Friday, May 6, 2011

(Local Session)

~~Indicates Matter Stricken~~

Indicates New Matter

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

REPORTS RECEIVED

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**SOUTH CAROLINA**

**GENERAL ASSEMBLY**

**Report of the**

**Legislative Audit Council**

**Nominating Committee**

April 28, 2011

Pursuant to §2-15-20, the Legislative Audit Council Nominating Committee favorably report the following candidates with terms prescribed by law to the General Assembly for election to the Legislative Audit Council.

The Nominating Committee consists of the following members of the House of Representatives, appointed by the Speaker, and members of the Senate, appointed by the President of the Senate.

Sen. George E. Campsen, III Rep. James H. Harrison

Sen. Robert W. Hayes, Jr. Rep. William E. Sandifer, III

Sen. Kent M. Williams Rep. David J. Mack, III

The below listed candidates are hereby nominated for election by the General Assembly to the Legislative Audit Council.

1. Mr. Mallory Factor, to fill the remaining portion of a term to expire on June 30, 2011 and a full term to expire on June 30, 2017

2. Mr. Thomas F. Hartnett, for a term to expire June 30, 2015

3. Ms. Jane Pike Miller, for a term to expire June 30, 2013

Respectfully submitted,

/s/ Sen. George E. Campsen III /s/ Rep. James H. Harrison

/s/ Sen. Robert W. Hayes, Jr. /s/ Rep. William E. Sandifer III

/s/ Sen. Kent M. Williams /s/ Rep. David J. Mack III

On motion of Senator CAMPSEN, ordered printed in the Journal.

**Judicial Merit Selection Commission**

**Report of Candidate Qualifications**

**for Spring 2011**

Date Draft Report Issued: Thursday, May 5, 2011

Date and Time Final Report Issued: Noon, Tuesday, May 10, 2011

Judicial candidates are not free to

seek or accept commitments until

Tuesday, May 10, 2011, at Noon.

Judicial Merit Selection Commission

May 5, 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 May 10, 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 Tuesday, May 10, 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

Dear Fellow Members:

This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate’s contact with members of the General Assembly, as well as third parties contacting members on a candidate’s behalf. It is also to remind you of these issues for the Spring 2011 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 F.G. Delleney, Jr.

Chairman Vice-Chairman

**INTRODUCTION**

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

The Judicial Merit Selection Commission 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 Family Court.

**FAMILY COURT**

**QUALIFIED AND NOMINATED**

**The Honorable Cely Anne Baker Brigman**

**Fourth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Judge Brigman was born in 1961. She is 50 years old and a resident of Darlington, South Carolina. Judge Brigman provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

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

Judge Brigman 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 Brigman reported that she has made the following campaign expenditures: $303.00 for a name badge, palm cards, and postage.

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

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

(a) Children’s Issues in Family Court 3/17/06;

(b) Criminal Domestic Violence and Coordinated Community Response 3/15/06;

(c) Chief Magistrate Technology 7/19/06;

(d) Alternative Dispute Resolution Training 9/08/06;

(e) Hot Tips From the Coolest Domestic Law Practitioners 9/22/06;

(f) Mandatory Magistrate School 11/03/06;

(g) Successful Financial Settlements For Your Divorce Client 3/11/07;

(h) Magistrate Training 5/14/07;

(i) Children’s Issues in Family Court 5/23/07;

(j) Chief Magistrate Technology 7/19/07;

(k) Family Law: Helping Your Clients Through Difficult Cases 12/03/07;

(l) 2007 Family Court Bench/Bar 12/07/07;

(m) Bits, Bytes & Clips 1/25/08;

(n) Your Family Law Practice in the 21st Century 3/31/08;

(o) Chief Magistrate Training 7/09/08;

(p) Judicial Selection in South Carolina 9/17/08;

(q) Emerging Issue in Adoption-Voluntary Relinquishments: Practices, Procedure & the SC Supreme Court’s New Legal Standard 9/26/08;

(r) Family Law From A to Z 10/15/08;

(s) Mandatory School for Magistrates 11/07/08;

(t) Ethics Update 12/19/08;

(u) Sidebar – South Carolina Criminal Law 4/26/09;

(v) Magistrate’s and Municipal Courts 5/31/09;

(w) Chief Magistrate Training 6/23/09;

(x) Mandatory School for Magistrates 10/30/09;

(y) Staff/Judges Annual Training 2/02/10.

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

(a) I made a presentation at a South Carolina Women Lawyers Seminar on *Criminal Domestic Violence in Magistrate’s Court* in October 2006.

(b) I presented a case law up date at a National Business Institute Seminar entitled *Stay on Top of Family Law Developments* in December 2007.

(c) I lectured on the topic of *Marriage Dissolution, Process and Procedure* at a National Business Institute Seminar in October 2009.

Judge Brigman reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Judge Brigman 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 Brigman reported that her rating by a legal rating organization, Martindale-Hubbell, is 2.9.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Brigman was admitted to the South Carolina Bar in 1986.

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

From August 1986 until May 1990, I practiced as an associate with Greene, Lockemy and Bailey in Dillon, South Carolina. My responsibilities involved family court litigation, civil litigation primarily representing plaintiffs in personal injury actions and limited criminal defense. I also performed residential real estate closings.

From May 1990 until May 2004, I practiced as an associate with D. Kenneth Baker, P.A. in Darlington, South Carolina. My responsibilities involved family court litigation, civil litigation primarily representing plaintiffs in personal injury actions, and residential real estate closings. I also handled cases in the probate court.

In March 2004, I was appointed to fill a position as a part-time Magistrate for Darlington County. I still hold this position and have been serving as Chief Magistrate for Darlington County since 2004.

From May 2004 until November 2009, I practiced as an associate with McDougall and Self, L.L.P. in Florence, South Carolina. My practice was limited to family court litigation.

From November 2009 until present, I have practiced with the Jebaily Law Firm, P.A. in Florence, South Carolina. My practice is limited to family court litigation.

In June 2010, I became a part-time attorney for the Clarendon County Guardian ad Litem program. I represent lay guardians in matters involving the Department of Social Services.

Judge Brigman further reported:

My professional practice as an attorney has been limited to family court litigation for the last seven years. I have tried divorce, equitable division of property, child custody, adoption, abuse and neglect and juvenile cases during that time. I have not only tried cases but have participated in mediations and settlement negotiations on behalf of clients involved in family court actions. I have also served as a part-time Magistrate for the last seven years. Both my private practice and my service as a magistrate have prepared me to preside over cases in family court.

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

(a) Federal: 0%;

(b) State: 100%.

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

(a) Civil: 0%;

(b) Criminal: 0%;

(c) Domestic: 99%;

(d) Other: 1%.

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

(a) Jury: 0%;

(b) Non-jury: 100%.

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

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

(a) Trey Gerald Smith v. Jennifer Erin Williamson, 07-DR-16-0071

This was a custody/visitation action brought pursuant to the Uniform Child Custody Jurisdiction Act (UCCJA) and the Parental Kidnapping Prevention Act (PKPA). I represented the Defendant mother in this action. My client and the minor child lived in Mississippi. In a previous action between these parties it was established that Mississippi was the home state of the minor child. After the Family Court of Mississippi had issued an order regarding custody, the father filed a second action in South Carolina seeking to modify the Mississippi order. After a full hearing on the merits, the Family Court in South Carolina dismissed the father’s complaint. I was able to demonstrate that pursuant to the PKPA the family court in South Carolina lacked jurisdiction and the father would have to pursue his claim in Mississippi, my client’s home state.

(b) Joseph Warren Sims v. Sarah Sims, 08-DR-21-1579 This was a divorceand custody action in which I represented the Defendant father. The parties were able to resolve the custody and visitation issues at mediation. The issue at trial was the divorce. The Plaintiff mother had filed seeking a divorce on the grounds of physical cruelty, which my client contested. I was able to demonstrate through the physical evidence and testimony at trial that the wife’s allegations and proof did not rise to the level required under current case law in South Carolina. After a full hearing on the merits, the trial court dismissed wife’s complaint for divorce.

(c) James Dustin Carnell v. Jessica Marie Carnell, Tonja Renee Carnell and minor children Brittany Ann Carnell and Tiffany Nichole Carnell. 09-DR-16-1107. This was an action for termination of parental rights and adoption. I represented the biological father and potential adoptive step-mother. We were seeking to terminate the parental rights of the biological mother and allow the step-mother to adopt the minor children. The biological mother contested both the termination of parental rights and the adoption. I was able to establish that the biological mother had failed to visit or support the minor children and that pursuant to the statute, her parental rights to the children should be terminated. Upon terminating the parental rights of the biological mother, the Court allowed the step-mother to adopt the children, over the objections of the biological mother.

(d) March v. March, 04-DR-16-0094. This was an action for divorce and equitable division of marital assets. I represented the Plaintiff in this action who claimed that there was significant items of property which were non-marital and not subject to division by the court. The Defendant wife contended that all items were marital and that she was entitled to an equitable division. I was able to demonstrate to the court that the property in question was non-marital which meant my client retained exclusive ownership and the Defendant wife was not entitled to any portion.

The Defendant also claimed my client should pay her attorney fees. Based on the testimony at trial, the court determined each party should pay their own fees.

(e) Gerald v. Gerald, 09-DR-21-1372. This was a Rule to Show Cause action filed during a pending divorce. I represented the Plaintiff wife who alleged the Defendant had repeatedly violated a prior restraining order issued by the court.

There were numerous instances of unwanted and intrusive contact which the Defendant denied. Through testimony and the introduction of various exhibits the restraining order on numerous occasions, despite his adamant denials.

The Court found the Defendant to be in contempt of the prior order.

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

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

March 2004 to present – appointed to serve as part-time Magistrate for Darlington County. In 2004, I was appointed to serve as Chief Magistrate and still hold that position. I preside over Criminal Domestic Violence Court, civil matters in which the amount in controversy does not exceed $7,500.00, and criminal matters that fall within the Magistrate’s Court jurisdiction. I also preside over all the jury trials held in the Hartsville area of Darlington County and conduct bond hearings.

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

From May 1990 until May 2004, I practiced as an associate with D. Kenneth Baker, P.A. in Darlington, South Carolina. My responsibilities involved family court litigation, civil litigation primarily representing plaintiffs in personal injury actions, and residential real estate closings. I also handled cases in the probate court.

In March 2004, I was appointed to fill a position as a part-time Magistrate for Darlington County. I still hold this position and have been serving as Chief Magistrate for Darlington County since 2004.

From May 2004 until November 2009, I practiced as an associate with McDougall and Self, L.L.P. in Florence, South Carolina. My practice was limited to family court litigation.

From November 2009 until present, I have practiced with the Jebaily Law Firm, P.A. in Florence, South Carolina. My practice is limited to family Court litigation.

In June 2010, I became a part-time attorney for the Clarendon County Guardian ad Litem program. I represent lay guardians in matters involving the Department of Social Services.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Brigman “Well qualified” in terms of ethical fitness, professional and academic responsibility, character, reputation, experience, and judicial temperament. The Committee found Judge Brigman “Qualified” in terms of constitutional qualifications, physical health, and mental stability. The Committee stated in its summary, “Judge Brigman is an excellent candidate for this position.”

Judge Brigman is married to Gregory W. Brigman. She has two children.

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

(a) South Carolina Bar Association

Past Member, House of Delegates

Past Member, Board of Governors;

(b) Darlington County Bar Association;

(c) Florence County Bar Association;

(d) South Carolina Association for Justice

Past Chairman, Family Law Section;

(e) South Carolina Women’s Law Association

(f) Summary Court Judges Association.

Judge Brigman further reported:

“For the last several years, my practice has been devoted exclusively to the practice of family law. I have tried to increase my professional skills by attending educational family law seminars and by speaking at these seminars. My service as a Magistrate has taught me the importance of exercising patience, understanding and restraint with both litigants and lawyers. I believe I have the ability and temperament needed to serve on the Family Court bench.”

(11) Commission Members’ Comments:

The Commission commented that Judge Brigman has a wealth of experience as a family law practitioner. They noted that her excellent temperament and demeanor would serve her well on the Family Court bench.

(12) Conclusion:

The Commission found Judge Brigman qualified and nominated her for election to the Family Court, Fourth Judicial Circuit, Seat 2.

**The Honorable Salley Huggins McIntyre**

**Fourth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Judge McIntyre was born in 1969. She is 42 years old and a resident of Dillon, South Carolina. Judge McIntyre provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

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

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

Judge McIntyre reported that she has made $49.65 in campaign expenditures for nametags, candidacy cards, and postage.

Judge McIntyre testified she has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) Mini Summit on Justice for Children 12/02/2010*;*

(b) 2010 Hot Tips from the Coolest Domestic Practitioners 10/01/2010;

1. 18th Annual Probate Bench/Bar Seminar 09/10/2010;

(d) 2010 Guardian *ad Litem* Update 08/27/2010;

(e) Representing the Volunteer 05/07/2010;

(f) 2009 Hot Tips for the Coolest Domestic Practitioners 09/18/2009;

(g) 17th Annual Probate Bench/Bar Seminar 09/11/2009;

(h) Common Law Marriage 07/15/2009;

(i) Title Insurance Claims and Underwriting Seminar 11/13/2008;

(j) Hot Tips from the Coolest Domestic Law Practitioners 09/19/2008;

(k) Children’s Issues in Family Court 03/21/2008;

(l) Title Insurance Claims & Underwriting Seminar 11/08/2007;

(m) Hot Tips from the Coolest Domestic Law Practitioners 09/21/2007;

(n) Children’s Issues in Family Court 03/23/2007;

(o) Children’s Issues in Family Court 03/17/2006;

(p) Fundamentals in Real Estate Closings in South Carolina 12/06/2005;

(q) Hot Tips from the Coolest Domestic Law Practitioners 09/23/2005;

(r) Children’s Issues in Family Court 08/23/2005.

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

(a)I taught a business law class through Coker College shortly after being admitted to the bar. It was a night class taught at the National Guard Armory in Mullins and mainly consisted of adult students who were working full time and attending school part time.

(b) Several times a year, I volunteer to speak to local high schools and middle schools regarding juvenile matters and the law in general. I also volunteer to speak to different schools during Law Education Week.

Judge McIntyre reported that she has not published any books and/or articles.

(4) Character:

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

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

(5) Reputation:

Judge McIntyre reported the following regarding her rating by a legal rating organization: “When I first joined the firm of Greene and Bailey, P.A., my rating with Martindale-Hubbell was a BV. Practicing in the Fourth Circuit, I have never seen much need in pursuing a more distinguished rating.”

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

I was elected to serve as the Mayor of the City of Dillon from May 1999 until May 2003. I did not seek a second term. Reports were timely filed with the State Ethics Commission.

I am serving as the Associate Probate Judge for Dillon County and have been since July 2009. I am not required to file with the State Ethics Commission.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge McIntyre was admitted to the South Carolina Bar in 1995.

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

Upon graduating from law school, I clerked for the Honorable James E. Lockemy from August 1995 until June 1996. In June 1996, I became an Associate at the firm of Greene & Bailey, P.A. in Dillon, SC. In June of 1998, A. Glenn Greene, Jr. and I formed Greene & Huggins, P.A. where I am currently practicing.

Since joining the firm of Greene & Bailey, P.A., (now Greene & Huggins, P.A.), I have maintained a general practice in the areas of domestic, real estate, personal injury and probate. As the years have passed, my real estate and domestic work have increased substantially, and I have had less work in the area of personal injury.

I have also served as attorney for the Dillon County Guardian *ad Litem* program since 1998. My work with the program was all volunteer until contracts were offered in 2009. The pay is very nominal compared to the amount of time involved in and out of court.

Practicing in a rural area, I have to have a general practice to service most of the community with its needs. Over the past few years, the economy has changed the time my firm has devoted to the different areas of law.

In June of 2009, the Dillon County Probate Judge passed away after a brief illness. I was asked to serve as the Associate Probate Judge. The Clerk of Court for Dillon County was the Acting Probate Judge handling all of the personnel matters and my role was to hear all matters and answer all legal questions. I served as the Associate Probate Judge for Dillon County until January 4, 2011, when the newly elected Probate Judge took office. Since the newly elected Probate Judge took office, I have served as the Associate Probate Judge pro bono. I have agreed to do this for a six month period to assist the newly elected Probate Judge make her transition successful.

Judge McIntyre further reported:

I have been involved in nearly all aspects of South Carolina Family Court. I have represented clients in divorce, alimony and equitable division of property cases, the overwhelming majority of which involved child custody. I have served as attorney for the Dillon County Guardian *ad Litem* program since 1998, with 10 years of that being on a strictly volunteer basis. I have handled numerous adoption cases, and I have handled those juvenile cases to which I have been appointed. I feel that my seasoned experience in these areas duly qualifies me to be a successful Family Court Judge.

Divorce -- I have handled cases on all grounds of divorce, fault and no-fault, contested and uncontested. I have also represented parties in the determination of common law marriage and defended parties on the grounds of condonation, reconciliation and recrimination. In a majority of these cases, litigation involved valuation of property, including but not limited to real estate, business, retirement, profit sharing plans and the like. I have also had to prepare numerous Qualified Domestic Relations Orders. On the flip side of the assets cases, I have also had to litigate cases where parties were not very wealthy and were about to lose everything or possibly their marital money was tied up in a home owned by the “in-laws”, and other individuals had to be added as parties to the action.

Alimony --I have represented individuals in divorces when they were defending against alimony, seeking a reduction of alimony or attempting to receive an award of alimony. In a few cases, I had to seek to uncover additional assets to prove that the other party was able to pay alimony because they were hiding assets or understating the value or the income production of assets.

Child Custody and Support --I have been involved in numerous custody and support cases during my practice. Some parties were married and some were not. I have also represented Grandparents in seeking custody with their own child as the Defendant. I have served as the Guardian *ad Litem* in many private actions. I try not to have more than five pending private custody actions at a time. These type cases are very demanding, and in a small town, you get called upon frequently to serve. I have also handled cases regarding the psychological parent and the intentional alienation of children against one parent. I have negotiated many child support cases, including but not limited to deviation from the guidelines, imputed wages and income from second and third jobs that were revealed during discovery.

Adoption -- I have been the moving party, the defending party and the Guardian *ad Litem* in adoptions. Since I serve as the Attorney for the Dillon County Guardian *ad Litem* program, I am typically asked to serve as the Guardian during the adoption. I have also represented grandparents, siblings and stepparents in adoptions.

Abuse and Neglect -- As the attorney for the Dillon County Guardian *ad Litem* Program, I am involved in almost all of the Abuse and Neglect cases in Dillon, unless my office has a conflict, which is quite rare. DSS court is held on average two days a month in Dillon with 10 to 12 cases being heard per day. As the attorney for the Guardian *ad Litem* I have to handle daily questions involving the minor children. The Guardian coordinator has unlimited access to me any time of the day and any time of the week.

Juveniles -- Occasionally, I am appointed to serve as the attorney for Juveniles or as their Guardian *ad Litem*. Because of my representation of the Guardian *ad Litem* program, I get called upon only once or twice a year.

Judge McIntyre reported the frequency of her court appearances as follows:

(a) federal: None

(b) state: On average, I appear in court at least 2 days a week.

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

(a) civil: 25%;

(b) criminal: 0%;

(c) domestic: 70%;

(d) other: 5%.

Judge McIntyre reported the percentage of her practice in trial court as follows:

(a) jury: 0%;

(b) non-jury: 100%.

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

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

(a) Victor Pernell Abraham v. Jackelin Moreno 2006-DR-17-360.

I debated about adding this as one of my most significant litigated cases but decided that this is a case for the Guardians *ad Litem* in South Carolina that struggle with their court-ordered duties and this is one of the cases that helped me decide to run for this position. I was appointed as the Guardian in this private action after the Temporary Hearing where the Mother (Moreno) lost custody to the Father (Abraham). Father and Mother were never married. Father was under a court-order to pay child support but there was never an order for custody. This case was active for over one year. I visited with the child numerous times over the course of this case. I went to her home where she lived in Rock Hill in October of 2008 and visited with her, her teachers, her Father and Stepmother. I left all of my numbers for school personnel and teachers to contact me if they needed me for any reason. I explained who I was and what my role was. I visited with the minor child in Marion County during Thanksgiving of 2008. The hearing was set for the first part of December. I did not speak with the child between Thanksgiving and the first day of trial. The trial started in December and continued until a day in February. After the Judge ruled on this case, it was discovered that a DSS investigation was pending in York County for allegations of abuse, and was first opened after Thanksgiving but before the trial started in December. When I first heard about the DSS investigation, I became very alarmed and was unable to get much more of an answer other than the case was an Unfounded Category II. I immediately filed a Motion to Reopen the case so that I could continue to investigate. The motion was granted and eventually another hearing was held. At the conclusion of the hearing, the Court left the child with her Father but ruled that the Stepmother could not administer any corporal punishment to the minor child. This case is significant because I had technically been relieved as the Guardian but because we are charged with a duty to serve the best interest of the child, I felt that I could not ignore this allegation, and thankfully I did not. Re-opening this case has provided more protection for this minor child and has certainly made DSS more aware of the issues surrounding her environment.

(b) Shirley Johnson v. Angela Lampley, Jarece N. Lampley, Darius Walker a/k/a Darius Hudgins, and John Doe 2008-DR-17-216

This was a great case of psychological parent. I represented the Defendant, Angela Lampley, who was given a child by the mother (Jarece Lampley), my client’s cousin. The maternal grandmother, Shirley Johnson, filed this action a month before her daughter (Jarece) was murdered. The daughter’s boyfriend is still incarcerated pending charges for her murder. A month before filing this action, the Grandmother, Mother and boyfriend came to Dillon in an attempt to pick the child up and take her back to New Jersey. Since the child had lived in South Carolina for over six months, I advised my client to not let the child leave. Subsequently, the Grandmother filed this action, naming my client and the Mother as defendants. This case continued on over the course of 2 ½ years.

My client received numerous threatening phone calls from the home number of the Grandmother and from cell numbers in New York where the Grandmother lived. Some of these threats were recorded and were played back at a second temporary hearing and at the final hearing. On one particular exchange, the Grandmother’s other daughter appeared and threatened my client and her family to the point my client feared for her safety. The Grandmother obtained a New Jersey order giving her custody of this minor child along with two other children of the deceased mother, after she had filed the action is South Carolina seeking custody of this child. With that New Jersey court order, she was able to obtain social security benefits for the minor child even though she did not have custody of the child. My client was unaware for some period of time that she was receiving these benefits. The Grandmother refused to produce documents and comply with discovery which caused delays in the final hearing. The Grandmother made numerous calls to DSS in South Carolina and at least one report in New York in an attempt to gain custody. We requested a psychological of the Grandmother. The Grandmother’s psychological revealed that her morals may be compromised. The Judge found that the Grandmother and her family had frustrated visitations. The Grandmother admitted on cross examination that if she was awarded custody that she would not foster a relationship between the minor child and my client despite the fact that this child had lived with my client for almost 3 ½ years. The Judge was disturbed by this and ruled that it was not in the best interest of the child for the Grandmother to be awarded custody.

Although my client won custody, the Court did not grant termination of parental rights and adoption, despite the fact that the grounds were there. Instead the Court ruled that this case was clearly an issue of custody and not termination of parental rights and adoption; therefore, the termination of parental rights and adoption were denied.

(c) South Carolina Department of Social Services v. Kristina Miller, Kenneth Brandon Brumbles, Philip Eugene Graham, Jr., Jeffrey Caulder, Gene and Maggie Miller 2008-DR-17-489

This is a case that was initiated with a safety plan placing four (4) minor children with the maternal grandfather and his wife (“maternal grandparents”). The maternal grandparents hired an attorney and filed a private action for custody of all four children. DSS filed an action after the private action was filed and the maternal grandparents moved to intervene. The two cases were consolidated under the DSS action. I was appointed as the Guardian *ad Litem* to replace the Guardian that was appointed in the private action. There were three (3) different fathers in this action. At the initial hearing, two children went to live with their father in York County, the youngest child went to live with the paternal grandparents and the oldest child went to live with the maternal grandparents. The condition of the paternal grandparents receiving custody of the youngest child was that the father, Caulder, was not to live in the home nor could he move back into the home. The paternal grandparents stated at the hearing that Caulder had already moved out and would not be returning. I made a surprise visit to the paternal grandparents’ home after obtaining clarification from the Court that if I found that Caulder was living in the home that all I had to do was submit an affidavit to the Court and the child would immediately be removed by DSS. Upon arriving at the home, I was told three conflicting stories about Caulder living there. It was undisputed that he had been living there since the hearing and in fact was living there at the time of the hearing, but the question of “how long” he remained in the home after the hearing was the only discrepancy.

I immediately submitted an affidavit to the Court, and the child was removed and placed with the maternal grandparents. After much questioning of these children, it was revealed that the oldest three children had been severely abused and tortured by Caulder with the mother’s knowledge. The paternal grandparents refused to acknowledge that the abuse was occurring. The youngest child, Caulder’s only biological child, was not abused. At the review hearing, the paternal grandparents of the youngest child filed a motion to intervene which was denied.

After numerous interviews with the children, the solicitor’s office was able to indict Caulder on three counts of Unlawful Neglect of a Child and the mother with one count. The mother pled guilty and Caulder was convicted after a three day trial. The mother received 10 years and Caulder received 10 years consecutive on each of the charges.

Since the end of the DSS action, the two middle children that were living with their father have returned to the maternal grandparents. I served as the Guardian *ad Litem* in this private action when the maternal grandparents were awarded custody. The maternal grandparents have adopted both the oldest child and youngest child. They are in the process of adopting the two middle children. Of all the cases I have tried, this was the most emotional and by far the most rewarding!

(d) Tammy Small Moore v. Rodney Wade Moore 2001-DR-33-360.

This case is significant because it involves the Tobacco Settlement. I chose this case because when my client walked in all she could say was that she wanted her children and out of her marriage. She believed there was no money to fight over. By the end of this case, we had four attorneys involved (2 on each side) and we had hired an expert from the University of South Carolina to testify in regards to the Tobacco Settlement. Needless to say, this was the first time this “expert” had ever testified. She had been studying the buyout but had never been called to testify in a divorce hearing. During Discovery, we were able to determine that Mr. Moore was the owner of some of the farms in question and also listed as the grower of these and other farms along with his father. The payout was based on grower and owner. My client received yearly payouts from her husband’s portion of the proceeds for over five years. In addition to the tobacco issue, we had crops, livestock and equipment to value. My client had very little upfront money to hire an investigator so much of the investigation was left up to me and my client. Counting moving cows is really hard to do. Ultimately, we videoed the cows owned by the husband as our number was much higher than his. When we were finally able to settle the case, we also settled issues about who was to pay what portion of their daughter’s upcoming wedding. It was a very long and time consuming case but I was so happy to see my client get what she, by law, was entitled to receive.

(e) Linda P. Oxendine v. Herbert Oxendine 2006-DR-17-237

This is a case that I became involved in after the temporary hearing. I represented the Mother. There were two minor children and very little assets to fight over. We had two temporary hearings in this matter because of the Father encouraging his daughters to misbehave to the extent that they could have been arrested or killed. The Father told the 13 year old daughter to take her Mother’s car and drive to Dillon. At the time that she took the car it was approximately 5 am. The child was on Daniel Island and had her younger sister in the car with her. The Father instructed her to drive for almost two hours before he met them and picked them up, leaving the Mother’s car abandoned. Needless to say, “someone” broke into her car. The Father did not contact anyone until almost 10 am the next morning to let anyone know that he had the children in Dillon. It was late that afternoon before he took the children to the Dillon County Sheriff’s Department and he only took them then because I just happened to pull up behind him in the car.

The Father called law enforcement on two different occasions to have the Mother’s car searched for drugs while the children were present and watching. The first search revealed nothing. The second search revealed crack cocaine and marijuana. Much to the Father’s surprise, we anticipated this second search and had already contacted the Dillon County Sheriff’s Department to have the narcotics dog search the car upon arrival at the exchange place. No charges were filed against the Mother because the person that the Father had hired to plant the drugs the first time was a confidential informant for law enforcement and he had spilled the beans. The second time he planted the drugs himself and had the minor children in the car with him and he thought they were asleep but they saw everything and they eventually talked.

The Father made several unfounded reports to DSS. As a result of the psychological trauma to the children, all visitations between the children and their Father must be supervised. Despite Father’s allegations of Mother’s alleged drug use, Mother has successfully passed all random drug tests and Father has failed two random drug tests. This case is significant because the father has made every attempt to alienate the children’s relationship with their Mother which has ultimately cost him his relationship with them. Although this case was resolved in 2009, the Father has recently retained another attorney, through legal services, to reduce child support and to attempt to obtain more visitation.

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

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

I served as the Associate Probate Judge for Dillon County from July 2009 until January 4, 2011, with pay. I am currently serving as the Dillon County Associate Probate Judge pro bono for six months. My job responsibilities are to hear all matters before the Probate Court. I also assist the office staff in opening and closing estates and serving the public. I have presided over hearings involving minor settlements, appointment of conservators and guardians, common law marriage, removal of personal representatives and conservators. There were some occasions that wills and trust had to be interpreted. I agreed to continue to serve on a pro bono basis to assist the newly elected Probate Judge in making a successful transition into her position.

Judge McIntyre further reported the following regarding an unsuccessful candidacy:

I was found qualified and nominated in the Spring 2009 election, for the Fourth Circuit Family Court, Seat 3. I withdrew as a candidate prior to the election.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizen’s Committee on Judicial Qualification found Judge McIntyre to be “Qualified” for the following evaluative criteria: constitutional qualifications, physical health, and mental stability. The Committee found Judge McIntyre to be “Well qualified” for the following criteria: ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, “Judge McIntyre is an excellent candidate for this position.”

Judge McIntyre is married to Frederick Martin “Marty” McIntyre. She has four children.

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

(a) Dillon County Bar Association, President, 2007 - present;

(b) American Bar Association;

(c) South Carolina Women Lawyers Association.

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

(a) Dillon Rotary Club, 1996 – present

2001 – 02, President; President Elect; Program Chair

Multiple Paul Harris Fellow; Sustaining Paul Harris Fellow;

(b) Gordon Elementary School Improvement Council Committee,

Chairman 2010 – present;

(c) Dillon County Private Public Partnership

Board Member, 2010 - present;

(d) South Elementary School Improvement Council Committee,

2007 – 08, member; 2008 – 09, Chairman;

(e) South Carolina Paralegal Task Force,

2008 – 09, member;

(f) Pro Bono work for the South Carolina Bar,

1996 – present;

(g) Welvista – Pee Dee Advisory Board,

2008 – present;

(h) South Carolina Paralegal Task Force

2008 – 09, member;

(i) Main Street United Methodist Church

Chairman, Endowment Fund, 2011

Chairman, Board of Trustees, 2003.

Awards:

(a) 1998 Young Career Woman – Dillon County;

(b) Elected Official Honor Award for Leadership and Dedication in the Field of Historic Preservation, 2003

Judge McIntyre additionally reported:

I have always been a very hard worker from a very young age. I was blessed with two loving, hard-working parents who taught me to have strong morals, character and value. I lost my father to cancer when I was 20 years old and just beginning my junior year in college. My father always taught me that money would never buy happiness and that giving and doing for others would make you a more fulfilled person. I never went into the practice of law for the money. Fortunately, I have been able to make a good living to help support my family through my legal career while helping others in my small rural town. I have served my community and the children in my community for many years and have maintained a well-balanced career and home life. My Guardian work has been the most fulfilling. Knowing that I, along with the hard work of my office staff, have made a difference in children’s lives is very rewarding. I am very passionate about my cases. I feel that I can carry this positive influence and energy over to the bench and continue to help children and families in South Carolina.

My husband is a high school math teacher and football coach. We see every day that the children of our community are our future. I have on so many occasions seen him leave the house early to pick up “the boys” for practice or run them home after practice. Many times I have seen him and other coaches take money out of their pockets to help these children who come from single-parent homes or who are being raised by a relative. Our home has been open to so many children who have been less fortunate than us as either athletes that played for my husband or friends of my children. Most importantly, I have seen firsthand, the lives that these children who are a part of our system live.

Unfortunately in Dillon County, we have seen a rise in the Department of Social Service cases with the decline of the economy. I feel that I have the ability from my experience with children, with parents and from being a public servant to understand and assist these families achieve what they need to achieve in order to be reunited with their families and be successful. My experience serving as the attorney for the Guardian *ad Litem* program in Dillon County over the past 15 years has helped me see firsthand the devastating home lives of these children. My experience serving as the Dillon County Associate Probate Judge has helped me to gain more insight in dealing with individuals in very emotional times. I have learned how to effectively communicate with litigants in situations where emotions and tempers are high. I feel that I have developed a good mix of humor, civility and compassion when dealing with the public. All these are traits that a judge should possess.

(11) Commission Members’ Comments:

The Commission commented that Judge McIntyre is very knowledgeable and experienced in the area of family law. They noted that her pro bono work as the attorney for the Dillon County Guardian Ad Litem Program would equip her well in serving on the Family Court bench.

(12) Conclusion:

The Commission found Judge McIntyre qualified and nominated her for election to the Family Court, Fourth Judicial Circuit, Seat 2.

**James Alexander “Alex” Stanton IV**

**Fourth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Stanton was born in 1949. He is 62 years old and a resident of Hartsville, South Carolina. Mr. Stanton provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1974.

(2) Ethical Fitness:

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

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

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

Mr. Stanton testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) Horry County Family Court Seminar 12/17/2008;

(b) Chicago/Ticor Title Insurance Seminar 11/19/2008;

(c) Chicago/Ticor Title Insurance Seminar 11/15/2007;

(d) The Ten Greatest Estate Planning Techniques in S.C. 07/31/2007;

(e) Settling Uninsured and Underinsured Motorist Claims 12/12/2006;

(f) Chicago/Ticor Title Insurance Seminar 11/9/2006;

(g) Mandatory ADR Training 09/8/2006.

SPECIAL NOTE: On January 4, 2009, I had been practicing law for over thirty years and had attained the age of sixty years. By a letter dated December 28, 2009, the SC Supreme Court Commission on Continuing Legal Education and Specialization “exempted” me from any further requirements.

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

Darlington County School District “Planning for the Future Seminar” for Retirees

I have presented a program to the retirees on Wills, Powers of Attorney, Health Care Powers of Attorney, Living Wills, Trusts, and Other Estate Planning Matters on 7/14/1998, 7/20/2000, 6/20/2002, 6/17/2004, and 6/19/2008.

Mr. Stanton reported that he has not published any books and/or articles.

(4) Character:

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

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

(5) Reputation:

Mr. Stanton reported that his legal rating by a legal rating organization, Martindale-Hubbell, is AV and is listed as J. Alex Stanton.

Mr. Stanton reported the following military service:

(a) United States Army – Active Duty

I was commissioned a Reserve Commissioned Officer as a 2 LT on May 21, 1971, upon my graduation from Wofford College as a member of the Wofford College ROTC. I was granted a “deferment” from Active Duty to attend law school. On October 25, 1974, I was promoted to the Rank of 1 LT. On October 25, 1974, I began my Active Duty Training (ADT) at Fort Bliss, Texas. I completed my ADT at Fort Bliss, Texas on February 14, 1975, at which time I was granted an Honorable Discharge from the U.S. Army Active Duty, as reflected on Form Number DD 214, which I filed in the Office of the Clerk of Court for Darlington County on February 18, 1975, in Book 11 at page 138. My Selective Service Number was XX-XX-XX-X.

(b) United States Inactive Reserve

Upon my completion of my ADT, I was a member of the United States Inactive Reserve.

(c) South Carolina National Guard

I became a member of the South Carolina National Guard on November 17, 1977 as a 1 LT. On February 27, 1980, I was promoted to the rank of Captain in the South Carolina National Guard. I served as Commander of the 741st General Supply Company from 1980 to 1983. On December 10, 1982 I was presented with the Army Achievement Medal by The Department of the Army. I ceased my service in the South Carolina National Guard in 1985 and was Honorably Discharged.

Mr. Stanton reported that he has held the following public office:

(a) Darlington County Board of Education (Elected by the voters of Darlington County)

Dates: 1979-94

Served as Chairman: 1989-91

Served as Vice-Chairman: 1981-89;

(b) South Carolina State Board of Education (Appointed by the Legislative Delegation)

Dates: 1995-98

Served as Chairman: 1997-98

Served as Vice-Chairman: 1997.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Stanton was admitted to the South Carolina Bar in 1974.

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

In August of 1974, after I finished Law School and after I took the S.C. Bar Examination, I became an Associate with the Law Firm of Shand and Lide in Hartsville, S.C. (comprised of Robert W. Shand and Vinton D. Lide). In October of 1974 I had to attend my U.S. Army Officer Basic Course (ADT) in Fort Bliss, Texas, until February of 1975, at which time I was placed in the U.S. Army Inactive Reserve. In February of 1975 I resumed my Associate Position with Shand and Lide. This law practice was a “general practice” which included (1) Family Court Matters, (2) Real Estate, (3) Wills, Powers of Attorneys and Trusts, (4) Estate Planning, (5) Probate and Estates, (6) Criminal Defense, (7) Business Law (corporations and partnerships), (8) Debt Collection, and (9) Personal Injury.

I continued as an Associate with Shand and Lide until January 1, 1976 when I was made a Partner and the Law Firm’s name was changed to Shand, Lide, & Stanton. We continued to practice the same areas of law.

Sometime in 1978, Mr. Vinton D. Lide withdrew from The Law Firm and relocated to the Columbia, S.C., area. Mr. Shand and I continued in the practice of law under the name of Shand & Stanton. We continued to practice the same areas of law.

Sometime in 1980, Robert W. Shand retired from the active practice of law, and I continued the Law Firm under the name of Shand and Stanton (with Mr. Shand being “of counsel”). I continued to practice the same areas of law.

On January 1, 1985, I made Mr. Jamie Lee Murdock, Jr. (an Associate of my Law Firm) a Partner, and Mr. Murdock and I began to practice law under the name of Shand, Stanton, and Murdock. We continued to practice the same areas of law.

This continued until May 1, 1992, when Mr. Murdock was elected to a Family Court Judgeship (Seat 2 of the Fourth Judicial Circuit). Upon the departure of Mr. Murdock, I continued my law practice under my prior solo Law Firm name of Shand and Stanton. I continued to practice the same areas of law.

On October 1, 1992, I brought in two other attorneys, Mr. J. Richard Jones and Mr. Karl H. Smith, as Partners, and we began to practice law under the name of Stanton, Jones & Smith. We continued to practice the same areas of law.

In the spring of 1997, Mr. Smith withdrew from the Law Firm, but Mr. Jones and I continued to practice law under the name of Stanton & Jones. We continued to practice the same areas of law.

Effective December 31, 2008, Mr. Jones withdrew from the Law Firm to become a “Fulltime Public Defender,” and I have continued my law practice under the name of Stanton Law Firm. I continue to practice the same areas of law.

My entire practice of law has always been at the same address of 954 West Carolina Avenue, Hartsville, South Carolina.

Mr. Stanton further reported:

Family Court Practice

My practice for the past thirty-six years has always included a substantial portion of family law cases, including numerous divorces, numerous cases involving the issues of spousal support (alimony), along with equitable division of property, child custody and child support. I have also handled several adoption cases. I have been involved either as the Attorney or Court Appointed Guardian ad Litem in many Department of Social Services abuse and neglect cases. In addition, I have been involved in the representation of juveniles in Family Court proceedings.

Some Recent Divorce and Equitable Division of Property Cases

(a) Patricia C. Hollingsworth vs. Jerry Hollingsworth 2009-DS-13625 (Active)

I represented the wife and this is a case which involved both of these issues. It also involves the issues of Child Custody, Visitation, and Child Support. This case has been very contested by both parties and a Temporary Hearing has been held and a Guardian Ad Litem has been actively involved in this case. In an attempt to resolve the issues in this case, the parties, their Attorneys, and the Guardian Ad Litem have met in an “informal mediation setting” and it is hoped that the effort will resolve the case. However, if not so resolved, then all of the issues will be submitted to the Court for decision.

(b) James C. Ward vs. Angie E. Ward 2009-DR-16-0518 (Closed)

I represented the husband in this case. This case involved both of these issues, together with Alimony, Child Custody, Child Support, Visitation, and Exclusion of Non-Marital Property. The husband’s Private Detective had produced evidence of the wife’s adultery. This case was very complicated and several Hearings were held in this case. A four-day Final Hearing was scheduled but prior to the Final Hearing, the parties reached a detailed written Agreement which provided for Joint Custody, the husband being granted the sole ownership of the former marital residence, a bar to Alimony to the wife, a division of personal property between the parties (which included the husband being the sole owner of some non-marital property – the pre-marital value of his Retirement Account). At the shortened Final Hearing, the Court approved the written Agreement and the parties were granted a Divorce by Decree dated January 27, 2011.

(c) Bryson Thomas McBrayer vs. Miranda Nicole Blackwell McBrayer 2010-DR-16-0153 (Closed)

I represented the husband and this was a case which involved both of these issues. It also involved the issues of Child Custody, Visitation, and Child Support. The parties entered into a written Agreement as to all issues except for the issues of Divorce. At the Final Hearing, the Court approved the Agreement and granted the Divorce.

(d) Martin Lee Dearing vs. Kimberly Ann Dearing 2009-ER-16-0646 (Closed)

I represented the husband and this was a case which involved both of these issues. It also involved the issues of Child Custody, Visitation, and Child Support. The parties entered into a written Agreement as to all issues except for the issue of Divorce. At the Final Hearing, the Court approved the Agreement and granted the Divorce.

(e) Dana White Farmer vs. James G. Farmer 2007-DR-16-250 (Closed)

I represented the husband, and this case involved both of these issues with the equitable division issue being complicated. It also involved the issues of Non-Marital Property, Alimony and Attorney Fees. After extensive Discovery, this case was settled by written Agreement and a Final Order was issued, which granted the parties a Divorce and approved the written Agreement.

(f) Ann H. Hudson vs. Paul E. Hudson 2008-DR-16-882 (Closed)

I represented the husband, and this was a recent case which involved both of these issues. After extensive Discovery, this case was settled by written Agreement and a Final Order was issued, which granted the parties a Divorce and approved the written Agreement.

(g) Ronnie D. Johnson vs. Lynda J. Johnson 2008-DR-16-113 (Closed)

I represented the wife, and this was a recent case which involved both of these issues. It also involved the issues of Alimony (as the wife was disabled) and Attorney Fees. A Final Hearing was held and the wife was granted a Divorce, awarded Alimony, and the property was divided among the parties.

(h) Traci M. Teal vs. James Harvey Teal 2008-DR-16-273 (Closed)

I represented the husband, and this was a recent case which involved both of these issues. It also involved the issue of Alimony, Child Support, and Attorney Fees. One of the major marital assets was a business operated by the husband. After Discovery, the parties reconciled and the case was dismissed.

(i) Deborah Michelle Moore vs Butch Samuel Moore 2008-DR-16-1206 (Closed)

I represented the husband, and this was a recent case which involved both of these issues. It also involved the issues of Alimony, Child Custody, Visitation, and Child Support. A Final Hearing was held and the parties were divorced and the other issues were decided by the Court.

(j) Cheri L. Pittman vs. Christopher J. Pittman 2008-DR-16-496 (Closed)

I represented the husband, and this was a case which involved both of these issues. It also involved the issues of Child Custody, Visitation, Child Support, and Attorney Fees. Shortly before the Final Hearing, the parties entered into a written Agreement as to all issues except for the issue of Divorce. At the Final Hearing, the Court approved the Agreement and granted the Divorce.

(k) Gina Sasser Anderson vs. Scott Edward Anderson 2007-DR-16-1125 (Closed)

I represented the wife and this case involved both of these issues. It also involved the issues of Child Custody, Visitation, Child Support, and Attorney Fees. A Temporary Hearing was held in this case. Extensive Discovery was done prior to the Final Hearing. The parties entered into a written Agreement as to all issues except the issue of Divorce. At the Final Hearing, the Court approved the Agreement and granted the Divorce.

(l) Kirsten Anderson vs. Daniel R. Anderson vs. Auleen Pabst 2006-DR-16-0683 (Closed)

I represented Mrs. Pabst, and this was a Divorce, Equitable Division of Property, Child Custody, Visitation, Child Support, Alimony, and Attorney Fees case between Kirsten Anderson and Daniel R. Anderson. During the course of this hotly contested case, Mrs. Auleen Pabst (the mother of Kirsten Anderson) was added as a party-defendant to this case due to Daniel R. Anderson claiming an interest in the house in which Kirsten and Daniel had lived as husband and wife, but which had always been owned by and titled in the name of Mrs. Pabst. There were several Hearings involved in this case. After the second day of the Final Hearing, Mr. Anderson withdrew his request to be awarded an equitable interest in the house owned by Mrs. Pabst.

(m) Gloria T. Smith vs. Gregory C. Smith 2008-DR-16-331 (Closed)

I represented the husband, and this case involved both of these issues. We were unable to resolve these issues and the Court made the decision on the issues of Equitable Division of Property, Alimony, and Attorney Fees. Also, the Court granted a Divorce to the parties.

(n) Diane J. Lisenby vs. R. Steven Lisenby 2008-DR-13-205(Closed)

I represented the wife, and this case involved both of these issues. Also, this case involved the issue of Non-Marital Property claimed by both parties. We were unable to resolve these issues and the Court made the decision on the property matters and granted the wife a Divorce.

Some Recent Child Custody Cases

(a) Cheri L. Pittman vs. Christopher J. Pittman 2008-DR-16-496 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

(b) Gina Sasser Anderson vs. Scott Edward Anderson 2007-DR-16-1125 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

(c) William Christopher Norton vs. Kellie Louise Norton 2002-DR-34-298 (Closed)

I represented the father, and this was a case in which the father sought the custody of two children. I was able to obtain the custody of the two children for the father, and the mother was only allowed supervised visitation due to her use of drugs, and the mother was required to pay Child Support. The maternal grandmother was granted some limited visitation rights in this case. A Guardian ad Litem was also active in this case.

(d) Deborah Michelle Moore vs. Butch Samuel Moore 2008-DR-16-1206 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

(e) Patrice C. Hollingsworth vs. Jerry Hollingsworth 2009-DR-13-625 (Active)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

(f) James C. Ward vs. Angie E. Ward 2009-DR-16-0518 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

(g) Bryson Thomas McBrayer vs. Miranda Nicole Blackwell McBrayer 2010-DR-16-0153 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

(h) Martin Lee Dearing vs. Kimberly Ann Dearing 2009-DR-16-0646 (Closed)

Reference the comments about this case as set forth under the Divorce and Equitable Division Case Section.

Some Adoption Cases

(a) James Frederick Jones and Elwanda Susan Munn Jones vs. Baby Graham 1984-DR-16- 167 (Closed)

I represented both of the adoptive parents and this was a private adoption case. The Court approved the Adoption of the baby.

(b) Barbara Robinson Slater vs. Zaereona Shydea Slater and John Doe 2008-DR-16-419 (Closed)

I represented the adoptive grandmother, who was the mother of the natural mother. The father was unknown. The maternal grandmother had been taking care of the minor child since birth and the minor child was six years old. The Court granted the Adoption.

(c) William Christopher Norton and Tonya Marie Norton Kellie Nolan Norton and Yvonne Kersey 2008-DR-34-469 (Closed)

I represented the adoptive mother and the natural father in this case which was brought against the natural mother and the maternal grandmother. This case also involved the issue of Termination of Parental Rights against the natural mother and the Termination of Grandparental Rights of the natural grandmother. The Court Terminated the Parental Rights of the natural mother and the limited visitation rights of the maternal grandmother. In addition, the Court approved the Adoption of the two children by the adoptive mother (who was the new wife of the natural father).

There have been some other Adoption Cases, but I cannot recall them at this time.

Some Abuse and Neglect Cases

(a) S.C. Department of Social Services vs. Lorenzo Scott 1998-DR-16-1408 (Closed)

I represented the father in this case since November 21, 2001. The SCDSS had the custody of the father’s three children. Mr. Scott had been incarcerated in the State Prison System and the mother of the children had been accused of abuse and neglect in Case Number 1998-DR-16-1408.

The SCDSS also initiated a Complaint for Termination of Parental Rights against both the father and the mother, Shelieka Jones, in Case Number 1999-DR-16-1411. The Court issued its Order on March 11, 2001, in which the Court terminated the rights of the natural parents. Thereafter, the Court later issued a Supplemental Order (due to Mr. Scott’s Motion for Reconsideration) in which the Court ruled that the Parental Rights of Mr. Scott to the above three children were not terminated. I was not representing Mr. Scott at this time.

Later, by Order dated February 19, 2004, the SCDSS withdrew its request for Termination of the Parental Rights of Mr. Scott to these children. I did represent Mr. Scott at that time.

The SCDSS instituted another action for the Termination of the Parental Rights of Mr. Scott in Case Number 2001-DR-16-0112. I was appointed to represent Mr. Scott on November 21, 2001. On May 30, 2002 the Court issued its Order which terminated his parental rights to one child.

I had continued to represent Mr. Scott in Case Number 1998-DR-16-1408 in regards to Hearings held for Permanency Planning on 3/7/2002, 9/26/2002, 11/25/2003, 6/10/2004, 6/7/2005, 6/6/2006, 6/5/2007, 6/3/2008, 5/13/09, and 5/4/2010. Mr. Scott has now been released from prison, but SCDSS still has the custody of the children. By Order dated May 28, 2010, I was relieved from further representation of Mr. Scott.

(b) S.C. Department of Social Services vs. Thereva Copeland, Mark Bosch, Maurice Bell, Stanley Bosch, and Sara Bosch 2002-DR-16-0169 (Closed)

I was appointed to represent Thereva Copeland, the children’s mother, in this action for the removal of her children for alleged abuse and neglect. Several Hearings were held in 2002, 2003, and 2004. Ms. Copeland complied with the Treatment Plan and by Order dated October 23, 2004, the children were returned to Ms. Copeland.

(c) S.C. Department of Social Services vs. Renee S. Wright, Hattie Toney, and Troy Toney 2003-DR-16-0151 (Closed)

I was appointed to represent Renee S. Wright, the mother of the minor child, in a removal action for abuse and neglect. The SCDSS was granted custody of the minor child by Order dated April 3, 2003. A Treatment Plan was approved by Order dated December 30, 2003. Permanency Hearings were held on December 13, 2003, June 10, 2004, and November 30, 2004, which resulted in Orders being issued to continue the custody of the child with the SCDSS. On March 11, 2005, the Court issued its Order returning the child to Ms. Wright.

(d) S.C. Department of Social Services vs. Tina Commander, Michael Commander, Jermaine McDonald, and Ola Commander 2003-DR-16-437 (Closed)

I was retained by Michael Commander, the father of one of the subject children. Mr. Commander had obtained a Divorce from Tina Commander on November 6, 2002, in the State of North Carolina. Ms. Tina Commander had the child living with her when the SCDSS instituted this case for abuse and neglect on her part. There were no allegations as to abuse and neglect against Mr. Commander. On May 14, 2005, the Court issued its Order granting the Temporary Custody of the minor child to Ola Commander, the paternal grandmother. On June 22, 2005 the Court granted the Temporary Custody of the child to Mr. Commander. Mr. Commander had filed an Answer in which he requested the legal and physical custody of the minor child. Also, Mr. Commander later had filed an Amended Answer, Counterclaim, and Cross-Claim for the legal and physical custody of the minor child. On September 28, 2005 the Court issued its Order continuing the custody of the subject minor child with Mr. Commander and required that Ms. Tina Commander be entered in the Central Registry of Child Abuse and Neglect. On December 30, 2005 the Court issued an Order which continued the custody of the subject minor child with Mr. Commander.

(e) S.C. Department of Social Services vs. Amanda Bradley, Brandon Smothers, and Donna Smothers 2003-DR-16-1230 (Closed)

I was appointed to represent Amanda Bradley, the mother of the minor child, in an abuse and neglect action against her for her use of illegal drugs. Ms. Bradley filed an Answer in which she requested that the custody of the child be returned to her. On January 8, 2004, the Court continued the custody of the child with the SCDSS and approved a Treatment Plan. On February 17, 2004 the Court issued its Order continuing the legal custody of the child with the SCDSS. On August 27, 2004, the Court issued its Order granting the legal and physical custody of the child to Donna Smothers, the paternal grandmother, and provided that Ms. Bradley would have visitation with the child and that Ms. Bradley would continue her efforts to complete the Treatment Plan. On November 22, 2004, the Court issued its Order continuing the custody of the child with Donna Smothers, but provided for visitation by Ms. Bradley.

(f) S.C. Department of Social Services vs. Jenna Collier, James Lee, and Frank Collier, Jr. 2004-DR-16-0114 (Closed)

I was appointed as the Guardian ad Litem for the minor child in this case involving allegations of abuse and neglect against the child’s parents. On May 25, 2004, the Court issued its Order granting the custody of the child to the maternal grandfather, Mr. Frank Collier, Jr., and the Court made findings of abuse and neglect against the parents. On October 1, 2004, the Court issued its Order continuing the custody of the minor child with the maternal grandfather, Mr. Frank Collier, Jr. (as recommended by the undersigned as Guardian ad Litem ).

There have been many other cases in the Abuse and Neglect area, but I cannot recall them at this time.

Some Juvenile Justice Cases

I have represented some juveniles in some Juvenile Justice Cases, but I cannot recall them at this time. Therefore, I have experience in this area of family law.

A Recent Reduction of Alimony Case

Gary Wilson White vs. Gloria Wase White 2010-DR-16-0500 (Closed)

I represented the husband and the husband had lost his primary job due to a “reduction in force” from a company which he had worked for twenty years and this drastically reduced the husband’s income. The husband was under a prior 2006 Order to pay Alimony. The husband, in an attempt to maintain his previous income, was employed in one full-time job and three part-time jobs. However, his income had been reduced 18% through no fault of his own. At the contested Final Hearing, the Court reduced the husband’s Alimony from $1,200.00 per month to $984.00 per month and the Court denied the ex-wife’s request for Attorneys Fees.

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

(a) Federal: very infrequently and I only recall two cases which I was involved within the past five years;

(b) State: probably an average of three to five times per month.

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

(a) Civil: 59%;

(b) Criminal: 0-1%;

(c) Domestic: 40%.

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

(a) Jury: 2%;

(b) Non-jury: 98%.

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

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

(a) Estate of Margaret S. Goodson (1998-ES-16-216) and Estate of Helen S. Goodson (2000- ES-16-284)

I was retained in 2005 by seven of the nine Heirs to these two Estates in an attempt to determine the status of both Estates and to determine what had happened to the assets of both Estates. Ms. Harriett E. Wilmeth had served initially as the Attorney for both Estates and later served as the Personal Representative of both Estates. I filed an extensive “Demand for Documents and Information” and served it on Ms. Wilmeth. A Hearing was held by Probate Judge, Marvin I. Lawson, on February 25, 2005, which resulted in an Order being issued on April 25, 2005, but Judge Lawson had orally advised the parties of his ruling on February 25, 2005. This Order set forth that a full Hearing would be conducted during the first week of May of 2005 and required Ms. Wilmeth to provide to the undersigned his requested information and documents prior to such Hearing.

A Hearing was held on May 5, 2005, but there was not sufficient time to complete a presentation of the witnesses and issues and another Hearing was held on December 8, 2005. As a result of the two Hearings, the Probate Court issued an Order, dated February 3, 2006, consisting of sixty-eight pages. This Order was prepared by the undersigned pursuant to instructions issued by Judge Lawson to the undersigned. This Order found that Ms. Wilmeth had not properly served as the Attorney and/or Personal Representative of the Goodson Estates’ and the Probate Court Order granted the following Judgments against Ms. Wilmeth as follows:

1. In favor of the Margaret S. Goodson Estate in the sum of $150,000.00

2. In favor of the Helen S. Goodson Estate in the sum of $317,760.97

Both Judgments totaled the sum of $467,960.97. However, at the May 5, 2005 Hearing, upon examination of Ms. Wilmeth by the undersigned, it was discovered that Ms. Wilmeth had deposited some of the Goodson Estates’ monies into one of her personal companies, namely, Wilmeth Enterprises, LLC. The Probate Judge “orally ordered” Ms. Wilmeth to return those monies to the Goodson Estates’ on or before May 15, 2005. Ms. Wilmeth presented a deposit slip for $861,367.52, which purported to show compliance by Ms. Wilmeth with the May 5, 2005 “oral order” to return those monies to the Goodson Estates. However, later on, it was discovered that the check for $861, 367.52 (as reflected as having been deposited into the Goodson Estates’ by Ms. Wilmeth) had been “returned by the Bank due to insufficient funds”. The Probate Judge issued his Emergency Order and Rule to Show Cause to Ms. Wilmeth on February 15, 2006, which required Ms. Wilmeth to appear at a Hearing on February 17, 2006 regarding the required deposit from her to the Goodson Estates’ of the sum of $861,367.52.

A Hearing was held on February 17, 2006, at which time Ms. Wilmeth did appear and the undersigned was also present. When Ms. Wilmeth admitted that she did not return the sum of $861,367.52 to the Goodson Estates’, as required by Judge Lawson on May 5, 2005, and when Ms. Wilmeth refused to inform the Probate Judge as to the whereabouts of said money, the Probate Judge issued his Order on February 17, 2006, which sentenced Ms. Wilmeth to six months in the Darlington County Detention Center. Said Order did allow her to purge herself of the Contempt of Court by return to the Goodson Estates’ of he sum of $861,583.22. This Order also removed Ms. Wilmeth as he Personal Representative of both Goodson Estates and prohibited Ms. Wilmeth from making any further withdrawals from the Goodson Estates. On February 18, 2006, Ms. Wilmeth caused the delivery to the Probate Judge of a Certified Check in the sum of $861,583.22, and the Probate Judge then allowed Ms. Wilmeth to be released from jail.

Through my efforts, I was able (1) to recover from Ms. Wilmeth the sum of $861,583.22 for the Heirs of the Goodson Estates’, (2) to have Ms. Wilmeth removed as Personal Representative of the Goodson Estates’, and (3) obtained Judgments against Ms. Wilmeth in the total sum of $467,960.97. I am continuing my efforts to collect the Judgments against Ms. Wilmeth on behalf of the Goodson Estates’.

Also, another significant matter relating to Ms. Wilmeth and this case, was that I believe that my representation of the Goodson Estates’ and the uncovering of the conversion of the Goodson Estates’ money by Ms. Wilmeth, was helpful in the Supreme Court of South Carolina issuing its Order for Interim Suspension of Ms. Wilmeth on March 22, 2006 and the Disbarment Ms. Wilmeth by Order of the Supreme Court of South Carolina on May 15, 2007 (with the Goodson Estates’ being referred to as “Matter 1” in the Disbarment Order).

(b) Eden Hernandez vs. Labor Services, Inc. W.C.C. File No. 020033 2004-CP-12-792 (Circuit Court Appeal)

I represented Mr. Hernandez in this Workers Compensation Case against his employer, Labor Services, Inc. Mr. Hernandez was employed by Labor Services, Inc. and was placed at Charles Ingram Lumber Company. Mr. Hernandez was injured on January 3, 2002 while operating a machine at Charles Ingram Lumber Company. Mr. Hernandez incurred an injury to his right arm which required surgery and which resulted in Mr. Hernandez being given a 100% permanent residual impairment to his upper right arm. Mr. Hernandez did not reach maximum medical improvement until August 16, 2002, but that he would still require some continuing medical treatment due to his continuing pain in his right hand, arm, and shoulder.

Mr. Hernandez was an illegal alien and he did misrepresent his legal status on his employment application. On October 15, 2002, Commissioner Sherry Shealy Martschink held a Hearing on this matter and on June 10, 2003, the Hearing Commissioner issued her Order which ruled that Mr. Hernandez sustained a compensable injury by accident during his course and scope of his employment. The Order further provides that he was entitled to payment of all medical expenses related to his treatment of injuries due to the accident. It further provided that he was entitled to Temporary Total Disability payments for a period of 33 weeks and for payment of an additional 50 weeks for disfigurement. The Order further provided that he was entitled to the payment for 220 weeks for his 100% permanent impairment to his right arm.

Within the statutory time period, the Employer filed an Application for Review before the Appellate Panel of the South Carolina Workers’ Compensation Commission. On February 24, 2004, the parties appeared before the Appellate Panel of the South Carolina Workers’ Compensation Commission and on April 2, 2004, the Appellate Panel issued its Decision and Order, in which it unanimously approved the Hearing Commissioner’s Findings of Fact and Rulings of Law, and that the Appellate Panel sustained the June 10, 2003 Order in its entirety.

The Employer filed a Notice of Intent to Appeal the April 2, 2004 Decision and Order of the Appellate Panel of the South Carolina Workers’ Compensation Commission on April 28, 2004 in the Circuit Court for the Twelfth Judicial Circuit in Florence, South Carolina. This Appeal was given Case Number 2004-CP-12-792. The basis for the Employer’s Appeal was that Mr. Hernandez was prohibited from compensation due to the federal Immigration Reform and Control Act of 1986 “pre-empting” South Carolina Law.

This Appeal was heard before the Honorable James E. Brogdon, Jr., Judge of the Twelfth Judicial Circuit, and on October 20, 2004, Judge Brogdon issued his Order, consisting of 17, which affirmed the April 2, 2004 Decision and Order of the Appellate Panel of the South Carolina Workers’ Compensation Commission. The undersigned prepared this Order pursuant to the instruction from Judge Brogdon. After the October 20, 2004 Order, The Employer paid to Mr. Hernandez the benefits to which he was entitled.

The significance of this case was that the rulings followed the Law of South Carolina that an employee, even if he was an illegal alien, could recover for his injuries sustained in a work related accident. If the Appellate Panel or the Circuit Court had ruled against Mr. Hernandez, such ruling could have been a precedent for other cases involving illegal aliens who were employed and then injured on the job.

(c) Leon C. Pennington, Jr. and Beverly J. Pennington vs. City of Hartsville 2003-CP-16-679

I represented the homeowners, Mr. Leon C. Pennington, Jr. and Beverly J. Pennington, in an action for damages sustained as the result of a sewage back-up into their residence located within the City of Hartsville.

The residence sustained substantial damage as the sewage back-up occurred during a time period when the homeowners were out of town. The bottom floor of their residence was totally inundated with sewage and it contaminated not only the floors, rugs, walls, appliances, and furnishings, but also the clothing of the Penningtons and their children (including everything upstairs).

The Penningtons had to move out of their house for the repairs to be made. Many of the appliances, rugs, furnishings, and clothing had to be disposed of. Some of the furnishings and clothing were able to be cleaned by a special and expensive disinfectant cleaning process.

Even after the repairs had been made to the house, Beverly J. Pennington still suffered from an allergic reaction to what toxins may have remained in the house.

Also, since it was common knowledge in the community as to what had transpired, the house was looked upon as being “tainted”, which affected the valuation of the house. The Penningtons had planned to try to sell the house prior to the sewage back-up, but due to the “stigma” on it after the back-up, they were unable to sell it.

During the lawsuit, Discovery was conducted and it was discovered that the City was aware of some prior minor sewage back-ups to the Penningtons’ house, but these had been only minor back-ups in the tub, and when noticed by the Penningtons, they called the City, and the City sent some workers out to fix the sewage line. The City was under notice that it needed to periodically check the sewage line to prevent such sewage back-ups, but the City had failed to check on that sewage line for an extended period of time.

The City strongly contested its liability. However, shortly before trial, the parties agreed to submit this case to Mediation. During the daylong Mediation, the City finally agreed to pay to the Penningtons the sum of $219,000.00

The significance of this case was that it was a very difficult case in which to prevail, but due to the outcome of the Discovery, we were able to place the liability squarely on the City of Hartsville due to its failure to take steps in which to lessen the possibility of such an extreme sewer back-up after it had notice of prior problems.

(d) First National Bank vs. John Kokontis and Shirley Kokontis 1977-CP-16-205

In this case, I represented the Bank in a collection matter against Mr. Kokontis and Mrs. Kokontis. This case was tried by a Jury, and the Jury brought back a Verdict for the Bank.

The facts of the case were that Mr. and Mrs. Kokontis had obtained a loan (secured by an automobile and restaurant equipment) from the Bank on September 3, 1976. Sometime during the term of the loan, a Bank employee mistakenly marked some loan documents as “paid” and mailed out the said documents. These mistakenly marked “paid” documents included the loan documents of Mr. and Mrs. Kokontis along with the loan documents of several other customers.

The other customers called the Bank and inquired about their having received their loan documents marked “paid” when they had not paid off their loans. Based upon those calls by the other customers, the Bank became aware of the mistake of marking of the loan documents as “paid”. Upon contacting Mr. and Mrs. Kokontis, they took the position that since their loan documents were marked “paid”, they did not owe any money to the Bank.

At trial, the Bank presented testimony from its employee who had mistakenly marked the loan documents as “paid”, together with testimony as to the payment history of Mr. and Mrs. Kokontis (which did not reflect the receipt of any payments from them around the time that the loan documents were marked “paid”). Also, another customer of the Bank testified that he had not paid off his loans and the Bank must have made a mistake when they were marked “paid.”

Mr. and Mrs. Kokontis continued to take the position that the loan was paid off and they stated that it had been paid off with cash given to a Bank employee. However, they could not identify that employee or prove where they had obtained the cash to have made the payment.

The Jury returned a Verdict for the Bank as they did not believe the testimony of Mr. and Mrs. Kokontis.

The significance of this case was that when one (the Bank) unilaterally makes a mistake, another person cannot profit from that mistake made by the other person. It further showed that a Jury will weigh all of the pertinent facts and render a Verdict that the Jury believes is appropriate and correct.

(e) Major A. Kelly vs. Nationwide Mutual Insurance Company, Edward Jack Smith and Edward L. Jennings 278 S.C.488, 298 SE2d 454 (1982)

In this case, I solely represented Mr. Kelly in the Jury Trial in Circuit Court in regards to his claim for damages sustained to his automobile under a policy insured by Nationwide Mutual Insurance Company. Mr. Edward Jack Smith was the local agent and Mr. Edward L. Jennings was a Vice-President of Nationwide Mutual Insurance Company.

The facts of this case were that Mr. Kelly had purchased an insurance policy on his vehicle from Nationwide through a local agent. The insured automobile was destroyed by fire, and when Mr. Kelly made a claim for his damages, Nationwide, through his local agent, advised Mr. Kelly that his insurance policy had been cancelled for non-payment of premium prior to the fire which destroyed his automobile. Mr. Kelly had his vehicle financed with a local bank and he still owed money to the bank on his loan. The bank had also been listed as a “loss payee” on the Nationwide insurance policy.

After Mr. Kelly made his claim, it was denied as Nationwide, his local agent, and Mr. Jennings all made assertions that the policy had been cancelled for non-payment of premium prior to the fire and that Mr. Kelly and his local bank had been given Notice of Cancellation of the policy.

Mr. Kelly and Mr. Kelly’s bank did not recall having received any Notice of Cancellation from Nationwide.

Based upon the refusal to pay by Nationwide, I brought a lawsuit on behalf of Mr. Kelly in which the lawsuit alleged a cause of action for breach of contract (for actual damages) and a cause of action for breach of contract accompanied by a “fraudulent act” (for punitive damages).

We took the Deposition of several people, including the postal employee who certified that Nationwide had mailed hundreds of document on a particular day as shown on a list prepared by Nationwide (which allegedly included the Notice of Cancellation of Mr. Kelly’s policy). However, upon cross-examination, this postal employee testified that he never checked to see if all of the documents contained on the list had been mailed as he merely “took Nationwide’s word” that all documents contained on the list were in the container of documents which were mailed.

During a trip to Raleigh, North Carolina, when I was looking through Mr. Kelly’s records at Nationwide’s main office, I came across a “Memo” written by Mr. Jennings that “cautioned” people to be especially careful in handling the claim of Mr. Kelly.

During Trial, upon cross-examination of Mr. Jennings, the undersigned asked Mr. Jennings, about when he first knew of Mr. Kelly’s claim, and he stated that it was not until the lawsuit had been served. The undersigned then presented Mr. Jennings with a copy of his “Memo” about cautioning people to handle the claim of Mr. Kelly especially carefully. Mr. Jennings could not explain the discrepancies between his answer and the “Memo” that he wrote prior to the lawsuit being served.

The Judge submitted both causes of action to be decided by the Jury.

The Jury returned a Verdict for Mr. Kelly for several thousand dollars in actual damages on the breach of contract cause of action and for $125,000.00 in punitive damages on the breach of contract accompanied by a fraudulent act cause of action.

The Defendants made a Motion for Judgment N.O.V. on the cause of action for breach of contract accompanied by a fraudulent act (i.e., punitive damages).

The Trial Judge granted the Defendants’ Motion for Judgment N.O.V. as to the punitive damages cause of action.

Mr. Kelly appealed the disallowance of the $125,000.00 punitive damages awarded by the Jury. The undersigned requested Mr. J. Rutledge Young, Jr. to assist him in the Appeal. Both attorneys fully participated in the Appeal.

The Supreme Court “Affirmed” the ruling of the Trial Judge in granting the Motion for Judgment N.O.V. as to the punitive damages award. The Supreme Court stated that there was not any evidence where fraudulent intent could be reasonably inferred and that Mr. Kelly did not rely on the alleged misrepresentation concerning coverage.

The problem which Mr. Kelly encountered in the breach of contract accompanied by a fraudulent act cause of action was to be able to prove “reliance” on the misrepresentation made by Nationwide. It was clear that Mr. Jennings had made an attempt to handle this claim especially carefully (i.e., the Memo), but there was no way that Mr. Kelly could prove that he relied on it to his detriment.

At this time, our Supreme Court had not yet recognized the tort of “Bad Faith”, which does not require the proof of all of the elements as required in a case for breach of contract accompanied by a fraudulent act cause of action.

The undersigned believes that this case may have had some bearing on the Supreme Court later recognizing the tort of “Bad Faith.”

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

(a) Major A. Kelly vs. Nationwide Mutual Insurance Company, Edward Jack Smith, and Edward L. Jennings, 278 S.C. 488, 298 SD 2d 454 (1982).

This was heard by the South Carolina Supreme Court and the Opinion was filed on December 21, 1982.

(b) Mutual Savings and Loan Association vs. James Glee McKenzie and Eunice S. McKenzie, 274 S.C. 630, 266SE 2d 423 (1980).

This was heard by the South Carolina Supreme Court and the opinion was filed on May 13, 1980.

(c) W.F. Beasley vs. Etta Mae Beasley

This was an Appeal by Mr. Beasley, whom the undersigned represented in a Darlington County Family Court Case Number 1978-DR-16-540. Briefs were filed by the undersigned, but the parties resolved this Appeal prior to it being heard by the South Carolina Supreme Court and the Appeal was dismissed by Order of the South Carolina Supreme Court on April 24, 1979.

(d) Eden Hernandez vs. Labor Services

Reference the discussion of this case under Question Number 19– response of the undersigned under (b), which involved (1) an Appeal from the Order of the Hearing Commissioner to the Appellate Panel of the South Carolina Workers’ Compensation Commission and (2) an Appeal from the Decision and Order of the Appellate Panel of the South Carolina Workers’ Compensation Commission to the Circuit Court of the Twelfth Judicial Circuit.

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

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

In the Spring of 2009, I was a candidate for the Fourth Judicial Circuit Family Court, Seat 3. I was deemed qualified, but I was not one of the three candidates “screened out.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Mr. Stanton to be “Qualified” in regards to the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Mr. Stanton “Well qualified” in the remaining criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated under “reputation” that Mr. Stanton is “well-respected by his peers.” In regards to his judicial temperament, the committee reported that Mr. Stanton is “typically even-tempered yet admits to a bit of impatience when dealing with laziness or unwillingness to work to one’s full potential (which is deemed a positive attribute by this committee). He is very much a gentleman – courteous, attentive and patient throughout the course of our interview.”

Mr. Stanton is married to Betsy Catherine Hayes Stanton. He has two children.

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

(a) Darlington County Bar Association

Member – 1974 to Present

President – 1992

Secretary/Treasurer – 1975-76;

(b) South Carolina Bar Association

Member – 1974 to Present

Member of Citizen’s Implementation Committee – 1980-81

Sixth District Congressional Representative to the South Carolina Young Lawyers’ Division – 1982-83

Appointee to the Panel of the South Carolina Board of Grievances (cannot recall dates);

(c) South Carolina Trial Lawyers Association

(now known as South Carolina Association for Justice)

I have previously been a member, but I have never held any office;

(d) American Trial Lawyers Association (ATLA)

(now known as American Association for Justice)

I have previously been a member, but I have never held any office;

(e) American Bar Association

I have previously been a member, but I have never held any office.

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

Prestwood Country Club, Hartsville, S.C.

Member – 1977-2010

President – 1980-81

Vice-President – 1979-80

Director – 1977-79.

Mr. Stanton further reported:

(a) St. Luke United Methodist Church, Hartsville, S.C.

Member – 1975 to Present

Youth Leader – 1975 to 1977

Board of Trustees – 1979 to 1983;

(b) Hartsville Chamber of Commerce, Hartsville, S.C.

Member – 1975 to Present

President – 1978 to 1979

Vice-President – 1977-1978

Director – 1977 to 1979

Coordinator, Great Town Program (1977-1978);

(c) Hartsville Development Corporation, Hartsville, S.C. (This was an “arm” of the Chamber of Commerce to assist in attracting industry and business to Hartsville.)

Secretary – 1977 to 1988

Director – 1977 to 1988;

(d) Byerly Hospital, Hartsville, S.C.

Director – 1980 to 1984;

(e) Hartville Rotary Club, Hartsville, S.C.

Member – 1976 to 1989

Director – 1978 to 1979;

(f) Hartsville Sertoma Club, Hartsville, S.C.

Member – 1976 to 1977

Vice-President – 1976 to 1977

Director – 1976 to 1977;

(g) Darlington County Human Services Association

Director – 1977 to 1979;

(h) Darlington County Chapter of the American Cancer Society

Director – 1977 to 1979;

(i) Hartsville United Way

Professional Division Chairman – 1976;

(j) Hartsville National Dixie Youth Baseball

Vice-President – 1987 to 1994;

(k) South Carolina School Board Association

Director – 1990 to 1994

Board Member Training Cadre – 1980 to 1984

Board Member Mentor Program – 1990 to 1994

Legislative Network – 1989 to 1992

Presenter of Seminar in 1990 on topic “How to be an Effective School Board Chairman”

Co-Author on the topic of a “Curriculum Audit” which was published in the October 1990 SCSBA Journal;

(l) National School Board Association (NSBA)

Member of the Federal Relations Network – 1989 to 1990

Moderator at the 1990 NSBA National Convention on the topic of “How to Teach Kids to Withstand Peer Pressure”;

(m) American Association of School Administrators (AASA)

Presenter of Seminar at the 1990 AASA National Convention on topic “Utilizing the Curriculum Audit as a School Reform Tool.”

(11) Commission Members’ Comments:

The Commission commented that Mr. Stanton has an outstanding grasp of the law which was demonstrated by his performance on the Commission’s Practice and Procedure test. They noted his 37 years of practicing law would serve him well in discharging his responsibilities on the Family Court.

(12) Conclusion:

The Commission found Mr. Stanton qualified and nominated him for election to the Family Court, Fourth Judicial Circuit, Seat 2.

**Catherine Carr Christophillis**

**Thirteenth Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Ms. Christophillis was born in 1954. She is 57 years old and a resident of Greenville, South Carolina. Ms. Christophillis provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

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

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

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

Ms. Christophillis testified she has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

1. Greenville County Bar - Year-End CLE 02/11/11;
2. SCB - Hot Tips from the Coolest Domestic Law Practitioners 11/22/10;
3. CNA Risk Management - Building A Solid Foundation

– A General Practice Webinar 10/27/10;

1. SCWLA - Ethics Update – 8 Easy Ways to Lose Your

Bar License with E-mail 02/17/10;

1. Greenville County Bar - Year-End CLE 02/12/10;
2. SCB - Guardian At Litem Update 01/29/10;
3. Greenville County Bar - Year-End CLE 02/13/09;
4. SCB - Hot Tips from the Coolest Domestic Law Practitioners 02/11/09;
5. SCWLA - Attorney Ethics & Discipline 01/28/09;
6. SCB - Tips from the Bench 02/15/08;
7. Greenville County Bar - Year-End CLE 02/08/08;
8. Non-Profit Corporations from A-Z 02/09/07;
9. Greenville County Bar - Civil & Criminal Law Update 12/08/06;

(n) SCB - Family Court Bench/Bar 12/01/06.

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

(a) Taught Family Law course at Greenville Technical College;

(b) Taught Legal Research course at Greenville Technical College;

(c) Lectured on child abuse and neglect to South Carolina Bar seminar;

(d) Lectured on child abuse and neglect to social service workers, mental health workers and law enforcement conferences;

(e) Lectured on child abuse and neglect to National Association of State Legislators conference in Nashville, Tennessee;

(f) Trained Guardian Ad Litems in Greenville, SC, for governor’s Lay Guardian Program;

(g) Instructed teachers of Greenville County School District on child abuse issues;

(h) Trained prosecutors, legal service attorneys, law enforcement, medical personnel, social and mental health workers, drug treatment personnel and others regarding protocol for drug- impaired infants throughout all South Carolina judicial circuits;

(i) Lectured on insurance fraud at South Carolina Bar seminars, Association of South Carolina Claimants Attorneys for Workers’ Compensation conference, and various conferences of insurance industry personnel;

(j) Trained prosecutors, law enforcement, social service and mental health workers and others regarding investigation and prosecution of violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits;

(k) Lectured on vulnerable adult exploitation under the Omnibus Adult Protection Act to annual conference of Probate Court Judges at Fripp Island.

Ms. Christophillis reported that she has published the following:

*South Carolina Jurisprudence* (S.C. Bar CLE 1993), Contributing Author of the “Children and Families” topic of Volume 21.

(4) Character:

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

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

(5) Reputation:

Ms. Christophillis reported that her rating by a legal rating organization, Martindale-Hubbell, is BV.

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

I was elected to Greenville City Council At-Large, 1993-95. I timely filed my report with the State Ethics Commission during that time period.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Christophillis was admitted to the South Carolina Bar in 1978.

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

* 1. Christophillis Law Offices, 1978-85 – handled primarily private cases in family court and small percentage of cases in criminal court and civil court;
  2. Solicitor’s Office of the 13th Judicial Circuit, 1985-92 – ran child abuse and neglect case unit, which involved handling child abuse and neglect cases for SC DSS in family court and prosecuting all child abuse and neglect cases in general sessions court; started domestic violence protocol and handled domestic violence prosecutions;
  3. Culbertson, Christophillis & Sauvain, PA, 1992-95 – handled private cases in family court exclusively;
  4. SC Attorney General’s Office, 1995-2000 – started first insurance fraud prosecutions for the state of South Carolina and handled insurance fraud prosecutions throughout South Carolina; wrote and trained prosecutors, legal service attorneys, law enforcement, medical personnel, social and mental health workers, drug treatment personnel and others regarding protocol for drug-impaired infants throughout all South Carolina judicial circuits; director of elder abuse division, prosecuted violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits, and trained prosecutors, law enforcement, social service and mental health workers and others regarding investigation and prosecution of violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits;
  5. Catherine C. Christophillis, Attorney At Law, 2000-present – handle private family court case; serve as Guardian Ad Litem in private custody cases; serve as Family Court Mediator; handle a very small percentage of criminal and civil cases;
  6. In addition to the above, my legal experience includes the following appointments:

Chairman, State Child Fatalities Committee (1988-95);

Chief Justice appointee, South Carolina Family Court Mediation and Alternative Dispute Resolution Rules Committee (1990);

Gubernatorial appointee, Joint Legislative Committee on Children, and Chairman, Subcommittee for Child Abuse and Neglect (1992-96);

Gubernatorial appointee, Governor Carroll Campbell’s Property Tax Reform and Accountability Advisory Committee (1994);

Gubernatorial appointee, Maternal, Infant and Children’s Committee (1990’s);

General Assembly’s Joint Committee for Drug-Impaired Infants (1997);

Federal Court United States Magistrate Judge Merit Selection Panel (2000).

Ms. Christophillis further reported:

In the practice areas of divorce and equitable division of property, child custody and adoption, during the above-stated years in private practice, I have handled numerous cases involving divorce, equitable division of property, child custody, adoption, child support, and separate maintenance and support. In these areas, I have negotiated settlements, drafted settlement agreements, handled contested trials, handled uncontested cases, mediated disputes in these areas and served as GAL in contested custody and adoption cases.

In the practice areas of abuse and neglect and juvenile justice, I ran the child abuse and neglect unit of the 13th Circuit Solicitor’s Office, which involved handling all the DSS cases in family court and circuit court, negotiating settlements, and trying contested cases. In the course of handling that unit, associated juveniles were involved in prosecutions I handled. As part of my private practice, I represented juvenile offenders at detention hearings, adjudication hearings, and contested trials.

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

(a) Federal: 0%;

(b) State: 100%.

I am in family court very frequently during an average week. Of my court appearances, I would estimate 90% to be in family court and the remaining 10% in circuit court, master’s court, summary court or probate court.

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

(a) Civil: 9%;

(b) Criminal: 1%;

(c) Domestic: 90%.

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

(a) Jury: 2%;

(b) Non-jury: 98%.

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

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

(a) State v. J. C. Rice – This case that I prosecuted in 2000 before a jury in General Sessions Court in Union County was significant because it was the first trial and conviction under the Exploitation of a Vulnerable Adult, S.C. Code Section 43-35-85.

(b) State v. John Frank Williams – This murder case that I defended in 1983 before a jury in General Sessions Court in Greenville County resulted in a not guilty verdict and was significant because of difficult circumstances and issues, especially the defendant’s admission of shooting the victim in self-defense.

(c) State v. Sherry Pace,337 S.C. 407, 523 S.E.2d 466 (Ct.App. 1999) *–* This case that I prosecuted before a jury in General Sessions Court in Greenville County was significant because it was the first trial and conviction under the Insurance Fraud Act, S.C. Code Section 38-55-530(D).

(d) Nasser-Moghaddassi v. Moghaddassi, 364 S.C. 182, 612 S.E.2d 707 (Ct.App. 2005) – This is a family court case in which I was involved as Guardian Ad Litem for the parties’ three minor children at the trial level. The case was significant because it was the first time the Court of Appeals applied the *Patel* standards by finding that my investigation as GAL for the children was independent, balanced and impartial. See Patel v. Patel, 347 S.C. 281, 555 S.E.2d 386 (2001).

(e) State v. Whitner, 328 S.C. 1, 492 S.E.2d 777 (1996) – As director of the Child Abuse and Neglect unit of the 13th Judicial Circuit Solicitor’s Office, I initiated the first prosecutions in the state of women who gave birth to drug-impaired infants under the child abuse and neglect statute, S.C. Code Section 20-7-50. This case was significant because the State Supreme Court held for the first time that the word “child” as used in the statute includes viable fetuses.

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

(a) Jerry Fowler v. Southern Bell - won personal injury verdict in US District Court, which was upheld on appeal to the U.S. Court of Appeals, 4th Circuit (unpublished);

(b) Loftis v. Loftis, 286 S.C. 12, 331 S.E.2d 372 (Ct.App. 1985).

Ms. Christophillis reported that she has not personally handled any criminal appeals.

Ms. Christophillis further reported the following regarding unsuccessful candidacies:

I ran for Greenville County Council in 1984. In the Fall of 2008 and in the Fall of 2009, I ran as a candidate for Family Court Judge, 13th Judicial Circuit, Seat #6 and #2, respectively, was found qualified and was recommended on each occasion to the General Assembly by the JMSC, but I withdrew prior to each election.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen’s Committee on Judicial Qualification found Ms. Christophillis to be “Qualified” for four of the nine evaluative categories: constitutional qualifications, physical health, mental stability, and judicial temperament. The Committee found her “Well qualified” in the areas of ethical fitness, professional and academic ability, character, reputation, and experience. The Committee commented regarding her judicial temperament, “The committee does not have any information or belief that the candidate would be rude or less than cordial to all litigants and attorneys. The committee received some comments from those interviewed that there was a belief that she might have some problem making a decision in cases. The committee, after interviewing the candidate, can see how one might get this impression. Therefore, the criticism, if any, might be that she may communicate less than effectively.”

Ms. Christophillis is married to Constantine S. Christophillis, Jr. She has three children.

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

(a) Greenville County Bar;

(b) South Carolina Bar.

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

(a) Board member of Greenville Transit Authority (Mayoral appointee);

(b) Chairman of North Main Street Traffic Study Committee (City Council appointee);

(c) Chairman of Board of Centre Stage South Carolina;

(d) Board member of Upstate Community Mediation Center;

(e) Member of Junior League of Greenville and Junior League Singers;

(f) Greenville Kiwanis Club;

(g) Recipient of Metropolitan Arts Council Volunteer Award;

(h) Graduate of Leadership South Carolina.

Ms. Christophillis additionally reported,

Thirty-four years ago, when I was a second-year law student, my father gave me the book *Simple Justice*. This book chronicled the historic case of Brown v. Board of Education*,* published the year of my birth. My father inscribed in the book, “On balance, the law profession has helped salvage the most noble hopes we see all too dimly – you have chosen well.” *Simple Justice* has stayed on my desk ever since, and my father’s words “noble hopes” have permeated throughout my life and career.

I have always found noble hopes in helping families one case, one child, one parent, and one grandparent at a time. These hopes, fueled by compassion, tenacity, and an understanding spirit, have guided me through 32 years of advocating for families by handling their divorces, their custody battles, their separations, and other challenges in Family Court.

These hopes have made me an advocate for children who have been abused or neglected. They have taken me to the State House to testify for the “Homicide by Child Abuse” and Child Fatalities Statutes, which I wrote. These hopes took me to Nashville as a speaker before the National Conference of State Legislators to present the intervention protocol for drug-impaired infants, which I developed.

These hopes took me to Washington, DC, to testify before Congress about the success of the protocol. These hopes took me to all of our State’s judicial circuits to educate and train multi-disciplinary teams.

Abused and neglected adults are often an overlooked segment of our population. Their hopes took me again to all 46 of our counties, training and educating teams on intervention and prosecution on their behalf. It took me back to Washington, DC, to present our protocol before the US Attorney General.

In the early 1990’s, I recognized the potential of mediation before it was implemented in South Carolina. I received my 40 hours of training and certification in Atlanta when it was not yet available in South Carolina and helped write the rules that we now use in our state. Today, mediation is recognized as an integral part of our Family Court system, having succeeded in offering an alternative means of resolving very difficult cases.

These noble hopes guided me through service as an at-large member of Greenville City Council and as an active volunteer for many different civic and non-profit groups.

These noble hopes have especially allowed me to serve my God as a member of the choir and as a former Sunday School teacher at St. George Greek Orthodox Cathedral in Greenville.

Most importantly, these noble hopes are found in the love of my family, my three children, and my husband of 32 years. My father spoke of “noble hopes we see all too dimly,” but my life experience has allowed me to see noble hopes most brightly. They shine steadfastly. My hope is now to serve the citizens of South Carolina as a Family Court Judge and help deliver “Simple Justice.”

(11) Commission Members’ Comments:

The Commission commented that Ms. Christophillis has tremendous experience in the Family Court and would be an asset to the Family Court bench. They also noted her active civic involvement in her local community.

(12) Conclusion:

The Commission found Ms. Christophillis qualified and nominated her for election to the Family Court, Thirteenth Judicial Circuit, Seat 3.

**Harry L. “Don” Phillips, Jr.**

**Thirteenth Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Mr. Phillips was born in 1964. He is 46 years old and a resident of Greenville, South Carolina. Mr. Phillips provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991. He was also admitted to the Alabama Bar in 1996.

(2) Ethical Fitness:

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

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

Mr. Phillips reported that he has made $40.00 in campaign expenditures for copy paper and an ink cartridge.

Mr. Phillips testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) Mini Summit on Justice for Children 12/02/10;

(b) 2010 Hot Tips from Coolest Domestic Practitioners 10/01/10;

(c) 2009 Ethics Update 02/17/10;

(d) Greenville Co. Bar Association 02/12/10;

(e) Masters in Cross Examination 02/06/09;

(f) 2008 Family Ct. Bench & Bar 12/05/08;

(g) SCDSS OGC 12/07/07;

(h) Managing Ethical Issues 12/19/06;

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

(j) SCPSAC 12th Annual Colloquium 04/06/06;

(k) SCPSAC 11th Annual Colloquium 02/24/05;

(l) Hot Tips from the Coolest Domestic Practitioners 09/23/05;

(m) SCDSS OGC 09/30/05.

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

I have been a guest lecturer on the topics of family law and domestic practice for students in the Greenville Technical College paralegal program on several occasions and for a Lander University class. I have also been a lecturer in a SCDSS Office of General Counsel seminar concerning the use of hearsay statements made by children under SC Code Section 19-1-180.

Mr. Phillips reported that he has not published any books and/or articles.

(4) Character:

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

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

(5) Reputation:

Mr. Phillips reported that he is not rated by any legal rating organization. He reported, “I am not aware of any rating by a legal organization, perhaps because I have been employed as an attorney for the South Carolina Department of Social Services for the past ten years.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Phillips was admitted to the South Carolina Bar in 1991.

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

(a) 1991-95. Associate, Haynsworth, Marion, McKay & Guerard. I was involved in an insurance defense practice with a focus on automobile accidents and coverage issues, products liability, collections and workers compensation.

(b) 1996-2001. Partner, Hunter, Foster & Phillips. I continued in an insurance defense and collections practice, and additionally handled divorce, custody, equitable distribution, child abuse and neglect (defense) and representation of Guardians in Family Court.

(c) 2001-present, Attorney, South Carolina Department of Social Services. I have practiced in Family Court since 2001 representing the South Carolina Department of Social Services in child abuse and neglect cases, vulnerable adult abuse/neglect/exploitation cases, and termination of parental rights/adoption cases. I have also represented the Department in Probate Court and in the Court of Common Pleas. I additionally provide advice to the Department on legal matters and interpretation of statutes and policy provisions, and, since 2006, I have been the senior/managing attorney in the Greenville County office, with supervisory responsibility for four attorneys and five paralegals/assistants.

Mr. Phillips further reported:

Beginning in 1996, I have represented numerous clients in cases involving divorce, equitable division of property and child custody in Family Court. These cases constituted approximately 50% of my practice prior to 1991 when I became a full time SCDSS attorney. I was fully involved in all aspects of case preparation, including preparation of affidavits and financial declarations, compiling witness lists and preparation of the witnesses for trial, child support calculations, and drafting of the Orders at the request of the Judge following the hearing. Representation of clients in those cases also involved appearances in contempt hearings and protection from domestic abuse hearings, and hearings involving child support (for a reduction in amount, an increase in amount, and/or failure to pay), and application of the Uniform Child Custody Jurisdiction Act. The divorce cases covered both fault-based grounds and one year continuous separation, annulments and bigamy situations. Additionally, I represented guardians and served myself as a guardian, in contested custody cases. I also handled name changes, adoption and emancipation cases which were sometimes related to an underlying divorce or child custody case.

In 1991, I began full-time employment with the Department of Social Services. I have since handled hundreds of cases (with trials and hearings on a weekly basis) involving all aspects of child abuse and neglect, and cases involving abuse/exploitation/neglect of vulnerable adults. In the trial of cases involving children, custody has oftentimes been both contested and litigated, both from the aspect of bringing children into foster care, and from the aspect of which parent or relative(s) would end up with custody of the child or children. The cases have consisted of almost every scenario imaginable, including sex abuse, physical abuse, physical neglect, medical neglect, educational neglect, mental injury, financial exploitation, death of a child, excessive corporal punishment, and cases requiring the use of interpreters for all hearings (Spanish, Chinese, Russian, Central American Indian dialects, sign language). A substantial number of the cases have resulted in termination of parental rights and eventual adoption of the child/children. These cases have also required interaction with other South Carolina agencies involved with the families, such as the Department of Mental Health and the Department of Disabilities and Special Needs, and agencies in other states involving implementation of the Interstate Compact for the Placement of Children (ICPC). Not surprisingly, I have also handled many cases in which the children involved in the SCDSS case are also juvenile defendants in a case brought against them by the Solicitor’s Office and involving the Department of Juvenile Justice. Oftentimes the subject juvenile defendants have been placed into foster care via emergency protective custody, or were already in foster care (foster home/group home/runaway) when they allegedly committed some crime, thus necessitating my involvement in the juvenile case.

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

(a) Federal: None in the past 5 years;

(b) State: weekly (multiple time weekly).

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

(a) Civil: 0%;

(b) Criminal: 0%;

(c) Domestic: 100%.

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

(a) Jury: 0%;

(b) Non-jury: 100%.

Mr. Phillips provided, “I most often serve as sole counsel, however, as senior attorney for our SCDSS legal office, I have often appeared as co-counsel with other attorneys in complex cases.”

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

(a) SCDSS vs. Jane Doe, John Doe. This was actually a series of cases which took place over several years and involved ten children. The cases involved allegations of literally every type of abuse and neglect I have encountered in my employment as an attorney for SCDSS, and resulted in termination of parental rights.

(b) SCDSS vs. Jane Doe. This case involved negligence (failure to protect) and sexual abuse of a minor child. In addition to being a well contested case which involved expert testimony, it was significant in demonstrating how an otherwise able parent would continue to make poor choices which ultimately resulted in harm to the children.

(c) SCDSS vs. Jane Doe, John Doe, Fred Doe. This case was significant in that it involved abuse and neglect of children by several different parties and involved at trial the introduction of otherwise hearsay testimony from the children under South Carolina Code Section 19-1-180, which was heavily litigated and opposed.

(d) In re: Heinz Schreitmuller. This probate court case involved an elderly, vulnerable adult with a host of mental health issues and a lack of ability to live independently. The case was significant in that it dealt with issues of immigration, state and federal jurisdiction, and which state agency would assume the lead in providing services to the adult.

(e) SCDSS vs. Jane Doe, John Doe. This case was significant in that it involved abandonment of an infant under “Daniel’s Law,” a safe harbor provision allowing a parent of a newborn to abandon an infant at a hospital or similar location without fear of prosecution. Procedure under the statute required press releases, cooperation with law enforcement and hospital personnel, and ultimately termination of parental rights and adoption of the child.

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

(a) Kalchthaler vs. Workman, 316 S.C. 499, 450 S.E.2d 621 (Ct. App. 1994);

(b) Patterson vs. Reid, 318 S.C. 183, 456 S.E.2d 436 (Ct. App 1995);

(c) SCDSS vs. Walter, 369 S.C. 384, 631 S.E. 2d 913 (Ct. App. 2006).

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

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

I withdrew from the Family Court, 13th Judicial Circuit, Seat 2, judicial election on January 20, 2010, after having been selected one of the three candidates by the Judicial Merit Selection Committee.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Mr. Phillips to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Mr. Phillips “Well qualified” in the remaining criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, “The committee believes Mr. Phillips would make an excellent Family Court Judge.”

Mr. Phillips is married to Tammy Ensor Phillips. He has four children.

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

(a) South Carolina Bar;

(b) Alabama Bar;

(c) Greenville County Bar.

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

(a) Boy Scouts of America (Troop 9—Buncombe Street UMC-Adult Leader) (Reedy Falls District—Eagle Scout Review Board);

(b) Public Education Partners (supports public education in Greenville Co.);

(c) A Child’s Haven (therapeutic day care provider) (board member);

(d) Buncombe Street UMC Child Development Center (board member);

(e) Westminster Presbyterian Church Weekday School (board member);

(f) Palmetto Auburn Club/Auburn Alumni Association.

(11) Commission Members’ Comments:

The Commission commented that Mr. Phillips’ outstanding, well-tempered demeanor would assist in making him an excellent family court judge. They noted his dedicated public service as a DSS attorney and sincere commitment to the Family Court.

(12) Conclusion:

The Commission found Mr. Phillips qualified and nominated him for election to the Family Court, Thirteenth Judicial Circuit, Seat 3.

**Thomas J. Quinn**

**Thirteenth Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Mr. Quinn was born in 1953. He is 57 years old and a resident of Greenville, South Carolina. Mr. Quinn provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

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

Mr. Quinn 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. Quinn reported that he not made any campaign expenditures.

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

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

(a ) SC Traffic & DUI Updates 09/17/10;

(b) Defending Drug Cases 11/17/10-11/18/10;

(c) Criminal Practice in South Carolina 02/26/10;

(d) Family Law Ethics from the Preschool Perspective 02/09/10;

(e) Courtney, Jill and the Tips 02/08/10;

(f) The New and the Old DUI: Problems and Pitfalls 02/08/10;

(g) New World DUI 08/22/08;

(h) Ethics and Alternative Dispute Resolution 03/27/09;

(i) The Criminal Trial: Pre-Trial to Post-Verdict Motions 05/08/08;

(j) Advanced DWI Seminar 11/02/07 - 11/03/07;

(k) Advanced DWI Seminar 11/12/09 - 11/13/09;

(l) NACDL Fall Meeting and Seminar 10/17/07 – 10/20/07;

(m) Nuts and Bolts of Permanency Planning Hearings 07/01/07;

(n) Lawyers Communication – Family Court 07/02/07;

(o) Mediation Powerpoint 07/02/07;

(p) Effective Appellate Practice: Preserving the Record 07/03/07;

(q) Effective Appellate Practice: The Trial Lawyer’s Armageddon 07/03/07;

(r) Defending Abuse and Neglect Cases 08/10/07;

(s) Federal Practice in South Carolina 08/24/07;

(t) Criminal Practice in South Carolina 10/05/07;

(u) How to Incorporate Pro Bono work into your Practice 07/02/07.

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

(a) I lectured at a National Business Institute Seminar, The Criminal Trial: Pre-trial to Post- Verdict Motions on cross-examination and post-verdict motions.

(b) I have made presentations on the topics of family court criminal practice to judges and lawyers at an SC Bar Seminar.

(c) I have taught cross-examination and trial technique at the National College of District Attorneys.

Mr. Quinn reported that he has not published any books and/or articles.

(4) Character:

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

The Commission also noted that Mr. Quinn 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. Quinn reported regarding a rating by a legal rating organization, that he is rated on Martindale-Hubbell as preeminent by client review.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Quinn was admitted to the South Carolina Bar in 1978.

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

(a) 1978-80, I was an assistant public defender in Richland County working in Family Court, Magistrate Court, and General Sessions Court.

(b) 1980-82, I was an assistant solicitor in Richland County in Family Court and General Sessions.

(c) 1982-84, I was an assistant public defender in Richland County working in Family Court, Magistrate Court, and General Sessions Court.

(d) 1984-86, I was the public defender of Beaufort County.

(e) 1986-87, I was an assistant solicitor in Greenville County practicing in General Sessions.

(f) 1987-88, I was in private practice in Greenville primarily practicing in Family Court and Criminal Courts (Magistrate, General Sessions, and Federal Court).

(g) 1989-92, I was the public defender of Richland County.

(h) 1992-94, I was an associate with John Daugs, Esquire, practicing primarily in Family Court and Criminal Courts.

(i) 1994-96, I was in private practice at the Quinn Law Office in Beaufort practicing primarily in Family Court and Criminal Courts.

(j) 1996-99, I was an associate with the firm of Moss and Kuhn in Beaufort, South Carolina practicing primarily in Family Court and Criminal Courts, although I additionally practiced some in Common Pleas.

(k) 1999-2002, I was an assistant solicitor in Greenville County practicing in General Sessions Court.

(l) 2002-11, I have been in private practice in Greenville as the Quinn Law Office practicing primarily in Family Court (mostly DSS cases) and Criminal Courts.

Mr. Quinn further reported:

During a third year internship and for the first several years of my practice, I primarily was in Family Court defending, and then prosecuting, criminal cases. When I was the Public Defender in Beaufort we were responsible for defense in Family Court and I did court at least twice a month for three years. I occasionally get a DJJ case now but most of the work in that part of Family Court is done by the Public Defender. I am familiar with the court and the issues that would arise there because of my criminal defense work.

I did divorce work for several years while I was in private practice as a real part of my practice and have been familiar with the issues, equitable division of property, divorce, restraining orders, etc., involved for several years.

I have continued to deal with those issues as a Family Court mediator in South Carolina since 1994.

A large part of my practice since 2002 has been DSS cases. I have served as Guardian ad Litem for children, adults and parties and as counsel for the parties brought to court by DSS. The issue of custody is litigated in almost every DSS case as are the issues of visitation, services, and child support.

Some cases brought by DSS are termination of parental rights actions and in those cases often adoptive parents are joined as third parties so I have some familiarity with adoption through those actions.

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

(a) Federal: 2-3 times a year;

(b) State: 4-5 times a week.

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

(a) Civil: 0%;

(b) Criminal: 60%;

(c) Domestic: 40%.

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

(a) Jury: 20%;

(b) Non-jury: 80%.

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

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

(a) State v. Richard Blackburn, 93-GS-27-657 Death penalty case.

(b) State v. Mario Hinojos, 03-GS-23-2931/2944/2977. Potential death penalty case.

(c) SCDSS v. Starieyetta Rosemond, Harold O’Neal, Kim Singleton, 08-DR-23-5319. Safe haven case involving issues of how safe haven must be accomplished and whether it be revoked by a parent with that parent then seeking custody.

(d) State v. Amos L. Mattison, 04-GS-23-1748/1740. Death penalty case.

(e) State v. Anderson 312 S.C. 185, 439 S.E.2d 835 (1993). Changed grand jury procedure in South Carolina.

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

(a) John Roe, Respondent v. David J., Samuel T. a Minor under the age of eight (8) years, Alicia Roe, and John Doe, Defendants, of whom David J. is Appellant. Court of Appeals of South Carolina. June 28, 2007. 2007-UP-339.

(b) The State, Respondent, v. Rudolph Holden, Appellant. Court of Appeals of South Carolina. December 15, 2009. 2009-UP-597.

(c) Wilson A. Palacio, Respondent v. State of South Carolina, Petitioner. Supreme Court of South Carolina. January 18, 1999. 333 S.C. 506, 511 S.E.2d 62 (S.C. 1999).

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

United States of America, Plaintiff, Appellee v. Benjamin Means, Jr., Defendant, Appellant. United States Court of Appeals for the Fourth Circuit. July 21, 2010 the case was resolved by voluntary dismissal and, so, the case was not reported.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen’s Committee on Judicial Qualification found Mr. Quinn to be “Qualified” for the following evaluative categories: constitutional qualifications, physical health and mental stability. The Committee found him “Well qualified” in the areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, “The committee was extremely impressed with this candidate and all of the people we spoke to about him gave very glowing responses. His experience level is vast and includes work as public defender, prosecutor, and private practice. He has extensive trial experience in all courts throughout South Carolina. His heartfelt reasoning for wanting this position was especially impressive.”

Mr. Quinn is married to Joy Dean Bennett. He has two children.

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

(a) South Carolina Bar Association;

(b) Greenville County Bar Association;

(c) National Association of Criminal Defense Lawyers;

(d) South Carolina Association of Criminal Defense Lawyers;

(e) Greenville County Association of Criminal Defense Lawyers;

(f) Federal Bar Association;

(g) National College for DUI Defense.

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

(11) Commission Members’ Comments:

The Commission commented that Mr. Quinn was confident at the Public Hearing and has an outstanding demeanor which would equip him well on the Family Court bench. The Commission further noted Mr. Quinn’s extensive trial experience in all the courts in South Carolina.

(12) Conclusion:

The Commission found Mr. Quinn qualified and nominated him for election to the Family Court, Thirteenth Judicial Circuit, Seat 3.

**Diane P. DeWitt**

**Fourteenth Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Ms. DeWitt was born in 1955. She is 55 years old and a resident of Beaufort, South Carolina. Ms. DeWitt 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 1983.

(2) Ethical Fitness:

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

Ms. DeWitt 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. DeWitt reported that she has spent $75.44 on postage.

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

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

(a) 20/20 An Optimal View of 2010 , 02/11/11;

(b) Family Law Section/Annual S.C. Bar Conference 01/21/11;

(c) Law Firm Management 01/23/10;

(d) Family Law Section/Annual SC Bar Conference 01/22/10;

(e) Criminal Law Update Part I 01/22/10;

(f) 2009 Family Court Bench/Bar 1 2/04/09;

(g) Tort Law Update 11/13/09;

(h) Critical Financial Errors in Divorce 11/06/08;

(i) Dealing with Difficult Clients 10/13/08;

(j) 2007 Family Court Bench/Bar 12/07/07;

(k) Tort Law Update 10/26/07;

(l) 2006 Family Court Bench/Bar 12/01/06;

(m) Packing Your Parachute/Risk Management Seminar 11/06/06;

(n) Torts and Insurance Practice 01/28/06;

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

(p) 21st Ann. Criminal Law Update 01/27/06;

(q) Law Office Technology 01/26/06.

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

(a) I have lectured and made presentations at S.C. Bar seminars on topics including court appointments, handling domestic violence cases, alternative placements for children, corroborating the client's story, Soldier's and Sailor's Civil Relief Act, procedures for appointment of guardians, courtroom conduct, notice requirements and international custody disputes and cultural issues. I moderated the first Bar sponsored training for attorney and lay guardians in private custody cases. I have also lectured on juvenile transfer hearings, press access to juvenile hearings, pre-trial motions practice, insanity defense, and budget proposals for defender offices.

(b) I lectured and provided training for staff and counsel at the Beaufort Co. DSS office regarding notice requirements, rules of civil procedure, subpoena issuance, search warrants, and other procedural issues.

(c) I am a volunteer of the S. C. Bar Association Speaker's Bureau and have spoken to community groups on family law, domestic violence and its prevention, social security, Medicaid and adult protection issues.

(d) I have been an adjunct professor at the Technical College of the Lowcountry in Walterboro, S.C. and Beaufort, S. C. teaching paralegal and criminal justice courses. Classes taught were Family Law, Criminal Law, Interviewing and Counseling and Criminal Evidence.

(e) I have been an adjunct professor for Webster University, Beaufort, S.C. Classes taught in the MBA/MA program were Business Law and Legal and Ethical Issues in Management.

(f) I have taught the Ethics, Constitutional Law, Search & Seizure and Laws of Arrest portions of the Beaufort Police Department Reserve Officer Training course.

(g) I have made presentations at high schools on educational and career opportunities in the law, and the importance of an education.

(h) I spoke at the 5th Annual Fatherhood Conference on custody and support laws.

(i) I have lectured on local legal history to community groups.

Ms. DeWitt reported that she has published the following:

(a) Contributor to South Carolina Family Law Toolkit, 2002 prepared for the S.C. Bar by the Family Law Section Council;

(b) I served on the Editorial Review Board for Marriage and Divorce Law in South Carolina-A Layperson's Guide, 2001 by Roy T. Stuckey.

(4) Character:

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

The Commission also noted that Ms. DeWitt 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. DeWitt reported that she is not rated by any legal rating organization. She stated: “I have not requested a rating and, to my knowledge, do not have one.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. DeWitt was admitted to the South Carolina Bar in 1983.

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

(a) Neighborhood Legal Assistance Program, Walterboro, SC from August 1983 until June 1988. Serving Colleton and Hampton counties. I was hired as a staff attorney upon graduating from law school and served as Managing Attorney from 1984-88. I handled all family court cases including divorce actions, domestic violence cases, paternity and child support actions, actions for declaratory judgments as to common law marriage, annulments, custody, grandparent custody and/or visitation, petitions for creation of delayed birth certificates and for correction and amendment of birth certificates, adoptions, contempt actions - both prosecuting and defending. I was appointed to represent parents or children in DSS child abuse and neglect cases, vulnerable adults in Adult Protective Services cases and in probate court, and occasionally was appointed as guardian ad litem in private custody actions. I represented children, widows and disabled adults in social security disability hearings and appeals. I represented clients in veteran benefits hearings and appeals, landlord/tenant actions, employment benefit appeals, and other types of administrative hearings and appeals to state circuit court or U.S. District court. I supervised and trained staff attorneys and staff, and maintained records required by federal law. The position required a thorough understanding of specific federal laws, SCDHHS regulations, manuals, and appeals processes, as well as federal regulations governing social security and veteran's benefits, Farmer's Home Administration construction and loan programs, Section 8 housing rules, SC Landlord Tenant Act, S.C. Domestic Violence Act and Children's Code, Uniform Reciprocal Enforcement of Support Act, Uniform Child Custody Jurisdiction and Enforcement Act.

(b) Beaufort County Public Defender Office, Beaufort, S.C. from June 1988-April 1993. I was hired as Deputy Public Defender and promoted to Chief Public Defender a few months later. As Chief Public Defender I represented indigent criminal defendants and juveniles in the Family Court. As a public defender I represented juveniles who had committed status offenses, engaged in acts of domestic violence acts against parents and/or siblings, and those accused of drug use and sales, armed robbery, aggravated battery, burglary, car theft, joy riding, criminal sexual conduct involving strangers or siblings, indecent exposure, murder, carjacking and other violent offenses. I represented juveniles at detention hearings, adjudicatory hearings that were tried and in which guilty pleas were taken, and at disposition hearings, probation revocation and violation hearings, and transfer and contempt hearings. I represented a 15 year old who killed his father and stepmother at a 10 hour transfer hearing at which numerous law enforcement and mental health professionals testified and were cross-examined. The juvenile cases I tried often involved Miranda, and Lyle, issues, suppression issues and witness identification issues and on occasion issues related to mental intent and insanity. Some of the juveniles I represented had mental illnesses, and developmental disabilities such as Mental Retardation, Fetal Alcohol Syndrome, Bi-Polar Disorder, Tourette's Syndrome, ADD and ADHD.

As Chief Public Defender I jury tried approximately 100 cases as sole counsel and served as co-counsel on Assistant Public Defender cases. The cases I personally handled in five years as public defender ran the entire gamut of criminal offenses, from the least serious to the most violent. These cases raised 5th and 6th Amendment issues related to Right to Counsel, Miranda violations, Lyle and Bruton issues, competency issues related to Defendants and witnesses, and involved defenses including insanity, self defense, defense of others, necessity, alibi, entrapment, Battered Woman's Syndrome, Battered Child's defense, eyewitness identification, recantation, reliability issues related to forensic evidence and the like. I researched and presented or cross-examined witnesses on topics such as shaken baby syndrome, fetal alcohol syndrome, rape trauma syndrome, Munchhausen syndrome (and by proxy), Osteogenesis Imperfecta (brittle bone disease), post traumatic stress disorder, Asperger's syndrome, organic brain damage, and mental illnesses.

(c) Law Office of Diane P. DeWitt, Beaufort, SC; April 1993 to present. I have been a solo practitioner since 1993. During the first five to ten years of private practice my caseload was in the Family Court, General Sessions and Common Pleas Courts, in Social Security cases, and before military tribunals. I had a substantial practice in Beaufort, Jasper and Colleton and Hampton Counties in the 14th Circuit and at the present time continue to practice in these four counties, with the majority of my cases in Beaufort County. In the past few years, the majority of my caseload is in the Family Courts, although I continue to make appearances in magistrate, General Sessions, Common Pleas and Probate Court. I also mediate family court cases.

In the Family Courts, I have handled actions for annulment, declaratory judgment on common law marriage, divorce on grounds of physical cruelty, habitual drunkenness, adultery, and one year's separation grounds, equitable division of property including military retirement benefits, and equitable division of debts, alimony, child support, child support for adult disabled children, paternity and support - both private cases and those brought by SCDSS Child Support Enforcement ; and on actions to set arrears under the Uniform Reciprocal Enforcement of Support Act, visitation rights, bench warrants, petitioners for orders of protection, petitions for guardianship, to create delayed birth certificates, to amend or correct birth certificates, for adult and minor name changes. I have prosecuted and defended contempt actions. I have represented Fathers, Mothers, Grandparents, and other third parties in custody and visitation actions. I have represented parents, stepparents and un-related adoptive parents and served as guardian ad litem for the child in contested and uncontested actions for termination of parental rights and adoption. I have served as guardian ad litem for children in private custody cases, in actions to withdraw consents to adoption, and in child abuse and neglect proceedings. I have served as guardian/attorney for vulnerable, disabled, and incompetent adults in Adult Protective Service actions, divorce actions and in probate court actions. I have brought and defended actions to modify or terminate alimony and child support, and to custody and visitation orders. I have handled numerous relocation cases. I have tried cases in the family court involving issues of custody, alimony, equitable division, child abuse and neglect, grounds of divorce, attorney’s fees, child support, relocation of a child outside the state and outside the United States, termination of parental rights, withdrawal of adoption consent, contempt, and other issues. I have handled cases involving interstate jurisdiction issues and continue to represent juveniles accused of crimes and status offenses, as retained or by appointment, and have served as guardian ad litem for juveniles when the parents' interests were in conflict with the child's.

I was a contract lawyer for the Department of Social Services in Beaufort and Jasper Counties in 2000, 2001, 2005-06 serving on as needed basis when no staff attorney was available to prosecute child abuse and neglect proceedings, termination of parental rights complaints, and adult protective services cases. For a period of eight months I was the full time DSS attorney while also running my private practice full time. As a DSS attorney I prosecuted and tried several child abuse and neglect cases, as well as prepared for and presented uncontested cases at Review Hearings, Permanency Planning Hearings, on Emergency Custody petitions, and represented the agency at probable cause and merits hearings, contempt and temporary hearings and at motions hearings.

In my private practice, I have represented clients of every economic and educational level as well as many military service members. I have also represented individuals from diverse cultures and other nationalities.

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

(a ) Federal: 0;

(b) State: 100; average 5 court appearances per week.

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

(a) Civil: 5%;

(b) Criminal: 15%;

(c) Domestic: 80%.

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

(a) Jury: 10%;

(b) Non-jury: 90%.

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

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

(a) Simpson v. Simpson, 96-DR-07-1373. Relocation case. Represented Father in action to change custody based on substantial change in circumstances and parents' relocation. Both parents were active duty Marines with orders to Iowa and California. Allegations of child neglect, mother's attempts to alienate child from Father and Mother's interference with Father's visitation rights were proven. Father awarded custody.

(b) Caylor v. Caylor, 07-DR-07-1170. Initial issue as to whether South Carolina or Wisconsin had jurisdiction of custody was resolved in South Carolina's favor. Represented Mother in custody trial at which she prevailed after proving improper conduct and unfitness of Father during his period of temporary custody and children's best interests to be with Mother.

(c) SCDSS v. Middleton, 02-DR-07-572. Prosecution of Defendant in action for removal of child due to allegations father sexually abused daughter and girlfriend, both 13 years old. Significant issues related to competency and reliability of testimony of the children in a case where state and defense experts' testimony was in conflict. Numerous pre-trial motions made by defense were argued, including a request to admit evidence not admissible under rape shield statute. Court found Defendant was the perpetrator of the abuse.

(d) State v. Christopher Franklin, 425 S.E.2d 758 (S.C. App. 1992) Reh. Den., Cert. Den. Represented 15 years old charged with murder of father and stepmother. Extensive investigation into minor's psychiatric background resulted in 10 hour transfer hearing at which numerous mental health professionals testified and were cross examined as well as law enforcement witnesses relating to Kent factors. Case involved issues of battered child's defense.

(e) McCann v. Doe, 377 S.C. 373, 660 S.E.2d 500 (S.C. 2008). Served as guardian ad litem for infant in contested action by birth mother to withdraw consent to relinquish child for adoption. This case was significant because of the life time consequences the decision would have on the infant, biological mother, her family, the adopting parents and their families.

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

(a) Hess v. Hess, Unpublished Opinion No. 96-UP-468 (S.C. Ct. App.) December 3, 1996, filed December 16, 1996; custody issue;

(b) Mitchell v. Mitchell, Case No. 2010160046, pending appeal involving property division issue;

(c) Middleton v. Mitchell, Case No. 2010161646, pending appeal involving child support arrears and interest calculation issues.

Ms. DeWitt reported she has not personally handled any criminal appeals.

Ms. DeWitt further reported the following regarding unsuccessful candidacies:

(a) Candidate for House District 124, June 2007;

(b) Circuit Court, Fourteenth Judicial Circuit, Seat 2 - February 2006;

(c) Circuit Court at Large Seat 3- May 2000;

(d) Circuit Court, Fourteenth Judicial Circuit, Seat 1-February 2000;

(e) Family Court, Fourteenth Judicial Circuit, Seat 3 May 1997.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Ms. DeWitt to be “Qualified” for all of the nine evaluative categories: constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Ms. DeWitt is not married. She has three children.

Ms. DeWitt reported that she was a member of the following Bar associations and professional associations:

(a) South Carolina Bar Association; FY 2003-04 Chairperson Family Law Section Council, former section delegate, council member from 1998-2005; Member of S. C. Bar Association Pro Bono Committee; past Middle School Mock Trial judge; High School Mock Trial Coach; Pro Bono Volunteer Attorney; Volunteer for Speaker's Bureau; Member of Family Law and Solo and Small Firm Sections;

(b) Beaufort County Bar Association, Vice President 2010-11; Chairperson of Beaufort Co. Public Defender Corp. from 1993-2005;

(c) Former member Hampton and Colleton County Bar Associations;

(d) American Bar Association, Advisory Council Member; Member of Family Law, Law Practice Management, Ethics and Litigation Committees;

(e) S. C. Women Lawyer's Association;

(f) Member, Board of Directors, S. C. Legal Services Association.

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

(a) Baptist Church of Beaufort, Member, Personnel and Real Property Acquisition Committees;

(b) Rotary Club of Beaufort, member of Board of Directors; Director of International Service; Director of Community Service, counselor for Youth Exchange students; Chairperson Law Enforcement Committee; Paul Harris Fellow; Career Day volunteer;

(c) Salvation Army of the Lowcountry Advisory Board; Chairperson of Christmas Committee; member of Executive and Endowment Committees;

(d) Greater Beaufort Chamber of Commerce;

(e) Recipient of the Equal Employment Opportunity Certificate of Appreciation for significant contributions to Federal Women's Program at MCAS Beaufort;

(f) Carolina Alumni Association.

Ms. DeWitt further reported:

I have been fortunate to have practiced in the rural areas of this judicial circuit as well as in Beaufort County which is demographically quite different from Colleton, Jasper, Hampton or Allendale counties. I have represented the poorest people in this circuit and also some of the wealthiest. I understand the issues they have in the family courts as well as the relocation issues experienced so often by active duty service members in Beaufort County where we have three military bases. My background as the daughter of a Marine gives me a unique understanding of their concerns and of the need for courts to provide workable solutions for them and their children. I am keenly aware of the cultural differences that arise when a party or one parent is of a different nationality and of the international and interstate jurisdiction problems that can result when a child is removed from its home state and country.

The cases Family Court judges decide are often complex and their decisions impact litigants and children's lives for many years, and sometimes forever. I have the compassion, patience and understanding to hear each case, base my decisions on admissible evidence and at all times do what the law requires while balancing the constitutional rights of parties with the need to protect and serve the best interests of children.

(11) Commission Members’ Comments:

The Commission commented that Ms. DeWitt is very experienced in the area of family law after practicing law for 28 years. The Commission noted that Ms. DeWitt has an excellent demeanor and would very ably serve as a family court judge.

(12) Conclusion:

The Commission found Ms. DeWitt qualified and nominated her for election to the Family Court, Fourteenth Judicial Circuit, Seat 3.

**Deborah Ann Malphrus**

**Fourteenth Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Ms. Malphrus was born in 1964. She is 46 years old and a resident of Ridgeland, South Carolina. Ms. Malphrus provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mrs.Malphrus.

Ms. Malphrus 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. Malphrus reported that she has made $60.00 in campaign expenditures for postage, business cards, and a name tag.

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

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

(a) Tips From the Bench V 01/06/06;

(b) Resolving Problems and Disputes 01/09/06;

(c) Mini Summit on Justice for Children 08/22/09;

(d) DSS Legal Training 12/08/06;

(e) Judgment Enforcement in South Carolina 10/23/08;

(f) Masters In Cross Examination 02/06/09;

(g) The Laches Defense in Family Court 02/26/09;

(h) Technology on Computer Forensics 02/26/09;

(i) A Tricycle, a Marathon, Ethics, Stress Mgt 02/27/09;

(j) Family Court Mediator Certification Program 07/28/09;

(k) Mastering The Game Skills Law 10/22/10.

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

(a) In 2000, I was a presenter at the Association of Legal Nurse Consultants seminar in Charleston, SC. I spoke on the role of a legal nurse consultant in medical malpractice litigation.

(b) During the years 2000-05, I annually organized and presented seminars to Hampton and Jasper County DSS caseworkers related to proof requirements and evidentiary issues that arise in abuse and neglect and adult protective services proceedings.

Mrs.Malphrus reported that she has not published any books and/or articles.

(4) Character:

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

The Commission also noted that Ms. Malphrus 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. Malphrus reported that she is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Malphrus was admitted to the South Carolina Bar in 1990.

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

(a) August 1990-August 1991 Law Clerk to the Honorable Carol Connor;

(b) January 1992-December 1994 Fourteenth Circuit Solicitor’s Office. Assistant Solicitor under the Honorable Randolph Murdaugh, III;

(c) January 1995-March 1998 Private Practice of Law in the Malphrus Law Offices. General practice of law, with emphasis on trial work;

(d) April 1998-December 2008, Private Practice of Law in the Law Firm of Moss, Kuhn, Fleming, PA, with offices in Beaufort and Ridgeland, SC. My office was in Ridgeland, SC. I was the managing member of the Ridgeland branch of the law firm. Again a general practice, including Family Law, Criminal Law, Personal Injury, general trial work, Medical Malpractice, Real Estate and general Business Law;

(e) January 2009-present, Private Practice of Law in the Law Firm of Deborah A. Malphrus, PA. I continue to practice law in the same location as I did with Moss, Kuhn & Fleming, PA, but my practice is completely separate from my former law firm. I am the owner/sole practitioner of my separate law firm. I continue to have a general practice, including Family Law, Criminal Law, Personal Injury, general trial work, Medical Malpractice, Real Estate and general Business Law.

Ms. Malphrus further reported:

I have represented both men and women, as both Plaintiffs and Defendants in divorce action for the past sixteen years. Most of these cases have involved equitable distribution issues. Many of these cases have involved contested custody issues, contested spousal support issues, and transmutation of property issues. I have tried cases involving contested grandparent visitation. I have represented clients in contested termination of parental rights actins. I have also represented clients in cases involving the application of the Uniform Child Custody Jurisdiction Act and the Uniform Child Support Enforcement Act. As assistant Solicitor, I prosecuted many juvenile offenders and represented the State in abuse and neglect, adult protective services, termination of parental rights, and adoption proceedings. I have also litigated private, contested adoption cases and served as Guardian ad Litem in many domestic actions.

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

(a) Federal: once a year;

(b) State: weekly.

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

(a) Civil: 20%;

(b) Criminal: 10%;

(c) Domestic: 60%;

(d) Other 10%.

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

(a) Jury: 30%;

(b) Non-jury: 60%.

She further reported, “My law practice additionally includes business law matters which comprise an additional 10% of my total practice.”

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

The following is Mrs.Malphrus’ account of her five most significant litigated matters:

(a) SCDNR vs. Harold H Washington 95-ALJ-13-0049-CC. This matter is significant to me in that it involved assisting an elderly, illiterate man in appealing the suspension of his commercial fishing license. This work was done pro-bono. We were able to have his license restored; Mr. Washington was able to return to crabbing. Mr. Washington and I have been close friends ever since this decision.

(b) Saxon vs. Columbia Colleton Medical Center, et al. This case was significant to me because it involved complicated medical malpractice issues, and a fairly uncommon disease process. The case had multiple Defendants and lasted more than one week in trial.

(c) Rivera vs. Smith: This case was significant to me because I successfully defended a grandparent visitation case. This was the first time that I actually litigated the rights of grandparents to have visitation with their grandchildren separate and apart from their child’s visitation rights.

(d) Ex parte Bowers 320 SC 360 465 SE2d 354 (1995). This case is significant to me because it involved the way in which attorneys from smaller counties are appointed in abuse and neglect actions.

(e) Sheffield vs. Woods This was a civil litigation matter that involved a water rights dispute. The case was significant to me because my co-counsel was Professor Stephen Spitz, and I very much enjoyed trying a case with Profession Spitz at my side.

The following is Mrs.Malphrus’ account of the civil appeals she has personally handled:

(a) Ex parte Bowers 320 SC 360 465 SE2d 354 (1995);

(b) Estate of Sherman ex rel. Maddox vs. Estate of Sherman ex rel. Snodgrass 359 SC 407 598 SE2d 354 (1995);

(c) Bing and White vs. Devore, et al 2005-UP-097;

(d) Pittman v. Lowther 355 SC 536 586 SE2d 149 (2003).

Ms. Malphrus reported that she has not personally handled any criminal appeals.

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

In 2007 I ran for the Fourteenth Judicial Circuit Family Court, Seat 2. I was found qualified but not nominated.

(9) Judicial Temperament:

The Commission believes that Ms. Malphrus’ temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Ms. Malphrus to be “Qualified” in regards to the evaluative criteria of physical health and mental stability. The Committee found Ms. Malphrus to be “Well qualified” in the remaining evaluative criteria of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Ms. Malphrus is married to William Newton Fowler. She has three children.

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

(a) South Carolina Bar Association;

(b) Jasper County Bar Association, Secretary/Treasurer;

(c) South Carolina Women’s Lawyers Association.

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

St. Paul’s United Methodist Church, Ridgeland, South Carolina.

Ms. Malphrus further reported:

I am hard-working, compassionate and honest. Serving as a member of the judiciary has been my career goal since I clerked for the Honorable Carol Connor Twenty years ago. In recent years, I have foregone the opportunity to have a more lucrative legal career in the medical malpractice field to focus on and increase my family court practice because I hope to be a Family court judge. I pride myself on always being prepared and providing excellent representation to my domestic clients.

My parents separated when I was twelve years old, and divorced when I was sixteen years old. My father was my primary custodian because my mother moved away to further her education. I know firsthand how separation and divorce affect children. I also know firsthand that fathers can be successful single parents to their children. I am the mother of three children and have been happily married for 24 years. I have been a working mother my entire married life, and I understand the important roles of both mothers and fathers in parenting children.

My experience representing the State in abuse and neglect and juvenile offender matters for many years is what really sparked my desire to serve on the Family Court Bench. Family Court Judges in our State are given the unique opportunity to truly make a difference in the lives of South Carolina’s most vulnerable citizens---our children and our vulnerable adults. I want to have the opportunity to be one of those Judges that make a difference.

(11) Commission Members’ Comments:

The Commission commented on Ms. Malphrus’s enthusiasm for the law, her genuine concern for people, and for serving on the bench. They noted her intelligence and preparation as reflected in her family court experiences would serve her well on the bench.

(12) Conclusion:

The Commission found Ms. Malphrus qualified and nominated her for election to the Family Court, Fourteenth Judicial Circuit, Seat 3.

**QUALIFIED BUT NOT NOMINATED**

**Bryan W. Braddock**

**Family Court, Fourth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Braddock was born in 1973. He is 38 years old and a resident of Hartsville, South Carolina. Mr. Braddock provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1998.

(2) Ethical Fitness:

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

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

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

Mr. Braddock testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) 2010 SCAJ Annual Convention 8/5/2010;

(b) Sporting Clays CLE: Ethics with Judges 4/29/2010;

(c) Understanding/Defending DUI Cases 4/9/2010;

(d) Training for Attorneys Appointed in Abuse and Neglect Cases; 12th Judicial Circuit 1/15/2010;

(e) 2009 SCAJ Annual Convention 8/6/2009;

(f) 2008 SCAJ Annual Convention 8/7/2008;

(g) Family Law: Helping Your Client Through Difficult Cases 12/03/07;

(h) 2007 SCTLA Annual Convention 08/02/07;

(i) Hot Tops (Domestics) 09/22/06;

(j) Mandatory ADR Training 09/08/06;

(k) 2006 SCTLA Annual Convention 08/03/06;

(l) 2005 SCTLA Annual Convention 08/04/05;

(m) Attorney ECF Training 01/07/05.

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

(a) Better Organize Divorce Cases for Trial, presented for NBI, 12/03/2007;

(b) Use of Web-based software in family court practices,

SCAJ Hilton Head Convention, August, 2009;

(c) Family Court Case Law Updates, SCAJ Hilton Head Convention, August 2010;

(d) Family Court Case Law Updates,

SCAJ Hilton Head Convention, [scheduled for] August 2011.

Mr. Braddock reported that he has not published any books and/or articles.

(4) Character:

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

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

(5) Reputation:

Mr. Braddock reported that he is not rated by any legal rating organization. He reported, “I am not aware of any current rating by Martindale-Hubbell. At one time, I believe I was rated BV. However, my current firm does not advertise with Martindale-Hubbell, as we did not find it to be an effective tool of obtaining clients, and I have, therefore, not been contacted by Martindale-Hubbell about participating in the peer review process.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Braddock was admitted to the South Carolina Bar in 1998.

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

(a) Clerk for the Honorable Paul M. Burch, August 1998- August 1999; Circuit Court Clerk;

(b) Saleeby & Cox, P.A., Associate Attorney, October 1999- August 2005; Practice Areas: Domestics: 50%; Personal Injury: 30%;

Criminal/Traffic: 15%; Miscellaneous: 5%;

(c) Darlington County Public Defender’s Office: Part-time Public Defender, 2000-01;

(d) Young, Miller, & Braddock, LLC, Full Partner, August 2005- Present; Practice Areas: Domestics: 80%; Personal Injury/Workers’ Compensation: 10%; Criminal/Traffic: 10%.

Mr. Braddock further reported:

(a) Divorce/Annulment/Common Law Marriages:

I have prosecuted and defended cases involving every actionable ground for divorce. I have been successful in having Court find common law marriages. I have successfully argued for annulments.

(b) Equitable Division of Property:

I have been involved in equitable divisions including arguments of marital versus non-marital status of property, arguments of constructive trusts, arguments for special interest trusts, division of defined benefit and defined contribution retirement plans, and cases in which both real property and personal property appraisers were utilized.

(c) Child Custody:

I have successfully obtained custody for fathers, mothers, step-fathers, grandparents, distant family members, and psychological parents. I have been involved in cases involving various experts, including counselors, psychologists, and psychiatrists.

(d) Adoptions/TPRs:

I have handled cases involving the voluntary and involuntary termination of parental rights. I have handled adoptions for family members, step-parents, and unrelated third parties. I have handled private adoption and special needs adoptions.

(e) Abuse and Neglect:

I have handled hundreds of DSS Abuse and Neglect cases alleging

all levels of abuse. I recently participated in a case in which an orthopedist and a pediatric orthopedist were deposed, and the matter had to be tried over a full day, preventing DSS from obtaining a finding against my client. I handled a case from the very beginning, through the involuntary TPR stage, and through the appeal to the Court of Appeals.

(f) Juvenile Justice:

As a private attorney and during my brief stint as a part-time Public

Defender, I have handled dozens of DJJ cases, possibly over a hundred.

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

(a) Federal: 1%;

(b) State: 99%.

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

(a) Civil: 15%;

(b) Criminal: 10%;

(c) Domestic: 75%.

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

(a) Jury: 15%;

(b) Non-jury: 85%.

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

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

(a) Windell Brown vs. Cynthia Brown cases: During a series of separate cases between these parties, I argued for a termination of child support based upon the emancipation of the minor daughter, against a Risinger claim filed on behalf of that same child, for two transfers of the custody of another child of the parties, for child support and alimony modifications, and for the termination of permanent, periodic alimony based upon continued cohabitation of the Defendant with a paramour.

(b) Wright Adoption: An adoption case in which I represented the adopting parties in involuntarily terminating the parental rights of the two parents, one of whom became psychologically incapacitated during the pendency of the case. During the pendency of the case, my clients also lost one of their biological children in an automobile accident and eventually separated while the adoption was still pending. I was able to complete the adoption despite these circumstances.

(c) State versus Dontell McDaniels: Murder trial on which I worked for over three years. I was appointed counsel and worked on this case with the assistance of a private investigator retained with OID funds. I had the opportunity to visit the crime scene and personally interview numerous witnesses. The case was tried against a senior member of the South Carolina Attorney General’s Office, and I was able to obtain a plea of ten (10) years for my client on the third day of trial.

(d) Amerson Divorce: After lengthy and hotly contested litigation, I was able to obtain my client a divorce on the Defendant’s habitual drunkenness and get her an award of equitable division, compensating her for the various items of personal property the Defendant sold off during the separation. After the Defendant managed to get access to his retirement account and liquidate it, I was thru contempt proceedings able to obtain an order placing the Defendant in jail, ordering his brother to return all the money he was holding in trust for his brother, order a bank to freeze various accounts, and ordering the Clerk of Court to sign a deed transferring title to the marital residence.

(e) Johnson Divorce: In this case, the other party’s parents had built the marital home and sold it to the parties for about 30% of its fair market value. However, my client had also paid the proceeds from the sale of his pre-marital home to his in-laws. When they divorced, the other party tried to claim a special equity interest in the home, basically claiming that 70% of the equity in the home should be hers alone based upon the contribution of her family. I was able to defeat this claim. I also was able to get the Court to use my appraiser’s value for the home and, after the other party tried to claim that there were only $7,500 in marital personal property, I was able to use a personal property appraiser to show that the correct value was approximately $25,000. In addition to this successful argument regarding the equitable distribution, I was able to gain enough visitation for my client as the secondary custodian of the minor children that he actually received child support from the other party, the primary custodian, due to the discrepancy in incomes.

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

South Carolina Department of Social Services vs. Marggie Hutson, Eliseo Perez, and Landin Nuan Perez, from the Family Court; Unpublished Opinion No. 2006-UP-238; filed May 15, 2006.

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

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

Family Court, 4th Circuit, Seat 3 in Spring 2009.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizen’s Committee on Judicial Qualification found Mr. Braddock to be “Qualified” for the following evaluative categories: constitutional qualifications, physical health and mental stability. The Committee found him “Well qualified” in the areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, “Mr. Braddock is an excellent candidate who, although younger than one might expect for a judicial candidate, has extensive experience in family court litigation which erased our initial concern.”

Mr. Braddock is married to Dusty Renae Spring Braddock. He has two children.

Mr. Braddock reported that he was a member of the following Bar associations and professional associations:

(a) South Carolina Bar Association;

(b) Darlington County Bar;

(c) Florence County Bar;

(d) South Carolina Association for Justice: Board of Governors (2008- Notification of Candidacy for this position), Legislative Planning Steering Committee (Family Court Representative; 2008- Notification of Candidacy for this position).

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

(a) Loyal Order of the Moose; Trustee (2002-03);

(b) Moose Legion;

(c) College of Charleston Alumni Association.

Mr. Braddock further reported:

It is my goal to become a Family Court Judge. I am not running for this position because I want to be a Circuit Court Judge. I am not running for this position because I want to run for some political office some day. I am running for this office neither because I am tired of practicing law nor because my career and/or practice is at a crossroads.

I am running for the position of a South Carolina Family Court Judge because I believe this would provide the greatest opportunity to have a positive impact on as many people as possible; because I believe my attitude and demeanor would have a positive effect on both the parties and practitioners appearing before me; because I believe that our Family Court system is the most equitable and just part of our judicial system; and because I want to retire someday having had the fullest impact on as many people of all ages as possible.

(11) Commission Members’ Comments:

The Commission commented that Mr. Braddock has diverse experience in the family court, which would serve him well on the bench. The Commission noted that Mr. Braddock is devoted to his law practice in the family court and also noted his good work ethic.

(12) Conclusion:

The Commission found Mr. Braddock qualified, but not nominated, to serve as a Family Court judge, for the Fourth Judicial Circuit, Seat 2.

**John McIver “Jay” Ervin III**

**Fourth Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Ervin was born in 1959. He is 52-years old and a resident of Darlington, South Carolina. Mr. Ervin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

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

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

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

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

(a) Federal Sentencing Guidelines Sponsored by SC Bar 3/3/2005;

(b) Attorney FCF Training Sponsored by USDCOC 5/11/05;

(c) For the calendar year of 2006 the Office of CLE was unable to locate my

CLE transcript and was unable to pull the transcript off their website. I can verify that I have always met or exceeded the requisite number of CLE hours.

(d) Basic Practice Tips in Workers Compensation Sponsored by SC Bar 3/1/2007;

(e) Ethical Considerations Sponsored by SC Bar 3/1/2007;

(f) SideBar: Criminal Law Update Sponsored by SC Bar 3/1/2007;

(g) Public Defender Conference Sponsored by SCPDA 9/24/2007;

(h) SideBar: SC Live Sponsored by SC Bar 2/22/2008;

(i) Federal Practice 08 Sponsored by FDMWD 3/20/2008;

(j) CJA mini-Seminar sponsored by FPDSC 8/1/2008;

(k) Federal Criminal Practice Seminar Sponsored by FPDSC 10/16/2008;

(l) CJA Mini Seminar Spring 09 Sponsored by FPDSC 5/1/2009;

(m) Blues, BBQ, and Bar CLE Sponsored by SCACDL 7/10/2009;

(n ) Federal Criminal Practice, Fall 09 Sponsored by OFPD 10/29/2009;

(o) Federal Criminal Practice Spring 10 Sponsored by FPD 4/1/2010;

(p) Blues, BBQ, and Bar CLE Sponsored by SCACDL 7/9/2010;

(q) Federal Criminal Practice Fall 10 Sponsored by FPD 10/28/2010.

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

(a) I have lectured at local Junior and Senior High Schools on Law Day several times.

(b) I have also done the same at Florence-Darlington Technical College.

Mr. Ervin reported that he has not published any books and/or articles.

(4) Character:

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

The Commission also noted that Mr. Ervin 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. Ervin reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

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

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

(a) 1979-85 SC Senate Page, Columbia, SC;

(b) 1982-85 Colonial Life Legal Department, Columbia, SC – Law Clerk;

(c) 1985-86 Law Clerk to the Honorable Sidney T. Floyd, Circuit Court;

(d) 1986-89 Fifth Circuit Solicitor’s Office, Columbia, SC;

(e) 1989-91 Fourth Circuit Solicitor’s Office, Darlington, SC (Part Time);

(f) 1989-91 Milling and Ervin, Darlington, SC – General Practice;

(g) 1992-94 Beasley, Ervin and Warr, Darlington, SC – General Practice;

(h) 1994-96 Ervin, Warr, Auman, and Lucas, Darlington, SC – General Practice;

(i) 1996-Present Ervin Law Office, P.A., Darlington, SC – General Practice.

Mr. Ervin further reported:

I initially was a law clerk for Judge Floyd in Conway, SC. I left there to accept a position as an assistant solicitor for Solicitor Jim Anders and was responsible for prosecuting violent crimes and all of the Richland County drug cases. After three years, I left to take a position as an associate with John Milling in Darlington, SC. I was also continuing to prosecute part time and to represent DSS and DJJ in Darlington County. I continued in this capacity until 1991, when I became a partner in Milling and Ervin, and left the solicitor’s office.

Since then I have been in private practice, handling all types of civil and criminal litigation, including domestic cases. I was certified as lead counsel in death penalty cases by the S.C. Supreme Court in 1992 and have represented numerous defendants in death penalty cases. I have handled many DSS and DJJ cases and all other types of domestic litigation. In addition, I have also represented Plaintiffs in civil matters. I think it is fair to describe my practice as a general practice.

I have represented numerous parties in cases involving divorce and equitable division since 1989, when I moved to Darlington, SC. John Milling was my partner and was always available to mentor and answer any questions regarding the same. I have also represented many people in cases involving child custody and support, contempt and visitation cases. As stated, I have been involved in these cases for over twenty-two (22) years and all family court cases involve a variety of issues, particularly when minor children are involved. I was first exposed to S.C. DSS cases involving abuse and neglect as a young prosecutor. At that time, assistant solicitors represented DSS and prosecuted cases involving the abuse or neglect of minors. I represented DSS and DJJ when I moved to Darlington, SC in 1989 and was very familiar with all aspects of such cases. After I left the Fourth Circuit Solicitors Office in 1991, I began defending such cases, and have continued to do so to the present. As I have indicated in this questionnaire, I have both prosecuted and defended juvenile clients almost my entire legal career, and I have continued to do so to this day.

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

(a) Federal: I frequently appear in federal courts;

(b) State: I frequently appear in state courts.

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

(a) Civil: 20%;

(b) Criminal: 40%;

(c) Domestic: 30%;

(d) Other: 10% - Real estate transactions and closings, probate and will preparation, and other miscellaneous matters.

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

(a) Jury: 60%;

(b) Non-jury: 40%.

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

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

(a) The State of S.C. v. Anthony Longmore, 298 S.C. 496, 381 SE 2d 732, 7-10-1989. I prosecuted this murder case in Richland County in which the Defendant was convicted of the murder of his estranged wife and the life sentence was upheld by the S.C. Supreme Court. The Defendant had previously physically abused his estranged wife and the Supreme Court ruled that the admission of Family Court factual findings of physical cruelty was harmless error in light of other circumstances and cumulative evidence.

(b) State of S.C. v. John Wayne Todd aka Christopher Kollyns, Richland County – Case unreported – This was a criminal sexual conduct, first degree case, which I prosecuted and the Defendant was convicted and received the maximum sentence of thirty years. He was considered a serial rapist with multiple victims. He lured victims by posing as a professional photographer for prospective models. He was sentenced in May of 1987 and his sentence expired in 2004. However, he was deemed a sexually violent predator and died while incarcerated in 2007.

(c) State of S.C. v. Kim Lopez – This was a Darlington County case which I prosecuted both in Family Court (DSS Case) and General Sessions. The Defendant was convicted of murder in the death of her infant stepchild. A pediatric expert, Dr. Marrison Farish, testified as to causation, and a life sentence was imposed.

(d) State of S.C. v. Anthony Von Longmore, 1997 Unreported, This was a death penalty case in Florence County in which I was appointed lead counsel and the Defendant was convicted in the trial phase. The case was prosecuted by Solicitor Dudley Saleeby and the penalty phase resulted in a unanimous life jury verdict.

(e) U.S. v. Furman Quattlebaum, cited as U.S. v. Davis 270 Fed Appc. 23b, CA 4 (S.C.) 2008. This was a federal drug conspiracy case tried in Columbia, S.C. before the Honorable Cameron M. Currie. The trial lasted over ten weeks and was supposedly the longest criminal trial in state history. Over twenty co-defendants went to trial in 2003 and the case revolved around a cooperating federal witness who was killed prior to jury selection. However, there were numerous court authorized wiretapped conversations relating to alleged drug activity and my court appointed client was convicted along with his co-defendants. I appealed his life sentence and conviction to the Fourth Circuit Court of Appeals in Richmond, VA. The Fourth Circuit reversed and remanded the case for resentencing and he received a twenty-five (25) year sentence.

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

Tara Rabuck v. Robert M. Wilomovsky, 2008-DR-16-0088, Appeal pending from the Darlington County Family Court to the S.C. Court of Appeals.

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

(a) U.S. v. Davis 270 Fed Appx. 236 C.A. 4 (S.C.) 2008;

(b) U.S. v. Davis 208 F.3d 210 (Table) C.A.4 (S.C.) 2000;

(c) State v. McIntosh 358 S.C. 432, 595 S.E.2d 484 S.C. 2004;

(d) U.S. v. Louis 10-4779 Appeal Pending CA4 (S.C.) 2011;

(e) U.S. v. Edgeworth 08-4399 Unpublished Opinion CA 4 S.C. 2010.

Mr. Ervin further reported the following regarding unsuccessful candidacies:

Solicitor Fourth Judicial Circuit June 10, 2008; Solicitor Fourth Judicial Circuit June 13, 2000; -S.C. State Senate August 12, 2002.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizen’s Committee on Judicial Qualification found Mr. Ervin to be “Qualified” for all of the nine evaluative categories. Those categories are: constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee expressed that Mr. Ervin’s experience “appears to be a bit more weighted in criminal matters, both in and out of family court. This concern was addressed in interview and has been attributed to the poor economy which has had a negative impact on domestic litigation in the last few years.”

Mr. Ervin is married to Leslie Pearce Ervin. He has two children.

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

(a) S.C. Bar Association;

(b) S.C. Association of Criminal Defense Lawyers;

(c) National Association of Criminal Defense Lawyers;

(d) S.C. Association for Justice.

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

(a) Darlington Rotary Club, 2003 President;

(b) Paul Harris Award.

(11) Commission Members’ Comments:

The Commission commented that Mr. Ervin has an outstanding demeanor and is well respected in his community. They noted Mr. Ervin’s experience in the family court, although recently affected by the economy.

(12) Conclusion:

The Commission found Mr. Ervin qualified, but not nominated, to serve as a Family Court judge, for the Fourth Judicial Circuit, Seat 2.

**The Honorable Michael Stokes**

**Family Court, Thirteenth Judicial Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Judge Stokes was born in 1966. He is 45 years old and a resident of Taylors, South Carolina. Judge Stokes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

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

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

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

Judge Stokes testified he has not:

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

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

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

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

(3) Professional and Academic Ability:

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

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

(a) SCSCJA Seminar and Legislative Reception 3/05;

(b) Family court Judges Seminar 12/05;

(c) Magistrate Mandatory School 11/06;

(d) SCSCJA Staff Judges Seminar 2/07;

(e) SCSCJA Seminar and Legislative Reception 3/07;

(f) Advanced Studies Seminar 5/07;

(g) SCSCJA Summer Seminar 7/07;

(h) Domestic Abuse Seminar 10/07;

(i) Domestic Violence Seminar 8/07;

(j) SCSCJA Convention 9/07;

(k) Magistrate Mandatory School 11/07;

(l) SCSCJA Charleston School 7/08;

(m) Magistrate Mandatory School 11/08;

(n) SCSCJA Staff Judge Convention 2/09;

(o) SCSCJA Legislative Seminar 3/09;

(p) SCSCJA Staff/Judge Convention 2/10;

(q) SCSCJA Hickory Knob School 5/10;

(r) Magistrates Mandatory School 11/10.

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

Judge Stokes reported that he has published the following articles:

(a) Comment, Logical Relationship Test for Computing Counterclaims Adopted, South Carolina Law Review, Vol. 42, number 1, pp. 188-191 (Autumn 1990);

(b) Comment, Volunteers Ineligible for Workers’ Compensation: Subject Matter Jurisdiction Over Compensation Agreements Unsettled, South Carolina Law Review, Vol. 42, number 1, pp. 273-275.

(4) Character:

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

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

(5) Reputation:

Judge Stokes reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Stokes was admitted to the South Carolina Bar in 1991.

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

(a) 1991-96, Associate, Chapman, Harter & Groves, P.A. General Practice focusing primarily on family law, real estate, insurance defense, and workers’ compensation appeals.

(b) 1996-2000, Sole practitioner, Greenville, South Carolina. General practice focusing primarily on family law, and real estate.

(c) 2000-01, Partner, Mims & Stokes, Greer, South Carolina. General practice focusing on family law, real estate, criminal and probate.

(d) 2001-05, Sole practitioner, Greer, South Carolina. General practice focusing on family law, real estate, and probate.

(e) 2005-present, Partner, Stokes & Southerlin, P.A. General practice focusing on family law, real estate, and probate.

(f) 1996-present, Greenville County Magistrate Judge. Appointment originally for 20 hours per week. Since 2004 my assignment is for 35 hours per week.

Judge Stokes further reported:

I have maintained a practice in Family Court for the entire time I have been an attorney. Most of my cases have involved divorce and property distribution along with child custody. As with most attorneys, I have settled most of my cases. I attribute this to being able to explain the law that applies to the case to the client, so that settlement can be realistically pursued for the client. The law in these areas is usually quite settled and a good practitioner would be able to predict with reasonable accuracy what decision a court might render. Also, settlements have been further facilitated in Greenville because this county has mandatory mediation and the program has been very successful. If a case does not settle in mediation, then by that stage I am prepared for trial.

In the adoption area, my office has not actively sought cases; however, I have done them on occasion. I have undertaken private adoptions, step-parent adoptions, and DSS adoptions. I currently have two active adoption cases.

Most of my abuse and neglect cases have been DSS related. Our office has a policy that we actually handle the DSS cases assigned to us and rarely hire another attorney to take our place. Therefore, over the years, I have had exposure to multiple cases involving abuse, neglect, and termination of parental rights. Also, as a private attorney, I have been involved in several private actions involving termination of parental rights.

I have never had the opportunity to handle a juvenile criminal case. However, I have reviewed the procedure in preparing for this process and I have litigated several criminal matters, and as a magistrate I have heard hundreds of criminal matters so I feel very comfortable with the underlying criminal law and I think I am competent to apply the process in a juvenile case in Family Court.

Judge Stokes reported the frequency of his court appearances as follows:

(a) Federal: 0;

(b) State: 3-6 appearances per month average as an attorney and magistrate court daily.

Judge Stokes reported the percentage of his practice involving civil, criminal, and domestic matters as follows:

(a) Civil: 35%;

(b) Criminal: 10%;

(c) Domestic: 50%;

(d) Other: (probate) 5%.

Judge Stokes reported the percentage of his practice in trial court as follows:

(a) Jury: 15%;

(b) Non-jury: 85%.

Judge Stokes provided, “I serve as sole or chief counsel.”

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

(a) Knight v. Knight. Family court case involving a long term marriage, significant real property in two states and a small business;

(b) Holt v. Holt. Change of custody case involving multiple allegations of abuse and a jurisdictional dispute between two states;

(c) Marion v. Marion. Family court case involving real and personal property issures and significant Quadro issues;

(d) Bishop v. Bishop. Family court case involving a long term marriage, significant debt, bankruptcy issues, and several contempt proceedings;

(e) Wade v. Wade. Family court case involving allegations of abuse and property issues.

The following are Judge Stokes’s account of the civil appeals he has personally handled:

(a) Mullinax v. Winn Dixie Stores, Inc., 318 S.C. 431, 458 S.E.2d 76 (Ct. App. 1995);

(b) Seeger v. Wrenn Handling Company, Employer, and Farmington Casualty Company, Carrier, Unpublished opinion of Court of Appeals, 1999.

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

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

I was appointed a Greenville County Magistrate Judge in November 1996 and have served continuously since. The criminal jurisdiction is generally offenses not exceeding a fine of $500.00 (plus assessments) or 30 days imprisonment or both. The civil jurisdiction is matters where the amount in controversy does not exceed $7,500.00. The jurisdiction is unlimited in landlord/tenant matters.

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

(a) EmTec eviction. This case invovlved the eviction of a manufacturing plant in Travelers Rest, South Carolina. It involved multiple parties and the amount in controversy was well into the six-figure range.

(b) I handled the criminal case as a magistrate when a fire escaped and burned a portion of Paris Mountain. The case is significant in that I had to handle the media attention given to the case.

(c) Most civil cases at the magistrate level are without significance on their own to anyone other than the parties directly involved. However, they are significant as a group here because of the sheer volume of cases I have been called upon to decide which number is now in the range of 2500 to 3000 cases both jury trials and bench trials.

(d) Most criminal cases standing alone at the magistrate level are without great significance to anyone other than the victims and the defendants involved and their families. However, again as with the civil cases, they are significant here as a group because the volume of cases I have decided now exceeds a conservative estimate of 1200. This would not include preliminary hearing decisions. I have also during most of my tenure handled the central court that hears the county code cases for the whole of Greenville County. I also have been charged with establishing the court that handles the mandatory mediation pilot program in Greenville County for civil jury trials. We currently are maintaining an 80% success rate with mediation.

(e) I believe the most significant fact of my time on the Magistrate bench is that, upon belief, I have been appealed no more than 10 to 12 times in nearly 15 years as a magistrate.

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

I continued my practice of law while a continuing part-time judge from 1996 to the present at the firms listed in question 14. I have always been my own supervisor.

Judge Stokes further reported the following regarding unsuccessful candidacies:

In the Family Court elections for May 2008, January 2009, and January 2010 I was not successful. On all occasions I was found qualified, but not nominated.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge Stokes to be “Qualified” for the following evaluative criteria: constitutional qualifications, physical health, mental stability, reputation, and experience. The Committee also found that Judge Stokes is “Well qualified” in the remaining criteria of ethical fitness, professional and academic ability, character, and judicial temperament. In regards to judicial temperament, the Committee stated: “The committee has been concerned during past screenings about the candidate’s ability to have an even temperament. There have been reports of him being discourteous to litigants and lawyers. However, the candidate answered questions about this during this interview. He acknowledged errors in judgment in his early years as a magistrate but says he has improved his skills in this area. He has provided documents relating to mediation activities in the Magistrate’s Court that indicate satisfaction by those who have participated in that process in the past six months. During our first interview with the candidate over two years ago, the candidate did not acknowledge any problem with temperament. He has now acknowledged this may have been a problem in the past but he has corrected it.”

Judge Stokes responded to this report by the Committee by providing a recent survey summary from the Magistrate’s Court Mediation Program, July 2010 through January 2011. The survey indicates that 29.5% of those surveyed agreed that the court (Judge Stokes) was professional and courteous and 67.4% strongly agree that the court (Judge Stokes) was professional and courteous.

The Upstate Citizen’s Committee also stated in regards to the evaluative criteria of reputation, “The committee has become aware, during previous screenings that the candidate has a reputation of being disrespectful of litigants and attorneys. However, this reputation evidence is approximately two years old. The witness who reported in prior screenings were contacted and reported they had not heard any specific instances of this type of behavior in the past year or so.”

Judge Stokes is married to Rachel Elizabeth Few Stokes. He has three children.

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

(a) South Carolina Bar;

(b) Greenville County Bar;

(c) South Carolina Summary Court Judges Association (Life Member).

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

(a) Boy Scouts of America. Offices: District Chairman, Assistant District Commissioner, and Assistant Scoutmaster. Honors/Awards: Eagle Scout with silver palm, Vigil Honor, Distinguished Commissioner Award, Scout of the Year, District award of Merit, Silver Beaver Award;

(b) Blue Ridge Ruritan Club. Secretary, vice president, president, director, zone governor;

(c) Few’s Chapel United Methodist Church. Offices: chairman, Administrative Council, Lay Leader, Trustee;

(d) Freemason. Bailey Lodge, Greer, South Carolina. No offices held.

Judge Stokes further reported:

I have a background that prepares me to be a family court judge. I have been a lower court judge for nearly fifteen years. During this time I have learn many things to do and not to do as a judge. What seems inconsequential to one person is a great insult to another. What one person understands easily another does not. A judge has to learn to “read” people to know best how to approach a party. This is an art and takes years to develop. Hopefully, I have already made all of my biggest mistakes. In the course of my career, I have had to learn several lessons in patience and humility. As a young judge I did not have enough of either. I am glad I now realize this fact and I am disappointed in myself that it took me so long to learn the lessons. I hope no person suffered irreparable harm due to my shortcomings and inexperience. If I were a magician I would like to erase and redo my first three to four years as a judge. Poor judgments from that time still cause repercussions today. However, I have had two blessings that have caused me to become what I believe now is a caring and compassionate judge. First, I had a true friend who had the fortitude to talk to me directly. He said I was on the same tract as another judge in our county who was not seen as calm, caring, and compassionate. I did not wish to be thought of as such. Secondly, I became the father of a child who suffers from a form of autism. He patterns every move he makes after significant people in his life. As his primary role model he patterns the most on me. This responsibility to teach him how to interact with others has caused me to become hypersensitive to others. As I said this has been a blessing as has my son. It has made me into a person who I have confidence in will do the proper actions and my son at almost 14 has become a good student, successful Boy Scout, and a person who relates well to others. Thus, I am thankful for these lessons and I believe that they have made me over the past ten years a judge that would serve well on any bench.

(11) Commission Members’ Comments:

The Commission commented that Judge Stokes had ably practiced law for 20 years. They noted his dedicated public service in his local community.

(12) Conclusion:

The Commission found Judge Stokes qualified, but not nominated, to serve as a Family Court judge, for the Thirteenth Judicial Circuit, Seat 3.

**CONCLUSION**

The Judicial Merit Selection Commission found the following candidates **QUALIFIED AND NOMINATED**:

Family Court

4th Circuit, Seat 2 The Honorable Cely Anne Baker Brigman

4th Circuit, Seat 2 The Honorable Salley Huggins McIntyre

4th Circuit, Seat 2 James Alexander “Alex” Stanton IV

13th Circuit, Seat 3 Catherine Carr Christophillis

13th Circuit, Seat 3 Harry L. “Don” Phillips, Jr.

13th Circuit, Seat 3 Thomas J. Quinn

14th Circuit, Seat 3 Diane P. DeWitt

14th Circuit, Seat 3 Deborah Ann Malphrus

The Judicial Merit Selection Commission found the following candidates **QUALIFIED, BUT NOT NOMINATED**:

Family Court

4th Judicial Circuit, Seat 2 Bryan W. Braddock.

4th Judicial Circuit, Seat 2 John McIver “Jay” Ervin III

13th Judicial Circuit, Seat 3 The Honorable Michael Stokes

Respectfully submitted:

Sen. Glenn F. McConnell Rep. F. G. Delleney, Jr.

Rep. Alan D. Clemmons Sen. John M. “Jake” Knotts, Jr.

Rep. David J. Mack III Sen. Floyd Nicholson

Mr. John P. Freeman Mr. John Davis Harrell

Mrs. Amy Johnson McLester Mr. H. Donald Sellers

Received as information.

ADJOURNMENT

At 11:35 A.M., on motion of Senator SCOTT, the Senate adjourned to meet next Tuesday, May 10, 2011, under the provisions of Rule 1B.

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