litigation of a partnership dissolution);

(d) Cade v. Guerreri (Breach of contract case which featured technical testimony on construction);

(e) State v. In the interest of Eric Milligan (Defense of a thirteen year old on cocaine charges and other matters).

Judge Turner has not personally handled any civil or criminal appeals.

Judge Turner reported that he has held the following judicial offices:

(a) Preliminary Hearing Court, 1992-95, appointed;

(b) Small Claims Court, 1994–present, appointed.

The following is Judge Turner’s account of his five most significant orders or opinions:

(a) Hadfield v. Gilchrist, 343 SC 88, 539 S.E.2d 268 (2000);

(b) Herring v. Home Depot, 350 SC 373, 565 S.E.2d 773 (2002);

(c) Flynt v. Charleston Custom Cycles (unreported);

(d) Hendltons v. Benger (unreported);

(e) Garcia v. Chase (unreported).

Judge Turner further reported the following regarding unsuccessful candidacies:

(a) Candidate for Circuit Court: 1996, 1998, 1999, and 2001;

(b) Candidate for Family Court: 2001;

(c) Candidate for Master in Equity: 2002.

He further reported that he was, “found qualified and nominated for Circuit Court in 2001.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualification found Judge Turner to be “Well-qualified” in the following seven evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, and experience. The Lowcountry Citizens Committee found Judge Turner to be “Qualified” for judicial temperament and mental stability. The Committee stated with respect to Judge Turner’s judicial temperament, “There are concerns with the candidate’s tactfulness.”

Judge Turner is married to Janice Kirshtein Turner. He has one child.

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

SC Bar.

Judge Turner reported that he is not a member of any civic, charitable, educational, social, or fraternal organizations. Judge Turner further stated, “I do not belong to those organizations, because, for the past five years, I have been a judicial officer. I avoid any potential conflict, except for being on the board of my religious institution.”

Judge Turner additionally reported:

“I have been recommended to serve as a special circuit judge for our circuit.”

(11) Commission Members’ Comments:

The Commission noted that Judge Turner has excellent experience as a magistrate for 16 years. They commented that he is known for his strong work ethic, which would assist him on the Family Court bench.

(12) Conclusion:

The Commission found Judge Turner qualified and nominated him for election to the Family Court.

**Alexandra DeJarnette Varner**

**Ninth Circuit, Seat 1**

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

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Varner meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Varner was born in 1968. She is 42 years old and a resident of Sullivan’s Island, South Carolina. Ms. Varner 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. Varner.

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

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

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

(a) Mechanics of Family Recovery Court and DSS Appointments 09/05;

(b) Revised Lawyers’ Oath and Ethics 04/05;

(c) SC Bar Children’s Issues in Family Court 03/06;

(d) SC Bar Convention--Family Law Seminar January 2007;

(e) SC Bar Ethical Considerations and Pitfalls for Family Law Lawyers 02/07;

(f) SC Bar Nuts and Bolts of Permanency Planning & TPR 02/07;

(g) SC Bar Side Bar SC Family Law Update 02/07;

(h) SC Bar Convention Family Law 01/08;

(i) SC Bar Side Bar Live 02/08;

(j) SC Bar Random Observations from the Bench 02/08;

(k) SC Bar Side Bar SC Family Law Update 02/08;

(l) SC Bar GAL Training 01/09;

(m) SC Bar Side Bar Live 02/09;

(n) SC Bar Judges and Attorneys Abuse Seminar 12/09;

(o) MUSC Mental Health Law Update 01/10;

(p) SC Bar Convention Family Law 01/10.

Ms. Varner reported that she has taught the following law‑related course:

“I have lectured at the CLE program ‘Cool Tips from the Hottest Domestic Law Practitioners III’, April 2001.”

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

(4) Character:

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

The Commission also noted that Ms. Varner 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. Varner reported that she does not have a Martindale-Hubbell rating. She further stated, “I do not know the reason for this.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Varner was admitted to the SC Bar in 1995.

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

(a) The Mason Law Firm, Mount Pleasant, SC 1996-97, a general practice firm. I handled commercial and civil litigation cases as well as a worker’s compensation case. I also handled real estate closings as well as family law cases for the firm. In addition, I handled minor criminal matters, including cases on behalf of the town of Mount Pleasant, SC.

(b) Rosen, Rosen & Hagood, Charleston, SC 1997-2000. My practice was concentrated in the area of Family Law. Cases handled while at that firm were Hollar v. Hollar; Bakala v. Bakala , and Wooten v. Wooten.

(c) Alexandra D. Varner, PA, Mount Pleasant, SC, 2000-present. My solo practice focuses entirely on Family Law and includes DSS appointments on behalf of a local firm, Evans, Carter, Kunes & Bennett.

Ms. Varner made the following statements regarding her experience:

“Since I graduated from law school in 1995, I have been involved in family law, including divorce and equitable division of property, child custody, child support, and abuse and neglect. My current practice includes a number of custody cases as well as divorce and equitable distribution cases and DSS appointments, which I handle for a local law firm. My practice in the last ten years has been 100% dedicated to Family Law. I have experience in all areas of Family Law and feel that my experience in complex private cases as well as in DSS cases has prepared me for the bench.”

Ms. Varner reported the frequency of her court appearances as follows:

(a) Federal: none;

(b) State: frequent.

Ms. Varner reported the percentage of her practice involving civil, criminal, and domestic matters as follows:

(a) Civil: 0%;

(b) Criminal: 0%;

(c) Domestic: 100%;

(d) Other: 0%.

Ms. Varner reported the percentage of her practice in trial court as follows:

(a) Jury: 0%;

(b) Non-jury: 100%.

Ms. Varner provided that she served both as sole counsel as well as associate counsel.

The following is Ms. Varner’s account of her five most significant litigated matters:

(a) Dodge v. Dodge, 332 SC 401, 505 S.E. 2d 344 (Ct. App. 1998)

A precedent setting appellate decision in child custody and a case which became the subject of a question on the SC Bar Examination;

(b) Bakala v. Bakala, 319 SC 348, 461 S.E. 2d 388 (2003)

Service of process and international law (Hague Convention);

(c) Hollar v. Hollar, 342 SC 463, 536 S.E. 2d 883 (2000) – Significant as to substantial change of circumstance and GAL fees;

(d) Chestnut v. Chestnut, A recent case tried with Robert N. Rosen with a significant award of attorneys’ fees;

(e) Wooten v. Wooten, 358 SC 54, 594 S.E.2d 854 (Ct. App. 1999) –Standards for awarding marital home in equitable distribution or as an incident of support.

The following is Ms. Varner’s account of two civil appeals she has personally handled:

(a) Bakala v. Bakala, 319 SC 348, 461 S.E.2d 388 (2003).

(b) Hollar v. Hollar, 342 SC 463, 536 S.E.2d 883 (2000).

Ms. Varner reported she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Varner’s temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualification found Ms. Varner to be “Well-qualified” for all nine criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Ms. Varner is married to Dean DeFoix Varner, III. She has two children.

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

(a) SC Bar, member (worked with Young Lawyers Division;

(b) SCWLA, member;

(c) Charleston County Bar, member (worked with Executive Committee 2001-02).

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

(a) President of Charleston Lawyer’s Club 2001;

(b) Leadership Class of Charleston 1999;

(c) City of Charleston Teen Court and Mt. Pleasant Youth Court, volunteer, 1998-99;

(d) Cities in School, Charleston, SC, Mentor, 1995-96;

(e) Guardian *ad Litem*, Columbia, SC, Volunteer 1993-95.

(11) Commission Members’ Comments:

The Commission commented that Ms. Varner has excellent experience in Family Court. They noted Ms. Varner was very poised and well spoken at the Public Hearing.

(12) Conclusion:

The Commission found Ms. Varner qualified but not nominated to serve on the Family Court.

**CONCLUSION**

The Judicial Merit Selection Commission found the following candidates QUALIFIED AND NOMINATED:

Court of Appeals

Seat 1 The Honorable Paul E. Short, Jr., Chester, SC

Seat 2 The Honorable H. Bruce Williams, Columbia, SC

Circuit Court

Fifth Circuit, Seat 1 The Honorable DeAndrea Gist Benjamin,

Columbia, SC

Fifth Circuit, Seat 1 Robert E. Hood, Columbia, SC

Fifth Circuit, Seat 1 John P. Meadors, Columbia, SC

Thirteenth Circuit, Seat 2 Eric K. Englebardt, Greenville, SC

Thirteenth Circuit, Seat 2 Andrew R. Mackenzie, Greenville, SC

Thirteenth Circuit, Seat 2 The Honorable Letitia H. Verdin,

Greenville, SC

Circuit Court

At-Large, Seat 9 The Honorable Kellum W. Allen,

West Columbia, SC

At-Large, Seat 9 Daniel Dewitt Hall, York, SC

At-Large, Seat 9 Stephanie Pendarvis McDonald,

Charleston, SC

Family Court

Ninth Circuit, Seat 1 Bernard “Ben” F. Mack, Charleston, SC

Ninth Circuit, Seat 1 Daniel E. Martin, Jr., Charleston, SC

Ninth Circuit, Seat 1 The Honorable James A. Turner,

Charleston, SC

Respectfully submitted,

/s/Representative F. G. Delleney, Jr.

/s/Senator Glenn F. McConnell

/s/Representative Alan D. Clemmons

/s/Senator John M. “Jake” Knotts, Jr.

/s/Representative David J. Mack III

/s/Senator Floyd Nicholson

/s/Professor John P. Freeman

/s/Mr. John Davis Harrell

/s/Mrs. Amy Johnson McLester

/s/Mr. H. Donald Sellers

Received as information.

**REPORT OF STANDING COMMITTEE**

Rep. BRANHAM, from the Florence Delegation, submitted a favorable report on:

H. 3290 -- Rep. Branham: A BILL TO AMEND ACT 806 OF 1952, AS AMENDED, RELATING TO ANNUAL MEETINGS OF THE SCHOOL DISTRICTS OF FLORENCE COUNTY, SO AS TO REQUIRE FLORENCE COUNTY SCHOOL DISTRICT TWO TO CALL A CITIZENS' MEETING ON THE PROPOSED DISTRICT BUDGET BEFORE JUNE THIRTIETH OF EACH YEAR AND ADDITIONAL MEETINGS AS MAY BE REQUIRED.

Ordered for consideration tomorrow.

**HOUSE RESOLUTION**

The following was introduced:

H. 3310 -- Reps. Gilliard and Mack: A HOUSE RESOLUTION TO DECLARE MAY 2011 AS "WATER SAFETY AWARENESS MONTH" AND TO ENCOURAGE PUBLIC SCHOOL DISTRICTS OF THIS STATE TO PROVIDE AT LEAST ONE HOUR OF INSTRUCTION ON WATER SAFETY DURING THE MONTH OF MAY.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 3311 -- Reps. Gilliard and Mack: A CONCURRENT RESOLUTION TO URGE OUR FEDERAL, STATE, AND LOCAL GOVERNMENTS, ALONG WITH CHURCHES AND NEIGHBORHOOD ASSOCIATIONS, TO STEP UP THEIR EFFORTS TO ASSIST THE HOMELESS IN LIGHT OF THE NATION'S ECONOMIC DOWNTURN, ADVERSE WEATHER CONDITIONS, AND AN INCREASE IN THE HOMELESS POPULATION.

The Concurrent Resolution was ordered referred to the Committee on Invitations and Memorial Resolutions.

**HOUSE RESOLUTION**

The following was introduced:

H. 3312 -- Reps. Gilliard, Whipper and Mack: A HOUSE RESOLUTION EXPRESSING THE SYMPATHY OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES TO THE

FAMILY AND MANY FRIENDS OF THE LATE MARJORIE AMOS-FRAZIER OF CHARLESTON.

The Resolution was adopted.

**INTRODUCTION OF BILLS**

The following Bills were introduced, read the first time, and referred to appropriate committees:

H. 3313 -- Rep. Govan: A BILL TO AMEND SECTION 59-1-425, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BEGINNING AND LENGTH OF THE SCHOOL TERM, SO AS TO PROVIDE THAT A SCHOOL DISTRICT MAY PROPOSE AN ALTERNATIVE SCHOOL SCHEDULE PLAN THAT PROVIDES FOR THE OPERATION OF SCHOOLS ON A FOUR-DAY WEEKLY CALENDAR.

Referred to Committee on Education and Public Works

H. 3314 -- Reps. Limehouse, Sottile and Mack: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-935 SO AS TO REQUIRE A PERSON TO ATTEMPT TO RELOCATE NUISANCE GEESE TO PROPERTY OWNED BY OR UNDER THE CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES OR OTHER PRIVATE PROPERTY BEFORE DESTROYING SUCH GEESE PURSUANT TO A FEDERAL PERMIT.

Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

H. 3315 -- Reps. Limehouse, Sottile, Mack and McCoy: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2-1-155 SO AS TO PROVIDE THAT EVERY TEN YEARS, THE GENERAL ASSEMBLY SHALL PROVIDE FOR A COMMEMORATIVE SESSION OF THE GENERAL ASSEMBLY TO BE HELD AT A SUITABLE LOCATION IN CHARLESTON COUNTY TO COMMEMORATE AND BRING TO THE ATTENTION OF ALL SOUTH CAROLINIANS AND CITIZENS OF OTHER STATES THE ROLE PLAYED BY CHARLESTON AND THE EVENTS THAT OCCURRED IN CHARLESTON WHICH ARE SIGNIFICANT IN THE HISTORY OF THE UNITED STATES.

Referred to Committee on Judiciary

H. 3316 -- Rep. Funderburk: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 20, TITLE 37 SO AS TO ENTITLE THE ARTICLE "CALLER IDENTIFICATION FRAUD", TO CREATE THE OFFENSE OF UNLAWFULLY ALTERING THE IDENTIFICATION OF A CALLER'S NUMBER OR CALLER IDENTIFICATION SPOOFING, TO DEFINE NECESSARY TERMS, AND TO PROVIDE A PENALTY; AND TO REDESIGNATE THE EXISTING SECTIONS OF CHAPTER 20, TITLE 37 AS ARTICLE 1 ENTITLED "IDENTITY THEFT".

Referred to Committee on Judiciary

H. 3320 -- Rep. Cobb-Hunter: A BILL TO AMEND SECTION 12-36-2110, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MAXIMUM SALES, USE, OR CASUAL EXCISE TAX ON CERTAIN ITEMS OF TANGIBLE PERSONAL PROPERTY, INCLUDING MOTOR VEHICLES, SO AS TO INCREASE THE MAXIMUM TAX FROM THREE HUNDRED TO FIVE HUNDRED DOLLARS; AND BY ADDING SECTION 12-36-2115 SO AS TO PROVIDE A CREDIT EQUAL TO ONE-HALF THE SALES, USE, OR CASUAL EXCISE TAX OTHERWISE DUE ON THE SALE OR LEASE OF A MOTOR VEHICLE IN WHICH THE AMOUNT SUBJECT TO THE TAX IMPOSED BY THIS CHAPTER IS TEN THOUSAND DOLLARS OR LESS.

Referred to Committee on Ways and Means

H. 3321 -- Rep. J. R. Smith: A BILL TO AMEND ACT 1006 OF 1958, RELATING TO THE BATH WATER AND SEWER DISTRICT, THE CLEARWATER WATER AND SEWER DISTRICT, AND THE LANGLEY WATER AND SEWER DISTRICT IN AIKEN COUNTY AND THE ELECTION OF COMMISSIONERS FOR THESE DISTRICTS, SO AS TO PROVIDE THAT NO PERSON MAY SERVE AS A COMMISSIONER OF THESE DISTRICTS AND ALSO SERVE AS AN OFFICER OR EMPLOYEE OF THE SAME DISTRICT, AND TO REQUIRE PRESENT COMMISSIONERS IN VIOLATION OF THIS PROVISION TO MAKE A WRITTEN ELECTION AS TO WHICH

POSITION WILL BE RETAINED AND WHICH POSITION BY THAT ELECTION IS BEING RESIGNED.

On motion of Rep. J. R. SMITH, with unanimous consent, the Bill was ordered placed on the Calendar without reference.

H. 3323 -- Reps. Gambrell, D. C. Moss, Thayer, Bowen, Cooper, Loftis, Agnew, Sandifer, Umphlett and White: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 46-13-75 SO AS TO PROVIDE THAT A PERSON WHO WOULD OTHERWISE BE REQUIRED TO BE CERTIFIED AS A COMMERCIAL APPLICATOR OF PESTICIDES IS NOT REQUIRED TO BE CERTIFIED IF THE PERSON USES NO OTHER PEST CONTROL SUBSTANCE EXCEPT GLYPHOSPHATE, AND THE PERSON ATTESTS TO THIS SINGULAR PEST CONTROL USE ON AN AFFIDAVIT FORM PROVIDED BY THE DIRECTOR OF THE STATE CROP PEST COMMISSION.

Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

**HOUSE RESOLUTION**

The following was introduced:

H. 3317 -- Rep. Toole: A HOUSE RESOLUTION TO CONGRATULATE LEXINGTON COUNTY'S WHITE KNOLL HIGH SCHOOL MARCHING BAND ON CAPTURING THE 2010 SOUTH CAROLINA AAAA STATE MARCHING BAND CHAMPIONSHIP TITLE.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3318 -- Reps. Toole and Atwater: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE LEXINGTON DIXIE YOUTH INDEPENDENT ALL-STAR BASEBALL TEAM FOR ITS IMPRESSIVE WIN OF THE 2010 CLASS AAA DIXIE YOUTH

WORLD SERIES CHAMPIONSHIP TITLE, AND TO HONOR THE PLAYERS AND COACHES ON AN OUTSTANDING SEASON.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3319 -- Rep. J. R. Smith: A HOUSE RESOLUTION TO RECOGNIZE AND CONGRATULATE MIDLAND VALLEY HIGH SCHOOL JUNIOR ANDREW ATKINSON ON HIS FIRST-PLACE FINISH IN THE HIGH SCHOOL DIVISION OF THE 2010 WORLD NATIONAL ARCHERY IN THE SCHOOLS PROGRAM (NASP) ARCHERY TOURNAMENT.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3322 -- Rep. J. R. Smith: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR EUGENE SCOTT SAWYER OF AIKEN COUNTY FOR HIS MANY YEARS OF OUTSTANDING COMMUNITY SERVICE, AND TO CONGRATULATE HIM ON NEARLY FIFTY YEARS OF SERVICE WITH THE AIKEN COUNTY COMMISSION ON HIGHER EDUCATION OF THE UNIVERSITY OF SOUTH CAROLINA-AIKEN.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3324 -- Rep. Gambrell: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR THE MEMBERS OF THE BELTON LIONS CLUB, UPON THE OCCASION OF THEIR SEVENTY-FIFTH ANNIVERSARY, AND TO COMMEND THEM FOR THEIR YEARS OF SERVICE AND LEADERSHIP TO THE BELTON COMMUNITY.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3325 -- Rep. Brantley: A HOUSE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES UPON THE PASSING OF ROBERT BRYANT, JR., OF JASPER COUNTY AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

The Resolution was adopted.

**CONCURRENT RESOLUTION**

The following was introduced:

H. 3326 -- Rep. J. R. Smith: A CONCURRENT RESOLUTION TO RECOGNIZE AND REMEMBER JOE W. DEVORE OF AIKEN COUNTY FOR HIS MANY YEARS OF OUTSTANDING COMMUNITY SERVICE, ESPECIALLY TO AIKEN TECHNICAL COLLEGE, AND TO EXTEND THE DEEPEST SYMPATHY OF THE SOUTH CAROLINA GENERAL ASSEMBLY TO THE FAMILY AND FRIENDS OF MR. DEVORE UPON HIS RECENT PASSING.

The Concurrent Resolution was agreed to and ordered sent to the Senate.

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anderson | Anthony |
| Atwater | Bales | Ballentine |
| Bannister | Barfield | Battle |
| Bedingfield | Bingham | Bowen |
| Bowers | Brady | Branham |
| Brannon | Brantley | G. A. Brown |
| H. B. Brown | R. L. Brown | Chumley |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Cooper | Corbin |
| Crawford | Crosby | Daning |
| Delleney | Dillard | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Govan | Hamilton |
| Hardwick | Harrell | Harrison |
| Hayes | Hearn | Henderson |
| Herbkersman | Hiott | Hixon |
| Hodges | Horne | Hosey |
| Huggins | Jefferson | King |
| Limehouse | Loftis | Lowe |
| Lucas | Mack | McCoy |
| McEachern | McLeod | Merrill |
| Mitchell | D. C. Moss | V. S. Moss |
| Munnerlyn | Murphy | J. H. Neal |
| J. M. Neal | Norman | Ott |
| Owens | Parker | Parks |
| Patrick | Pinson | Pitts |
| Pope | Ryan | Sabb |
| Sandifer | Simrill | Skelton |
| G. M. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Tribble | Umphlett |
| Vick | Viers | Weeks |
| White | Williams | Young |

**STATEMENT OF ATTENDANCE**

I came in after the roll call and was present for the Session on Thursday, January 13.

|  |  |
| --- | --- |
| Richard “Rick” Quinn | Mia Butler Garrick |
| Deborah A. Long | William R. "Bill" Whitmire |
| Eric Bikas | Bakari Sellers |
| Chris Hart | Leon Howard |
| Jackson "Seth" Whipper | Todd Rutherford |
| Denny Neilson | Patsy Knight |

**Total Present--117**

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. GILLIARD a leave of absence for the day due to a prior commitment.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. WILLIS a leave of absence for the day.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. NANNEY a leave of absence for the day due to inclement weather.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. STAVRINAKIS a leave of absence for the day due to a prior commitment.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. EDGE a leave of absence for the day due to family illness.

**DOCTOR OF THE DAY**

Announcement was made that Dr. Gregory Tarasidis was the Doctor of the Day for the General Assembly.

**CO-SPONSORS ADDED**

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co‑sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co‑sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member’s or co‑sponsor’s written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee.”

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3004 |
| Date: | ADD: |
| 01/13/11 | HORNE and HARRELL |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3144 |
| Date: | ADD: |
| 01/13/11 | NORMAN, POPE, PARKER, ALLISON, MITCHELL and ALEXANDER |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3095 |
| Date: | ADD: |
| 01/13/11 | BOWEN, SANDIFER and WHITMIRE |

**H. 3278--ORDERED TO THIRD READING**

The following Joint Resolution was taken up:

H. 3278 -- Rep. Harrison: A JOINT RESOLUTION TO PROVIDE THAT UNTIL JUNE 30, 2011, THERE ARE NO LIMITATIONS AS TO TYPES OF APPLICANTS OR ORGANIZATIONS WHO MAY APPLY FOR A SPECIAL FIFTEEN-DAY BEER AND WINE PERMIT AUTHORIZED BY SECTION 61-4-550 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, IN ORDER TO TEMPORARILY CORRECT AN IMPROVIDENTLY ENACTED PROVISION IN 2010 RESTRICTING THE ISSUANCE OF THESE PERMITS TO ONLY NONPROFIT ORGANIZATIONS UNTIL SUCH TIME AS THE GENERAL ASSEMBLY CONSIDERS AND ENACTS PERMANENT GENERAL LAW CHANGES TO EFFECTUATE THIS CORRECTION.

Rep. HARRISON explained the Joint Resolution.

The Joint Resolution was read the second time and ordered to third reading.

**H. 3278--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. HARRISON, with unanimous consent, it was ordered that H. 3278 be read the third time tomorrow.

**H. 3303--POINT OF ORDER**

The following Joint Resolution was taken up:

H. 3303 -- Reps. J. E. Smith, Harrison, Pinson, Vick, Agnew, Williams, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Viers, Weeks, Whipper, White, Whitmire, Willis and Young: A JOINT RESOLUTION TO PROMOTE MAJOR GENERAL STANHOPE S. SPEARS TO THE RANK OF LIEUTENANT GENERAL OF THE SOUTH CAROLINA ARMY NATIONAL GUARD EFFECTIVE JANUARY 11, 2011.

Rep. WHITE made the Point of Order that the Joint Resolution was improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

**H. 3004--ORDERED TO THIRD READING**

The following Bill was taken up:

H. 3004 -- Reps. Ballentine, Norman, Viers, Lucas, Simrill, Huggins, G. M. Smith, G. R. Smith, Loftis, Bedingfield, Hamilton, Stringer, Nanney, Lowe, Young, Willis, Bowen, D. C. Moss, Agnew, Pope, Daning, Thayer, Harrison, Allison, Taylor, Ryan, McCoy, Hixon, Bingham, Long, Whipper, R. L. Brown, Atwater, Henderson, Horne and Harrell: A BILL TO ENACT THE "SPENDING ACCOUNTABILITY ACT OF 2011"; AND TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2-7-125 SO AS TO REQUIRE CERTAIN BILLS AND JOINT RESOLUTIONS TO RECEIVE A RECORDED ROLL CALL VOTE AT VARIOUS STAGES OF THEIR PASSAGE BY THE HOUSE OF REPRESENTATIVES AND THE SENATE.

Rep. BALLENTINE explained the Bill.

Rep. WHITE demanded the yeas and nays which were taken, resulting as follows:

Yeas 104; Nays 0

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anderson | Anthony |
| Atwater | Bales | Ballentine |
| Bannister | Barfield | Battle |
| Bedingfield | Bikas | Bingham |
| Bowen | Bowers | Brady |
| Branham | Brannon | Brantley |
| H. B. Brown | R. L. Brown | Chumley |
| Clemmons | Clyburn | Cobb-Hunter |
| Cole | Cooper | Corbin |
| Crawford | Crosby | Daning |
| Delleney | Dillard | Erickson |
| Forrester | Frye | Funderburk |
| Gambrell | Govan | Hamilton |
| Hardwick | Harrell | Harrison |
| Hayes | Hearn | Henderson |
| Herbkersman | Hiott | Hixon |
| Hodges | Horne | Hosey |
| Huggins | Jefferson | King |
| Limehouse | Loftis | Long |
| Lowe | Lucas | Mack |
| McCoy | McEachern | McLeod |
| Merrill | Mitchell | D. C. Moss |
| V. S. Moss | Munnerlyn | Murphy |
| J. M. Neal | Norman | Ott |
| Owens | Parker | Pinson |
| Pitts | Pope | Quinn |
| Rutherford | Ryan | Sabb |
| Sandifer | Simrill | Skelton |
| G. M. Smith | G. R. Smith | J. R. Smith |
| Sottile | Spires | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Tribble | Umphlett |
| Viers | Weeks | White |
| Whitmire | Young |  |

**Total--104**

Those who voted in the negative are:

**Total--0**

So, the Bill was read the second time and ordered to third reading.

RECORD FOR VOTING

I would have voted in favor of H. 3004.

Rep. Christopher R. Hart

RECORD FOR VOTING

I was temporarily out of the Chamber on constituent business during the vote on H. 3004, on Thursday, January 13. If I had been present, I would have voted in favor of the Bill.

Rep. Andrew Patrick

RECORD FOR VOTING

I was not present on January 13, 2011. However, had I been present, I would have voted in favor of H. 3004.

Rep. Leon Stavrinakis

**H. 3004--ORDERED TO BE READ THIRD TIME TOMORROW**

On motion of Rep. BALLENTINE, with unanimous consent, it was ordered that H. 3004 be read the third time tomorrow.

**H. 3294--RECALLED AND REFERRED TO COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

On motion of Rep. HARRISON, with unanimous consent, the following Bill was ordered recalled from the Committee on Judiciary and was referred to the Committee on Labor, Commerce and Industry:

H. 3294 -- Rep. Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-59-60 SO AS TO PROVIDE AN INSURER SHALL GIVE WRITTEN NOTICE TO A CLAIMANT ABOUT CERTAIN STATUTES OF LIMITATIONS OR OTHER TIME LIMITS CONCERNING THE PENDING CLAIM AND THE APPROACHING EXPIRATION OF THESE TIME LIMITS, AND TO PROVIDE EXCEPTIONS TO THIS NOTICE REQUIREMENT, AND LIMITS ON THE APPLICABILITY OF THIS SECTION.

**H. 3254--RECALLED FROM COMMITTEE ON EDUCATION AND PUBLIC WORKS**

On motion of Rep. DANING, with unanimous consent, the following Bill was ordered recalled from the Committee on Education and Public Works:

H. 3254 -- Rep. Daning: A BILL TO AMEND SECTION 57-23-815, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ROADSIDE VEGETATION MANAGEMENT AT EXIT 199 ALONG INTERSTATE HIGHWAY 26 IN BERKELEY COUNTY, SO AS TO PROVIDE THAT BOTH THE DEPARTMENT OF TRANSPORTATION AND THE TOWN OF SUMMERVILLE MAY MOW BEYOND THIRTY FEET FROM THE PAVEMENT ROADSIDE VEGETATION ADJACENT TO INTERSTATE 26 AT THIS LOCATION.

**H. 3186--RECALLED AND REFERRED TO COMMITTEE ON JUDICIARY**

On motion of Rep. OWENS, with unanimous consent, the following Bill was ordered recalled from the Committee on Education and Public Works and was referred to the Committee on Judiciary:

H. 3186 -- Reps. J. R. Smith, Bowen, Clyburn, Hixon, Spires, Taylor, Young, G. R. Smith, Simrill, Thayer, Harrison, Toole and G. M. Smith: A BILL TO AMEND SECTIONS 59-71-40 AND 59-71-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO A SCHOOL BOND ELECTION, SO AS TO PROVIDE THAT THE ELECTION MUST BE HELD ON THE DATE OF A GENERAL ELECTION OR ON THE DATE OF A PRIMARY ELECTION.

**H. 3286--RECALLED FROM COMMITTEE ON WAYS AND MEANS**

On motion of Rep. COOPER, with unanimous consent, the following Bill was ordered recalled from the Committee on Ways and Means:

H. 3286 -- Rep. Bingham: A BILL TO AMEND SECTION 41-35-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PAYMENT OF EXTENDED UNEMPLOYMENT BENEFITS WHEN FEDERALLY FUNDED, SO AS TO CHANGE THE METHOD FOR CALCULATING CERTAIN FUNDING INDICATORS BY BASING THE CALCULATION ON ONE OR MORE THREE-MONTH PERIODS ENDING THE PRECEDING THREE CALENDAR YEARS.

Rep. HODGES moved that the House do now adjourn, which was agreed to.

**RETURNED WITH CONCURRENCE**

The Senate returned to the House with concurrence the following:

H. 3281 -- Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrison, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pinson, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis and Young: A CONCURRENT RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE GENERAL ASSEMBLY UPON THE DEATH OF SOUTH CAROLINA STATE REPRESENTATIVE CATHY HARVIN OF CLARENDON COUNTY ON SATURDAY, DECEMBER 4, 2010, AND TO CONVEY THE DEEPEST SYMPATHY TO HER FAMILY AND MANY FRIENDS.

H. 3279 -- Reps. Harrell, Lucas, Cooper, Hardwick, Harrison, Owens, Sandifer, White, Howard and Bingham: A CONCURRENT RESOLUTION INVITING HER EXCELLENCY, NIKKI HALEY, GOVERNOR OF THE STATE OF SOUTH CAROLINA, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION AT 7:00 P.M. ON WEDNESDAY, JANUARY 19, 2011, IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES.

**ADJOURNMENT**

At 10:50 a.m. the House, in accordance with the motion of Rep. BARFIELD, adjourned in memory of his sister, JoAnn Barfield Johnson, to meet at 10:00 a.m. tomorrow.

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