

NO. 3

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2015

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THURSDAY, JANUARY 15, 2015

**Thursday, January 15, 2015**  
**(Statewide 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 PRESIDENT, The Honorable Henry D. McMaster, Lieutenant Governor of South Carolina.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

We read in Numbers that Aaron is to encourage the people:  
“... so that they may be ready to do the work of the Lord.”

(Numbers 8:11b)

Bow in prayer with me if you will:

Holy God, the tasks before this Body are indeed formidable this year. We ask that You make each of Your servants in this place ready not only to tackle the work before them, but also grant to each Senator the resolve she and he will need as they wrestle with issues and strive to bring about worthwhile results. As Senators and staff members work together, may they never lose sight of their supreme goal: to do what is best for our citizens, as well as to honor You, O God. We also ask that You embrace in Your care Betty Graham and her family in the death yesterday of Betty's sister, Patricia Duggan. In Your loving name we pray, Lord. Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Nikki Randhawa Haley:

**Statewide Appointments**

Initial Appointment, South Carolina State Board of Veterinary Medical Examiners, with the term to commence April 6, 2014, and to expire April 6, 2018

Veterinarian 4th District:

Katherine Ann George, 335 Jordon Creek Farm Road, Wellford, SC 29385 *VICE* Walter C. Robinson

Referred to the Committee on Agriculture and Natural Resources.

[SJ]

THURSDAY, JANUARY 15, 2015

Reappointment, South Carolina Board of Probation, Parole & Pardon Services, with the term to commence March 15, 2013, and to expire March 15, 2019

4th Congressional District:

Clifton D. Baxter, 1104 Charter Oak, Taylors, SC 29687

Referred to the Committee on Corrections and Penology.

Reappointment, South Carolina Board of Probation, Parole & Pardon Services, with the term to commence March 17, 2015, and to expire March 15, 2021

5th Congressional District:

Henry S. Eldridge, 2040 Manila Bay Lane, Tega Cay, SC 29708

Referred to the Committee on Corrections and Penology.

Initial Appointment, South Carolina Board of Probation, Parole & Pardon Services, with the term to commence March 15, 2013, and to expire March 15, 2019

1st Congressional District:

Thomas F. Hallam, 23 Combahee Rd., Hilton Head Island, SC 29928  
*VICE* Orton Bellamy

Referred to the Committee on Corrections and Penology.

Reappointment, South Carolina Arts Commission, with the term to commence June 30, 2014, and to expire June 30, 2017

At-Large:

Henry Horowitz, 1 Collins Crest Court, Greenville, SC 29601

Referred to the Committee on Education.

Initial Appointment, South Carolina Commission on Higher Education, with the term to commence July 1, 2012, and to expire July 1, 2016

At-Large:

Tim M. Hofferth, 260 Edgewood Dr., Chapin, SC 29036 *VICE* Guy C. Tarrant

**THURSDAY, JANUARY 15, 2015**

Referred to the Committee on Education.

Initial Appointment, South Carolina Commission on Higher Education, with the term to commence July 1, 2014, and to expire July 1, 2016

Four-Year Institutions:

Allison Dean Love, 224 Wood Duck Road, Columbia, SC 29223  
*VICE* Natasha M. Hanna

Referred to the Committee on Education.

Initial Appointment, South Carolina Commission on Higher Education, with the term to commence June 30, 2014, and to expire June 30, 2016

Independent College:

Evans P. Whitaker, 336 Kingsley Rd., Anderson, SC 29621 *VICE*  
Rodney A. Smolla (resigned)

Referred to the Committee on Education.

Initial Appointment, South Carolina Public Charter School District Board of Trustees, with the term to commence July 1, 2012, and to expire July 1, 2015

Chamber of Commerce:

Laban D. Chappell, 1335 Winchester Dr., Charleston, SC 29407 *VICE*  
Laura H. Getty

Referred to the Committee on Education.

Reappointment, South Carolina Public Charter School District Board of Trustees, with the term to commence July 1, 2015, and to expire July 1, 2018

Chamber of Commerce:

Laban D. Chappell, 1335 Winchester Dr., Charleston, SC 29407

Referred to the Committee on Education.

**THURSDAY, JANUARY 15, 2015**

Initial Appointment, John De La Howe School Board of Trustees, with the term to commence April 1, 2013, and to expire April 1, 2018

At-Large:

Melissa A. Tilden, 114 Sherwood Dr., Laurens, SC 29360 *VICE*  
Rosalind F. Neal

Referred to the Committee on Education.

Initial Appointment, Director of Department of Revenue and Taxation, with term coterminous with Governor

James F. Reames III, 1418 Shady Lane, Columbia, SC 29206 *VICE*  
Bill Blume

Referred to the Committee on Finance.

Initial Appointment, Board of Trustees for the Veterans' Trust Fund of South Carolina, with term coterminous with Governor

CVAO:

James C. Brown, 241 Palm Hill Court, Columbia, SC 29212 *VICE*  
Alan R. Roberts

Referred to the Committee on General.

Initial Appointment, Board of Trustees for the Veterans' Trust Fund of South Carolina, with term coterminous with Governor

VSO:

Jimmy E. Hawk, 249 Royal Tower Drive, Irmo, SC 29063

Referred to the Committee on General.

Initial Appointment, Board of Trustees for the Veterans' Trust Fund of South Carolina, with term coterminous with Governor

At-Large:

James R. Lorraine, 154 Kimberwick Court, Aiken, SC 29803

Referred to the Committee on General.

**THURSDAY, JANUARY 15, 2015**

Initial Appointment, Board of Trustees for the Veterans' Trust Fund of South Carolina, with term coterminous with Governor

VSO:

Christopher M. Maddox, 124 Braelin Court, Gaston, SC 29053

Referred to the Committee on General.

Initial Appointment, Director of Department of Social Services, with term coterminous with Governor

Virginia S. Alford, 201 Genessee Rd., Irmo, SC 29063 *VICE* Ms. Lillian Koller

Referred to the Committee on General.

Initial Appointment, South Carolina State Agency of Vocational Rehabilitation, with the term to commence March 15, 2012, and to expire March 15, 2019

5th Congressional District:

Billy N. Shorter, Jr., 2695 Nicholson Dr., Sumter, SC 29153 *VICE* Derle Lowder

Referred to the Committee on General.

Reappointment, South Carolina State Agency of Vocational Rehabilitation, with the term to commence March 15, 2011, and to expire March 15, 2018

7th Congressional District:

Joseph A. Thomas, 2052 Pitch Landing Rd., Conway, SC 29527

Referred to the Committee on General.

Initial Appointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence May 19, 2009, and to expire May 19, 2016

5th Congressional District:

Alfred L. Reid, Jr., 1681 Huntmoor Drive, Rock Hill, SC 29732 *VICE* James R. Sanders, Jr.

Referred to the Committee on Judiciary.

**THURSDAY, JANUARY 15, 2015**

Reappointment, Board of Directors of the South Carolina Public Service Authority, with the term to commence May 19, 2014, and to expire May 19, 2021

4th Congressional District:

Barry D. Wynn, 138 Turnberry Dr., Spartanburg, SC 29306

Referred to the Committee on Judiciary.

Reappointment, Juvenile Parole Board, with the term to commence June 30, 2015, and to expire June 30, 2019

At-Large:

Reno R. Boyd, 107 Nightingale Lane, Greenville, SC 29607

Referred to the Committee on Judiciary.

Initial Appointment, Juvenile Parole Board, with the term to commence June 30, 2014, and to expire June 30, 2018

At-Large:

Lesa T. Chandler, 3416 Refuge Rd., Central, SC 29630 *VICE* Frank D. Widerman

Referred to the Committee on Judiciary.

Reappointment, Juvenile Parole Board, with the term to commence June 30, 2014, and to expire June 30, 2018

At-Large:

Oscar L. Douglas, 3405 Fletton Way, Summerville, SC 29485

Referred to the Committee on Judiciary.

Reappointment, Juvenile Parole Board, with the term to commence June 30, 2015, and to expire June 30, 2019

At-Large:

Carla J. Smalls, 261 Caedmons Creek Dr., Irmo, SC 29063

Referred to the Committee on Judiciary.

**THURSDAY, JANUARY 15, 2015**

Initial Appointment, South Carolina Foster Care Review Board, with the term to commence June 30, 2013, and to expire June 30, 2017

6th Congressional District:

Andrea D. McCoy, 334 Teague Park Court, Columbia, SC 29209  
*VICE* vacant

Referred to the Committee on Judiciary.

Initial Appointment, South Carolina State Commission for Minority Affairs, with the term to commence June 30, 2013, and to expire June 30, 2017

5th Congressional District:

William B. James, Jr., 1748 Cherokee Nation Highway, Gaffney, SC 29341  
*VICE* Samuel Cerezo

Referred to the Committee on Judiciary.

Initial Appointment, South Carolina State Commission for Minority Affairs, with the term to commence June 30, 2011, and to expire June 30, 2015

4th Congressional District:

Karen W. McGill, 150 Cheek Road, Spartanburg, SC 29303  
*VICE* Ricardo J. Harris

Referred to the Committee on Judiciary.

Reappointment, South Carolina State Commission for Minority Affairs, with the term to commence June 30, 2015, and to expire June 30, 2019

4th Congressional District:

Karen W. McGill, 150 Cheek Road, Spartanburg, SC 29303

Referred to the Committee on Judiciary.

Initial Appointment, Director of Department of Labor, Licensing and Regulation, with term coterminous with Governor

Richele Keel Taylor, 124 Harding Street, Chapin, SC 29036  
*VICE* Holly Pisarik

Referred to the Committee on Labor, Commerce and Industry.



**THURSDAY, JANUARY 15, 2015**

Initial Appointment, Jobs Economic Development Authority, with the term to commence July 27, 2012, and to expire July 27, 2015

2nd Congressional District:

William R. Drake, 26 Ashworth Lane, Columbia, SC 29206 *VICE*  
Kenneth Wingate

Referred to the Committee on Labor, Commerce and Industry.

Reappointment, Jobs Economic Development Authority, with the term to commence July 27, 2015, and to expire July 27, 2018

2nd Congressional District:

William R. Drake, 26 Ashworth Lane, Columbia, SC 29206

Referred to the Committee on Labor, Commerce and Industry.

Reappointment, South Carolina Panel for Dietetics, with the term to commence May 30, 2015, and to expire May 30, 2017

Dietician, Community or Public Health:

Rebecca G. Wrenn, 2727 Preston Street, Columbia, SC 29205

Referred to the Committee on Labor, Commerce and Industry.

Initial Appointment, South Carolina Residential Builders Commission, with the term to commence June 30, 2012, and to expire June 30, 2016

At-Large:

William H. Dill, 830 Antrim Oake Court, Loris, SC 29569 *VICE* Caleb L. Davis, Jr.

Referred to the Committee on Labor, Commerce and Industry.

Initial Appointment, South Carolina Residential Builders Commission, with the term to commence June 30, 2014, and to expire June 30, 2018

6th Congressional District:

Monte A. Lemmon, 117 Lake Dogwood Circle South, Eastover, SC 29044 *VICE* Bryan H. Dowd (vacated due to redistricting)

Referred to the Committee on Labor, Commerce and Industry.

THURSDAY, JANUARY 15, 2015

Initial Appointment, South Carolina Residential Builders Commission, with the term to commence June 30, 2014, and to expire June 30, 2018

5th Congressional District:

Christy B. Rhyne, 329 Clarendon Estates Dr., Clover, SC 29710 *VICE*  
Derrick G. Williams

Referred to the Committee on Labor, Commerce and Industry.

Initial Appointment, South Carolina State Athletic Commission, with the term to commence June 30, 2014, and to expire June 30, 2018

5th Congressional District:

Derek A. Shoemake, 8 Swinton Court, Elgin, SC 29045 *VICE* Clyde Jones

Referred to the Committee on Labor, Commerce and Industry.

Initial Appointment, South Carolina State Board of Social Work Examiners, with the term to commence November 27, 2014, and to expire November 27, 2018

Master Social Worker:

Catherine M. Buchanan, 208 Rockmount Dr., West Columbia, SC 29169 *VICE* Carolyn S. Morris

Referred to the Committee on Labor, Commerce and Industry.

Initial Appointment, Director of Department of Health & Human Services, with term coterminous with Governor

Christian L. Soura, 210 Waltham Abby Rd., Columbia, SC 29212  
*VICE* Mr. Anthony Keck

Referred to the Committee on Medical Affairs.

Initial Appointment, Medical Disiplinary Commission of the State Board of Medical Examiners, with the term to commence July 1, 2014, and to expire July 1, 2017

1st Congressional District:

Wade C. Arnette, 731 Royle Rd., Ladson, SC 29456 *VICE* (vacant due to redistricting)

[SJ]

**THURSDAY, JANUARY 15, 2015**

Referred to the Committee on Medical Affairs.

Initial Appointment, South Carolina Board of Occupational Therapy, with the term to commence September 30, 2014, and to expire September 30, 2017

Occupational Therapist:

Mary Rebecca Terry, 605 Wando Street, Columbia, SC 29205 *VICE*  
Joyce J. Branham

Referred to the Committee on Medical Affairs.

**Doctor of the Day**

Senator DAVIS introduced Dr. H. Tim Pearce of Beaufort, S.C., Doctor of the Day.

**Leave of Absences**

At 11:13 A.M., Senator CAMPSSEN requested a leave of absence for Senator CROMER for the day.

At 11:13 A.M., Senator BRIGHT requested a leave of absence for Senator THURMOND for the day.

At 11:21 A.M., Senator WILLIAMS requested a leave of absence for Senator REESE for the day.

At 11:29 A.M., Senator LOURIE requested a leave of absence for Senator SHEHEEN for the day.

At 12:08 P.M., Senator HEMBREE requested a leave of absence for Senator GREGORY for the day.

At 12:09 P.M., Senator HEMBREE requested a leave of absence for Senator VERDIN for the day.

**ADDENDUM TO THE JOURNAL**

The following remarks by Senator LEATHERMAN were ordered printed in the Journal of January 13, 2015:

[SJ]

THURSDAY, JANUARY 15, 2015

**Remarks by Senator LEATHERMAN**

Mr. PRESIDENT, my fellow Senators, thank you! Thank you for the trust that you have placed in me as your PRESIDENT *Pro Tempore*. I am deeply humbled and highly honored that this body that I love is allowing me to serve.

I thank my God, who has placed this leadership mantra upon me and upon all of us who serve. He is gracious with his love and I know he wants us all to be successful in leading our people to a brighter future.

I thank my wife, Jean, and my family. They have supported me in the Senate since I was first elected in 1980. They have stood by my side through all of the campaigns, the late nights, the debates and the good times as well as the bad. When I was first elected, Jean and I would come to Columbia together each week. The girls, Amy and Sarah, spent much of their childhood here. There is a picture of the entire Senate in my office and in it you can see Jean and the girls sitting on the back row, behind the rail. Jean and all my children, I thank you and love you all very much.

Senators SETZLER and PEELER, when we were first elected to the Senate, we were in awe of this institution. We marveled at the grandness of this Chamber. We listened and watched as the giants of that day spoke and debated on the issues. We respected the leadership because we respected the institution of the Senate. Senator GRESSETTE was the PRESIDENT *Pro Tempore* and he along with Senator DENNIS and others showed us how “the greatest legislative body in the world” is to work. Now I don’t pretend to be a Senator GRESSETTE, Senator DENNIS, Senator WILLIAMS, or a Senator DRUMMOND. But I do wish that we together will emulate many of the traits that they exhibited for the good of the Senate and of South Carolina. None of us could ever attain the stature of Senator GRESSETTE nor any of our previous leaders. But, I claim to be a disciple of the principles he stood for -- decorum as we deliberate the issues, respect for the institution of the Senate and for each other and integrity because our word is our bond.

Respect for each other and the protection of every Senator’s rights should be first and foremost in our daily work. Respect and obeying the rules and precedents of the Senate should always guide our deliberations, both in this Chamber and in committee.

We all know that we will have differences on legislation and policy for our State. We all know that we will have protracted debates and long days. As the session unfolds, there will be those times that we will need

THURSDAY, JANUARY 15, 2015

to work late. I don't like it, but Senators, we only have a short amount of time to tend to the people's business. If we get bogged down on an issue, we are going to need to remain in session, reach a compromise and move on. That's how the Senate works, and we need to adopt that work ethic.

There are numerous references in the Senate Rules to the PRESIDENT *Pro Tempore*. But, two specific rules offer insight into the role of the PRESIDENT *Pro Tempore*. The first is Rule 33A dealing with the Motion Period and Special Orders. A portion of that rule states:

“At any time, the PRESIDENT *Pro Tempore*, after consultation with the Majority Leader and Minority Leader, may make any motion pertaining to the business of the Senate and such motion shall be adopted upon approval of three-fourths (3/4) of the membership of the Senate.”

While the rule offers a privilege to the PRESIDENT *Pro Tempore* to make a motion at any time, the rule also requires that the PRESIDENT *Pro Tempore* consult with the Majority Leader and the Minority Leader. This rule requires collaboration and contemplates consensus and compromise, true trademarks of an effective Senate.

The second rule of note is Rule 52 which prohibits personal attacks on Senators. Seldom has a member of the Senate ever raised a point of order related to Rule 52 to the Senate's presiding officer. I will not be afraid to do so if one member imputes any conduct or motive unworthy or unbecoming a Senator. I have no problem with sharp debate on the issues; but, attacks on character or motive ill serve the aspirations of the South Carolina State Senate.

Now let me address how we as an institution need to handle controversial legislation. I am asking that we, committee chairman, on controversial legislation, work out as many differences as possible before we take a vote to send the Bill to the Calendar. I would hope that you agree with me that protracted floor debate should be reserved for the most important issues facing our State.

In our committees, we need to recommit ourselves to the seriousness of providing advice and consent to the Governor's appointees. It is the Governor's prerogative to nominate men and women of competence to lead our state agencies. But it is the Senate's role to properly examine those nominees and to question them thoroughly. The Senate does a disservice to the people when we simply rubber stamp an appointee because they are from our hometown or are well-liked. We've all been guilty of this in the past. We all know well the problems at the Department of Revenue. I can only think that, maybe, things would have

## THURSDAY, JANUARY 15, 2015

turned out differently had our Finance Committee and each Senator properly examined the leadership qualities of that former director. I believe all appointees should go through a comprehensive review and screening process before they are recommended for confirmation by this Chamber.

We need to ensure that all Senators are comfortable with the quality of these nominees. If a significant minority of Senators continue to have questions or need time to review a nominee, then the Senate should give them that courtesy. Committee chairmen should hold a nominee in committee for additional hearings if five or more Senators make such a request. Likewise, when those appointments are considered by the full Senate, I will ask that we hold them in Executive Session until Senators' questions are answered. I will not support the confirmation of these appointments if there are Senators who are working in good faith to fulfill the responsibilities given us. The reforms to our government's structure -- shifting new responsibilities to the executive branch -- work hand in glove with the checks and balances that are vital to our democracy. The Senate must take seriously its role in this system and I hope we start with a rededication to providing true advice and consent to the Governor's appointees whose work will directly impact every citizen of this State.

Decorum in this Chamber must be adhered to always. There is a time and a place for phone calls and conversations with your neighbor. Let me share a story that happened to me relative to decorum. Senator DENNIS had appointed me to a slot on the Joint Bond Review Committee, a very rare appointment for a freshman senator. Shortly after the appointment was announced, the Senate met in session. As Senator DENNIS was at the podium, my desk mate Senator PEELER told me a joke and I let out a very hearty laugh. Senator DENNIS then looked my way and declared that I must not have wanted that appointment. Before I had time to return to my office after adjournment, I was removed from the Joint Bond Review Committee.

Senator DENNIS did not initially appoint me to the Joint Bond Review Committee because of my political views. Instead, that appointment was his way of bringing along a freshman senator in the ways of the State Senate, to understand the traditions of the body and learn about decorum. When I let out a laugh in the midst of session, his action of discipline toward me was not personal. Instead, his action was a way to maintain the integrity of this institution and educate the body on the importance of decorum.

**THURSDAY, JANUARY 15, 2015**

We need to work together on decorum, the days of members complaining that they can't hear a speaker or that the desk can't hear needs to end. Sergeant, we are going to rely on you to politely remind us. Senators and staff, let us work toward this goal together.

Let us also remember that we are but a part of this government. The other body has new leadership, new goals, and new members. We have an opportunity to reach across the lobby to our friends and work together for better legislation. This year, both legislative bodies will have expanded roles in the oversight of the executive branch. New staff has been hired to assist our committees in this new role. As we begin a new era of legislative oversight, let's work with the other body, seek compromise where possible, but also stand our ground. I believe that when the Senate has spoken on an issue, we stick to our position, but we also may seek compromise, asking for the Senate's blessing on those changes.

South Carolina will see big changes this year in the function of our government. As we know, the Governor will gain much more executive branch authority. The Budget and Control Board will cease to exist with most of those duties being transferred to the Governor. Let us work with the Governor on the issues that face us. I extend an olive branch of hope and compromise to her. We live in a State that needs strong, courageous leadership in the legislative and executive branches. We, the Legislature and the Governor are the leadership of our State. Let us work for the betterment and growth of South Carolina.

Senators, thank you for this great opportunity. I pledge to work with you, to respect you and your views, to seek compromise on the issues, to obey the rules and to seek decorum in this chamber. Most importantly, I pledge to work toward building for our State a new era that we all can be proud of.

May God Bless this Senate, may he Bless South Carolina and may God, always Bless the United States of America. Thank you.

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**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

- S. 35     Sens. Lourie, Bennett, Leatherman, Jackson, Bright, Campsen,  
                  Cleary
- S. 8        Sen. Setzler
- S. 304     Sen. Williams

[SJ]

**THURSDAY, JANUARY 15, 2015**

S. 9 Sen. Alexander

**RECALLED AND COMMITTED**

S. 40 -- Senators Bryant, Grooms and Davis: A CONCURRENT RESOLUTION TO JOIN THE SOUTH CAROLINA AND GEORGIA JOINT WATER CAUCUS TO ENCOURAGE STATE AGENCIES, IN CONJUNCTION WITH THE U.S. ARMY CORPS OF ENGINEERS, TO IMPLEMENT A WATER MANAGEMENT PROGRAM FOR THE SAVANNAH RIVER BASIN TO ENSURE CONTINUOUS OPTIMIZATION OF WATER QUALITY AND QUANTITY MANAGEMENT OF THE WATER RESOURCES SHARED BY SOUTH CAROLINA AND GEORGIA THROUGHOUT THE SAVANNAH RIVER BASIN.

Senator BRYANT asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Agriculture and Natural Resources.

There was no objection and the Concurrent Resolution was recalled from the Committee on Agriculture and Natural Resources.

On motion of Senator BRYANT, with unanimous consent, the Concurrent Resolution was committed to the Committee on Invitations.

**RECALLED AND ADOPTED**

S. 12 -- Senators L. Martin, Campsen and Malloy: A CONCURRENT RESOLUTION TO FIX NOON ON WEDNESDAY, FEBRUARY 4, 2015, AS THE TIME TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE COURT OF APPEALS, SEAT 5, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE COURT OF APPEALS, SEAT 6, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT, SEAT 2, WHOSE TERM WILL EXPIRE JUNE 30, 2018, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, FIFTH JUDICIAL CIRCUIT, SEAT 3, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, NINTH JUDICIAL CIRCUIT, SEAT 3, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, THIRTEENTH

[SJ]



**THURSDAY, JANUARY 15, 2015**

JUDICIAL CIRCUIT, SEAT 1, WHOSE TERM WILL EXPIRE JUNE 30, 2016, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE, AND TO FILL THE SUBSEQUENT FULL TERM WHICH WILL EXPIRE JUNE 30, 2022; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, THIRTEENTH JUDICIAL CIRCUIT, SEAT 3, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT, SEAT 2, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, FIFTEENTH JUDICIAL CIRCUIT, SEAT 2, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 1, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 2, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 3, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 4, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 5, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 6, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 7, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 8, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 9, WHOSE TERM WILL EXPIRE JUNE 30, 2015, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE, AND TO FILL THE SUBSEQUENT FULL TERM WHICH WILL EXPIRE JUNE 30, 2021; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 10, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE FAMILY COURT, NINTH JUDICIAL CIRCUIT, SEAT 2, WHOSE TERM WILL EXPIRE JUNE 30, 2019, AND THE SUCCESSOR WILL FILL THE

**THURSDAY, JANUARY 15, 2015**

UNEXPIRED TERM OF THAT OFFICE; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE ADMINISTRATIVE LAW COURT, SEAT 3, WHOSE TERM WILL EXPIRE JUNE 30, 2015; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE ADMINISTRATIVE LAW COURT, SEAT 4, WHOSE TERM WILL EXPIRE JUNE 30, 2015; AND AS THE DATE TO MEET IN JOINT SESSION FOR THE PURPOSE OF ELECTING A MEMBER OF THE BOARD OF TRUSTEES OF COASTAL CAROLINA UNIVERSITY, AT-LARGE, SEAT 12, WHOSE TERM WILL EXPIRE JUNE 30, 2017; TO ELECT A MEMBER OF THE BOARD OF TRUSTEES OF THE COLLEGE OF CHARLESTON/ UNIVERSITY OF CHARLESTON, AT-LARGE, SEAT 15, WHOSE TERM WILL EXPIRE JUNE 30, 2018; TO ELECT A MEMBER OF THE BOARD OF TRUSTEES OF LANDER UNIVERSITY, FIRST CONGRESSIONAL DISTRICT, SEAT 1, WHOSE TERM WILL EXPIRE JUNE 30, 2016; TO ELECT A MEMBER OF THE BOARD OF TRUSTEES OF SOUTH CAROLINA STATE UNIVERSITY, AT-LARGE, SEAT 10, WHOSE TERM WILL EXPIRE JUNE 30, 2018.

Senator LARRY MARTIN asked unanimous consent to make a motion to recall the Concurrent Resolution from the Committee on Judiciary.

The Concurrent Resolution was recalled from the Committee on Judiciary.

Senator LARRY MARTIN asked unanimous consent to make a motion to take the Concurrent Resolution up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Concurrent Resolution. The question then was the adoption of the Concurrent Resolution.

The Concurrent Resolution was adopted.

**THURSDAY, JANUARY 15, 2015**

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 336 -- Senator Campsen: A SENATE RESOLUTION TO CONGRATULATE BRETT ALLEN HUBLER ON A NEW CAREER OPPORTUNITY AND TO THANK HIM FOR DEDICATED SERVICE TO THE SOUTH CAROLINA SENATE FISH, GAME & FORESTRY COMMITTEE.

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The Senate Resolution was adopted.

S. 337 -- Senators O'Dell and Campbell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 8 TO TITLE 38 ENACTING THE "SOUTH CAROLINA NEW MARKET JOBS ACT" SO AS TO PROVIDE A CREDIT AGAINST INSURANCE PREMIUM TAXES AND POSSIBLE OTHER STATES TAXES MADE IN CERTAIN INVESTMENTS BY QUALIFIED COMMUNITY DEVELOPMENT ENTITIES, PROVIDING INVESTMENT CAPITAL FOR A QUALIFIED ACTIVE LOW INCOME COMMUNITY SMALL BUSINESS LOCATED IN THIS STATE, TO MODEL THIS STATE INSURANCE PREMIUM TAX CREDIT ON THE FEDERAL NEW MARKETS TAX CREDIT PROGRAM PROVIDING FEDERAL INCOME TAX CREDITS FOR SUCH INVESTMENTS BUT LIMITED TO INVESTMENTS IN THIS STATE, TO ADOPT FEDERAL DEFINITIONS AS APPLICABLE FOR THE CREDIT BUT MODIFIED TO REFLECT THE PARTICULAR SOUTH CAROLINA APPLICATION OF THE CREDITS, TO PROVIDE A MAXIMUM INITIAL INDIVIDUAL INVESTMENT, A MAXIMUM OVERALL LIMIT FOR ALL SUCH INVESTMENTS ELIGIBLE FOR THE CREDIT, AND AN ANNUAL MAXIMUM AMOUNT OF CREDIT THAT MAY BE CLAIMED, TO PROVIDE THAT THESE CREDITS APPLY OVER SEVEN YEARS AND ARE NONREFUNDABLE AND NOT SALEABLE, TO REQUIRE FEES FOR PROCESSING APPLICATIONS FOR SUCH CREDITS AND FOR RECAPTURE OF THE CREDITS IF QUALIFICATIONS ARE NOT MAINTAINED, TO PROVIDE FOR LETTER RULINGS BY THE DEPARTMENT OF REVENUE WHEN FEDERAL REGULATIONS DO NOT PROVIDE SPECIFIC GUIDANCE, AND TO PROVIDE OTHER LIMITATIONS AND RESTRICTIONS AND REPORTING REQUIREMENTS.

[SJ]

**THURSDAY, JANUARY 15, 2015**

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Read the first time and referred to the Committee on Banking and Insurance.

S. 338 -- Senators S. Martin and Bryant: A BILL TO AMEND ARTICLE 1, CHAPTER 13, TITLE 24 OF THE 1976 CODE, RELATING TO GENERAL PROVISIONS REGARDING PRISONERS, BY ADDING SECTION 24-13-180 TO PROVIDE THAT ANY PUBLIC, PRIVATE, OR NONPROFIT ENTITY WHICH IS ENGAGED IN HELPING TO REHABILITATE AND REINTRODUCE PAROLED PRISON INMATES INTO THE COMMUNITY AND WHICH AS A PART OF ITS PROGRAM PROVIDES RESIDENTIAL HOUSING IN THE COMMUNITY TO THESE PAROLEES MUST PROVIDE NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COMMUNITY OF THE ADDRESSES WHERE THESE RESIDENTIAL HOUSING FACILITIES WILL BE LOCATED, AND ALSO MUST CONDUCT A PUBLIC HEARING REGARDING THE PROGRAM AND THE LOCATION OF THESE RESIDENTIAL HOUSING FACILITIES IN THE COMMUNITY WHERE THEY WILL BE LOCATED.

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Senator SHANE MARTIN spoke on the Bill.

Read the first time and referred to the Committee on Corrections and Penology.

S. 339 -- Senator Lourie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "HOPE'S LAW" BY ADDING SECTION 44-115-160 SO AS TO REQUIRE MAMMOGRAM PROVIDERS TO PROVIDE A MAMMOGRAM REPORT TO PATIENTS ABOUT BREAST DENSITY AND TO REQUIRE THESE PROVIDERS TO INCLUDE A CONSPICUOUS NOTICE WHEN A MAMMOGRAM SHOWS THE PRESENCE OF DENSE BREAST TISSUE.

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Read the first time and referred to the Committee on Medical Affairs.

S. 340 -- Senator Scott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 8-11-625 SO AS TO PROVIDE THAT STATE EMPLOYEES EARNING ANNUAL LEAVE AT THE RATE OF THIRTY DAYS A YEAR MUST

[SJ]

**THURSDAY, JANUARY 15, 2015**

RECEIVE A LUMP SUM PAYMENT FOR DAYS OF ANNUAL LEAVE FEWER THAN THIRTY DAYS OR DONATED BY THE EMPLOYEE IN A CALENDAR YEAR, TO PROVIDE ELIGIBILITY REQUIREMENTS, AND TO PROVIDE THAT SUCH PAYMENTS ARE NOT CONSIDERED EARNABLE COMPENSATION IN THE CALCULATION OF RETIREMENT BENEFITS.

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Read the first time and referred to the Committee on Finance.

S. 341 -- Senator Kimpson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-37-65 SO AS TO PROVIDE THAT EVERY HOSPITAL IN THIS STATE SHALL PROVIDE THE PARENTS OF EACH NEWBORN BABY DELIVERED IN THE HOSPITAL CERTAIN EDUCATIONAL INFORMATION ON RENAL MEDULLARY CARCINOMA AND THE DEBILITATING EFFECT OF THIS RARE KIDNEY CANCER ASSOCIATED WITH THE SICKLE CELL TRAIT, AND TO PROVIDE A HOSPITAL IS NOT REQUIRED TO PROVIDE OR PAY FOR RENAL MEDULLARY CARCINOMA TESTING.

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Read the first time and referred to the Committee on Medical Affairs.

S. 342 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-21-225 SO AS TO REQUIRE FILING OF AN ANNUAL ENTERPRISE RISK REPORT BY THE ULTIMATE CONTROLLING PERSON OF AN INSURANCE HOLDING COMPANY, AND TO PROVIDE SPECIFIC REQUIREMENTS FOR THE CONTENT OF THE REPORT; BY ADDING SECTION 38-21-285 SO AS TO ENABLE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OR HIS DESIGNEE TO PARTICIPATE IN CERTAIN SUPERVISORY COLLEGES, TO PROVIDE RELATED POWERS AND DUTIES, AND TO PROVIDE FOR THE PAYMENT OF RELATED EXPENSES; TO AMEND SECTION 38-21-10, AS AMENDED, RELATING TO DEFINITIONS IN THE INSURANCE HOLDING COMPANY REGULATORY ACT, SO AS TO DEFINE THE TERM "ENTERPRISE RISK"; TO AMEND SECTION 38-21-60, RELATING TO THE STATEMENT REQUIRED BY A PERSON SEEKING TO ACQUIRE CONTROL OF AN INSURER, SO AS TO

[SJ]

**THURSDAY, JANUARY 15, 2015**

IMPOSE CERTAIN NOTICE REQUIREMENTS; TO AMEND SECTION 38-21-70, RELATING TO THE CONTENTS OF A STATEMENT THAT MUST BE FILED BY A PERSON SEEKING TO ACQUIRE CONTROL OF AN INSURER, SO AS TO REVISE THE CONTENT REQUIREMENTS; TO AMEND SECTION 38-21-90, RELATING TO APPROVAL BY THE DIRECTOR OF THE ACQUISITION OF CONTROL OF AN INSURER, SO AS TO PROVIDE SPECIFIC REQUIREMENTS FOR PUBLIC HEARINGS WHERE APPROVAL OF MORE THAN ONE COMMISSIONER IS REQUIRED, AND TO DEFINE THE TERM "COMMISSIONER"; TO AMEND SECTION 38-21-110, RELATING TO VIOLATIONS OF CERTAIN PROVISIONS OF THE ACT, SO AS TO INCLUDE EFFECTUATION OF THE DIVESTITURE OF A DOMESTIC INSURER WITHOUT APPROVAL BY THE DIRECTOR OR HIS DESIGNEE; TO AMEND SECTION 38-21-125, RELATING TO ACQUISITIONS OF INSURERS EXEMPT FROM THE ACT, SO AS TO REMOVE CERTAIN ACQUISITIONS SUBJECT TO APPROVAL OR DISAPPROVAL BY THE DIRECTOR OR HIS DESIGNEE FROM THESE EXEMPTIONS; TO AMEND SECTION 38-21-130, RELATING TO THE REGISTRATION OF MEMBERS OF INSURANCE HOLDING COMPANY SYSTEMS, SO AS TO MAKE A TECHNICAL CORRECTION TO AN INCORRECT REFERENCE; TO AMEND SECTION 38-21-140, RELATING TO REQUIRED STATEMENTS OF REGISTERING MEMBERS OF INSURANCE HOLDING COMPANY SYSTEMS, SO AS TO ADD CERTAIN FINANCIAL STATEMENTS AND A STATEMENT CONCERNING THE GOVERNANCE AND INTERNAL CONTROLS OF THE INSURER BY ITS BOARD, AMONG OTHER THINGS; TO AMEND SECTION 38-21-220, RELATING TO DISCLAIMERS OF AFFILIATION, SO AS TO DELETE LANGUAGE REGARDING CERTAIN REGISTRATION AND REPORTING REQUIREMENTS, AND TO PROVIDE THAT A DISCLAIMER MUST BE CONSIDERED GRANTED ABSENT CERTAIN NOTIFICATION BY THE DIRECTOR, AND TO PROVIDE RELIEF FOR A DENIAL; TO AMEND SECTION 38-21-230, RELATING TO FAILURE TO TIMELY FILE A REGISTRATION STATEMENT OR AMENDMENT TO A REGISTRATION STATEMENT, SO AS TO INCLUDE ENTERPRISE RISK FILING; TO AMEND SECTION 38-21-250, RELATING TO STANDARDS FOR TRANSACTIONS BETWEEN REGISTERED INSUREDS AND THEIR AFFILIATES,

[SJ]

**THURSDAY, JANUARY 15, 2015**

SO AS TO PROVIDE THAT AGREEMENTS FOR COST-SHARING SERVICES AND MANAGEMENT MUST INCLUDE PROVISIONS REQUIRED BY REGULATION, TO INCLUDE AMENDMENTS OR MODIFICATIONS OF CERTAIN AFFILIATE AGREEMENTS AMONG TRANSACTIONS INVOLVING DOMESTIC INSURERS AND ANY PERSON IN AN INSURANCE HOLDING COMPANY SYSTEM THAT REQUIRES CERTAIN NOTICE TO THE DEPARTMENT, AND TO PROVIDE REQUIREMENTS FOR THIS NOTICE, AMONG OTHER THINGS; TO AMEND SECTION 38-21-280, RELATING TO THE POWER OF THE DIRECTOR TO COMPEL PRODUCTION OF CERTAIN INFORMATION FROM INSURERS, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 38-21-290, RELATING TO CONFIDENTIAL INFORMATION, SO AS TO REVISE THE REQUIREMENTS TO MAKE THE INFORMATION PRIVILEGED AND NOT SUBJECT TO DISCOVERY OR THE FREEDOM OF INFORMATION ACT, AND TO PROVIDE FOR USE OF THIS INFORMATION BY THE DIRECTOR OR HIS DESIGNEE, AMONG OTHER THINGS, AND TO PROVIDE NEITHER THE DIRECTOR OR HIS DESIGNEE MAY BE REQUIRED TO TESTIFY ABOUT THIS INFORMATION IN A PRIVATE CIVIL ACTION; TO AMEND SECTION 38-21-340, RELATING TO CRIMINAL PROSECUTIONS AND VIOLATIONS, SO AS TO PROVIDE THAT CERTAIN VIOLATIONS MAY SERVE AS AN INDEPENDENT BASIS FOR THE DIRECTOR TO DISAPPROVE DIVIDENDS OR DISTRIBUTIONS AND FOR PLACING THE INSURER UNDER AN ORDER OF SUPERVISION; AND TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO THE APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 38 TO RISK RETENTION GROUPS LICENSED AS A CAPTIVE INSURANCE COMPANY, SO AS TO MAKE CONFORMING CHANGES.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 343 -- Senators Grooms, L. Martin and Young: A BILL TO AMEND CHAPTER 15 OF TITLE 23, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GENERAL POWERS AND DUTIES OF THE SHERIFF, BY REPEALING SECTION 23-15-120 WHICH REQUIRES THE COUNTY CORONER TO SERVE

[SJ]

**THURSDAY, JANUARY 15, 2015**

PROCESS, EXECUTIONS, WARRANTS, SUMMONS, OR NOTICE UPON A SHERIFF IF HE IS A PARTY PLAINTIFF OR DEFENDANT IN ANY JUDICIAL PROCESS.

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Read the first time and referred to the Committee on Judiciary.

S. 344 -- Senators O'Dell and Bryant: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 81 IN ANDERSON COUNTY FROM ITS INTERSECTION WITH MASTERS BOULEVARD IN THE CITY OF ANDERSON TO ITS INTERSECTION WITH THE SOUTHERN BOUNDARY OF THE TOWN OF IVA "DEPUTY J. ALEX BURDETTE MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS HIGHWAY THAT CONTAIN THIS DESIGNATION.

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The Concurrent Resolution was introduced and referred to the Committee on Transportation.

S. 345 -- Senators Setzler, Cromer and Shealy: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF NATURAL RESOURCES RENAME THE JAMES R. METTS LANDING ON THE SALUDA RIVER IN LEXINGTON COUNTY THE HOPE FERRY LANDING AND TO ERECT APPROPRIATE SIGNS AND MARKERS.

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The Concurrent Resolution was adopted, ordered sent to the House.

S. 346 -- Senators Leatherman, Alexander, Allen, Bennett, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Corbin, Courson, Cromer, Davis, Fair, Gregory, Grooms, Hayes, Hembree, Hutto, Jackson, Johnson, Kimpson, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McElveen, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Sabb, Scott, Setzler, Shealy, Sheheen, Thurmond, Turner, Verdin, Williams and Young: A CONCURRENT RESOLUTION TO AWARD THE SOUTH CAROLINA MEDAL OF VALOR TO THOSE SOUTH CAROLINIANS WHO LOST THEIR



**THURSDAY, JANUARY 15, 2015**

LIVES WHILE SERVING IN THE ARMED FORCES DURING THE GLOBAL WAR ON TERRORISM.

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Senator ALEXANDER spoke on the Resolution.

The Concurrent Resolution was introduced and referred to the General Committee.

S. 347 -- Senators Scott, Alexander, Allen, Bennett, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Corbin, Courson, Cromer, Davis, Fair, Gregory, Grooms, Hayes, Hembree, Hutto, Jackson, Johnson, Kimpson, Leatherman, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McElveen, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Sabb, Setzler, Shealy, Sheheen, Thurmond, Turner, Verdin, Williams and Young: A SENATE RESOLUTION TO CONGRATULATE CHARLES MCFADDEN, FORMER SENIOR VICE PRESIDENT OF GOVERNMENTAL AFFAIRS AND ECONOMIC DEVELOPMENT OF SCANA CORPORATION, UPON THE OCCASION OF HIS RETIREMENT, TO COMMEND HIM FOR HIS MANY YEARS OF DEDICATED SERVICE, AND TO WISH HIM MUCH HAPPINESS AND FULFILLMENT IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 348 -- Senators Scott, Alexander, Allen, Bennett, Bright, Bryant, Campbell, Campsen, Cleary, Coleman, Corbin, Courson, Cromer, Davis, Fair, Gregory, Grooms, Hayes, Hembree, Hutto, Jackson, Johnson, Kimpson, Leatherman, Lourie, Malloy, L. Martin, S. Martin, Massey, Matthews, McElveen, Nicholson, O'Dell, Peeler, Pinckney, Rankin, Reese, Sabb, Setzler, Shealy, Sheheen, Thurmond, Turner, Verdin, Williams and Young: A SENATE RESOLUTION TO RECOGNIZE AND HONOR ZION CHAPEL BAPTIST CHURCH NUMBER ONE FOR ITS DEEP HERITAGE IN RICHLAND COUNTY AND TO CONGRATULATE THE CONGREGATION AND ITS PASTOR UPON THE CELEBRATION OF THE CHURCH'S ONE HUNDRED FIFTIETH ANNIVERSARY.

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The Senate Resolution was adopted.

**THURSDAY, JANUARY 15, 2015**

H. 3291 -- Reps. Lucas, Pope, Allison, Delleney, Hiott, Howard, Sandifer, Bannister and Rutherford: A CONCURRENT RESOLUTION INVITING HER EXCELLENCY, NIKKI HALEY, GOVERNOR OF THE STATE OF SOUTH CAROLINA, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION AT 7:00 P.M. ON WEDNESDAY, JANUARY 21, 2015, IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES.

On motion of Senator LARRY MARTIN, with unanimous consent, the Concurrent Resolution was taken up for immediate consideration and adopted, ordered returned to the House.

**Motion Adopted**

With unanimous consent, Senator LEATHERMAN moved that the Senate meet in Statewide Session on Wednesday, January 21, 2015, at 6:30 P.M. for the sole purpose of attending the Joint Assembly.

H. 3311 -- Reps. Mitchell, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO CONGRATULATE MONARCH CAFÉ & FRESH FOOD STORE IN SPARTANBURG ON ITS GRAND OPENING, HELD IN NOVEMBER 2014, AND TO DECLARE NOVEMBER 6, 2014, AS HEALTHY EATING DAY IN SOUTH CAROLINA.

The Concurrent Resolution was adopted, ordered returned to the House.

**THURSDAY, JANUARY 15, 2015**

H. 3315 -- Reps. Lucas, Alexander, Allison, Anderson, Anthony, Atwater, Bales, Ballentine, Bamberg, Bannister, Bedingfield, Bernstein, Bingham, Bowers, Bradley, Brannon, G. A. Brown, R. L. Brown, Burns, Chumley, Clary, Clemmons, Clyburn, Cobb-Hunter, Cole, Collins, Corley, H. A. Crawford, Crosby, Daning, Delleney, Dillard, Douglas, Duckworth, Erickson, Felder, Finlay, Forrester, Funderburk, Gagnon, Gambrell, George, Gilliard, Goldfinch, Govan, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hill, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Johnson, Kennedy, King, Kirby, Knight, Limehouse, Loftis, Long, Lowe, Mack, McCoy, McEachern, McKnight, M. S. McLeod, W. J. McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Murphy, Nanney, Neal, Newton, Norman, Norrell, Ott, Parks, Pitts, Pope, Putnam, Quinn, Ridgeway, Riley, Rivers, Robinson-Simpson, Rutherford, Ryhal, Sandifer, Simrill, G. M. Smith, G. R. Smith, J. E. Smith, Sottile, Southard, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Whitmire, Williams, Willis and Yow: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND MS. PHYLLIS HARRIOT, MEMBER OF THE HOUSEHOLD OF FAITH CHURCH #3, FOR HER DISTINGUISHED SERVICE.

The Concurrent Resolution was adopted, ordered returned to the House.

**Expression of Personal Interest**

Senator KIMPSON rose for an Expression of Personal Interest.

**Remarks to be Printed**

On motion of Senator PINCKNEY, with unanimous consent, the remarks of Senator KIMPSON, when reduced to writing and made available to the Desk, would be printed in the Journal.

**Expression of Personal Interest**

Senator COURSON rose for an Expression of Personal Interest.

**HOUSE CONCURRENCE**

S. 271 -- Senator Cromer: A CONCURRENT RESOLUTION TO CONGRATULATE DR. OSCAR F. LOVELACE, JR., MD, ON BEING NAMED THE 2015 FAMILY PHYSICIAN OF THE YEAR BY THE AMERICAN ACADEMY OF FAMILY PHYSICIANS AND

**THURSDAY, JANUARY 15, 2015**

TO RECOGNIZE HIM FOR AN OUTSTANDING CAREER AS A FAMILY PHYSICIAN.

Returned with concurrence.

Received as information.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED STATEWIDE CALENDAR.**

**READ THE SECOND TIME**

S. 8 -- Senators L. Martin, Campsen and Hembree: A BILL TO RATIFY AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM NOT COTERMINOUS WITH THE GOVERNOR, MAY BE REMOVED ONLY FOR CAUSE, AND THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE TERM, DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE ADJUTANT GENERAL MAY BE REMOVED FROM OFFICE; AND TO RATIFY AN AMENDMENT TO SECTION 4, ARTICLE XIII, RELATING TO THE ADJUTANT GENERAL AND HIS STAFF OFFICERS, TO UPDATE REFERENCES TO HIS TITLE AND PROVIDE THAT THE ADJUTANT GENERAL'S MILITARY RANK IS MAJOR GENERAL AS OPPOSED TO BRIGADIER GENERAL, AND TO PROVIDE THAT UPON THE EXPIRATION OF THE TERM OF THE ADJUTANT GENERAL SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, HE MUST BE APPOINTED BY THE GOVERNOR IN THE MANNER REQUIRED BY SECTION 7, ARTICLE VI.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator LARRY MARTIN spoke on the Bill.

**THURSDAY, JANUARY 15, 2015**

The question then was second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 38; Nays 0**

**AYES**

Alexander	Allen	Bennett
Bright	Bryant	Campbell
Campsen	Cleary	Coleman
Corbin	Courson	Davis
Fair	Grooms	Hayes
Hembree	Hutto	Jackson
Johnson	Kimpson	Leatherman
Lourie	Malloy	<i>Martin, Larry</i>
<i>Martin, Shane</i>	Massey	McElveen
Nicholson	O'Dell	Peeler
Pinckney	Sabb	Scott
Setzler	Shealy	Turner
Williams	Young	

**Total--38**

**NAYS**

**Total--0**

The Bill was read the second time and ordered placed on the Third Reading Calendar.

S. 9 -- Senators Cleary, L. Martin, Campsen and Johnson: A BILL TO RATIFY AN AMENDMENT TO SECTION 7, ARTICLE XVII OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE PROHIBITION ON LOTTERIES AND THE EXCEPTIONS TO THIS PROHIBITION, SO AS TO PROVIDE THAT THE GENERAL ASSEMBLY MAY AUTHORIZE RAFFLES TO BE OPERATED AND CONDUCTED BY RELIGIOUS, CHARITABLE, OR NONPROFIT ORGANIZATIONS FOR RELIGIOUS, CHARITABLE, OR ELEMOSYNARY PURPOSES, AND BY GENERAL LAW MUST DEFINE THE TYPE OF ORGANIZATION AUTHORIZED TO CONDUCT RAFFLES, PROVIDE THE

**THURSDAY, JANUARY 15, 2015**

STANDARDS FOR THEIR CONDUCT AND MANAGEMENT, PROVIDE PENALTIES FOR VIOLATIONS, AND PROVIDE FOR ANY OTHER LAW NECESSARY TO ENSURE THE PROPER FUNCTIONING, HONESTY, INTEGRITY, AND CHARITABLE PURPOSES FOR WHICH THE RAFFLES ARE CONDUCTED.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator LARRY MARTIN spoke on the Bill.

The question then was second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

**Ayes 38; Nays 0**

**AYES**

Alexander	Allen	Bennett
Bright	Bryant	Campbell
Campsen	Cleary	Coleman
Corbin	Courson	Davis
Fair	Grooms	Hayes
Hembree	Hutto	Jackson
Johnson	Kimpson	Leatherman
Lourie	Malloy	<i>Martin, Larry</i>
<i>Martin, Shane</i>	Massey	McElveen
Nicholson	O'Dell	Peeler
Pinckney	Sabb	Scott
Setzler	Shealy	Turner
Williams	Young	

**Total--38**

**NAYS**

**Total--0**

The Bill was read the second time and ordered placed on the Third Reading Calendar.

THURSDAY, JANUARY 15, 2015

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

At 12:09 P.M., on motion of Senator PEELER, the Senate agreed to dispense with the balance of the Motion Period.

**MOTION ADOPTED**

On motion of Senator LEATHERMAN, the Senate agreed to stand adjourned.

**REPORT RECEIVED**

**Judicial Merit Selection Commission  
Report of Candidate Qualifications  
for Fall 2014**

Date Draft Report Issued: Thursday, January 15, 2015  
Date and Time Final Report Issued: **Noon**, Tuesday, January 20, 2015

**Judicial candidates are not free to seek or accept commitments until Tuesday, January 20, 2015, at Noon.**

**Judicial Merit Selection Commission**

Rep. Larry A. Martin, Chairman  
Sen. Alan D. Clemmons, V-Chairman  
Sen. George E. "Chip" Campsen III  
Sen. Gerald Malloy  
Rep. Bruce W. Bannister  
Rep. David J. Mack III  
Kristian C. Bell  
Joseph Preston Strom, Jr.  
Susan T. Wall  
Robert M. Wilcox



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Daniel Boan  
Steve Davidson  
Emma Dean  
Patrick Dennis  
Andy Fiffick  
J.J. Gentry  
Jamey Goldin  
Brett Hubler  
Bob Maldonado

January 15, 2015

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

[SJ]

THURSDAY, JANUARY 15, 2015

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 January 20, 2015**. **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, January 20, 2015**. In summary, 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 (803) 212-6623.

Thank you for your attention to this matter.

Sincerely,

Sen. Larry A. Martin, Chairman

**Judicial Merit Selection Commission**

Rep. Larry A. Martin, Chairman  
Sen. Alan D. Clemmons, V-Chairman  
Sen. George E. "Chip" Campsen III  
Sen. Gerald Malloy  
Rep. Bruce W. Bannister  
Rep. David J. Mack III  
Kristian C. Bell  
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Bob Maldonado

January 15, 2015

Members of the SC General Assembly  
SC State House

[SJ]



THURSDAY, JANUARY 15, 2015

Columbia, SC

Dear Fellow Members:

This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate's contact with members of the General Assembly, as well as third parties contacting members on a candidate's behalf. It is also to remind you of these issues for the Fall 2014 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.

[SJ]

32

**THURSDAY, JANUARY 15, 2015**

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 (M-Th).

Sincerely,

Senator Larry A. Martin  
Chairman

Representative Alan D. Clemmons  
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

## THURSDAY, JANUARY 15, 2015

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 through BallotBox online;
- (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

## THURSDAY, JANUARY 15, 2015

questioning, the view of the public as to matters of legal knowledge and ability, judicial temperament, and the absoluteness of the Judicial Canons of Conduct as to recusal for conflict of interest, prohibition of ex parte communication, and the disallowance of the acceptance of gifts. However, the Commission is not a forum for reviewing the individual decisions of the state's judicial system absent credible allegations of a candidate's violations of the Judicial Canons of Conduct, the Rules of Professional Conduct, or any of the Commission's nine evaluative criteria that would impact a candidate's fitness for judicial service.

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

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

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

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

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

**THURSDAY, JANUARY 15, 2015**

**Commission Member, Senator Gerald Malloy's Statement:**

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

**COURT OF APPEALS  
QUALIFIED AND NOMINATED**

**The Honorable John C. Few  
Court of Appeals, Seat 5, Chief Judge**

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

(1) Constitutional Qualifications:

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

Judge Few was born in 1963. He is 51 years old and a resident of Greenville, SC. Judge Few provided in his application that

**THURSDAY, JANUARY 15, 2015**

he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1988.

(2) Ethical Fitness:

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

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

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

Judge Few testified that he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- (a) South Carolina Judicial Conference August 19-21, 2009;
- (b) South Carolina Bar Convention January 21-23, 2010;
- (c) It's All a Game Evidence CLE February 5, 2010;
- (d) South Carolina Judicial Conference August 18-20, 2010;

**THURSDAY, JANUARY 15, 2015**

- (e) Court of Appeals Workers' Compensation CLE October 15, 2010;
- (f) Conference of Chief Judges, Napa, CA November 9-13, 2010;
- (g) South Carolina Bar Convention January 20-22, 2011;
- (h) It's All a Game Evidence CLE February 18, 2011;
- (i) South Carolina Judicial Conference August 17-19, 2011;
- (j) Southern High Court Conference September 15-17, 2011;
- (k) Conference of Chief Judges, Miami, FL October 23-27, 2011;
- (l) South Carolina Bar Convention January 19-21, 2012;
- (m) It's All a Game Evidence CLE February 17, 2012;
- (n) South Carolina Judicial Conference August 22-24, 2012;
- (o) South Carolina Bar Convention January 24-26, 2013;
- (p) American Board of Trial Advocates—Mock Trial February 1, 2013;
- (q) It's All a Game Evidence CLE February 15, 2013;
- (r) Court of Appeals Workers' Compensation CLE April 17, 2013;
- (s) South Carolina Judicial Conference August 21-23, 2013;
- (t) Appellate Practice Project CLE October 24, 2013;
- (u) Conference of Chief Judges, St. Louis, MO Oct. 29-Nov. 2, 2013;
- (v) National Center for State Courts Annual Meeting November 21, 2013;
- (w) South Carolina Bar Convention January 23-25, 2014;
- (x) It's All a Game Evidence CLE February 21, 2014.

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

- (a) August 4, 2014; "Practice Before the South Carolina Appellate Courts"; South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
- (b) July 10, 2014; "What It Means To Be a Lawyer in a Central Staff Attorneys' Office"; National Association

**THURSDAY, JANUARY 15, 2015**

- of Appellate Court Attorneys Annual Meeting; Savannah, Georgia;
- (c) May 3, 2014; “The Courage of a Lawyer”; Defense Research Institute—Regional Meeting; Charleston, South Carolina;
  - (d) April 10, 2014; “The Courage of a Lawyer”; Defense Research Institute—Product Liability Conference; Phoenix, Arizona;
  - (e) March 10, 2014; “Practice Before the South Carolina Appellate Courts”; South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
  - (f) February 28, 2014; “Panel Moderator: Update on Recent Appellate Decisions”; Criminal Law Update CLE; South Carolina Bar; Columbia, South Carolina;
  - (g) February 27, 2014; “In Depth View of South Carolina Appellate Torts Cases”; South Carolina Bar Tort Law Update CLE; Columbia, South Carolina;
  - (h) February 21, 2014; “It’s All A Game - Top Trial Lawyers Tackle Evidence”; South Carolina Bar; Columbia, South Carolina;
  - (i) February 10, 2014; “The Courage of a Lawyer”; International Association of Defense Counsel; Carlsbad, California;
  - (j) January 24, 2014; “The Appellate Practice Project and Update on the Court of Appeals”; Trial and Appellate Advocacy Section “Civil Update” Seminar; South Carolina Bar Convention; Kiawah Island, South Carolina;
  - (k) January 2, 2014; “Practice Before the South Carolina Appellate Courts”; South Carolina Bar/Bridge the Gap; Charleston, South Carolina;
  - (l) November 8, 2013; “Perspective from the Court of Appeals—with Judge Huff”; Injured Workers’ Advocates Annual Meeting; Asheville, North Carolina;
  - (m) October 24, 2013; “The Diverse Experience of a Great Lawyer;” Appellate Practice Project CLE; South Carolina Bar; Columbia, South Carolina;
  - (n) October 11, 2013; “Briggs v. Elliott and the Lawyers Who Made it Happen;” Civil Rights Ride; Northeastern



**THURSDAY, JANUARY 15, 2015**

- University School of Law; Camden/Summerton, South Carolina;
- (o) September 23, 2013; “Panel Moderator: Behind the Bench—the Rulings, the Realities, & the Ramifications;” South Carolina Solicitors’ Conference; Myrtle Beach, South Carolina;
  - (p) September 5, 2013; “Role of a Trial Judge in the Administration of Justice;” Magistrate Judges’ Annual Conference; Myrtle Beach, South Carolina;
  - (q) August 5, 2013; “Practice Before the South Carolina Appellate Courts;” South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
  - (r) August 1, 2013; “Panelist: Criminal Law Panel;” SCAJ Annual Meeting; Hilton Head Island, South Carolina;
  - (s) July 12, 2013; “Thinking About Appeals;” New Judges’ Orientation; Columbia, South Carolina;
  - (t) May 23, 2013; “Panelist: Trial Motions CLE;” South Carolina Defense Trial Attorneys’ Association; Greenville, South Carolina;
  - (u) May 2, 2013; “Panel Moderator: Current Issues in Criminal Court;” Circuit Judges Conference; Greenville, South Carolina;
  - (v) May 2, 2013; “Current Issues with Evidence;” Circuit Judges Conference; Greenville, South Carolina;
  - (w) March 28, 2013; “The Importance of Dissent in a Civilized Society;” Haynsworth/Perry Inn of Court; Greenville, South Carolina;
  - (x) March 11, 2013; “Practice Before the South Carolina Appellate Courts;” South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
  - (y) February 22, 2013; “Panel Moderator: Update on Recent Appellate Decisions;” Criminal Law Update CLE; South Carolina Bar; Columbia, South Carolina;
  - (z) February 15, 2013; “It’s All A Game - Top Trial Lawyers Tackle Evidence;” South Carolina Bar; Columbia, South Carolina;
  - (aa) January 25, 2013; “Evidence ‘Boot Camp’ for Young Lawyers;” Young Lawyers Division Seminar; South Carolina Bar Convention; Myrtle Beach, South Carolina;

**THURSDAY, JANUARY 15, 2015**

- (bb) January 25, 2013; “Issue Preservation;” South Carolina Bar Convention; Myrtle Beach, South Carolina;
- (cc) December 16, 2012; “What It Means To Be a Lawyer;” Charleston School of Law Commencement Address; Charleston, South Carolina;
- (dd) November 2, 2012; “Making a Compelling Case Before the Court of Appeals and Supreme Court of South Carolina;” Injured Workers Advocates Annual Meeting; Asheville, North Carolina;
- (ee) October 15, 2012; “Practicing Workers’ Compensation Before the Court of Appeals;” South Carolina Workers’ Compensation Education Association Annual Conference; Hilton Head Island, South Carolina;
- (ff) October 12, 2012; “Panelist: Judiciary Squares;” Master in Equity Bench/Bar CLE; South Carolina Bar; Columbia, South Carolina;
- (gg) October 1, 2012; “Panelist: Access to Justice and the Judiciary;” National Legal Services Corporation Regional Meeting; Duke Fuqua School of Business; Durham, North Carolina;
- (hh) September 27, 2012; “Evidence ‘Boot Camp’ for Young Lawyers;” South Carolina Defense Trial Attorneys’ Association; Greenville, South Carolina;
- (ii) September 26, 2012; “Panel Moderator: The Most Significant Judicial Decisions from the Part Year and How They Impact How You Do Your Job;” South Carolina Solicitors’ Conference; Myrtle Beach, South Carolina;
- (jj) September 24, 2012; “Preserving Issues for Appeal;” Public Defender Conference; Myrtle Beach, South Carolina;
- (kk) September 11, 2012; “The Other Side of Civility;” American Board of Trial Advocates; Columbia, South Carolina;
- (ll) September 6, 2012; “Thinking Through the Structure of Evidence;” South Carolina Magistrates’ Conference; Kingston Plantation; Myrtle Beach, South Carolina;
- (mm) August 6, 2012; “The Role of Local Government in the Future of Our Courts;” South Carolina Association

**THURSDAY, JANUARY 15, 2015**

- County Attorneys Annual Meeting; Hilton Head Island, South Carolina;
- (nn) August 2, 2012; “Panelist: Fee Awards—Ethics and Practice;” South Carolina Association for Justice; Hilton Head Island, South Carolina;
  - (oo) July 31, 2012; “Practice Before the South Carolina Appellate Courts;” South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
  - (pp) April 11, 2012; “Common Pitfalls For, and Mistakes Made By, Young Lawyers;” Sowell Gray CLE at Trustus Theatre; Columbia, South Carolina;
  - (qq) March 6, 2012; “Practice Before the South Carolina Appellate Courts;” South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
  - (rr) February 24, 2012; “Panel Moderator: Update on Recent Appellate Decisions;” Criminal Law Update CLE; South Carolina Bar; Columbia, South Carolina;
  - (ss) February 17, 2012; “It’s All A Game - Top Trial Lawyers Tackle Evidence;” South Carolina Bar; Columbia, South Carolina;
  - (tt) February 17, 2012; “Ethics: The Importance of Dissent in a Democratic Society;” South Carolina Bar; Columbia, South Carolina;
  - (uu) January 20, 2012; “Playing to the Discretion of a Trial Judge: Practicing the Art of Evidence from a Trial Lawyer’s Perspective;” Criminal Law CLE; South Carolina Bar Convention; Columbia, South Carolina;
  - (vv) January 20, 2012; “Developing Yourself as a CLE Speaker;” Young Lawyers Division Seminar; South Carolina Bar Convention; Columbia, South Carolina;
  - (ww) January 6, 2012; “Panelist: Play By the Rules; Evidence and Civil Procedure in Tort Cases;” South Carolina Bar Tort Law Update; Columbia, South Carolina;
  - (xx) October 14, 2011; “Judicial Ethics;” Domestic Violence Seminar; Spartanburg, South Carolina;
  - (yy) October 4, 2011; “The Importance of Dissent in a Civilized Society;” John Belton O’Neill Inn of Court; Columbia, South Carolina;
  - (zz) September 16, 2011; “The Courage of a Lawyer;” North Carolina/South Carolina Construction Sections Joint

**THURSDAY, JANUARY 15, 2015**

- Meeting; South Carolina Bar; Wild Dunes, South Carolina;
- (aaa) August 2, 2011; “Practice Before the South Carolina Appellate Courts;” South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
  - (bbb) June 3, 2011; “The Importance of What You Do;” South Carolina Family Court Judges Conference; Fripp Island, South Carolina;
  - (ccc) February 18, 2011; “It’s All A Game - Top Trial Lawyers Tackle Evidence;” South Carolina Bar; Columbia, South Carolina;
  - (ddd) February 11, 2011; “The Courage of a Lawyer;” Greenville County Year End CLE; Greenville, South Carolina;
  - (eee) February 4, 2011; “The Tactical Use of Allegations of Misconduct Against a Judge;” VIP GlobalNet Webinar Presentation;
  - (fff) February 4, 2011; “The Tactical Use of Allegations of Misconduct Against a Judge;” ABOTA Ethics CLE; USC Law School; Columbia, South Carolina;
  - (ggg) January 14, 2011; “The Tactical Use of Allegations of Misconduct Against a Judge;” VIP GlobalNet Webinar Presentation;
  - (hhh) December 21, 2010; “The Tactical Use of Allegations of Misconduct Against a Judge;” VIP GlobalNet Webinar Presentation;
  - (iii) November 19, 2010; “Panelist: Judicial Panel;” South Carolina Legal Services Annual Meeting; Myrtle Beach, South Carolina;
  - (jjj) November 18, 2010; “The Courage of a Lawyer;” South Carolina Legal Services Annual Meeting; Myrtle Beach, South Carolina;
  - (kkk) November 5, 2010; “Workers’ Compensation Update;” Injured Workers Advocates Annual Convention; Asheville, North Carolina;
  - (lll) September 24, 2010; “Judicial Ethics;” Domestic Violence Seminar; Spartanburg, South Carolina;
  - (mmm) August 5, 2010; Criminal Appellate Advocacy Seminar; National Advocacy Center; Columbia, South Carolina;

**THURSDAY, JANUARY 15, 2015**

- (nnn) August 3, 2010; “Practice Before the South Carolina Appellate Courts;” South Carolina Bar/Bridge the Gap; Columbia, South Carolina;
- (ooo) June 25, 2010; “Appeals From the Commission to the Court of Appeals;” 75<sup>th</sup> Anniversary of the Workers’ Compensation Act; South Carolina Bar; Columbia, South Carolina;
- (ppp) May 6, 2010; “Reflections of a Circuit Judge;” Circuit Court Judges Association Conference; Litchfield, South Carolina;
- (qqq) April 22, 2010; “The South Carolina Court of Appeals;” Family Court Judges Association Conference; Columbia, South Carolina;
- (rrr) March 5, 2010; “Thinking Through the Structure of Evidence;” South Carolina Bar Golf Getaway CLE; Kiawah Island, South Carolina;
- (sss) February 12, 2010; “Opening Statements and Closing Arguments;” Masters in Trial; American Board of Trial Advocates and South Carolina Bar; Columbia, South Carolina;
- (ttt) February 5, 2010; “It’s All A Game - Top Trial Lawyers Tackle Evidence;” South Carolina Bar; Columbia, South Carolina;
- (uuu) January 22, 2010; “Differences Between the State and Federal Rules of Evidence;” Criminal Law Update; South Carolina Bar Convention; Kiawah Island, South Carolina;
- (vvv) November 7, 2009; “Panelist: Judge’s Panel;” South Carolina Defense Trial Attorneys Association; Savannah, Georgia;
- (www) October 29, 2009; “The Courage of a Lawyer;” Attorney’s Information Exchange Group; Charleston, South Carolina;
- (xxx) October 2, 2009; “Judicial Ethics;” SAFE Homes – Rape Crisis Coalition; Spartanburg, South Carolina;
- (yyy) September 27, 2009; “The Courage of a Lawyer;” South Carolina Solicitor’s Association; Hilton Head, South Carolina;

**THURSDAY, JANUARY 15, 2015**

- (zzz) September 21-24, 2009; “Fundamentals of Evidence;” National Judicial College/New Mexico Judicial Education Center; Albuquerque, New Mexico;
- (aaaa) May 4, 2009; “The Courage of a Lawyer;” Thirteenth Circuit Solicitor’s Office; Clemson, South Carolina;
- (bbbb) February 13, 2009; “It’s All A Game - Top Trial Lawyers Tackle Evidence;” South Carolina Bar; Columbia, South Carolina;
- (cccc) February 10, 2009; “The Courage of a Lawyer;” Michelin Regional Counsel Meeting; Greenville, South Carolina;
- (dddd) December 5, 2008; Ethics: “The Courage of a Lawyer;” South Carolina Association for Justice - Auto Torts Seminar; Atlanta, Georgia;
- (eeee) November 21, 2008; “What It Means to Be a Lawyer;” Nexsen Pruet Associates Meeting; Greenville, South Carolina;
- (ffff) November 15, 2008 “The Courage of a Lawyer; and the Introduction of Matthew Perry;” South Carolina Defense Trial Attorneys Association; Amelia Island, Florida;
- (gggg) October 3, 2008; “Judicial Ethics;” SAFE Homes – Rape Crisis Coalition; Spartanburg, South Carolina;
- (hhhh) September 19, 2008; “What Civil Court Judges Want You To Know;” National Business Institute - Judicial Forum; Greenville, South Carolina;
- (iiii) September 19, 2008; “What a Paralegal Means, to Who a Lawyer Is, to the People We Serve;” South Carolina Upstate Paralegal Association; Greenville, South Carolina;
- (jjjj) July 26, 2008; Ethics: “The Courage of a Lawyer;” South Carolina Defense Trial Attorneys’ Association; Asheville, North Carolina;
- (kkkk) February 8, 2008; “It’s All A Game - Top Trial Lawyers Tackle Evidence;” South Carolina Bar; Columbia, South Carolina;
- (llll) November 30, 2007; “Discovery, Evidence and Technology;” National Business Institute – Advanced Discovery and Evidence; Columbia, South Carolina;

## THURSDAY, JANUARY 15, 2015

- (mmmm) November 29, 2007; “Discovery, Evidence and Technology,” National Business Institute – Advanced Discovery and Evidence; Greenville, South Carolina;
- (nnnn) November 3, 2007; “Panelist: Expert witnesses: Changing South Carolina Law;” South Carolina Defense Trial Attorneys’ Association; Pinehurst, North Carolina;
- (oooo) October 26, 2007; “A View From the Bench;” South Carolina Tort Law Update; South Carolina Bar; Columbia, South Carolina;
- (pppp) October 26, 2007; “Judicial Ethics Workshop;” SAFE Homes – Rape Crisis Coalition; Spartanburg, South Carolina;
- (qqqq) September 15, 2007; “A View From the Bench—Preparing for Trial in a Construction Case;” North and South Carolina Bars Construction Law Sections Biennial Meeting; Wild Dunes, Charleston, South Carolina;
- (rrrr) August 20-23, 2007; “Fundamentals of Evidence;” National Judicial College; Reno, Nevada
- (ssss) June 8, 2007; “A Circuit Judge’s Look Back, and Forward At the Role of the Lawyer;” Greenville County Bar Association; Greenville, South Carolina;
- (tttt) February 22, 2007; “Complex Case / Class Action;” South Carolina Judicial Seminar for Chief Judges of the Circuit Court; Columbia, South Carolina;
- (uuuu) July 28, 2006; “The Circuit Court Courtroom in the 21<sup>st</sup> Century: Technology and Tradition;” South Carolina Defense Trial Attorneys’ Association; Grove Park Inn, Asheville, North Carolina;
- (vvvvv) November 14-17, 2005; “Fundamentals of Evidence;” National Judicial College; Reno, Nevada;
- (wwww) December 3, 2004; “An Ethical View From the Bench;” Greenville County Bar Association; Greenville, South Carolina;
- (xxxx) November 11, 2004; “Perspective;” Michelin Regional Counsel Meeting; Greenville, South Carolina;
- (yyyy) November 5, 2004; “Thinking Through the Structure of Evidence;” South Carolina Bar – Beyond the Bar II; Greenville, South Carolina;

**THURSDAY, JANUARY 15, 2015**

- (zzzz) December 5, 2003; “An Ethical View From the Bench;” Greenville County Bar Association; Greenville, South Carolina;
- (aaaa)December 13, 2002; “An Ethical View From the Bench;” Greenville County Bar Association; Greenville, South Carolina;
- (bbbb)December 12, 2001; “Tips from the Bench – Guilty Pleas;” South Carolina Bar; Kiawah Island, South Carolina;
- (cccc)December 7, 2001; “Ethics;” Greenville County Bar Association; Greenville, South Carolina;
- (dddd)November 8, 2001; “Panelist: Products Liability Panel;” South Carolina Defense Trial Attorneys’ Association; Kiawah Island, South Carolina;
- (eeee)January 29, 2001; “The Fundamentals of Trial Advocacy;” Thirteenth Circuit Solicitor’s Office; Clemson, South Carolina;
- (ffff) August 3, 2000; “Environmental Lit. In the New Millennium and Its Expert Witnesses, If Any;” South Carolina Trial Lawyers Association; Hilton Head Island, South Carolina.

Judge Few reported that he has published the following:

- (a) The Courage of a Lawyer, ABA Litigation Journal, Winter 2013;
- (b) artofevidence, <http://artofevidence.wordpress.com/>  
This is a blog I publish for my students, formerly at the Charleston School of Law, currently at the USC School of Law;
- (c) Appellate Advocacy—”Speaking Frankly”, Foreword to Charleston Law Review, volume 5 number 1 (Fall 2010).

Judge Few reported the following regarding the publications of books or articles:

I have not published any other books or articles since I became a judge in 2000.



**THURSDAY, JANUARY 15, 2015**

(4) Character:

The Commission's investigation of Judge Few did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Few did not indicate any evidence of disqualifying financial issues.

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

(5) Reputation:

Judge Few reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Few was admitted to the SC Bar in 1988.

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

- (a) 1989-97 Private Civil Practice, in partnership with my father, J. Kendall Few;
- (b) 1997-2000 Private Civil Practice by myself;
- (c) 2000-10 Circuit Court Judge;
- (d) 2010-Present Chief Judge, South Carolina Court of Appeals.

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

I served as a Circuit Judge from July 1, 2000 to February 3, 2010. Since that date I have served as the Chief Judge of the South

## THURSDAY, JANUARY 15, 2015

Carolina Court of Appeals. I was elected to each position by the General Assembly.

The jurisdiction of the circuit court is defined generally by article V, section 11 of the South Carolina Constitution and more specifically by the General Assembly in title 14, chapter 5 of the South Carolina Code.

The jurisdiction of the court of appeals is defined generally by article V, section 9 of the South Carolina Constitution and more specifically by the General Assembly in title 14, chapter 8 of the South Carolina Code.

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

I have published over 80 opinions since joining the Court of Appeals and have written or joined over a thousand others. Each one is equally significant in that it decides an important issue in the lives of South Carolina citizens. Here are five of the ones I deem the most significant for their precedential value:

- (a) State v. Gray, 408 S.C. 601, 759 S.E.2d 160 (Ct. App. 2014) and State v. Collins, 398 S.C. 197, 727 S.E.2d 751 (Ct.App.2012). I include these opinions together because their significance relates to the same issue—the admissibility of graphic autopsy photographs. The supreme court granted certiorari in Collins (Aug. 8, 2013);
- (b) Palms v. School District of Greenville County, 408 S.C. 576, 758 S.E.2d 919 (Ct. App. 2014). This opinion is significant because it addresses the limited role of the judiciary in the affairs of government;
- (c) Riley v. Ford Motor Co., 408 S.C. 1, 757 S.E.2d 422 (Ct. App. 2014). This opinion is significant because it upholds a litigant’s (Ford’s) constitutional right to a trial by jury;
- (d) AnMed Health v. S.C. Department of Employment & Workforce, 404 S.C. 224, 743 S.E.2d 854 (Ct. App. 2013). This opinion is significant because it upholds the right of hospitals to make patient-safety decisions unencumbered by employment considerations, and yet also upholds a State agency’s right and duty to follow

**THURSDAY, JANUARY 15, 2015**

its statutory mandate to provide unemployment benefits under law;

- (e) State v. Dukes, 404 S.C. 553, 745 S.E.2d 137 (Ct. App. 2013). This opinion is significant because it explains novel issues regarding the limited right of a criminal defendant to due process of law in relation to a victim's or another witness's pretrial identification of the defendant as the person who committed a crime. The supreme court denied certiorari in Dukes (July 25, 2014).

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

(a) I served as Adjunct Professor, and later Distinguished Visiting Professor, at the Charleston School of Law from the summer of 2008 until the summer of 2012. I taught Evidence and Advanced Evidence. It was a part-time position. My supervisor was the Associate Dean for Academic Affairs, first Nancy Zisk and later Margaret Lawton. For this work, I was paid a salary and given a per trip expense reimbursement;

(b) In the Fall of 2012 and 2013, I taught Advanced Evidence at the University of South Carolina School of Law. I will teach the same class in the Fall of 2014. I hold no title, and I accept no compensation; I simply teach. My supervisor has been Danielle Holley-Walker.

Judge Few further reported the following regarding unsuccessful candidacies:

I ran unsuccessfully for the Supreme Court of South Carolina in 2007, 2008, and 2009.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge Few to be "Qualified" as to constitutional qualifications. They found him "Well Qualified" as to ethical fitness, professional and academic

**THURSDAY, JANUARY 15, 2015**

ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Judge Few is not married. He has three children.

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

- (a) South Carolina Bar;
- (b) Greenville County Bar;
- (c) Haynsworth/Perry Inn of Court.

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

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

(11) Special Questions for Candidates for the Court of Appeals Seat 5, Chief Judge:

- [1] Pursuant to § 14-8-80, subject to the provisions of Article V, Section 4 of the S.C. Constitution, the Chief Judge of the Court of Appeals has additional responsibilities besides serving as an appellate judge. Explain what has been your role managing the Court of Appeals.

My “management” role is spelled out primarily in title 14, chapter 8 of the South Carolina Code, and in a memorandum from the Supreme Court to the Court of Appeals dated July 22, 2011.

As part of my work fulfilling those responsibilities, I work closely with the Clerk of Court and her staff, and the Staff Attorneys. This has given me the opportunity to influence the manner in which the Court deals with certain issues. For example, the Court receives numerous motions to dismiss on the grounds that the order on appeal is not immediately appealable. This can be a difficult question to answer, and it often seems easier to deny the motion to dismiss and let the panel address appealability

THURSDAY, JANUARY 15, 2015

after oral argument. I have pushed us to deal with these issues up front, the result of which is that cases get resolved more quickly for the benefit of our citizens.

Another example involves the number and length of extension requests granted for the filing of briefs and other documents. By paying close attention to these extension requests under my management, the Court of Appeals has significantly reduced the number of requests made, and in the process we have shortened the time it takes to dispose of many appeals.

One other part of my role is to keep staff focused on the goals of the Court and their role in meeting those goals. This allows me to do two of the things I do best—motivate and inspire.

[2] As a follow-up, describe what has been your managerial style as Chief Judge, focusing on what you perceive to be your three major strengths and weaknesses as a manager and leader.

My leadership style is built on the foundation of a strong professional relationship with my coworkers and those I lead. I listen very carefully to the hopes and concerns of all members of the organization. In the case of the Court of Appeals, those “members” include the Bar—the lawyers who represent the individual, corporate, and governmental citizens of South Carolina. I obviously do not discuss cases with them, but I believe it is very important to listen to the concerns of those we serve related to the administration of the justice system in South Carolina and the role of the Court of Appeals in that system.

With those ideas in mind, I formulate an ambitious vision for the future. Through the strength of the relationships I continue to develop, I lead those who work within the organization to invest in the vision and to apply their energy to the task of making that vision a reality. Bringing this leadership style to the Court of Appeals has involved two distinct modes of management, one for the members of the Court (which is not really “management”) and one for the legal and administrative staff. I have managed those who work with me, such as the Clerk’s staff and Staff Attorneys, by setting appropriate standards for their work, establishing follow-up mechanisms to see that those standards are met, and consistently ensuring that each person understands the significance of his or her work to achieving the goals for the Court. I set high standards for my own work and performance, and therefore lead by example in this respect. The

**THURSDAY, JANUARY 15, 2015**

other Judges on the Court have their own standards for themselves, their law clerks, and their staff.

My first strength is that I am determined to continue to cultivate my leadership ability. I have strived for years to understand what skills it takes to lead, and I have worked very hard to develop those skills. I surround myself with competent, ambitious, hard-working people. I listen intently to ideas for success. I integrate each person into the team so that each understands the importance of his or her role as we look forward toward objectives, and the significance of their contribution as we look back on success. I make each person's individual success just as important as the success of the group. I make ambitious goals seem attainable, and yet I demonstrate patience. When the group succeeds, I give credit to others. When goals are not met, I take responsibility for the failure. I realize that in order to lead effectively, I must be likeable and I must show humility. The success of an organization like the Court of Appeals requires a strong leader who has systematically worked to develop the skills that I have brought to the position of Chief Judge.

Second, I have a tremendous work ethic. Most importantly, I work hard on individual cases. Everybody at the Court of Appeals knows how hard I work on cases. I also work hard to understand how the Court of Appeals has operated in the past and how its operation can be improved. I work hard to gain the confidence of those around me. I strive to understand their individual situation and their ideas about their own success and the success of the group. I have demonstrated this work ethic as a lawyer, as a Circuit Judge, and now as Chief Judge of the Court of Appeals. I will continue to work as hard as I can to make this Court the best Appellate Court in the United States.

Third, I know how to get along with people, how to cultivate strong professional relationships, and how to make people like me as a person. This skill is essential to leading any group, and it is one of my strengths.

The first thing I will say about my weaknesses is that I work very hard to examine myself and my performance as objectively as possible. It is important to me that I know my weaknesses, and try to turn them into strengths, insofar as possible.

The first weakness of which I must be aware in order to be an effective leader is that I tend to hold others to the high standards

**THURSDAY, JANUARY 15, 2015**

of performance to which I hold myself. This has the potential to make me seem demanding rather than encouraging. I must understand that allowing this perception may actually make it more difficult for me to achieve the high level of performance I seek from those with whom I work. Rather, I must understand that each person's standards must be reasonable for that person at that time. While I will always seek to encourage those who work with me to set their standards high, each person's standards must seem reasonably attainable to that person.

Second, I have difficulty delegating tasks. I have a tendency to want to take on the tasks of other people, so that I can ensure the task is done correctly. I have fought this weakness for many years, but it actually got worse after I got to the Court of Appeals. In recent months, I have more effectively delegated tasks to law clerks, staff attorneys, and administrative personnel.

Third, the enthusiasm, confidence, and decisiveness I bring to my work as a judge often comes off as overconfidence and inflexibility. To combat this weakness, I try to discipline myself to be a listener, and to make decisions only after I have heard everyone speak their position on the question.

[3] Describe the accomplishments you have achieved on the Court of Appeals since serving as the Chief Judge since 2009.

One of the great things about appellate courts such as ours is that accomplishments belong to the group, not to any one individual.

The Court of Appeals has accomplished a lot for a long time before I got here, and we have accomplished a lot since 2010.

Our accomplishments since 2010 include:

- We have significantly shortened the average time it takes to resolve an appeal.
  - Beginning in early February 2010, the Chief Justice authorized the Court of Appeals to employ retired clerk of court Ken Richstad to research the time it took individual cases to go from notice of appeal to final resolution. Mr. Richstad determined that on average for cases heard by the Court of Appeals in February 2010, it took twenty-six months from the filing of a notice of appeal for the case to reach oral argument. Today, that number is drastically reduced.
  - Mr. Richstad's research led us to realize there are three primary time periods in any appeal: (1) from notice of

## THURSDAY, JANUARY 15, 2015

appeal to the filing of final briefs, at which time the case is ready to be assigned to a panel; (2) from assignment to a panel to oral argument; and (3) from oral argument to filing of an opinion.

- This third category is the only one under the direct control of any one judge or panel, and the Court of Appeals has always done an excellent job of getting its opinions drafted and filed promptly. The Court continues to do an excellent job of preparing and filing opinions promptly after oral argument.
- The duration of the first time period is dependent on several factors, including primarily the time it takes court reporters to prepare transcripts, and the number and duration of extension requests filed by the attorneys and granted by the Court. The Court of Appeals has little power to directly affect the time it takes court reporters to prepare transcripts. However, we have shortened this first period of time by addressing the number and duration of extension requests in two primary ways.
  - First, as to civil cases, the Court has encouraged attorneys to reduce the number of extension requests filed. In the past, multiple extensions were routinely granted without questioning their necessity or the impact those extensions had on the duration of cases. Today, the Court allows only one “free” extension request. The order granting such a request states “no further extensions will be granted except on a showing of extraordinary circumstances.”
  - Second, as to criminal cases, the granting of extensions is governed by an order of the Supreme Court dated March 18, 2009. In the past, the limited resources of the Office of Appellate Defense has necessitated numerous extensions of time, often six or seven, and in some cases even ten. In the Fall of 2013, the Court of Appeals organized the Appellate Practice Project in cooperation with the Chief Justice, the Attorney General, the Office of Appellate Defense, and the South Carolina Bar.



## THURSDAY, JANUARY 15, 2015

Through this project, fifty private lawyers were assigned voluntarily to handle fifty oral argument cases pending with Appellate Defense. Primarily as a result of this project, the Court of Appeals almost never receives more than four extension requests from Appellate Defense. This alone has shortened the average time for a criminal appeal by many months. We are renewing the Appellate Practice Project this fall to further reduce the number of extensions necessary for Appellate Defense to complete its work in a case.

- The Court of Appeals has implemented other measures to shorten the time between the filing of a notice of appeal and completion of briefing. These include:
  - Reducing the number of cases placed in “held in abeyance” category.
  - Working “indirectly” on transcript delays in general, and on delays in specific cases, to ensure that transcripts are ready for use as soon as possible.
  - Improving the performance of the docketing staff in the Clerk’s office to speed the preparation of cases for the Court’s consideration.
  - Implementing a procedure for settlements of appellate cases as to which statutory law requires the settlement be approved by the lower court. Our procedure allows the appeal to be dismissed and remanded for approval. If the settlement is not consummated, we reinstate the appeal.
  - Checking with bankruptcy courts to determine status of litigants who declared bankruptcy. This has allowed us to immediately proceed to resolve some very old cases we thought were governed by the Federal bankruptcy stay.
  - Copying circuit and family judges on remand orders to ensure those judges are aware when

**THURSDAY, JANUARY 15, 2015**

the Court of Appeals issues a temporary remand order for a specific action by the lower court. This has proven particularly important in remand orders for reconstruction of the record, where we have specifically instructed counsel to contact the presiding judge within a short period of time so the judge knows to set a hearing.

- As to the second category, as of this date, the Court of Appeals has almost no lag time in scheduling cases for argument, or reviewing and deciding cases where there will be no argument, after the briefing is complete. This is a significant improvement since 2010.
- We have maintained—even improved—the high caliber of lawyers who seek and obtain employment with the Court of Appeals.
- We have increased the number of staff attorneys from ten in 2010 to fifteen.
- We have maintained the Court’s excellent perception within the Bar and by the public.

I have personally observed from within the Court—as I obviously did not have the opportunity to do before—that the judges of the Court of Appeals are deeply dedicated to the privilege of delivering justice to the citizens of South Carolina. Some of the most satisfying experiences I have had as a lawyer have come since I joined the Court of Appeals watching its judges work with passion and resolve to handle a particular case according to law with the goal of fairness and justice.

These are the Court’s accomplishments—not mine alone.

[4] Describe what you have done to improve the operations of the Court of Appeals as well as foster collegiality.

I believe collegiality on this Court and in any organization begins with a shared commitment to the mission of the organization. In the case of the Court of Appeals, its judges are deeply committed to justice. This commitment includes an understanding of the necessity and benefits of disagreement. There are plenty of times when the judges of the Court of Appeals disagree. Those disagreements sharpen our understanding of cases and operational issues in a way that

**THURSDAY, JANUARY 15, 2015**

improves our ability meet our mission. My observation is that almost without exception we manage our disagreements with the dignity and professionalism the people of South Carolina are entitled to expect from us. I am proud of the collegiality shown by the Court of Appeals!

I have also attempted to foster collegiality by cultivating a close working relationship with each Judge on the Court. Through the relationships I continue to develop, I have attempted to demonstrate a respect for each Judge's personal judicial philosophy. I have not intruded within the privacy of other judges' personal views about the law. While I encourage open and honest discussion about legal issues, I have attempted to set a tone in which those discussions, and particularly the disagreements, must focus on differences in the interpretation of the law and not on personal differences. Especially in the context of disagreement, I have embraced the responsibility of a leader—to keep everyone focused on the fact that each Judge has the same basic goal in each individual case: reaching a just and fair result in a timely manner.

As far as operations, the Court of Appeals has done a great job of integrating technology into what we do. Our leadership on this subject has come primarily from our Chief Justice, but each individual judge and each member of our staff has individually embraced this advance, and has worked hard to utilize the technological tools available to us. We have the capability for three judges in distant regions of the State to immediately consider the same emergency motion, for example, and with full access to the entire record, briefs, and legal research on our iPads or computers, immediately execute an order and transmit it via email to the parties. This “capability” is made valuable to the citizens of South Carolina by our judges' determination to learn it, and use it.

We have employed specific training in specialized subject areas, such as Workers' Compensation and Post-Conviction Relief. On two occasions we have hosted educational seminars for our staff lawyers and judges on Workers' Compensation, each taught by some of the leading lawyers in the field. We have implemented similar programs for PCRs. We have taken our lawyers to circuit and family court to observe the types of cases we handle on appeal. We have arranged tours of laboratories at

**THURSDAY, JANUARY 15, 2015**

SLED, prisons and local jails, and hosted a variety of discussions, all designed to give our lawyers a better understanding of the practical impact of our work, and thereby improve our ability to deliver justice to our citizens.

[5] Based on your present plans, discuss the length of time you intend to serve as the Chief Judge if you are nominated by the Commission and re-elected to this position by the members of the General Assembly, and describe the accomplishments you hope to achieve over your next term of office.

I do not plan to leave the judiciary. Serving as the Chief Judge of the Court of Appeals has been one of the very highest honors and privileges of my judicial career. Thus, if reelected, I plan to continue serving as Chief Judge of the Court of Appeals indefinitely.

It is no secret that for a long time I have intended to seek a position on the Supreme Court when the time is right for me to do that. When a seat opens on the Supreme Court, I plan to run for that seat.

I continue to have an ambitious vision for the Court of Appeals. I hope to achieve the following accomplishments in my next term of office:

- I would like to continue to shorten the time it takes us to handle an appeal. Because our Court has always done extremely well in the third time period I mentioned above, and because we have made as much progress as possible in the second, I will focus from here out primarily on the first time period.
  - We have already set up another round of the Appellate Practice Project. I hope that this can become an annual project.
  - I will continue to work with the Chief Justice and with Court Administration to shorten the time it takes court reporters to prepare transcripts, and eventually to make their preparation instantaneous through the use of digital technology.
  - I will continue to work with our Clerk of Court to monitor and improve performance with the docketing staff at the Court of Appeals to meet the needs of lawyers and litigants in a timely manner and speed along the completion of briefing in cases.

**THURSDAY, JANUARY 15, 2015**

- As I described in my 2009 application materials, I would like the Court of Appeals to establish benchmarks for performance in getting appeals resolved in a timely manner.
- The Court of Appeals will face new challenges I would like to lead us through. For example, the appellate court system is flooded with petitions for certiorari from PCRs. Under current procedure, those petitions are filed with the Supreme Court. On occasion, the Supreme Court transfers PCRs to the Court of Appeals for us to handle. As I have told the Chief Justice, the Court of Appeals needs to handle all PCR certiorari petitions so the Supreme Court can continue to fulfill its mission of purely discretionary review. I will work with the Supreme Court, the Bar, and the members of our Court, to develop and employ procedures to timely and efficiently handle all petitions for certiorari in PCR cases.
- I will work to assist the Chief Justice in implementing e-filing.
- I would like to continue to assure the public, the Bar, and the General Assembly that the Court of Appeals is doing its very best to deliver quality justice in a timely manner to the citizens of South Carolina.

(12) Commission Members' Comments:

The Commission commented on Judge Few's excellent service as Chief Judge of the Court of Appeals since 2010, and noted he takes his responsibilities as Chief Judge seriously.

(13) Conclusion:

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

**The Honorable Aphrodite Konduros  
Court of Appeals, Seat 6**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission waived the public hearing for Judge Konduros, upon recommendation of

**THURSDAY, JANUARY 15, 2015**

the Commission members, since her candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding her candidacy.

(1) Constitutional Qualifications:

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

Judge Konduros was born in 1959. She is 55 years old and a resident of Greenville, SC. Judge Konduros provided in her application that she has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1985.

(2) Ethical Fitness:

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

Judge Konduros 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 Konduros reported that she has spent approximately \$49 in expenditures for stamps and stationery for her campaign.

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

**THURSDAY, JANUARY 15, 2015**

(3) Professional and Academic Ability:

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

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

- (a) 2008-2009
  - 4-22-08 Family Court Judges Conference;
  - 11-13-08 SCDTAA Annual Meeting;
  - 12-5-08 Family Court Bench Bar;
  - 1-23-09 SC Bar Civil Law Update;
  - 1-23-09 SC Bar Criminal Law Update;
  - 2-13-09 Greenville Bar Year End CLE.
- (b) 2009- 2010
  - 4-21-09 The Changing Nature of Legal Representation;
  - 7-31-09 Judicial Merit Selection Commission;
  - 11-5-09 SCDTAA Annual Meeting;
  - 1-22-10 Civil Law Update;
  - 1-22-10 Family Law Update;
  - 2-19-10 Criminal Punishment in Society;
  - 2-12-10 Family Law Update, Greenville Bar.
- (c) 2010-2011
  - 7-21-10 Summer Associate Luncheon;
  - 8-5-10 SCAJ Annual Conference;
  - 11-3-10 SCDTAA Annual Meeting.
- (d) 2011-2012
  - 6-8-11 Orientation School for New Judges;
  - 8-17-11 Annual Judicial Conference;
  - 11-3-11 SCDTAA Annual Meeting;
  - 2-10-12 Greenville Bar Year End CLE.
- (e) 2012-2013
  - 8-2-12 SCAJ Annual Meeting;
  - 8-22-12 Annual Judicial conference;
  - 11-2-12 SCCA Annual Meeting;
  - 11-8-12 SCDTAA Annual Meeting;
  - 12-7-12 Family Court Bench Bar;
  - 1-25-13 SC Bar Trial and Appellate Advocacy;
  - 1-25-13 Criminal Law Section.

**THURSDAY, JANUARY 15, 2015**

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

- (a) SCTLTA 2003-spoke on Ethical considerations in Family Court for an absent speaker;
- (b) Family Law Lawyers Annual Conference 2002-spoke on Elder Law issues to fellow judges;
- (c) Numerous Omnibus Adult Protection Act presentations at the Criminal Justice Academy;
- (d) DSS-sponsored CLE seminars on Termination of Parental Rights, Adult Abuse issues and Adoptions;
- (e) Abuse and Neglect trainings to Greenville School District teachers;
- (f) “Grand Rounds” training to interns at Greenville Hospital on recognizing abuse;
- (g) Annual training to Greenville Chamber young members on the court system and moderating law enforcement panel;
- (h) Annual training to “Leadership Greenville” on recognizing abuse;
- (i) Training to “Fatherhood Program” on the logic of Child Support;
- (j) Summer School on Gerontology, Winthrop University;
- (k) Various judicial panels at the SC BAR Family Law section;
- (l) Panelist on the Chief Justice’s Mini-Summit on Children, August 2006;
- (m) Spoken for many years at the SCDTAA Conference on appellate issues, including this year;
- (n) Spoken for many years at the SC Access to Justice Conference on appellate issues;
- (o) Spoken to the inaugural class of the USC SC Legal Writing Academy;
- (p) Addressed the Biannual National Court Technology Conference in Baltimore, Maryland on use of the iPad for appellate review of cases;
- (q) Taught a Maymester class at CSOL on DSS Abuse and Neglect law;
- (r) Taught a summer school class at CSOL on practice tips and practical application for new lawyers;



**THURSDAY, JANUARY 15, 2015**

- (s) Addressed the National Governor's Conference in Washington on sentencing considerations;
- (t) Have spoken for many years at the Greenville Bar Year end CLE on family and appellate law updates;
- (u) James Otis Speaker, ABOTA Annual Youth Competition;
- (v) Spoken to the SC Magistrates and Municipal Judges Annual conference twice;
- (w) Spoken to the SC Clerks of Court on docketing issues for Family Court;
- (x) Girls State programs across the State;
- (y) I spoke at most of the CLE's listed [above] since joining the Court Of Appeals.

Judge Konduros reported that she has published the following:

- (a) "Chief of the Catawbas", Sandlapper Magazine, Summer Issue, 1999;
- (b) "An Unlikely Mentor", SCWLA "Briefcase", Spring Issue 2007
- (c) SC Adoption Law and Practice (SC Bar 2010), Editorial Board;
- (d) Marital Litigation in SC, Professor Emeritus Roy T. Stuckey (SC Bar 2010), Third and Fourth Editorial Board.

(4) Character:

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

The Commission also noted that Judge Konduros 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 Konduros reported that her last available rating with a legal rating organization, Martindale-Hubbell, was AV.

THURSDAY, JANUARY 15, 2015

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Konduros was admitted to the SC Bar in 1985.

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

(a) 1984-85 Weinberg, Brown & McDougall Sumter, SC

General practice, civil, criminal defense, appellate practice, Armed Services Board of Contract Appeals;

(b) 1985-1987 Law Clerk to the Hon. David F. McInnis, Circuit Court, Third Circuit

Accompanied the judge to 33 counties in our state, assisting him in civil and criminal court;

(c) 1987-1989 Todd & Barber Columbia, SC

General practice including residential and commercial real estate and development, domestic, probate, appellate practice, criminal, civil, outdoor advertising licensure, and collection;

(d) 1989-1994 SC Department of Disabilities and Special Needs, Assistant and Deputy General Counsel, Columbia, SC

Practice included family court juvenile hearings, unemployment hearings, workers compensation, civil, criminal, probate commitments, Medicaid, and Social Security benefits practice;

(e) 1994-97 SC Department of Social Services Greenville, SC

County attorney for DSS prosecution of abuse and neglect cases, child support, unemployment, appellate practice, and probate;

(f) 1/97-12/97 The Code Law Firm Greenville, SC

Private practice including divorce, child support, DSS, DJJ, civil defense in state and federal court, Insurance Reserve Fund defense for the SCDOT, Department of Education, DSS, DDSN, City of Greenville, Greer Police Department,

**THURSDAY, JANUARY 15, 2015**

Department of Corrections, Magistrate's Court, appellate practice;

(g) 1997-2000 SC Department of Social Services, Assistant General Counsel, Columbia, SC

Adoptions, DSS prosecution, appellate practice, state procurement, day care licensure appeals, State employee grievances;

(h) 2000-2002 - Director, Greenville Department of Services, Greenville, SC

Managed 314 state employees and multi-million dollar budget, administering Medicaid, food stamps, child and adult protective services, foster care licensing, and over 400 foster children. Supervised five lawyers handling child abuse and neglect cases, adoptions, termination of parental rights cases. Continued to handle a small number of DSS cases, unemployment hearings personally;

(i) 2002-2008 - Family Court Judge, Thirteenth Circuit, Seat #3;

(j) 2008-present SC Court of Appeals, Seat #6.

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

(a) Family Court Judge in the Thirteenth Circuit, Elected February 6, 2002, and February 4, 2004 to February 6, 2008. Jurisdiction is set forth in SC Section 20-7-420, et seq.

(b) Court of Appeals Judge, Elected February 6, 2008 to present.

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

(a) Williams Carpet Contractors, Inc v Skelly, 400 S.C. 320, 734 S.E.2d 177 (Ct. App.2012);

(b) Nakatsu v. Encompass Indem. Co., 390 S.C. 172, 700 S.E.2d 283 (Ct. App. 2010);

(c) Neeltec Enters., Inc. v. Long, 402 S.C. 524, 741 S.E.2d 767 (Ct. App. 2013);

(d) State v. McGee, 408 S.C. 278, 758 S.E.2d 730 (Ct. App. 2014);

(e) State v. Pradubsri, 403 S.C. 270, 743 S.E.2d 98 (Ct.

**THURSDAY, JANUARY 15, 2015**

App. 2013).

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

I taught two classes for the Charleston School of Law in 2013 and 2014. My responsibilities were that of a guest professor.

Judge Konduros further reported the following regarding unsuccessful candidacies:

I ran unsuccessfully for SC Court of Appeals, Seat 3, to which the Honorable Paula Thomas was elected on February 7, 2007, and for the SC Court of Appeals, Seat 7, to which the Honorable Daniel Pieper was elected May 23, 2007.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen's Committee on Judicial Qualifications found Judge Konduros to be "Qualified" as to the evaluative criteria of constitutional qualifications. They found her "Well Qualified" as to the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Judge Konduros is married to Samuel James Konduros. She does not have any children.

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

- (a) SCWLA-Regional liaison in the late 90's for one year;
- (b) Greenville County Bar since 1994;
- (c) South Carolina Bar since 1985;
- (d) Richland County Young lawyers in the 1990's;
- (d) Family Court Judges Association 2002-08;
- (e) Haynesworth- Perry Inn of Court 2013 to present.

**THURSDAY, JANUARY 15, 2015**

Judge Konduros provided that she was not a member of any civic, charitable, educational, social, or fraternal organizations.

Judge Konduros further reported:

- (a) Co-recipient of the Claude N. Sapp Award for Outstanding Law Graduate (with David Dukes, Esq. of Columbia);
- (b) Served as an Acting Associate Justice of the South Carolina Supreme Court on June 22, 2004;
- (c) 2007-2008 Vocational Service Award from the Greenville East Rotary;
- (d) Recipient of the Statewide Fatherhood Advocate Award, 2005;
- (e) Award of Excellence, The SC Coalition Against Domestic Violence and Sexual Assault, 2005;
- (f) The SC American Board of Trial Advocates (ABOTA) Jurist of the Year, 2013.

(11) Commission Members' Comments:

The Commission commented that Judge Konduros is a dynamic, hard-working jurist who has been a great asset to the Court of Appeals for the past six years.

(12) Conclusion:

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

**CIRCUIT COURT  
QUALIFIED AND NOMINATED**

**The Honorable Roger E. Henderson  
Circuit Court, Fourth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

**THURSDAY, JANUARY 15, 2015**

Judge Henderson was born in 1949. He is 65 years old and a resident of Chesterfield, SC. Judge Henderson provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1978.

(2) Ethical Fitness:

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

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

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

Judge Henderson testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- | <u>Conference/CLE Name</u>          | <u>Date</u> |
|-------------------------------------|-------------|
| (a) Family Court Judge's Conference | 04/23/08;   |
| (b) 2008 Annual Judicial Conference | 08/20/08;   |

**THURSDAY, JANUARY 15, 2015**

- (c) 2008 SC Family Court Bench/Bar 12/05/08;
- (d) Family Court Judge's Conference 04/22/09;
- (e) 2009 Annual Judicial Conference 08/19/09;
- (f) Family Court Judge's Conference 04/22/10;
- (g) 2010 Annual Judicial Conference 08/18/10;
- (h) 2011 SC Bar Convention Family Law Section 01/21/11;
- (i) Family Court Judge's Conference 06/01/11;
- (j) 2011 Annual Judicial Conference 08/17/11;
- (k) 2012 SC Bar Convention Family Law Section 01/20/12;
- (l) 2012 Annual Judicial Conference 08/22/12;
- (m) 2013 SC Bar Convention Family Law Section 01/25/13;
- (n) Family Court Judge's Conference 04/17/13;
- (o) NCSC Project on Courthouse Violence, Denver, Colorado 08/22/13;
- (p) 2013 SC Family Court Bench/Bar 12/06/13;
- (q) 2014 SC Bar Convention Family Law Section 01/24/14;
- (r) Family Court Judge's Conference 04/24/14.

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

- (a) I lectured at a CLE seminar on October 21, 1994 on the subject of jury selections as part of the "Successful Civil Litigation; Hot topics from the Experts" program;
- (b) I lectured at the 1997 Conference of Chief Judges for Administrative Purposes and the 1997 Annual Judicial Conference on the subjects of Civil and Criminal Contempt and Courtroom Security;
- (c) I was a co-presenter of the Family Law Update at the 2000 Annual Judicial Conference;
- (d) I was a co-lecturer at the 2000 Orientation School for New Family Court Judges Conference;
- (e) I lectured on new issues in the Family Court at the 2001 Family Court Judge's Conference;
- (f) I was co-lecturer at the 2001 Orientation School for New Family Court Judges, concerning the areas of Court Rules, Alimony and Equitable Division;
- (g) I was co-lecturer at the 2002 Orientation School for New Family Court Judges, concerning the areas of Court Rules, Alimony and Equitable Division;

**THURSDAY, JANUARY 15, 2015**

- (h) I was co-lecturer at the 2004 Orientation School for new Family Court Judges concerning Temporary Hearings & Equitable Distribution;
- (i) I was a panel member at the 2004 South Carolina Bar Convention concerning Conversations Between the Bench and Bar;
- (j) I was co-lecturer at the 2004 Seminar for Chief Judges for Administrative Purposes of the Circuit and Family Courts concerning Pre-Trial Status Settlement conferences.

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

(4) Character:

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

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

(5) Reputation:

Judge Henderson reported that his last available rating by a legal rating organization Martindale-Hubbell, was AV.

Judge Henderson reported the following military service:

May, 1971 – May, 1977, United States Army Reserves  
Specialist Fourth Class, Honorable Discharge.

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

- (a) October 29, 1979–January 23, 1984, Chairman, Chesterfield County Election Commission–appointed;



**THURSDAY, JANUARY 15, 2015**

- (b) June 27, 1986–July 23, 1993, Member, South Carolina Commission on Higher Education – appointed;
- (b) April 6, 1995–May 25, 1995, Member, Chesterfield County District Board of Education – elected.

Two of the positions did not require report. I served as a member of the County Board of Education for a period of only two months since I was elected to the Family Court Bench just after being elected to the school board. If I filed a report I am unable to locate it, but I am certain that I was never subject to a penalty.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Henderson was admitted to the SC Bar in 1978.

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

In 1978, I returned to Chesterfield and began the general practice of law with my father-in-law, the late Edward McIver Leppard. He retired in 1982, and I continued a solo practice until 1985, when I formed a partnership with William O. Spencer, Jr. We continued a general practice of law until I was elected to the bench in May of 1995. During this period of time, we added an associate, Mary Thomas Johnson, in May of 1983. In 1985, I began to concentrate my practice in the areas of Family Law, Criminal Law and Personal Injury.

Judge Henderson reported with regard to his Circuit Court practice:

Prior to becoming a Family Court Judge in 1995, I had a general practice of law that included a substantial amount of criminal work. I represented clients in both State and Federal Court. The types of cases I handled ranged from traffic offenses in Magistrate's Court to drug cases in Federal Court. The bulk of my

**THURSDAY, JANUARY 15, 2015**

criminal practice was in the Court of General Sessions where I represented individuals charged with DUI, Assault and Battery of a High and Aggravated Nature, Assault and Battery with Intent to Kill, Armed Robbery, Sex Offenses, Drug Offenses, Arson, Burglary, Breaking and Entering and Murder (one of which was a death penalty case). Many of the cases I handled were disposed of by way of guilty pleas; however, a significant number of them went through the trial process.

On occasion I was privately employed to help prosecute individuals. In addition to my criminal defense work, I also handled post conviction relief matters and parole hearings.

As for my civil practice, I represented clients in State and Federal Courts with personal injury claims, which were mostly automobile accident and slip and fall type cases. I handled several medical malpractice cases individually and in association with other counsel. In addition, I represented individuals in condemnation cases, partition actions, probate matters and numerous workers' compensation claims.

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

Prior to 1995 when I went on the Family Court Bench:

- (a) Federal: Twice a year;
- (b) State: 15-20 times per month.

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

- (a) Civil: 40% (Personal injury cases, 20% - Probate, Workers' Compensation and non-jury matters, 20%);
- (b) Criminal: 20%;
- (c) Domestic: 40%.

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

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

**THURSDAY, JANUARY 15, 2015**

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

The following is Judge Henderson's account of his five most significant litigated matters:

- (a) Chesterfield County Rural Water Company, Inc. v. Town of Cheraw, South Carolina: This matter was significant in that we obtained an Order in Federal Court prohibiting the Town of Cheraw from entering the Rural Water Company's service areas. Additionally, I represented the Rural Water Company in law suits against the Town of Pageland and Chesterfield, South Carolina, and obtained out-of-Court settlements which resulted in agreements establishing permanent service territories for the Rural Water Company and the towns.
- (b) Kate G. Laney vs. Bi-Lo, Inc: This was a slip and fall case in which Bi-Lo denied any liability and their defense was that they were not on notice concerning the liquid on the floor, upon which Mrs. Laney slipped and fell. We were able to convince the jury that Bi-Lo was on notice and that they should have removed the liquid before Mrs. Laney slipped and fell. The jury returned a verdict of \$60,000.00 in favor of Mrs. Laney.
- (c) Mary C. Crowley v. Robert Taylor: This matter was significant in that we obtained a jury verdict of \$2,000.00 actual damages for Mrs. Crowley and \$40,000.00 in punitive damages due to the fact that Mr. Taylor was operating an automobile in flagrant violation of the law in that he was driving under the influence of alcohol while being pursued at a high rate of speed by a police officer. The jury saw fit to punish Mr. Taylor with a sentence commensurate with the offense.
- (d) Linda Whittington on behalf of the Estate of Brandon Ray Royer v. Richard D. Loflin, et al: This was a guest passenger automobile accident case which involved the death of my client, Mr. Royer, The defendants alleged that my client was the driver of the car and was under the influence of alcohol. There was no offer made by the defendants so the matter was tried and the jury returned a verdict of \$87,500.00, in favor of my client.

**THURSDAY, JANUARY 15, 2015**

- (e) STATE vs. John Parks: This matter was significant in that Mr. Parks who was charged with criminal sexual conduct with his eight year old stepdaughter, was acquitted after we were able to convince the jury that the child's testimony was without feeling and emotion due to her having been coached by her mother, who was separated from Mr. Parks.

The following is Judge Henderson's account of his three civil appeals he has personally handled:

- (a) Leaton E. Jenkins vs. Marjorie E. Jenkins – South Carolina Supreme Court – No decision was rendered as the Appellant died after briefs had been file and the matter was dismissed by the Court;
- (b) James H. Dixon v. Nucor Steel Corporation – South Carolina Court of Appeals, May 9, 1988, 368 SE 2d 680, 295 SC 297 (1988);
- (c) Kate G. Laney vs. Bi-Lo, Inc. – South Carolina Court of Appeals, June 22, 1992, 419 SE 2d 809, 309 SC 37 (1992).

Judge Henderson reported he has not personally handled any criminal appeals.

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

- (a) 1978-1982 Assistant Recorder and Recorder for the Town of Chesterfield, appointed by the Mayor. This Court handled all traffic and criminal offenses in which he punishment did not exceed 30 days or a \$200 fine;
- (b) July 1, 1995 to Present – Family Court Judge for the Fourth Judicial Circuit, Seat No. 1, Elected by the South Carolina General Assembly. Statewide jurisdiction to hear all domestic relations matters.

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

- (a) 95-DR-16-0712 – Leslie Douglas Stewart vs. Susan Fellows Van Epps

**THURSDAY, JANUARY 15, 2015**

This was a multi-day trial involving a divorce on the ground of habitual drunkenness as to the wife and the significance of this case was that custody was granted to the father;

- (b) 97-DR-42-1170 – Charles Tyrone Courtney vs. Carol Lynn W. Courtney

This was a five day trial involving a state senator. The issues in the case dealt with an invalid foreign divorce decree and custody. The wife was granted a divorce on the grounds of adultery and awarded custody of the children;

- (c) 03-DR-16-0593 – Karen Allen Hines vs. Franklin Hines – Unpublished Opinion No. 208-UP-198;

This was a three day trial which involved equitable distribution and alimony. This case was addressed by the Court of Appeals twice;

- (d) 05-DR-34-340 – Ronald H. Stanton vs. Tracy P. Stanton

This was a multi-day trial for custody and relocation. The mother was granted custody and allowed to relocate to Tennessee;

- (e) 07-DR-16-0487 – Alice Ball Fitzwater vs. Floyd A. Fitzwater 396 S.C. 361, 721 S.E.2d 7 (Ct. App. 2011)

This was a divorce tried over several days that involved complex equitable distribution issues and attorney fees. My decision was affirmed by the Court Appeals in published Opinion No. 4919 filed December 14, 2011.

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

1978-82 Assistant Recorder and Recorder for Town of Chesterfield, supervised by the Mayor and Town Council. Major responsibilities were to issue warrants and preside over Recorder's Court.

- (9) Judicial Temperament:

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

- (10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Henderson to be "Qualified" as to constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" in the

**THURSDAY, JANUARY 15, 2015**

evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Henderson is married to Sarah Jane Henderson. He has three children.

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

- (a) Chesterfield County Bar Association;
- (b) South Carolina Bar;
- (c) South Carolina Conference of Family Court Judges, Treasurer – August 2001–August 2002. Vice President – August 2002–August 2003, President, August 2003–August 2004.

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

- (a) American Legion Post Number 74;
- (b) Chesterfield High School Athletic Booster Club;
- (c) Chesterfield Touchdown Club;
- (d) Chesterfield Marlboro Technical College Hall of Fame.

Judge Henderson further reported:

I grew up in a family with two brothers and both parents, and I now have my own family of two daughters, one son and three grandchildren. My parents were married for 60 years, and I have been married for over 39 years. Therefore, I have experienced a lot of the ups and downs that affect most families. When dealing with litigants before me, I draw on my personal experiences when considering how children feel about their parents, how parents feel about their children and how a husband and wife feel about one another when dealing with the various issues that affect every family.

After graduating from college, I had several different experiences that I have fallen back on when dealing with those who appear before me. I spent six years in the Army Reserves so I can relate to those who appear before me who are in the National Guard and Reserves and who are on active duty. I realize that their schedules

**THURSDAY, JANUARY 15, 2015**

and responsibilities must be considered when making certain decisions. After completing my active duty for the Reserves, I worked for a publishing company as an hourly employee. This experience has enabled me to relate to those who struggle on a meager income to make ends meet.

I left the publishing company job to take a job in textiles (Burlington Industries) for two years as a salaried employee. This experience helps me to relate to those who work in factories or for “big business”. I had to depend on unemployment compensation for a while, and had to supplement my income by substitute teaching. I can relate to those who appear before me who have lost jobs and are doing all they can to make ends meet. I also use this experience when considering those before me who don’t make attempts at gainful employment. My experience while substitute teaching has given me a perspective of young people that I might not have otherwise had. It has allowed me to see how teachers feel in certain situations.

Four years after graduating from college I entered law school. Upon graduation from law school, I practiced law for seventeen years before being elected to the bench. Having practiced law for seventeen years, I saw a lot of different situations and different types of people that I think about and sometimes reflect back on when making certain decisions.

Finally, I have spent about twenty years coaching youth baseball and football teams. Because of this experience, I know how a lot of juveniles from all walks of life think and what is important to them as well as their parents. Also, I know how they are affected by various situations.

My life experiences have made me realize that there is no one solution for all problems. I realize that every case is different, just as all people are different and all situations are different. Every case I deal with must be dealt with individually and the law applied in accordance with the unique facts found in each individual case.

(11) Commission Members’ Comments:

The Commission commented that Judge Henderson has an excellent temperament for service as a Circuit Court jurist, noting his service on the Family Court bench. They further noted that he was one of the best Family Court judges in this State.

THURSDAY, JANUARY 15, 2015

(12) Conclusion:

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

**The Honorable Robert E. Hood  
Circuit Court, Fifth Judicial Circuit, Seat 3**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission waived the public hearing for Judge Hood, upon recommendation of the Commission members, since his candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding his candidacy.

(1) Constitutional Qualifications:

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

Judge Hood was born in 1975. He is 39 years old and a resident of Chapin, SC. Judge Hood provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2001.

(2) Ethical Fitness:

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

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

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

Judge Hood reported that he has not:



**THURSDAY, JANUARY 15, 2015**

- (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 Hood reported that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

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

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

Conference/CLE Name

- (a) Lawyer Mentoring Program 2014;
- (b) General Jurisdiction, National Judicial College; 2014;
- (c) South Carolina Circuit Court Judges Conference 2014;
- (d) Sporting Clays CLE: Ethics with the Judges 2014;
- (e) SC Bar Trial and Appellate Advocacy Section Civil Law Update 2014;
- (f) SC Bar Criminal Law Section – Part 2 2014;
- (g) SC Bar Part 1: Criminal Law Section 2013;
- (h) SC Bar Part 2: Criminal Law Section 2013;
- (i) Spring Sporting Clays CLE: Ethics with the Judges 2013;
- (j) SC Circuit Court Judges Conference, Spring CLE 2013;
- (k) Orientation School for New Circuit Court Judges 2013;
- (l) Annual Judicial Conference 2013;
- (m) Fall Sporting Clays: Ethics with the Judges 2013;
- (n) Spring Sporting Clays : Ethics with the Judges 2012;
- (o) Annual Circuit Court Judges Conference 2012;
- (p) SCAJ Annual Convention 2012;
- (q) Annual Judicial Conference 2012;
- (r) Fall Sporting Clays: Ethics with the Judges 2012;

**THURSDAY, JANUARY 15, 2015**

- (s) Lawyer Mentoring Second Pilot Program 2011;
- (t) DUI Defense from A to Z 2011;
- (u) Sporting Clays CLE: Ethics with the Judges 2011;
- (v) SCAJ Annual Convention 2011;
- (w) Sporting Clays CLE: Ethics with the Judges 2011;
- (x) SCACDL 3<sup>rd</sup> Annual Reese Joye DUI 2010;
- (y) Sporting Clays CLE: Ethics with the Judges 2010;
- (z) SCAJ Annual Convention 2010;
- (aa) Sporting Clays CLE: Ethics with the Judges 2010;
- (bb) SCAJ Annual Convention 2009;
- (cc) Bridging the Gap – Defending DUI 2009.

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

- (a) USC School of Law, Lunch with Leaders, February 2014: I participated in a panel and advised law students about clerkships and legal employment;
- (b) South Carolina Bar Tort Law Update & Ethics, February 2014: I participated in a panel with two lawyers on relevant tort issues;
- (c) NBI Judicial Panel, March 2014: I participated in a roundtable discussion with judges;
- (d) Summary Court Judges Annual Meeting, March 2014: I taught on the topic of ethics to summary court judges;
- (e) Young Lawyers Mock Trial, April 2014: I served as a mock trial judge;
- (f) Sporting Clays CLE panel, April 2014: I served on an ethics panel;
- (g) South Carolina Defense Trial Attorneys Mock Trial Class, April 2014: I served as a mock trial judge;
- (h) University of South Carolina School of Law, Ethics, November 2013: I taught an ethics class with Johnny Gasser and Sherri Lydon;
- (i) Young Lawyers Division, Lunch & Learn, November 2013: I participated in a roundtable discussion with young lawyers;
- (j) University of South Carolina School of Law Mock Trial Event, October 2013: I served as a mock trial judge;
- (k) Sporting Clay CLE panel, October 2013: I served on an ethics panel;

**THURSDAY, JANUARY 15, 2015**

- (l) University of South Carolina School of Law Moot Court competition, October 2013: I served as a moot court judge;
- (m) Annual Solicitor's Conference panel, September 2013: I participated in the criminal update portion of the conference;
- (n) South Carolina Defense Trial Attorneys Mock Trial Class, April 2013: I served as a mock trial judge;
- (o) Circuit Court Judicial Conference, May 2013: I taught a class on Fourth Amendment canine searches;
- (p) Sporting Clays CLE panel, April 2013: I served on an ethics panel;
- (q) South Carolina Bar Convention, January 2013: Along with Judge McIntosh, I taught a class on recent Fourth Amendment cases;
- (r) Sporting Clays CLE panel, October 2012: I served on an ethics panel;
- (s) Young Lawyers Division, October 2012: I was on a panel addressing middle school students at Dent Middle School;
- (t) Sporting Clays CLE panel, April 2012: I served on an ethics panel;
- (u) University of South Carolina Mock Trial Competition, May 2011: I served as a mock trial judge.

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

(4) Character:

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

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

**THURSDAY, JANUARY 15, 2015**

(5) Reputation:

Judge Hood reported that prior to taking the bench, I was rated 2.9 out of 5 by, a legal rating organization, Martindale-Hubbell, and met the very high criteria of General Ethical Standing.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Hood was admitted to the SC Bar in 2001.

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

- (a) Fifth Judicial Circuit Solicitor's Office, Fall 2001 to 2003. I handled prosecution cases in General Sessions Court as an Assistant Solicitor including violent crimes, property crimes, white collar crimes, drug related crimes and misdemeanors;
- (b) South Carolina Attorney General's Office, 2003 to 2005. I served as an Assistant Attorney General for the Statewide Grand Jury. I handled multi-county drug trafficking cases, large scale securities fraud cases, and white collar/public corruption cases through the state of South Carolina;
- (c) Strom Law Firm, LLC, 2005 to 2012. I handled criminal and civil complex litigation cases. I primarily worked in the area of criminal defense, including all levels of criminal cases from magistrate's court to circuit court to federal court. I practiced extensively in all levels of state and federal court on a daily basis. I also handled all levels of civil litigation mainly focused on plaintiff representation.

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

## THURSDAY, JANUARY 15, 2015

I was elected to Seat 3 of the Fifth Judicial Circuit, South Carolina Circuit Court. I have served in this judicial office from January of 2013 to present. The South Carolina Circuit Court has general jurisdiction over Common Pleas (civil) and General Sessions (criminal) matters in the State.

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

- (a) State v. Marcus Bailey, Richland County Court of General Sessions (July 2013). A jury found the Defendant guilty of murder in this trial lasting almost two weeks. The Defendant was convicted of killing his girlfriend and keeping her body hidden in her house for one week. Multiple issues arose during the trial, including cadaver dogs, hearsay, character evidence, and forensic pathology;
- (b) Steven Fooshe & Associates LLC v. Old McGraw Community Development Corporation, Richland County Court of Common Pleas (September 2013). This bench trial arose from a claim of quantum meruit, where a consultant assisted a community organization in negotiating a contract between the community and the landfill company. After he assisted the community and negotiated a favorable contract, the community refused to pay him. After hearing testimony and issues involving discovery, I found for the consultant and later presided over a sanctions hearing involving counsel's failure to turn over admissible documents to the opposing party. The parties eventually resolved the case;
- (c) State v. Courtney Thompson & Robert Guinyard, Richland County Court of General Sessions (May 2014). This homicide by child abuse trial lasted almost two weeks and involved the death of a four-year-old boy. The Defendants, his parents, were found guilty of beating their son to death with a shower rod. Multiple issues arose during the trial, including autopsy photographs, character evidence, prior bad acts, and redacted statements (Bruton);

**THURSDAY, JANUARY 15, 2015**

- (d) State v. James Bethel, Richland County Court of General Sessions (August 2013): The Defendant was charged with murder, and sought immunity under the Protection of Persons & Property Act (“Act”). At the time, the South Carolina Supreme Court was reviewing the procedural implications of the Act, and the immunity hearing was stayed pending the outcome of State v. Isaac;
- (e) State v. Freddie Grant, Richland County Court of General Sessions (August 2013): This case captivated the Richland County community in 2012 and 2013. The Defendant kidnapped and killed the victim in 2012, but did not confess and lead authorities to her body until August 2013. I accepted a negotiated sentence for the Defendant before a very emotional and packed courtroom

Judge Hood further reported the following regarding unsuccessful candidacies:

- (a) Candidate for Fifth Judicial Circuit, Seat 1, Election, February 2011;
- (b) The Citadel Board of Visitors, Spring 2010.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Judge Hood to be “Well Qualified” in the evaluative categories of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated, in summary: “Judge Hood is fairly new to his position, but it is obvious that he brings a lot of enthusiasm and knowledge to the job. He enjoys an excellent reputation among the bench and bar. Judge Hood is eminently qualified to serve as a Circuit Court Judge.”

**THURSDAY, JANUARY 15, 2015**

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

Judge Hood reported that he was a member of the following Bar association and professional association:

Richland County Bar Association.

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

The Citadel Alumni Association.

Judge Hood further reported:

I believe that my unique experiences in handling both criminal and civil cases throughout my legal career provided me with the skill set necessary to be a competent, courteous, compassionate, and concerned judge. During my time on the bench, I have aimed to serve humbly and fairly to all lawyers, litigants, jurors, and court staff

(11) Commission Members' Comments:

The Commission commented that Judge Hood has only served as a Circuit Court judge since 2013, but he has done an outstanding job, and he has presided over several difficult criminal proceedings.

(12) Conclusion:

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

**The Honorable Roger M. Young  
Circuit Court, Ninth Judicial Circuit, Seat 3**

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

Pursuant to S.C. Code Ann. § 2-19-40, the chairman of the Commission waived the public hearing for Judge Young, upon recommendation of the Commission members, since his candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding his candidacy.

**THURSDAY, JANUARY 15, 2015**

(1) Constitutional Qualifications:

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

Judge Young was born in 1960. He is 54 years old and a resident of North Charleston, SC. Judge Young provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1983.

(2) Ethical Fitness:

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

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

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

Judge Young reported that he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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



**THURSDAY, JANUARY 15, 2015**

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

Conference/CLE Name

- (a) SCDTAA Mid-Year Annual Meeting 07/24/2008;
- (b) Annual Judicial Conference 08/20/2008;
- (c) Annual Public Defenders Conference 09/29/2008;
- (d) SCDTTA Annual Meeting 11/13/2008;
- (e) SC Business Law Torts Update 11/21/2008;
- (f) SC Bar Convention Civil Law Update 01/23/2009;
- (g) SC Bar Convention Criminal Law Update 01/23/2009;
- (h) Circuit Judges Annual Conference 05/06/2009;
- (i) SCDTAA Mid-Year Annual Meeting 07/23/2009;
- (j) Annual Judicial Conference 08/19/2009;
- (k) SC Bar Current Issues in Civil Law 12/11/2009;
- (l) SC Bar Convention Civil Law Update 01/22/2010;
- (m) SC Bar Convention Criminal Law Update 01/22/2010;
- (n) Circuit Judges Annual Meeting 05/05/2010;
- (o) Annual Judicial Conference 08/18/2010;
- (p) SCSA Conference 09/26/2010;
- (q) SCDTAA Annual Conference 11/11/2010;
- (r) SC Bar Lawyer Walks into a Bar CLE 12/17/2010;
- (s) SC Bar Convention Civil Law Update 01/21/2011;
- (t) SC Bar Convention Criminal Law Update 01/21/2011;
- (u) Circuit Judges Annual Conference 05/04/2011;
- (v) Annual Judicial Conference 08/17/2011;
- (w) SC Bar Convention Civil Law Update 01/20/2012;
- (x) SC Bar Convention Criminal Law Update 01/20/2012;
- (y) Berkeley County Bar CLE 02/10/2012;
- (z) Circuit Judges Annual Conference 05/02/2012;
- (aa) SCDTAA Mid-Year Annual Meeting 07/26/2012;
- (bb) SCAJ Annual Conference 08/02/2012;
- (cc) Annual Judicial Conference 08/22/2012;
- (dd) SCDTTA Annual Meeting 11/08/2012;
- (ee) SC Bar Convention Civil Law Update 01/25/2013;
- (ff) SC Bar Convention Criminal Law Update 01/25/2013;
- (gg) Complex Business Court Litigation 03/09/2013;
- (hh) Circuit Judges Annual Conference 05/01/2013;
- (ii) SCAJ Annual Conference 08/01/2013;
- (jj) Annual Judicial Conference 08/21/2013;
- (kk) Annual Business Court Judges Meeting 09/15/2013;

**THURSDAY, JANUARY 15, 2015**

- (ll) SCDTTA Annual Meeting 11/07/2013;
- (mm) Law School Class Reunion CLE 11/15/2013;
- (nn) SC Bar Convention Civil Law Update 01/24/2014;
- (oo) SC Bar Convention Criminal Law Update 01/24/2014;
- (pp) Computer Forensics for Judges 02/24/2014;
- (qq) Circuit Judges Annual Conference 03/24/2014.

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

- (a) Panelist, “Motion Practice Before the Circuit Court,” 2012 SC Defense Trial Attorneys’ Association & Claims Management Association of SC Joint Meeting, July 28, 2012;
- (b) Speaker, “Depositions and Ethics after In re Anonymous Member of the Bar,” Berkeley County Bar CLE, February 10, 2012;
- (c) Panelist, “Professionalism,” Practice Basics for the New Lawyer, SC Women Lawyers Association and Women in Law Charleston School of Law, October 14, 2011;
- (d) Speaker, “Depositions and In re Anonymous Member of the Bar,” SCDTA Deposition Boot Camp, October 6, 2011;
- (e) Panelist, “Mental Illness, Victimization and Criminal Justice An Update for Clinicians, Policymakers, Judges, Attorneys, and Law Enforcement” 2011 Update in Psychiatry Conference, Department of Psychiatry and Behavioral Sciences, Medical USC, June 2, 2011;
- (f) Panelist, “A Lawyer Walks into the Bar: A Hands-On Discussion of Issues Facing Lawyers In the First Years of Practice,” SC Bar, Charleston School of Law, December 17, 2010;
- (g) Panelist, “Tort Reform – Allocation of Liability after § 15-38-15,” 2010 SC Defense Trial Attorneys’ Association Annual Meeting, November 13, 2010;
- (h) Panelist, “Top 10 Appellate Decisions of 2009-2010,” 2010 S.C. Solicitors Association Fall Conference, September 28, 2010;
- (i) Speaker, “Hearsay in a Nutshell”, Meeting of the Charleston Association of Legal Assistants, March 17, 2010;

**THURSDAY, JANUARY 15, 2015**

- (j) Speaker, “Business Torts and the New Business Court,” Current Issues in Civil Law CLE, SC Bar, December 11, 2009;
- (k) Speaker/Presenter, “Helping your Patient by Helping the Lawyer and the Judge: A Case Study,” Forensic Psychiatry Grand Rounds, USC School of Medicine, December 4, 2009;
- (l) Presenter, “Hollywood v. Real Life: Is Law School Really Necessary or Can You Learn To Try a Case at the Movies?” 2009 SC Defense Trial Attorneys’ Association & Claims Management Association of SC Joint Meeting, July 24, 2009;
- (m) Panelist, “Ethics for Criminal Lawyers,” 2008 SC Public Defender Conference, September 30, 2008;
- (n) Panelist, “What is the Business Court?” 2008 SC Defense Trial Attorneys’ Association & Claims Management Association of SC Joint Meeting, July 25, 2008;
- (o) Panelist, “Expert Opinions: “The Amistad Case: A Spoletto at the Avery Event,” May 31, 2008;
- (p) Speaker/Panelist, “Tips for Trying a Complex, Multi-Party Case,” SC Bar Convention, January, 25, 2008;
- (q) Speaker/Panelist, “Mental Health Evidence as Mitigation,” SC Public Defender’s Conference, September 25, 2007;
- (r) Speaker, “Professionalism: The Ethics of Competence in the Courtroom,” SC Administrative and Regulatory Law Association Annual Meeting, September 21, 2007;
- (s) Speaker, “A Doctor’s Duty to Warn,” Forensic Psychiatry Grand Rounds, USC School of Medicine, August 3, 2007;
- (t) Speaker, Panelist and Coordinator, “Nuts and Bolts of Handling a Sexually Violent Predator Case,” SC Bar CLE, July 27, 2007;
- (u) Speaker, “Ethical Considerations for the Municipal Attorney,” SC Municipal Association CLE, December 1, 2006;
- (v) Speaker, “Using Technology in the Courtroom,” Charleston County Bar CLE, December 16, 2005;
- (w) Panelist/Speaker, “Recent Decisions,” SC Solicitor’s Conference, September 26, 2005;

**THURSDAY, JANUARY 15, 2015**

- (x) Speaker, “So You’re Trying Your First Case,” SC Bar CLE video publication;
- (y) Speaker/panelist, “Ethics and the New Code of Professionalism,” Public Defender’s Conference, September 27, 2004;
- (z) Speaker, Law and Society Class, The Governor’s School of SC July 1, 2003;
- (aa) Speaker, “Tips from the Bench: Non-Jury Trials,” SC Bar Continuing Legal Education Division, December 13, 2002;
- (bb) Speaker, “SUEM: A Discussion on Equitable Principles in Their Application to the Law,” Bar Continuing Legal Education Division, October 11, 2002;
- (cc) Speaker, “Practice Before Masters-in-Equity,” Bridge the Gap, SC Bar Continuing Legal Education Division and the Supreme Court of SC, May 14, 2002;
- (dd) Speaker, “Six by Six” CLE, Charleston County Bar Association, December 13, 2001;
- (ee) Speaker, “Recent Judicial Decisions Update on Tax Sales in SC,” SC Bar Continuing Legal Education Division, October 12, 2001;
- (ff) Speaker, “Recent Judicial Decisions Update on Tax Sales in SC,” 34<sup>th</sup> SC Association of Counties Annual Conference, July 26, 2001;
- (gg) Speaker, “Practice Before Masters-in-Equity,” Bridge the Gap, SC Bar Continuing Legal Education Division and the Supreme Court of SC, March 13, 2001;
- (hh) Speaker, “Recent Judicial Decisions Involving Tax Sales,” County Auditors, Treasurers and Tax Collectors Academy, February 8, 2001;
- (ii) Moderator, “Business Torts, Accounting & Damages,” SC Bar Continuing Legal Education Division CLE, October 13, 2000;
- (jj) Speaker, “Practice Before Masters-in-Equity,” Bridge the Gap, SC Bar Continuing Legal Education Division and the Supreme Court of SC, May 23, 2000;
- (kk) Speaker, “Law of Tax Sales,” Charleston County Bar Association Real Estate Section, March 7, 2000;

**THURSDAY, JANUARY 15, 2015**

- (ll) Speaker, “Recent Judicial Decisions Involving Tax Sales,” County Auditors, Treasurers and Tax Collectors Academy, February 3, 2000;
- (mm) Speaker, “Twelve by Twelve” CLE, Charleston County Bar Association, December 16, 1999;
- (nn) Speaker, “Equitable Remedies,” SC Bar Continuing Legal Education Division CLE, October 8, 1999;
- (oo) Moderator, “Mechanic’s Liens,” SC Continuing Legal Education Division, March 26, 1999;
- (pp) Speaker, “Practice Before Masters-in-Equity,” Bridge the Gap, SC Bar Continuing Legal Education Division and the Supreme Court of SC , March 9, 1999, May 18, 1999;
- (qq) Speaker, “Law on Tax Sales,” Practice Before Masters-in-Equity and Special Referees CLE, SC Bar Continuing Legal Education Division, October 9, 1998;
- (rr) Speaker, “Law on Tax Sales,” Practice Before Masters-in-Equity and Special Referees CLE, SC Bar Continuing Legal Education Division, October 18, 1996.

Judge Young reported that he has published the following books and articles:

- (a) Tax Sales of Real Property in SC, 1<sup>st</sup> edition, 1999 (SC Bar-Continuing Legal Education Division);
- (b) The Law of Real Estate Tax Sales, SC Lawyer, September/October 1999;
- (c) Master’s Thesis, Using Social Science to Assess the Need for Jury Reform in SC, published in 52 SC Law Review 135, Fall 2000;
- (d) “Sexually Violent Predator Acts,” Issues in Community Corrections chapter note, Community Based Corrections, (4<sup>th</sup> ed. Wadsworth-Thomason Learning 2000);
- (e) Law, Economics, the Constitution and Pink Flamingos, Post and Courier, August 10, 2001;
- (f) Roger Young and Stephen Spitz, SUEM-Spitz’s Ultimate Equitable Maxim: In Equity Good Guys Should Win and Bad Guys Should Lose, 55 SC Law Review, 175 Fall 2003;
- (g) “How Do You Know What You Know?”: A Judicial Perspective on Daubert and Council/Jones Factors in

**THURSDAY, JANUARY 15, 2015**

Determining the Reliability of Expert Testimony in SC, SC Lawyer, November, 2003.

(4) Character:

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

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

(5) Reputation:

Judge Young reported that he is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Young was admitted to the SC Bar in 1983.

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

I was in private practice from 1983 to 1995 as a sole practitioner. I was associated with a lawyer named Howard Chapman in Charleston from 1983 until his death in late 1984. After that I was on my own with a general practice, mostly civil, until I became Master-in-Equity in 1996.

**THURSDAY, JANUARY 15, 2015**

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

- (a) 1988-90 appointed Municipal Court judge for North Charleston. Misdemeanors only;
- (b) 1995-2003 elected Master in Equity for Charleston County, civil non-jury;
- (c) 2003-present, elected Circuit Court 9th Judicial Circuit, anything except family court and probate.

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

- (a) Kuznick v. Bees Ferry Associates, 342 SC 579 (SC App 2000);
- (b) LowCountry Open Land Trust v. SC, 347 SC 96 (SC App 2001);
- (c) Rice-Marko v Wachovia Corp., 398 S.C. 301 SC App 2010);
- (d) Stevenson v Kavanaugh, Nos. 2008-CP-10-1735, 2009 WL 8708624 (S.C. Com.Pl. Feb. 10, 2009);
- (e) Kerr v BB&T, 2014 WL 1386873 (SC SCt 2014).

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

I received an adjunct faculty appointment to the USC School of Medicine Department of Neuropsychiatry in 2007. I receive no pay and lecture when my schedule permits. I have not had time in the past several years to teach since I have been doing Business Court.

Judge Young further reported the following regarding an unsuccessful candidacy:

Ninth Judicial Circuit, Seat 1, Election, 2001.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Judge Young to be "Qualified" as to constitutional qualifications, physical health,

## THURSDAY, JANUARY 15, 2015

and mental stability. The Committee found Judge Young to be “Well Qualified” as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Young is married to Tara Sullivan Amick. He has two children.

Judge Young reported that he was a member of the following Bar associations and professional associations:

- (a) SC Bar;
- (b) American Bar Association;
- (c) SC Circuit Judges Association, President, 2012-14;
- (d) American College of Business Court Judges;
- (e) Charleston County Bar.

Judge Young provided that he was a member of the following civic, charitable, educational, social, or fraternal organization: Charleston Rifle Club (bowling).

Judge Young further reported:

I try to never lose fact that we are dealing with people and their lives. Being in court is usually the most important thing going on in their life at that time, and they deserve their day in court. Most people usually understand you have to rule for and against somebody, but they feel better about the outcome if they perceive they received a fair hearing. I try to treat each litigant and their counsel with dignity and respect, no matter the severity or heinousness of the crime or the amount in controversy. This usually results in reciprocal respect by everyone involved.

(11) Commission Members’ Comments:

The Commission commented on Judge Young’s exemplary service to the Circuit Court since 2003, including his able service as a Business Court Judge.

(12) Conclusion:

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



THURSDAY, JANUARY 15, 2015

**James C. Alexander**  
**Circuit Court, Thirteenth Judicial Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Mr. Alexander was born in 1949. He is 65 years old and a resident of Marietta, SC. Mr. Alexander provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1974.

(2) Ethical Fitness:

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

Mr. Alexander 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. Alexander reported that he has made less than \$75.00 in campaign expenditures for postage and printing costs for a resume.

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

**THURSDAY, JANUARY 15, 2015**

(3) Professional and Academic Ability:

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

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

Conference/CLE Name                      Date

- (a) 2008 Title Insurance Seminar 09/17/2008;
- (b) 2008 SC Family Court Bench/Bar 12/06/2008;
- (c) Beyond the Elements 11: South 09/25/2009;
- (d) Annual Professionals Seminar 11/09/2009;
- (e) 2009 South Carolina Family 12/04/2009;
- (f) Social Security Disability 08/27/2010;
- (g) Annual Title Seminar (TIPS) 11/15/2010;
- (h) Annual TIPS Seminar 11/07/2011;
- (i) Everything You Need to Know about Ethics 01/13/2012.

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

- (a) I taught an off campus business law class while I was in the Air Force in Valdosta, Georgia in approximately 1976 for Troy University for one or two years;
- (b) I taught an on campus night business law class at Southern Wesleyan University in Central, South Carolina, from approximately 2002 until 2004.

Mr. Alexander reported he has not published any books or articles.

(4) Character:

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

The Commission also noted that Mr. Alexander was punctual and attentive in his dealings with the Commission, and the

**THURSDAY, JANUARY 15, 2015**

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Alexander reported that he is not rated by any legal rating organization. He also reported, "I was reviewed in 2013 by five clients in Martindale-Hubbell and received a favorable review from all five."

Mr. Alexander reported the following military service:

I served in the United States Air Force on active duty from 1974 to 1978. I attained the rank of Captain and received an honorable discharge. I was in the Air Force Reserve for a short period of time after discharge.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Alexander was admitted to the SC Bar in 1974.

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

- (a) I served in the Judge Advocate General's Department of the United States Air Force from 1974 to 1978. I advised the base commander on military legal issues, advised military personnel on civil issues, and served as a prosecutor for military court martials. I also served for my final two years of service as an area defense counsel representing airmen who were charged with violations of the Uniform Code of Military Justice;
- (b) I joined the Law Office of John Bolt Culbertson in Greenville, South Carolina in 1978 as an associate attorney. Eventually this arrangement was changed to a Partnership consisting of Mr. Culbertson, Harold Christian, Don Moorhead and myself, practicing as Culbertson,

**THURSDAY, JANUARY 15, 2015**

Christian, Moorhead, and Alexander. The partnership was a general practice. I handled plaintiff cases in auto accidents, workers compensation, slip and fall, and other civil litigation. I represented clients in the Family Court for domestic litigation and juvenile litigation. I represented clients in the Court of General Sessions. The Partnership ended in 1983;

- (c) I formed a partnership with Capers Bouton in 1983 and we practiced as Bouton, Bouton, and Alexander. My practice with this firm was substantially the same as with Culbertson, Christian, Moorhead, and Alexander. This partnership ended in 1987 when I accepted an offer to join a firm in Pickens, South Carolina;
- (d) I joined the firm of Coyle and Hughes in Pickens County in 1987. I practiced with Redmond Coyle and Murray Hughes. This firm was involved in civil litigation, real estate, Family Court litigation, Social Security litigation, personal injury litigation, and criminal work. Mr. Coyle was the public defender for Pickens County and I represented indigent defendants in General Sessions Court and juveniles in the Family Court as well as handling privately retained criminal cases. I handled cases involving domestic litigation in the Family Court and personal injury and other civil litigation. I was heavily involved the Circuit Court for both civil and criminal cases. This firm ended in 1991 when Mr. Hughes left the firm. I then formed a partnership with Mr. Coyle;
- (e) Mr. Coyle and I practiced as Coyle and Alexander until 2002. My areas of practice were substantially the same, with the addition of some real estate work. During this period of time, a full time public defender position was created in Pickens County and Mr. Coyle resigned from this position. However, I continued to handle private General Session cases and juvenile cases in the Family Court as well as all other areas of practice;
- (f) I practiced as a sole practitioner from 2002 until my son, Steven L Alexander, joined the firm 2003. During that time, I still handled Circuit court civil and criminal cases, Family court domestic and juvenile cases, personal injury cases, and real estate work. I also began to handle social

**THURSDAY, JANUARY 15, 2015**

security cases and became a licensed Title Insurance agent. I also began working as the City Attorney for the city of Liberty, South Carolina;

- (g) Since Steven L. Alexander joined the firm in 2003, my practice has been substantially the same with the exception of criminal cases and adoptions which my son Steven primarily handles. Also, I do not generally represent clients in DSS abuse and neglect cases as Steven is the contract attorney for the Guardian program in Pickens County. I do assist Steven occasionally and represent the Guardian program in these cases.

Mr. Alexander further reported regarding his experience with the Circuit Court practice area:

I have been a trial lawyer throughout my entire career and have practiced extensively in the Circuit Court. As to civil matters, the past five years of my practice have been essentially the same as throughout my legal career. I handle personal injury litigation, which is primarily representing Plaintiffs, but with representation of some defendants. This litigation generally involves automobile accidents, slip and fall cases, and some wrongful death and products liability cases. While I represent primarily Plaintiffs in personal injury cases, I have also represented Defendants who do not have insurance and who have assets that they are trying to protect. Also, I have handled numerous other types of civil cases that involved issues of product warranties, land line disputes, contracts, trespass, water run off, nuisance, employment non-compete covenants, subdivision restriction violations, easements and rights of way over real property, defective construction, failure to pay off on insurance policies, slander and libel, and even the number of docks and placement on a public lake run by a public utility. I have represented both Plaintiffs and Defendants regarding these types of civil actions, with many cases being tried and going to a verdict either with a jury, circuit judge alone, or by reference to a special referee. Civil litigation in the Circuit court has always been a major portion of my practice and I have extensive experience in these areas.

As to the criminal side of the Circuit court, I regularly practiced in the Circuit court representing criminal defendants up to 2003. As set forth above, I worked with the Public Defender for Pickens

**THURSDAY, JANUARY 15, 2015**

County from 1988 until approximately 2002 and I have also represented defendants in privately retained cases. I have handled cases involving a wide variety of offenses, including all types of property crimes, driving offenses, kidnapping, and violent crimes causing injury to other persons. I have tried criminal cases over the course of my practice. Early in my career, I tried one murder case as sole counsel and two other murder cases as co-counsel with John Bolt Culbertson with the maximum sentence being life in prison. I also served as co-counsel in two death penalty murder cases with Mr. Culbertson. In 2003, my son was admitted to the bar and had an interest in the criminal side of the practice and he has primarily handled the criminal caseload since then. However, I have represented a few defendants in criminal matters since then and I have tried at least one criminal case for a defendant since 2003, which upon my best recollection was in the last 5 years. This case was tried in Anderson County. I also served as the Attorney for the City of Liberty from 2003 to 2011. As part of my duties, I was the prosecutor for all criminal cases that came before the Municipal Court and I tried cases in this forum which included driving under the influence cases. While I have not practiced regularly in the criminal side of the Circuit Court since 2003, I believe that my overall experience equips me to handle criminal matters as a judge. Since 2003, my son and I talk regularly about his criminal cases and the issues involved. He is a contract public defender and handles many criminal cases. He uses me as a sounding board to develop strategy and we discuss legal issues and procedure. I have been able to generally keep current with criminal law and criminal procedure.

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

(a) Federal: I have handled one case in Federal District Court and that case did not involve a Court appearance. I appear regularly before Social Security Judges, approximately 20 to 25 times per year;

(b) State: I have an extensive litigation practice in State Court. I practice in the Circuit Court, the Family Court and the Probate Court. I also have some cases in the Magistrate Court and before the Worker's Compensation Commission. I estimate that I appear in the Family Court an average of 6 to 8 times per

**THURSDAY, JANUARY 15, 2015**

month. In Circuit Court, I handle both Jury and Non-Jury matters and have averaged 10 to 20 court appearances on a yearly basis and have done so not only for the last 5 years, but throughout my career. I also handle cases in the Probate Court and appear on an average of 5 to 6 times per year at hearings.

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

- (a) Civil: 45%;
- (b) Criminal: 1%;
- (c) Domestic: 40%;
- (d) Other: 14%.

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

- (a) Jury: 10%;
- (b) Non-jury: 90 %.

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

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

- (a) Dodgens vs. Duke Energy: This case involved litigation over the location and number of docks on one piece of lake front property on Lake Keowee and the right of Duke Energy to regulate these matters. Lake Keowee is a man made lake and is publicly regulated by Duke Energy. By its very nature, lake front property owners and Duke Energy are often involved in emotional and contentious issues, particularly if the land has been handed down through a family who owned land prior to the creation of the lake. In Pickens and Oconee counties some families still believe they were unjustly deprived of their land when the lake was created and still harbor deep emotional animosity toward Duke Energy. My clients are in that situation and own one tract of lake front property with three docks. Duke Energy wanted my clients to divide their one tract of property into three separate tracts so that

**THURSDAY, JANUARY 15, 2015**

there would be one dock on each tract pursuant to Duke Energy's latest Shoreline Management guidelines. If so divided, the problem for my clients was that the real property taxes on two tracts would substantially increase since those lots would be non-owner occupied and the property has great value because of its location. This was a contentious case and was complicated by emotional animosity. The case was eventually tried non-jury and the trial Judge issued what he deemed to be a split decision with my clients receiving some relief and Duke Energy receiving some relief. There was also an issue of a potential conflict of interest for the trial judge. During the litigation, some unwarranted harsh words were exchanged between the parties.

There are two significant points for this case. Throughout this emotional and contentious litigation between the parties, the other lawyer and I developed a good working relationship and did not allow the nature of the litigation to get between us or affect us. Both of us handled this case from a professional standpoint and we both treated all lawyers, litigants, and witnesses with the courtesy required. This good working relationship was important to a successful resolution of this case. After the order was issued, both sides filed motions for reconsideration. While the trial judge was considering both motions, the other lawyer and I were able to talk and schedule a settlement conference and I met with him and representatives of Duke Energy, with my client's permission. We were able to settle this case and reach an agreement with which my clients were completely satisfied and that allowed them to get on with their lives in a positive way. This agreement was only possible because of the good relationship developed by the two lawyers. This is a lesson that I learned early in my practice and it has always proven true. Lawyers can disagree without being disagreeable and when lawyers act in a professional and courteous manner, they do their clients a great service. A second significance is that I was able to be involved in a case where a potential conflict of interest for the trial judge came up and I was able to experience



**THURSDAY, JANUARY 15, 2015**

how that potential conflict was resolved. This experience will assist me in resolving similar future situations;

- (b) Childers vs. Childers: The parties were divorced and the mother received custody of two children. Subsequent to the divorce, a substantial change of circumstances action was brought as to custody of the youngest child who was a teenager and I represented the father. Numerous contested hearings over a long period of time were held. Settlement negotiations were very difficult because of the personality differences of the parties. One party was extremely strong willed and the other party was very submissive. However, the case was eventually settled by an agreement. The lawyers had developed a good and amicable relationship during the case and this helped with reaching a settlement. The lawyers would not give up and negotiated a settlement, not just that the parties could live with, but that actually satisfied both parties. The significance is that this is another example that a case has a much better chance of being settled by agreement if the lawyers involved act professional and with courtesy and have a good working relationship with each other;
- (c) First Citizens vs. Chappell: A bank sued my client for a deficiency balance due on a loan in his name for a car that had been purchased for his ex-wife while they were married. The issue involved the interpretation of sections of the Uniform Commercial Code as to whether the contract was only a financing agreement (client's position) or whether it was a hybrid document that also included a sales agreement (bank's position). The statute of limitations was either 6 years (bank wins) or 3 years (client wins because the bank waited 5 years to file). This was a case of first impression in South Carolina on the issue presented as neither lawyer could find any South Carolina cases on point. The case was tried non-jury in Common Pleas Court and resulted in judgment in favor of my client. The bank chose not file an appeal and I believe that the bank did not do so because they did not want to take the chance that the Appellate Court may side with my client and establish a substantial adverse precedent for them. This case allowed me to be involved in a case of

## THURSDAY, JANUARY 15, 2015

first impression on a legal issue and obtain some experience in how a trial Judge handles that issue;

- (d) Young vs. Young: The Court had issued a final divorce order that divided marital property. A contempt action was filed against my client in 2009 which involved his actions as to the marital property distribution. My client was retired and this case involved substantial monetary amounts. The Court on its own raised a jurisdictional issue because the case involved a division of marital property in a prior final order. The Court found that it was without jurisdiction, even though the other party did not raise this issue, that it could not consider or determine his claims, found him in willful violation of the prior order, and imposed a significant penalty and sanctions. A notice of intent to appeal was filed. Subsequently, an agreement was reached at a settlement conference between the parties and the appeal was dismissed. This is another case where the lawyers worked well together and shows that hard cases can be settled if lawyers do their job properly. Also, even though this case was in Family Court, it allowed me the opportunity to deal with a jurisdictional issue, not raised by the other party, but by the trial judge;
- (e) Dodgens vs. Piggly Wiggly: My client slipped and fell in a grocery store and suffered a very severe injury in Florence County. I eventually filed a lawsuit in that county. The case involved extensive trial preparation in two different parts of the State. Witnesses for the liability issue and some medical witnesses were in Florence, while the primary medical resulting treatment was in Pickens. This case is significant in two areas. First of all, it gave me some valuable experience in preparing to try a case in a county which is a long distance from my office. Secondly, it demonstrates that good trial preparation facilitates good settlements. The parties agreed to mediation even though it was not mandatory at that time and the mediation resulted in a satisfactory and substantial settlement to my client.

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

**THURSDAY, JANUARY 15, 2015**

- (a) OHC Properties, LLC vs. Dewey E. Pajala and Star Pajela, 2007-CP-39-1067. I represented the Pajelas in this case in the Pickens County Court of Common Pleas and filed an appeal on their behalf when the Trial Court granted summary judgment to the respondent. After I filed appellant's initial Brief and Designation of Matter to be included in The Record on Appeal, the parties agreed for the Trial Court's Order to be vacated and the case remanded back for the Trial Court for trial. The Court of Appeals by order dated December 23, 2009 remanded the case to the Trial Judge for approval of the agreement. The Trial Judge approved the agreement and the appeal was eventually dismissed.
- (b) The Cliffs at Keowee Community Association, Inc. vs. Roger L. O'Donald and Lynne O'Donald and Cornerstone National Bank, 2001-CP-39-1003.  
Judgment was granted at the trial stage to the plaintiffs and defendants O'Donald whom I represented appealed. The Court of Appeals upheld the verdict of the trial court in an unpublished opinion;
- (c) Ed Frierson, IV, Virginia S. Frierson, and Allie S. Frierson vs. David L. Watson, Patricia R. Watson, Carolina First Bank, 2002-CP-1808. A motion for summary Judgment was granted in favor of the plaintiffs whom I represented and defendant David Watson appealed. The Court of Appeals upheld the verdict of the trial court in an opinion published as 271 S.C. 60 (S.C.App. 2006).

Mr. Alexander reported he has not personally handled any criminal appeals.

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

I was an unsuccessful candidate for seat 5 on the Family Court in the Thirteenth Judicial Circuit in 2013-14.

(9) Judicial Temperament:

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

**THURSDAY, JANUARY 15, 2015**

(10) Miscellaneous:

The Upstate Citizens Committee found Mr. Alexander to be “Qualified” as to constitutional qualifications. They found him “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Mr. Alexander is married to Linda Sue Whitlock Alexander. He has three children.

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

- (a) South Carolina Bar Association;
- (b) American Bar Association.

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

- (a) Pickens County Sertoma Club;
- (b) First Baptist Church of Pickens.

Mr. Alexander further reported:

I have always been involved with my community and my church. These experiences have equipped me to deal with people in a positive way. In my legal practice, I have handled many different lawsuits and I have seen how the difficulties created by litigation affect people and their families. I am a member of Pickens First Baptist Church and have served in many capacities there, including as a Deacon and a Sunday School Teacher. I still teach an adult Sunday School class. I served on the Church Benevolence Committee which opened my eyes to the many needs in my local community. I dealt with people and families in a very personal way that a lot of citizens do not have the opportunity to see or experience and I have been involved in solving a lot of their problems and difficulties. This experience through my church and dealing with people has given me a lot of insight into families and the difficulties that families encounter by many different matters that come before the Circuit Court. These difficulties included criminal charges against family members and various civil matters which affected the quality of that family’s life. I served on the City

**THURSDAY, JANUARY 15, 2015**

of Pickens Recreation Commission while my children were growing up and even after they were out of the program for a period of time. I coached many different youth sports teams. This Commission provides recreational opportunities to all children in the Pickens area, regardless of financial resources. I served as chairman for several years. Seeing and dealing with the many problems that arose with parents, children, coaches, fund raising, and city officials was challenging. But these types of experiences were invaluable as I learned to deal with people on a personal level. These experiences have helped me assist people in their legal problems on a professional level. While I maintain a professional manner when I handle a case, the interaction that I have had with many different types of people and their problems over the years in non legal settings has assisted me in providing good quality legal service.

(11) Commission Members' Comments:

The Commission Members commented that Mr. Alexander has had a long and varied legal career with great civil and criminal experience and he would be giving back to his community by serving on the bench as a jurist. They noted his excellent temperament and how sincere he was in wanting to serve as a judge.

(12) Conclusion:

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

**The Honorable Perry H. Gravely  
Circuit Court, Thirteenth Judicial Circuit, Seat 1**

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

(1) Constitutional Qualifications:

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

Judge Gravely was born in 1960. He is 54 years old and a resident of Pickens, SC. Judge Gravely provided in his

**THURSDAY, JANUARY 15, 2015**

application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1986.

(2) Ethical Fitness:

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

Judge Gravely 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 Gravely reported that he has made a total of \$154.34 in campaign expenditures:

\$81.09 in postage for letters to Legislators and SLED;

\$37.75 in letterhead and envelopes, and;

\$35.50 in stationary for printed resume to send to Legislators.

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

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

Conference/CLE Name                      Date

- (a) S.C. Summary Court Conference    5/19/14-5/20/14;

**THURSDAY, JANUARY 15, 2015**

- (b) S.C. Summary Court Conference 5/20/13-5/21/13;
- (c) Estate Planning Basics 4/30/13;
- (d) Prosecuting the Impaired Driver 4/10/13;
- (e) S.C. Summary Court Conference 5/21/12-5/22/12;
- (f) S.C. Summary Court Conference 5/16/11-5/17/11;
- (g) SC Summary Court Conference 5/3/10-5/4/10;
- (h) Annual Criminal Practice 2/26/10;
- (i) Real Property Foreclosure 1/12/10;
- (j) Current Issues in Civil Law 12/11/09;
- (k) S.C. Summary Court Conference 5/4/09-5/5/09.

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

- (a) I have lectured at the S.C. Probate Judges Association Annual Conference (2013);
- (b) I have lectured at the S.C. Arson Investigators Association's Annual Conference in Myrtle Beach, S.C.;
- (c) I have served as a guest lecturer for a law related class at Furman University (2012).

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

(4) Character:

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

The Commission also noted that Judge Gravely 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 Gravely reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV-Preeminent.

THURSDAY, JANUARY 15, 2015

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Gravely was admitted to the SC Bar in 1986.

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

- (a) Leatherwood, Walker, Todd and Mann, P.A.-associate (1986-92). Practiced in the areas of insurance litigation, family law, summary courts and general litigation;
- (b) Acker, Welmaker and Johnson, P.A.- associate/partner (1992-95). Practiced in areas of general litigation, insurance defense, summary courts, criminal defense, criminal prosecution for municipal courts, estate planning, estate litigation, real estate, business and corporate law;
- (c) The Gravely Law Firm, P.A.-Sole Practitioner, owner (1995-present). Practiced in areas of general litigation, criminal defense, estate planning, probate and estate litigation, summary court, business and corporate law, real estate;
- (d) City of Pickens- Municipal Court Judge (2003-present). Handled criminal matters before Municipal Court, bench trials, jury trials, bonds, warrants, preliminary hearings and matters related to these duties.

Judge Gravely further reported regarding his experience with the Circuit Court practice area:

Criminal. For a good part of my career, I have practiced a fair amount of criminal law, even though it was not the biggest part of my practice. Through the years I have handled numerous cases in Circuit Court and had jury trials in cases including cases for DUI/DUS(more than first), Criminal Sexual Conduct and Burglary. I was appointed in 2 State Grand Jury cases involving drug trafficking, one of which pled out and the other pled out after 5 days of trial. Even though I have represented numerous criminal



**THURSDAY, JANUARY 15, 2015**

defendants over the past 5 years, most of these have resulted in pleas. I have also represented defendants in Petitions for Post Conviction Relief (PCR). A good portion of my criminal practice, for the past 5 years, has involved alcohol related offenses in Magistrate's and Municipal Courts throughout the Upstate. I have also handled cases which are criminal in nature in Administrative Law Court. I have served as retained counsel and appointed counsel.

I have also served as a part time prosecutor for Municipal Court in Easley and Liberty. In addition, I have served as Municipal Judge for the City of Pickens for the past 11 years where I presided over criminal charges brought before that court which involved holding preliminary hearings, jury trials, bench trials and pleas.

Civil. Throughout my career, a large part of my practice has been civil trials and general litigation. I began my career representing insurance companies and defending insureds in personal injury litigation. I believe that I tried as many as 25 cases one year and tried 4 cases in one week, all to a jury verdict—most of which result in favorable verdict for my client. After moving to Pickens, I broadened my practice into other areas of Civil law and handled numerous cases in Circuit Court, Magistrate's Court and Administrative Courts.

Administrative Courts. I have handled a variety of different type cases including the following: Personal Injury, Breach of Contract, Real Estate Disputes, Estate litigation involving large estates, Products Liability, Vehicle Warranty claims, foreclosures, partition of real estate, etc. I have represented both Plaintiffs and Defendants and clients have included car dealerships and large Automotive groups, multi-national corporations, landowners, business partners, banks, private citizens and a multitude of other type clients.

In addition, I have handled numerous contested Probate matters throughout the Probate Courts in the Upstate. I have also been appointed as a Guardian ad litem for matters in Circuit Court and Probate Court.

Judge Gravely reported the frequency of his court appearances during the past five years:

- (a) Federal: None;
- (b) State: Several times per month.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Civil: 35%;
- (b) Criminal: 25%;
- (c) Domestic: 0%;
- (d) Other: 40%.

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

- (a) Jury: 5%;
- (b) Non-jury: 10%.

Judge Gravely provided that he most often served as sole counsel.

The following is Judge Gravely's account of his five most significant litigated matters:

- (a) Duke Power v. Ray Crenshaw, et.al. (1989?). South Carolina Public Service Commission. This matter involved Duke Power's application to the SC Public Service Commission for a Certificate of Need for high voltage power lines through Pickens County. I represented Ray Crenshaw who owned property where the proposed power lines would cross. After several days of testimony, the Commission denied the Certificate of Need, the first time in its history. This was significant not only for its historical significance, but it was one of the first substantial litigations that I had handled by myself. It also taught me the true power of litigation regardless of how large your opponent was.
- (b) Larry Allen v. James Hardies Building Product, Inc., Henkel Corporation, et. al. (Common Pleas, Pickens County-2010). I represented multiple defendants all of whom were multi-national corporations in a claim for warranty and product defects for siding on a commercial building. I was able to present a united defense and represent all defendants and waive any cross-claims and the jury

**THURSDAY, JANUARY 15, 2015**

awarded the plaintiff a very small verdict, a fraction of what the plaintiff was seeking.

- (c) Lester Robinson v. Chrysler Corp and Spartanburg Dodge, et.al. (Common Pleas, Spartanburg County-1994). In this jury trial, I represented a car dealership in a warranty, fraud case. The case was tried for an entire week and all defendants except my client were dismissed by way of directed verdict. The plaintiff was seeking substantial damages, but the jury returned a verdict for the remaining defendant.
- (d) Pinion v. Pinion (Common Pleas, Pickens County, 2003). I represented the plaintiffs against their daughter-in-law under the “slayer statute.” The trial was similar to the ones featured on the “Dateline” television show and was very dramatic and the jury returned a verdict in my clients’ favor finding that the defendant had been involved in her husband’s murder, thereby barring her from inheriting from the deceased’s estate. The case went up appeal and the verdict was affirmed. See Pinion v. Pinion, 611 S.E. 2d 271 (Court of Appeals 2005). This matter was significant because of the creative pleadings that were developed and basically trying in a criminal case in a civil action.
- (e) State v. Dale Brandon Brezeale (General Sessions, Pickens County, 2013). I represented a defendant for multiple charges arising out of an arrest for Driving Under the Influence. Even though the jury returned a guilty verdict for one charge, I thought the case was significant because of the nature of the trial strategies used and I felt like I came close to winning an impossible case.

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

- (a) Pinion v. Pinion, 611 S.E.2d 271 (S.C. Court of Appeals, 2005);
- (b) Nationwide Mutual Insurance Company v. The Commercial Bank, 479 S.E. 2d 524 (S.C. Court of Appeals, 1996);
- (c) Hairston v. Moon, 427 S.E.2d 694, (S.C. Court of Appeals, 1993);

**THURSDAY, JANUARY 15, 2015**

- (d) Balloon Plantation, Inc. v. Head Balloons, Inc. (S.C. Court of Appeals, 1990);
- (e) Hayes v. Quiros, 947 F.2d 941, (4<sup>th</sup> Circuit Court of Appeals, 1991) unpublished opinion.

Judge Gravely reported the following regarding personally handling criminal appeals:

I have tried many criminal cases in both magistrate/municipal court and general sessions. I have had several appeals to Circuit Court from magistrate/municipal courts, but I do not recall any appeals from Circuit Court.

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

- (a) I have been serving as Municipal Judge for Pickens, South Carolina (2003-Present). This position is appointed by Pickens City Council. Jurisdiction limited to City of Pickens and criminal matters with limited fines/ jail;
- (b) I was appointed as special Municipal Judge for City of Liberty (2013) by Liberty City Council and the jurisdiction was the same as set forth above;
- (c) I have been appointed as Special Referee in numerous cases involving foreclosure, partition and Estate Matters;
- (d) I was appointed as a Special Referee in a week-long trial in Pickens County-Common Pleas by consent of counsel of Record (Country Walk HOA v. Charles K. Cheezem-C.A. # 2004-CP-39-748).

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

In the case of Country Walk HOA v. Cheezem (C.A. # 2004-CP-39-748), I issued an Order containing Findings of Fact and Conclusion of Law that was 36 pages and was based on testimony of 1 week and the introduction of numerous documents and involving numerous issues between a developer and a homeowner's association.

For the other cases as a Special Referee, the opinions rendered were the basic partition, foreclosure orders and no written orders were issued for the Municipal Court positions.

**THURSDAY, JANUARY 15, 2015**

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

While serving in the capacity as judge for the positions listed [above], my only other employment was as an attorney with The Gravely Law Firm, P.A.

(9) Judicial Temperament:

The Commission believes that Judge Gravely's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee reported Judge Gravely "Qualified" in the evaluative criteria of constitutional qualifications. The Committee found Judge Gravely "Well Qualified" in the criteria of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Judge Gravely is married to Kathryn Coleman Gravely. He has four children.

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

- (a) Pickens County Bar Association- Historical committee;
- (b) South Carolina Bar Association- House of Delegates (2011 and 2014) and served on various committees for practice areas.

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

- (a) Boy Scouts of America, Blue Ridge Council, Scoutmaster for Troop 51 (Pickens) 2005-present; numerous committees and positions for Council and District
  - Scoutmaster of the Year, Pickens District (2007)
  - Silver Beaver Award, Blue Ridge Council (2009)
  - Pickens District Award of Merit (2010);
- (b) South Carolina Bar Association- House of Delegates, (2011 and July 2014 to present), Nominating Committee (2011);

**THURSDAY, JANUARY 15, 2015**

- (c) University of South Carolina School of Law-Mentoring program for 1<sup>st</sup> year Students (2012-13);
- (d) Greater Pickens Chamber of Commerce- received Duke Energy Citizen of the Year Award (2012);
- (e) Pickens Revitalization Association (2012-present);
- (f) The University South Caroliniana Society;
- (g) Grace United Methodist Church, Pickens, Member (1992-present);
- (h) Wofford College Terrier Club.

Judge Gravely further reported:

I believe that there are many things which have prepared me to serve as a Circuit Judge: growing up in a small town, being raised by parents who believe strongly in building trust and an honest reputation, being involved in the community for my entire life, serving as a judge at various levels, being an active participant in court cases for my entire legal career and representing plaintiffs and defendants in Civil Cases and the State and defendants in Criminal cases, being involved in numerous different areas of civil cases. I believe that I will be a fair, compassionate judge, but one who will not shy away from making a tough decision if it is what I believe to be the correct decision. I feel that my background will help me in giving respect to all parties and attorneys and try to resolve cases in a very expeditious, but fair way.

(11) Commission Members' Comments:

The Commission commented that Judge Gravely's diverse civil and criminal experience makes him "Well Qualified" to serve as a Circuit Court Judge. They noted his able service as Municipal Court Judge for the City of Pickens.

(12) Conclusion:

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

**The Honorable Robin B. Stilwell  
Circuit Court, Thirteenth Judicial Circuit, Seat 3**

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

**THURSDAY, JANUARY 15, 2015**

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission waived the public hearing for Judge Stilwell, upon recommendation of the Commission members, since his candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding his candidacy.

(1) Constitutional Qualifications:

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

Judge Stilwell was born in 1966. He is 48 years old and a resident of Greer, SC. Judge Stilwell provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1994.

(2) Ethical Fitness:

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

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

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

Judge Stilwell reported that he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

**THURSDAY, JANUARY 15, 2015**

(3) Professional and Academic Ability:

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

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

- | <u>Conference/CLE Name</u>                               | <u>Date</u>             |
|--|-------------------------|
| (a) Annual Judicial Conference                           | 2009, 2010, 2011, 2013; |
| (b) Criminal Law Review/ Bar Convention                  | 2009, 2010, 2012, 2014; |
| (c) Trial and Appellate Advocacy Annual Review           | 2009, 2010, 2012, 2014; |
| (d) SC Circuit Court Judges' Conference                  | 2010, 2011, 2012;       |
| (e) Lawyer Mentoring Program                             | 12/15/2010;             |
| (f) Summary Court Judges Convention, Kingston Plantation | 2/12-14/2009            |
| (g) General Jurisdiction Course/ U. Nevada Reno          | May 2011.               |

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

- (a) I have spoken at a Greenville Bar CLE on the topic of The Rules of Civil Procedure;
- (b) I have participated in a panel of attorneys and judges at a CLE at the SC Defense Attorneys Convention in a discussion of Discovery in State Trial Court.

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

(4) Character:

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

The Commission also noted that Judge Stilwell was punctual and attentive in his dealings with the Commission, and the



**THURSDAY, JANUARY 15, 2015**

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Stilwell reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Stilwell reported the following military service:  
Entered military service 1985 upon enrollment in ROTC at The Citadel. Commissioned as Officer of Infantry 15 March 1991 in the United States Army. Served continuously since in the SC Army National Guard. Currently serving as a Lieutenant Colonel.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Stilwell was admitted to the SC Bar in 1994.

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

- (a) 2009 – Present  
State Circuit Judge;
- (b) January 2009 – May 2009  
Associate Judge, Greer Municipal Court;
- (c) 2000-09  
Hunter, Tomaszek & Stilwell, PA  
Shareholder

General Practice emphasizing representation of small businesses. This would include formations of businesses, negotiations between shareholders and members, litigation between members and shareholders and litigation involving commercial disputes with third parties. However, this practice included litigation of a general nature as well. It also included

**THURSDAY, JANUARY 15, 2015**

real estate matters to include the closing of real estate loans for both commercial and residential clients. Because of my practice in real estate, I was a title insurance agent since the mid-1990's. Prior to 2002, I represented litigants in Family Court as well;

(d) Certified Circuit Court Mediator – certified on January 14, 2002. I actively mediated cases at the rate of approximately twenty to thirty cases per year;

(e) 1999-2009

Judge, Mauldin Municipal Court. I began serving as Judge at the Mauldin Municipal Court on a fill-in basis in 1999. In the year 2000, I began to serve in the stead of Judge Randolph Hunter who had taken an extended leave of absence. I served for all of the year as the Associate Judge presiding on all cases before the Court and was nominated by the City Council of Mauldin as the Chief Judge of Mauldin Municipal Court in 2001.

(f) 1999-2000

Robin B. Stilwell, LLC

Sole Practitioner. This was a general practice of law wherein I represented any number of clients in various courts to include Circuit Court, Magistrate's Court, Probate Court and Federal Court. I also represented clients on both commercial and residential real estate matters. I also represented litigants in Family Court.

(g) 1996-99

Anderson, Fayssoux & Chasteen

Associate Attorney. I had a very general practice focused on litigation and representation of clients in all courts. I also practiced both commercial and residential real estate. During this period of time I also was serving as an Indigent Defense Counsel for the County of Greenville as indicated below. I represented litigants in Family Court as well.

(h) 1995-97

Greenville County Indigent Defense Contract Attorney. I acted as a contract Public Defender for Greenville County.

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

I am currently a State Circuit Judge. I am a Resident Judge for the Thirteenth Judicial Circuit and have been serving in that

**THURSDAY, JANUARY 15, 2015**

capacity since 2009. I was elected by the SC Legislature in May of 2009 and was sworn into office that summer.

I began serving in 1999 as Associate Judge for the City of Mauldin. This is a Summary Court Judge with jurisdiction over criminal matters that carry incarceration for less than one year or a fine less than \$500. Summary Court Judges may also hear cases outside of this stated jurisdiction by special designation by the Supreme Court.

I also served as an Associate Municipal Judge for the City of Greer, SC. I began in this capacity in early 2009.

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

I have decided no significant cases that have been cited or reported. However, all of the cases that come before the Court are significant to the parties to the suit. I have heard and decided cases across the broad spectrum of the Circuit Court's jurisdiction.

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

During my service as a Judge, I have been commissioned as an infantry officer with the United States Army serving in the SC Army National Guard. I have also practiced law as described above.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen's Committee on Judicial Qualification found Judge Stilwell to be "Qualified" in the evaluative criteria of constitutional qualifications. They found him "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

**THURSDAY, JANUARY 15, 2015**

Judge Stilwell is married to Charlotte Whelan Stilwell. He has three children.

Judge Stilwell reported that he was a member of the following Bar associations and professional associations:

- (a) SC Bar Association;
- (b) Greenville County Bar.

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

- (a) 1998-2003  
Greenville Literacy Association  
Member, Board of Directors, 1998-2000  
Treasurer, 2001  
President, 2002  
Past President, 2003;
- (b) 2004-06  
Eastside YMCA Advisory Board  
Member, Board of Advisors;
- (c) 2005-06  
Mental Health Association of SC  
Member, Board of Directors;
- (d) 2005-06  
Greenville Hospital System Patewood Advisory Board  
Member, Board of Advisors;
- (e) 2008  
Member, Veteran of Foreign Wars (VFW);
- (f) Liberty Fellow of the Liberty Fellowship  
Wofford College/ Aspen Institute.

Judge Stilwell further reported:

I feel that my legal experience has prepared me well to be a Circuit Court Judge. I have spent a career in court. I believe that I am both well-qualified and well-disposed to be a Circuit Court Judge. I believe that. Thus far, I have acquitted myself well on the bench.

(11) Commission Members' Comments:

**THURSDAY, JANUARY 15, 2015**

The Commission commented that Judge Stilwell has enjoyed a good reputation as a jurist on the Circuit Court bench since 2009, and noted that he appreciates his judicial service to SC.

(12) Conclusion:

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

**The Honorable Carmen T. Mullen  
Circuit Court, Fourteenth Judicial Circuit, Seat 2**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission waived the public hearing for Judge Mullen, upon recommendation of the Commission members, since her candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding her candidacy.

(1) Constitutional Qualifications:

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

Judge Mullen was born in 1968. She is 46 years old and a resident of Hilton Head Island, SC. Judge Mullen provided in her application that she has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1995. She was also admitted to the Illinois Bar in 1996.

(2) Ethical Fitness:

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

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

**THURSDAY, JANUARY 15, 2015**

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

Judge Mullen reported she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

<u>Date</u>	<u>Conference/CLE Name</u>
1/25/13	SC Bar Association - Trial & Appellate Advocacy;
1/25/13	SC Bar Association - Part 2: Criminal Law Section;
4/25/13	SC Bar Association - Spring Sporting Clays;
5/1/13	SCCJC Spring Conference;
8/21/13	SCCA 2013 Annual Judicial Conference;
9/24/13	Hilton Head - How to Win in Circuit Court;
9/23/13	Myrtle Beach - Public Defenders' Conference;
1/20/12	SC Bar Association - Part 2 Criminal Law Section;
1/20/12	SC Bar Association - Trial & Appellate Advocacy;
4/12/12	SC Bar Association - Spring Sporting Clays;
5/2/12	SCCJC - Annual Circuit Court Judges' Conference;
8/22/12	SCCA - 2012 Annual Judicial Conference;

**THURSDAY, JANUARY 15, 2015**

10/18/12 SC Bar Association - Spring Sporting Clays;  
1/20/11 SC Bar Association - Criminal Law Section;  
1/21/11 SC Bar Association - Trial & Appellate  
Advocacy;  
4/14/11 SC Bar Association - Sporting Clays CLE  
Ethics;  
5/4/11 SCCJC - SC Circuit Court Judges' Conference;  
8/17/11 SCCA - 2011 Annual Judicial Conference;  
10/13/11 SC Bar Association - Sporting Clays CLE  
Ethics;  
10/21/11 SCWLA - Women Lawyers and Leadership;  
7/12/10 National Judicial Conference;  
8/5/10 SCAJ - SCAJ 2010 Annual Conference;  
8/18/10 SCCA 2010 Judicial Conference;  
11/5/10 USC Law School - Judging Judges;  
11/12/10 SC Bar Association - 2010 SC Torts Law  
Update;  
5/6/09 SCCJC - Judge's Conference;  
8/19/09 SCCA - 1009 Annual Judicial Conference;  
11/5/09 SCDTA - 42nd Annual Meeting.

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

- (a) Speaker, Solicitor's Association Fall Conference, September 2008;
- (b) Presenter, "On Judging Judges," USC School of Law Class of 1995 Reunion, November 5, 2010;
- (c) Speaker, SC Tort Law Update, November 12, 2010;
- (d) Speaker, Practice Basics for the New Lawyer, Charleston School of Law Women in Law, April 13, 2011;
- (e) Panel Member, "Sporting Clays: Ethics with the Judges," April 14, 2011;
- (f) Speaker, Senior Leadership of Beaufort, Spring 2012;
- (g) Panel Member, Public Defender's Conference, September 23, 2013;
- (h) Speaker, "How to Win in Circuit Court," Hilton Head Bar Association CLE, September 27, 2013;
- (i) Speaker, Summary Jury Trials, Hilton Head Bar Association CLE, November 22, 2013;

**THURSDAY, JANUARY 15, 2015**

- (j) Panel Member, Construction Law, South Carolina Bar Convention, January 24, 2014;
- (k) Panel Member, Tips from the Trial Bench for Criminal Practitioners, 23rd Annual Criminal Practice in South Carolina Seminar, February 28, 2014.

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

(4) Character:

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

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

(5) Reputation:

Judge Mullen reported that her rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Mullen was admitted to the SC Bar in 1995.

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



**THURSDAY, JANUARY 15, 2015**

- (a) Law Clerk to Honorable L. Casey Manning, Circuit Court Judge for the Fifth Judicial Circuit, April 1995 - August 1996. Assisted Judge in all research, writing orders, scheduling, etc.;
- (b) Charleston County Public Defender's Office, Assistant Public Defender, August 1996 - December 1997. Handled caseload of 250+ criminal defendants for misdemeanor and felony crimes including Murder, CSC 1st, Burglary 1st, and ABHAN;
- (c) South Carolina House of Representatives, Labor, Commerce & Industry Committee, Staff Attorney, December 1997 - October 1998. Duties included researching legal affect of pending bills before legislature and instructing Members on law and drafting some legislation when requested by Members;
- (d) Uricchio, Howe, Krell, Jackson, Toporek & Theos, Associates, October 1998 - April 2000. Criminal and civil litigation practice in state and federal courts. Case types: Plaintiffs tort actions, contract disputes, criminal defense;
- (e) Berry, Tevis & Jordan, Partner, April 2000 - May 2001. Tort litigation including automobile accidents and some criminal defense;
- (f) Carmen M. Tevis, LLC, Solo Practitioner, May 2001 - June 2006. Tort litigation, construction litigation, contract litigation, fraud litigation, and criminal defense in state and federal courts;
- (g) Resident Circuit Court Judge, 14th Judicial Circuit - June 2006 - Present.

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

July 17, 2006 to present - SC Circuit Court. Elected. General civil and criminal jurisdiction.

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

- (a) State of South Carolina v. Ernest Daise. Death Penalty Case tried in October, 2013.

Double homicide of mother and child and also shooting of Defendant's own 15 month old child. Significant for the

**THURSDAY, JANUARY 15, 2015**

heightened due process requirements of a death penalty case, significant pretrial publicity, multiple complex evidence issues, contested guilt stage, and lengthy explanation of juror bias issues;

- (b) Ex Parte James A. Brown, Jr., Attorney/Appellant. In Re: State of South Carolina, Respondent v. Alfonzo Howard, Defendant. 393 S.C. 214 (2011) Affirmed. Significant due to the gruesome nature of the underlying criminal case (kidnapping, rape, armed robbery) combined with a defense lawyer using the trial to make a public statement about compensation for appointed attorneys. Required maintaining the decorum of the court while protecting the victims' rights to conclude the trial (avoid a mistrial) and simultaneously protect Defendant's rights to a fair trial and competent defense, while maintaining the ability to sanction the defense lawyer for his courtroom antics;

- (c) Maureen T. Coffey v. Community Services Assoc., Inc., George F. Bread, Jr., Sea Pines Resort, LLC., Assoc. of Sea Pines Plantation Property Owners In., and the Advisory Board.

Involved slander and libel of a sitting judge, a public official. Substantial jury award given;

- (d) Harbour Ridge Homeowners Association, Inc. v. North Harbour Development Corporation, Inc., et al. Horry County.

Non-jury trial involving condominium project. Homeowner's Association suing Developer and General Contractor for negligent construction of 8 condominium buildings. Awarded \$1,908,354. Issues involved: statute of limitations and individual contractor liability. Significant as to the competing measure of damages and that all parties agreed to allow me to try it non-jury;

- (e) Willie Homer Stephens, Guardian ad Litem for Lillian Colvin, a minor, Appellant v. CSX Transportation, Inc., and South Carolina Department of Transportation, Respondents, Hampton County. 400 S.C. 503 Affirmed by the Court of Appeals. Car versus train wreck wherein a car collided with a train and a 12 year old passenger suffered traumatic brain injury. Significant in length of trial (3 weeks),

**THURSDAY, JANUARY 15, 2015**

extensive pre-trial matters, 60+ witnesses and a defense verdict in Hampton County.

Judge Mullen further reported the following regarding an unsuccessful candidacy:

Court of Appeals, Seat 7, Spring 2014.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Judge Mullen to be "Qualified" as to constitutional qualifications, physical health, and mental stability. They found her "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Mullen is married to George Edward Mullen, Sr. She has one child and three step-children.

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

- (a) South Carolina Women Lawyers Association - Board Member 2012 - Present;
- (b) National Association of Women Judges;
- (c) American Bar Association;
- (d) Beaufort County Bar Association;
- (e) Hilton Head Bar Association;
- (f) South Carolina Bar Association.

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

- (a) Sea Pines Montessori, Board Member 2010-Present; Board Chair - 2012-13;
- (b) Hilton Head High School Booster Club;
- (c) Providence Presbyterian Church.

(11) Commission Members' Comments:

**THURSDAY, JANUARY 15, 2015**

The Commission commented on Judge Mullen's exemplary service on the Circuit Court since 2006 and noted her strong writing skills, which have served her well on the bench.

(12) Conclusion:

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

**The Honorable Benjamin H. Culbertson  
Circuit Court, Fifteenth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Judge Culbertson was born in 1959. He is 55 years old and a resident of Georgetown, SC. Judge Culbertson provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1984.

(2) Ethical Fitness:

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

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

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

Judge Culbertson testified he has not:

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

**THURSDAY, JANUARY 15, 2015**

- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- (a) 7<sup>th</sup> Annual Civil Law Update 01/23/2009;
- (b) 24<sup>th</sup> Annual Criminal Law Update 01/23/2009;
- (c) General Jurisdiction (National Judicial College) 04/19/2009;
- (d) Circuit Court Judge's Conference 05/06/2009;
- (e) 2009 Annual Judicial Conference 08/19/2009;
- (f) Civil Law Update 01/22/2010;
- (g) Criminal Law Update – Part 2 01/22/2010;
- (h) 2010 Judicial Conference 08/18/2010;
- (i) Criminal Law Section 01/21/2011;
- (j) Trial & Appellate Advocacy Section 01/21/2011;
- (k) SC Circuit Court Judges' Conference 05/04/2011;
- (l) 2011 Annual Judicial Conference 08/17/2011;
- (m) Part 2 Criminal Law Section 01/20/2012;
- (n) Trial & Appellate Advocacy Section 01/20/2012;
- (o) Annual Circuit Court Judges' Conference 05/02/2012;
- (p) 2012 Annual Judicial Conference 08/22/2012;
- (q) Trial & Appellate Advocacy Section 01/25/2013;
- (r) Part 2: Criminal Law Section 01/25/2013;
- (s) 2013 Annual Judicial Conference 08/21/2013;
- (t) Criminal Law Section – Part 2 01/24/2014;
- (u) Trial & Appellate Advocacy Update 01/24/2014;
- (v) 2014 Circuit Court Judges' Conference 03/24/2014.

**THURSDAY, JANUARY 15, 2015**

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

(a) At the Horry County Family Court seminar on 12/09/2005, I gave a lecture on "Writing Domestic Orders";

(b) At the Tips from the Bench seminar on 02/15/2008, I gave a lecture on civil trials from a circuit judge's perspective.

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

(4) Character:

The Commission's investigation of Judge Culbertson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Culbertson did not indicate any evidence of disqualifying financial issues.

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

(5) Reputation:

Judge Culbertson reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

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

From 2004 to 2006, I was chairman of the Georgetown Election Commission. I was not elected to this position but was appointed by City Council. During this time, I don't recall filing any report with the State Ethics Commission but, I was never subject to any penalty. I have not held any other public office other than a judicial office.

(6) Physical Health:

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

**THURSDAY, JANUARY 15, 2015**

(7) Mental Stability:

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

(8) Experience:

Judge Culbertson was admitted to the SC Bar in 1984.

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

(a) From 1/14/1985 until 12/31/1990, I was an associate attorney and, then, a partner with the law firm of Schneider and O'Donnell, P.A. I maintained a general practice in all areas of law except tax law;

(b) From 1/1985 until 4/1996, I served as Assistant Municipal Court Judge for the City of Georgetown, SC. I presided over criminal cases occurring in the city where the penalties for convictions were a fine of not more than \$500.00 and/or imprisonment of not more than 30 days. I also preliminary hearings and set bond for defendants charged with General offenses, except for capital murder cases and charges with a penalty of life imprisonment;

(c) From 1/1/1991 until 6/30/2007, I was a sole practicing attorney with the firm of Benjamin H. Culbertson, P.A. I maintained a general practice in all areas of law except bankruptcy, tax law and social security claims;

(d) From 4/1996 until 6/30/2007, I served as Master-In-Equity for Georgetown County, SC. I presided over non-jury civil cases that were referred to me and had the same jurisdiction authority as a Circuit Court Judge presiding over the case;

(e) From 7/2001 until 6/30/2007, I served as Special Circuit Court Judge under appointment from The Honorable Jean Toal, Chief Justice of the SC Supreme Court. I had the same jurisdiction and authority as a Circuit Court Judge over matters pending in Georgetown County, except for presiding over trials in General Sessions Court;

(f) From 7/5/2007 to the present, I have been a circuit court judge, elected as resident circuit judge for the 15th judicial circuit, seat number 2.

**THURSDAY, JANUARY 15, 2015**

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

(a) From 1/1985 until 4/1996, I served as Assistant Municipal Court Judge for the City of Georgetown, SC. I was appointed by Georgetown City Council and I presided over criminal cases occurring in the city where the penalties for convictions were a fine of not more than \$500.00 and/or imprisonment of not more than 30 days. I also conducted preliminary hearings and set bond for defendants charged with General Sessions offenses, for capital murder cases and charges with a penalty of life imprisonment;

(b) From 4/1996 until 6/30/2007, I served as Master-In-Equity for Georgetown County, SC. I was appointed by the Governor of SC, with the advice and consent of the SC General Assembly. I presided over non-jury civil cases that were referred to me and had the same jurisdiction and authority as a Circuit Court Judge presiding over the case;

(c) From 7/2001 until 6/30/2007, I served as Special Circuit Court Judge under appointment from The Honorable Jean Toal, Chief Justice of the SC Supreme Court. I had the same authority as a Circuit Judge over matters pending in Georgetown County, except for presiding over trials in General Sessions Court;

(d) From 7/5/2007 to the present, I have been a circuit court judge. I was elected by the SC General Assembly as resident circuit judge for the 15th judicial circuit, seat number 2.

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

(a) State v. Anderson (SC Court of Appeals, Opinion No. 5196, filed 2/12/2014): In this case, the defendant/appellant appeals his conviction for first-degree burglary.

The State submitted an unknown fingerprint obtained from the crime scene to the Automated Fingerprint Identification System (AFIS) and requested 30 similar matches. AFIS produced 30 similar fingerprints logged into their records, one of which matched the defendant's fingerprint. Pursuant to *Brady v. Maryland*, the State only produced to the defendant the fingerprint received



**THURSDAY, JANUARY 15, 2015**

from AFIS that matched the defendant's fingerprint and the fingerprint received from the crime scene. The defendant argued that the State's failure to produce the 29 similar but unmatched fingerprints received from AFIS violated Brady.

As trial judge, I ruled that the State's failure to produce to the defendant the 29 similar but unmatched fingerprints received from AFIS was not a violation of Brady. This decision was affirmed by the S.C. Court of Appeals.

(b) State v. Hilton, (SC Court of Appeals, Opinion No. 5178, filed 10/30/2013): In this case, the defendant is charged with felony driving under the influence involving death and driving under the influence great bodily injury. In a pretrial motion, I granted the defendant's motion to suppress the results of a breathalyzer test for violation of the implied consent law.

SC Code Ann. section 56-5-2950 was amended subsequent to the defendant's arrest to require all breath samples for breathalyzer testing be taken within two hours of the defendant's arrest. I ruled that the amended statute was to be applied retroactively and, thus, applicable to the defendant in this case. I further ruled that the State violated the implied consent statute by failing to provide the defendant with a written report showing the time of arrest, time of testing and test results. The S.C. Court of Appeals reversed my decision and remanded the case, finding that the amended statute was not to be applied retroactively and, thus, was not applicable to the defendant. However, the S.C. Court of Appeals did not address the State's failure to provide the defendant with a written report of his breathalyzer testing.

Petition for Writ of Certiorari is now pending before the SC Supreme Court.

(c) Berry, et al., v. SC Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (S.C. Supreme Court, Opinion No. 27237, filed 3/27/2013): This lawsuit arose out of the alleged failure of the plaintiff/appellant (Berry) to construct a bulkhead in compliance with a permit issued for such construction by the defendant/respondent (DHEC). Berry filed suit in circuit court seeking judicial review

**THURSDAY, JANUARY 15, 2015**

of an Enforcement Order issued by DHEC against Berry assessing a civil penalty against Berry and requiring Berry to restore the subject property to its previous condition. As the presiding judge, I dismissed Berry's lawsuit for lack of jurisdiction, finding that the Enforcement Order was administrative in nature and, thus, subject to the exclusive jurisdiction of the Administrative Law Court.

The SC Supreme Court affirmed my decision.

- (d) Winkler v. State (Court of Common Pleas, 15<sup>th</sup> Judicial Circuit, County of Horry, Case No. 2011-CP-26-3907): In this case, the plaintiff sought post-conviction relief from his conviction and death sentence for murder. As the presiding judge, I denied relief for the conviction of murder but, granted relief from the death sentence. The plaintiff's death sentence was set aside and a sentence of life without parole was imposed.

As the presiding judge, I ruled that the plaintiff was entitled to relief from his sentence due to ineffective assistance of counsel during the penalty phase of his capital murder trial. Plaintiff's trial counsel failed to object to the trial court's refusal to answer the jury's repeated question of what would happen to the plaintiff if the jury could not reach a unanimous decision on the sentence to be imposed (i.e., death or life without parole). The appeal of this case is pending.

- (e) Horry Telephone Cooperative, Inc. v. City of Georgetown, et al. (S.C. Supreme Court, Opinion No. 27394, filed 6/4/2014): The issue in this case was whether the City of Georgetown's denial of multiple franchise applications by Horry Telephone Cooperative, Inc. to provide cable television was a violation of the SC Competitive Cable Services Act (the Act). At trial, the parties presented the novel question of whether the Act created a private cause of action. As presiding judge, I ruled that the Act did not create a private cause of action and denied the plaintiff's request for relief.

On appeal, the Supreme Court partially reversed and partially affirmed my ruling. The Supreme Court held that the Act did create a private cause of action but affirmed my denial of relief.

**THURSDAY, JANUARY 15, 2015**

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

(a) From 1/14/1985 until 12/31/1990, I was an associate attorney and, then, a partner with the law firm of Schneider and O'Donnell, P.A. I maintained a general practice in all areas of law except tax law;

(b) From 1/1/1991 until 6/30/2007, I was a sole practicing attorney with the firm of Benjamin H. Culbertson, P.A. I maintained a general practice in all areas of law except bankruptcy, tax law and social security claims.

Judge Culbertson further reported the following regarding unsuccessful candidacies:

In 1998, I filed for Circuit Court Judge Resident Seat #2, 15<sup>th</sup> Judicial Circuit, which became vacant due to the retirement of Judge David Maring. I withdrew as a candidate when Judge Paula Thomas (who was an at-large judge) filed for the resident seat. When Judge Thomas was elected to the resident seat, I filed for her vacated at-large seat, as well as 2 other vacated at-large seats. Though I was found to be one of the three most qualified candidates in one of the at-large seat races, I withdrew voluntarily because Judge Buddy Nichols was the obvious candidate for election. On another occasion, I filed for an Administrative Law judgeship. Though I was found qualified by the JMSC, I was not one of the top three candidates.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Culbertson to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

**THURSDAY, JANUARY 15, 2015**

Judge Culbertson is married to Renee Kinsey Culbertson. He has three children.

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

- (a) South Carolina Circuit Court Judges Association (2007 to present);
- (b) South Carolina Bar Association (1985 to present);
- (c) Georgetown County Bar Association (1985 to 2007);  
President (2007); Secretary (1985-86, 1989-90);
- (d) American Bar Association (1985-92).

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

- (a) The Citadel Alumni Association;
- (b) The Citadel Brigadier Club;
- (c) Georgetown Cotillion Club;  
President (2000-01);  
Vice President (1999-2000);  
Secretary/Treasurer (1998-99);  
Executive Committee (1995-98);
- (d) Winyah Indigo Society;
- (e) Duncan Memorial United Methodist Church.

Judge Culbertson further reported:

For the past 29 years, I have served as a member of the judiciary in some capacity. I gradually progressed from Assistant Municipal Court Judge, to Master-In-Equity, to Special Circuit Court Judge and, now Circuit Court Judge. I have now served as a Circuit Court Judge for the past seven years. I was first elected to the circuit court bench in 2007 and re-elected in 2009. I am a resident of Georgetown County and now hold the seat to which I am seeking re-election. Since the creation of this judicial seat, it has been held by a Georgetown resident.

(11) Commission Members' Comments:

The Commission commented that Judge Culbertson has done a great job on the bench, first as Master-in-Equity, and then as a Circuit Court judge for the 15<sup>th</sup> Judicial Circuit.

THURSDAY, JANUARY 15, 2015

(12) Conclusion:

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

**The Honorable W. Jeffrey Young  
Circuit Court, At-Large, Seat 1**

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

(1) Constitutional Qualifications:

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

Judge Young was born in 1955. He is 59 years old and a resident of Sumter, SC. Judge Young provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1985.

(2) Ethical Fitness:

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

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

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

Judge Young testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

**THURSDAY, JANUARY 15, 2015**

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

(3) Professional and Academic Ability:

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Circuit Court Judges Conference	05-06-2009;
(b) Judges Orientation	07-08-2009;
(c) SC Judicial Conference	08-19-2009;
(d) SCDTAA Convention	11-2009;
(e) SC Bar Conference	01-2010;
(f) SC Circuit Judges Conference	05-2010;
(g) SC AJ Convention	08-2010;
(h) SC Judicial Conference	08-2010;
(i) SCDTAA Convention	11-2010;
(j) SC Bar Conference	01-2011;
(k) SC Circuit Judges Assoc. Conference	05-2011;
(l) SC AJ Convention	08-2011;
(m) SC Judicial Conference	08-2011;
(n) SCDTAA Convention	11-2011;
(o) SC Bar Conference	01-2012;
(p) SC Circuit Judges Conference	05-2012;
(q) SC AJ Convention	08-2012;
(r) SC Judicial Conference	08-2012;
(s) SC Bar Conference	01-2013;
(t) SC Circuit Judges Conference	05-2013;
(u) SC AJ Convention	08-2013;
(v) SC Judicial Conference	08-2013;
(w) SC DTAA Convention	11-2013;
(x) SC Bar Assoc. Convention	01-2014;
(y) SC Circuit Court Assoc. Metting	03-2014;
(z) Economics for Judges	05-2014.

**THURSDAY, JANUARY 15, 2015**

Judge Young reported that he has taught the following law-related course:

What Judges Want You to Know (Charleston School of Law)

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

(4) Character:

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

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

(5) Reputation:

Judge Young reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Young reported the following military service:

- (a) USAF – Active Duty, October 1977 – September 1982;
- (b) USAF - Reserve, September 1982 - May 2007, Lt. Col., Retired Honorably.

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

I was elected to the SC House of Representatives to represent District #67. I served from 1994-98 and 2000-02. I always filed reports properly and in a timely manner.

(6) Physical Health:

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

**THURSDAY, JANUARY 15, 2015**

(7) Mental Stability:

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

(8) Experience:

Judge Young was admitted to the SC Bar in 1985.

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

- (a) Kenneth R. Young, Sumter, SC: May 1985-June 1986  
(General Practice);
- (b) Young & Young, P.A., Sumter, SC: June 1986-December 1990  
(General Practice);
- (c) Young, Young & Reiter, P.A., Sumter, SC: Jan. 1991-December 1997  
(General Practice);
- (d) W. Jeffrey Young, P.A., Sumter, SC: Jan. 1998-June 2004  
(General Practice);
- (e) Young & Graham, P.A., Sumter, SC: Jan. 2004-June 2004  
(General Practice);
- (f) Family Court Judge, Third Judicial Circuit: July 2004-Apr. 2009;
- (g) Circuit Court Judge, At Large, Seat #1: Apr. 2009-Present.

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

- (a) Family Court Judge, 3<sup>rd</sup> Judicial Circuit, Seat 2: Elected May 2003, Served July 2004-April 2009;
- (b) Circuit Court Judge, At-Large, Seat #1: Elected February 9, 2009.  
Served April 4, 2009-Present.

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

- (a) State v. John Jabbar Greene (2008-GS-22-0458) (2008-GS-22-0459) 05-01-2009



**THURSDAY, JANUARY 15, 2015**

This was my first General Sessions trial as a Circuit Court Judge. The case was an armed robbery and the evidence involved DNA expert, ballistic experts and a tracking dog. Oddly and gratefully, the case of State v. White, 282 S.C. 265, 676 SE 2<sup>nd</sup> 684 (2009) was reported on the day the tracking dog expert was to testify. The defendant was convicted, and my rulings were affirmed on appeal;

(b) State v. Demetrius A. Godwin (2009-GS-40-03175) 03-18-2011

This was a homicide by child abuse case in Richland County, in which a father, during investigation, voluntarily met with police without counsel. This particular case had numerous Miranda issues, photographic evidence issue and medical expert issues. The defendant was convicted, and my rulings were affirmed on appeal;

(c) State v. Justin Jermaine Johnson (2011-GS-14-0294) 03-20-2014

This trial involved the double homicide of an eight-month-old child and the child's 59-year-old great-grandmother. The trial lasted nine days with numerous evidentiary and juror issues. The defendant was convicted;

(d) No Regrets Properties Inc. v. Neighborhood Sports Pub Concepts, Inc. (2010-CP-23-2263) 01-18-2013

This was an eight-day civil conspiracy breach of contract and trade mark infringement. There were numerous witnesses in a highly technical trial in which millions of dollars were at stake. Judgment was for the defendant;

(e) Peter Kessler, et al v. Mary Black Health System (2007-CP-42-865 06-05-2009

This case was a medical malpractice suit that involved the alleged failure to diagnose a stroke. Approximately six neurological experts from around the country testified personally and by video deposition. After eight days, the jury was deadlocked, and the attorneys agreed to a majority verdict with a high/low agreement. Verdict was ultimately for the defendant.

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

**THURSDAY, JANUARY 15, 2015**

USAF Reserves, Shaw AFB, SC Contracting Officer 1990-2007. Supervisor was Lt. Col. Dan Jenkins. I was utilized as a special projects officer and was dispatched to numerous bases in the Middle East to present briefings, conduct commander directed investigations, and conduct staff assistance visits to the contracting squadrons under USCENTAF command. I traveled extensively, on short notice, throughout Iraq on four different missions since the execution of operation Iraqi Freedom.

Judge Young further reported the following regarding an unsuccessful candidacy:

In 1998, I was not re-elected to the House of Representatives; however, in 2000, I was re-elected to represent House District #67. In 2002, I resigned as a result of the federal court redrawing of the district lines, which placed my Statehouse desk mate and me in the same district.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Young to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Judge Young to be "Well Qualified" in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Young is married to Sharon Steele Young. He has has four children.

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

- (a) Sumter County Bar Association; 1985-Present;
- (b) South Carolina Bar Association; 1985-Present.

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

**THURSDAY, JANUARY 15, 2015**

- (a) Sumter Sunrise Rotary Club – honorary member;
- (b) Sumter Citadel Club, past president;
- (c) Camellia Ball Dance Club, past president.

Judge Young further reported:

As a Lt. Col. in the Air Force Reserve, I traveled on seven missions to the Middle East, South west Asia and Iraq after September 11, 2001, in support of operations Enduring Freedom and Iraqi Freedom. I have been awarded two Air Force commendation medals and two Air Force meritorious service medals and the Global War on Terrorism medal. This experience and the people I met reminded me of how precious our freedoms are and how much sacrifice may be required to preserve these freedoms. I was conferred the Order of the Palmetto in December of 2008.

(11) Commission Members' Comments:

The Commission commented that Judge Young ably served first as a Family Court Judge for five years, and then as a Circuit Court Judge since 2009.

(12) Conclusion:

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

**The Honorable R. Markley Dennis, Jr.  
Circuit Court, At-Large, Seat 2**

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

(1) Constitutional Qualifications:

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

Judge Dennis was born in 1947. He is 67 years old and a resident of Pinopolis, SC. Judge Dennis provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1973.

**THURSDAY, JANUARY 15, 2015**

(2) Ethical Fitness:

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

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

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

Judge Dennis testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Civil Law Update	1/2010;
(b) Criminal Law Update	1/2010;
(c) SC Circuit Court Judges Assoc.	5/2010;
(d) Orientation School for New Law Clerks	7/2010;
(e) Judicial Conference	8/2010;
(f) Sporting Clay Seminar: Ethics	10/2010;
(g) Sporting Clay Seminar: Ethics	4/2011;
(h) SC Circuit Court Judges Conf	5/2011;

**THURSDAY, JANUARY 15, 2015**

- (i) Orientation School for New Law Clerks 7/2011;
- (j) 2011 Annual Judicial Conf 8/2011;
- (k) Sporting Clay Seminar 10/2011;
- (l) Part 2 Criminal Law –SC Bar 1/2012;
- (m) Trial & Appellate Advocacy SC Bar 1/2012;
- (n) Sporting Clay Seminar SC Bar 4/2013;
- (o) SCCJC Spring Conf. 5/2013;
- (p) Annual Judicial Conf. 8/2013;
- (q) Criminal Law Section – SC Bar 1/2014;
- (r) Trial and Appellant Advocacy SC Bar 1/2014;
- (s) Torts & Insurance SC Bar 1/2014.

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

For over ten (10) years I have been one of the teachers of the Civil Law Portion of the New Judge’s School and because of being Chairman of the Advisory Committee have served as a moderator for the Program for over five (5) years. I have spoken on numerous occasions to classes at the Charleston School of Law and have been on panels with Programs with the SC Bar and the SC Defense Trial Lawyers Association, dealing with topics such as allocation of fault among joint feasons, strategies of the use of Depositions at Trial and ethics issues involving judges and practitioners.

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

(4) Character:

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

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

**THURSDAY, JANUARY 15, 2015**

(5) Reputation:

Judge Dennis reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Dennis was admitted to the SC Bar in 1973.

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

Upon graduation from law school in 1973 and admission to the Bar, in November, 1973, I practiced law in Moncks Corner, SC. My practice was a general nature dealing primarily in litigation in Family Court, Civil Court, Criminal Court, Probate Court and some administrative agencies, primarily Worker's Compensation. I represented the Berkeley County School District for seven years and was retained counsel for it. My representation resulted in my having to handle various legal matters, including issues involving school law and employment law. I handled several matters in the Court of Appeals in this State and was Associate counsel in a matter heard by the Court of Appeals in this State and was associate counsel in a matter heard by the SC Supreme court. During my practice in Moncks Corner, I also had occasions to handle several matters in the Federal Court, including an association in a case which resulted in an appeal to the Fourth Circuit Court of Appeals. In addition to litigation, I have been involved in real estate work, ranging from suite to remove clouds on title, to simple loan closings. My practice also involved occasions for minor estate planning, as well as some corporate work.

## THURSDAY, JANUARY 15, 2015

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

I was elected Circuit Court Judge, At-Large, Seat #2, in February, 1994, to fill the unexpired term of The Honorable William T. Howell, and have been serving continuously since that date.

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

- (a) State v. Sapp, 366 SC 283, 621 S.E. 2d 883 (2005). This is a Death Penalty Case tried by me in Berkeley County;
- (b) Hospitality Management Associates, In. vs. Shell Oil Co., 356 S.C. 644, 591 S.E. 2d 611 (2004). This is an Appeal from an Order granting Summary Judgment, giving full faith and credit to Orders recognizing and affirming a National Class Action settlement;
- (c) Branham v. Ford Motor Co., 390 S.C. 203, 701 S.E. 2d 5 (2010). This is an Appeal taken from a products liability case involving design defect in the Ford Bronco;
- (d) Sinkler vs. County of Charleston, 367 S.C. 67, 690 S.E. 2d 777 (2010) This is a case involving an Ordinance rezoning land in which the Court of Appeals reversed my decision but the South Carolina Supreme Court reversed the decision by the Court of Appeals, thereby affirming my decision declaring the Ordinance invalid;
- (e) Town of Mt. Pleasant vs. Chimento, 401, S.C. 522, 737 S.E. 2d 830 (2013). This is a case in which I declared the gambling statute unconstitutional.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Judge Dennis to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Judge Dennis to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic

**THURSDAY, JANUARY 15, 2015**

ability, character, reputation, experience, and judicial temperament.

Judge Dennis is married to Janis Sherill Galbreath. He has three children.

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

- (a) American Bar Association;
- (b) South Carolina Bar Association;
- (c) South Carolina Circuit Judges Association:
  - Circuit Judges Advisory Committee
  - Judicial Council of the State of South Carolina.

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

- (a) USC Gamecock Club;
- (b) The Hibernian Society.

(11) Commission Members' Comments:

The Commission commented on Judge Dennis' wealth of experience and his able contributions to the Circuit Court bench since 1994.

(12) Conclusion:

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

**The Honorable Clifton B. Newman  
Circuit Court, At-Large, Seat 3**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission waived the public hearing for Judge Newman, upon recommendation of the Commission members, since his candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding his candidacy.

(1) Constitutional Qualifications:



## THURSDAY, JANUARY 15, 2015

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

Judge Newman was born in 1951. He is 63 years old and a resident of Columbia, SC. Judge Newman provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1981. He was also admitted to the Ohio Bar in 1976.

(2) Ethical Fitness:

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

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

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

Judge Newman reported that he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

**THURSDAY, JANUARY 15, 2015**

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

- | <u>Conference/CLE Name</u>                                  | <u>Date</u>     |
|---|-----------------|
| (a) SC 2009 Bar Convention                                  | 01/22-01/25/09; |
| (b) Judicial Education Program Northwestern Law School      | 04/21-04/22/09; |
| (c) South Carolina Judicial Conference                      | 05/06/09;       |
| (d) National Judicial College Seminar                       | 06/14-06/18/09; |
| (e) SCCA – Orientation School for New Judges                | 07/08/09;       |
| (f) ABA Annual Meeting – Delegate                           | 7/30-08/04/09;  |
| (g) South Carolina Annual Judicial Conference               | 08/19/09;       |
| (h) SC Defense Trial Attorneys                              | 11/05-11/08/09; |
| (i) American College of Business Court Judges               | 11/08-11/10/09; |
| (j) SCDTAA Construction Law Seminar                         | 12/16/09;       |
| (k) Civil Justice Institute, Northwestern Law School        | 12/07-12/08/09; |
| (l) JBOIC - Handling the High Profile Case                  | 01/12/10;       |
| (m) South Carolina Bar - Civil Law Update                   | 01/22/10;       |
| (n) South Carolina Bar - Criminal Law Update-Part 2         | 01/22/10;       |
| (o) SC Bar - Bridge the Gap                                 | 03/08/10;       |
| (p) SCCA – Orientation School for New Judges                | 07/07/10;       |
| (q) SC Bar – Bridge the Gap                                 | 08/02/10;       |
| (r) JBOIC – Remarks by Rt Hon Lord Justice                  | 10/20/10;       |
| (s) SupCt – Introduction to Court-Annexed ADR               | 10/29/10;       |
| (t) JBOIC – Oaths to the Federal Judiciary                  | 11/09/10;       |
| (u) South Carolina Bar-                                     | 01/20-01/21/11; |
| (v) SC Bar – Bridge the Gap                                 | 03/07/11;       |
| (w) SC Circuit Court Judges’ Conference                     | 05/04/11;       |
| (x) SCHS – J. Waites Waring and the Dissent                 | 05/19/11;       |
| (y) SC Bar- Criminal Law Essentials                         | 05/20/11;       |
| (z) MCC – 5 <sup>th</sup> Annual East Region Construction   | 06/02/11;       |
| (aa) National Forensics Institute                           | 06/26-06/30/11; |
| (bb) SCCA – 2011 Orientation School for New Judges          | 07/06/11;       |
| (cc) SCCA – 2011 Annual Judicial Conference                 | 08/17/11;       |
| (dd) JBOIC – Law Schol Moot Court Team v.                   | 09/14/11;       |
| (ee) Defense Research Institute Conference-Construction Law | 09/21-09/23/11; |

**THURSDAY, JANUARY 15, 2015**

- (ff) Northwestern Law Judicial Education Program 10/17-10/21/11;
- (gg) AAS Emerging Issues in Neuroscience 10/30-10/31/11;
- (hh) Judicial Symposium on Civil Justice 11/13-11/15/11;
- (ii) ACBCJ Business Court Judges 12/04-12/06/11;
- (jj) The Conference of Chief Justices, Wilmington, DE 01/12;
- (kk) JBOIC – The Importance of an Independent 01/17/12;
- (ll) SC Bar – Part 2 Criminal Law Section 01/20/12;
- (mm) SC Bar – Trial & Appellate Advocacy Section 01/20/12;
- (nn) Judicial Education Program, George Mason University 03/10/12;
- (oo) American Bar Association 03/22-03/24/12;
- (pp) West Coast Casualty Group 05/16/12;
- (qq) MCCConsultants, Inc. 06/06-06/08/12;
- (rr) American Bar Association 08/04-08/07/12;
- (ss) NCJRL University of Mississippi 10/15-10/16/12;
- (tt) SC Conference on Lawyer & Judicial Discipline 11/07/12;
- (ss) SC Defense Trial Lawyers Association 11/07-11/10/12;
- (tt) Judicial Education Program, George Mason University 11/13-11/15/12;
- (uu) Judicial Education Program, George Mason University 12/12;
- (vv) National Judicial Conference – Brain Trauma, Philadelphia, PA 2013;
- (ww) SC Bar “Bridge the Gap” 03/11/13;
- (xx) SCCJC Spring Conference 05/01/13;
- (yy) SC Bar Lawyers; Guns and Money: Criminal Defense 05/10/13;
- (zz) SCCA 2013 Orientation School for New Circuit Judges 07/10/13;
- (aaa) SCAJ 2013 Annual Convention 08/01/13;
- (bbb) SC Bar “Bridge the Gap” 08/05/13;
- (ccc) SCCA 2013 Annual Judicial Conference 08/21/13;
- (ddd) Commission on Judicial & Lawyer Conduct Seminar 10/30/13;
- (eee) SCDTAA Annual Meeting 11/07/13;
- (fff) SC Bar “Bridge the Gap” 01/02/14;
- (ggg) SC Bar Criminal Law Section-Part 2 01/24/14;
- (hhh) SC Bar Trial and Appellate Advocacy Section Civil Law Update 01/24/14;

**THURSDAY, JANUARY 15, 2015**

- (iii) SC Bar Construction Law Section 01/24/14;
- (jjj) SC Bar SC e-Filing 01/25/14;
- (kkk) South Carolina Judicial Conference 03/24/14;
- (lll) South Carolina Bar CLE- “Criminal Law Essentials” 05/30/14;
- (mmm) ABA Business Law Meetings 2012-2014.

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

- (a) I have presented at the South Carolina Defense Lawyers Conference, “Litigating Construction Law Matters”;
- (b) South Carolina Bar- Construction Law Panel, 2014;
- (c) South Carolina Trial Lawyers – Arbitration and ADR;
- (d) I have lectured at the SC Bar Program “Bridge the Gap” twice yearly, 2011- present;
- (e) I have presented “Managing Complex Litigation” at ABA Business Law Section Meeting;
- (f) I spoke at the 2009 SC Annual Judicial Conference on “Sentencing”;
- (g) The ABA Judicial Division: “The Court of the Future” webinar;
- (h) I was a National Judicial College faculty presenter on establishing Business Courts in Michigan;
- (i) I spoke at the DRI- Construction Law Seminar in 2011;
- (j) I presented at the 2013 & 2014 SC Supreme Court Institute for teachers;
- (k) I have been a panelist several years at the MC Consultants’ East Region Conference;
- (l) I spoke at the American Conference Institute’s Litigation Conference Judicial Panel in New York, NY, Miami, FL, Atlanta, GA, and Chicago, IL, 2012-14;
- (m) I spoke at the 2013 Annual Judicial Conference on Docket Management;
- (n) I spoke annually at the “New Judge’s School” on criminal law, 2004-present;
- (o) I spoke at the 2014 Annual Meeting of Pardon and Parole Agents on the “Omnibus Crime Bill” and its effect on sentencing;
- (p) I spoke at the South Carolina Women Lawyers Lunch in 2011;

**THURSDAY, JANUARY 15, 2015**

(q) I spoke at the West Coast Casualty Conference, Anaheim, CA, on Construction Law Litigation 2012 & 2013.

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

(4) Character:

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

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

(5) Reputation:

Judge Newman reported that he is not aware of the last available Martindale-Hubbell rating.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Newman was admitted to the SC Bar in 1981.

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

(a) 1976-77

Associate Attorney  
Law Office of Elliott Ray Kelley  
Cleveland, Ohio

**THURSDAY, JANUARY 15, 2015**

(General law practice concentrating on the representation of plaintiffs in civil matters and defendants in criminal matters.);

(b) 1977-82

Partner

Belcher and Newman

Cleveland, Ohio

(General law practice; civil and criminal.);

(c) 1982-94

Law Office of Clifton Newman

Kingstree and Columbia, South Carolina

(General law practice; civil and real estate.);

(d) 1994–2000

Managing Attorney

Newman and Sabb, P. A.

Kingstree, Lake City and Columbia, South Carolina

(General law practice; civil and real estate.);

(e) 1983–2000

Assistant Solicitor

Third Judicial Circuit

(Criminal Prosecution);

(f) 2000–Present

Circuit Court At-Large Seat 3.

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

(a) Circuit Court, Third Circuit; Elected May 2000 filling an unexpired term;

(b) Circuit Court, Third Circuit; Re-elected April 2003;

(c) Circuit Court, Third Circuit; Re-elected February 2009.

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

(a) State v. Mikal Deen Mahdi,

Opinion No. 26671

Death Penalty Order

Automatic Review by Supreme Court;

(b) Perry v. Bullock

Opinion No. 27419;

(c) Carnival Corporation, et al v. Historic Ansonborough

Neighborhood Associate, et. al

**THURSDAY, JANUARY 15, 2015**

- (d) Appellate No. 2011-197486;  
Magnolia North v. Heritage Communities  
Opinion No. 4943;
- (e) State v. Isaac  
Opinion No. 27302.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Newman to be "Qualified" as to constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Newman is married to Patricia Blanton Newman. He has four children.

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

- (a) American Bar Association;
- (b) South Carolina Bar Association;
- (c) Ohio Bar Association (inactive);
- (d) American College of Business Court Judges  
Member of Board of Directors;
- (e) John Belton O'Neall Inn of Court.

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

- (a) I. DeQuincey Newman United Methodist Church (charter member)  
President of The United Methodist Men; Member, Board of Trustees  
Member, Staff/Pastor Parish Relations Committee;
- (b) Kappa Alpha Psi Fraternity;
- (c) ABA Business Law Section Service Award.

Judge Newman further reported:

**THURSDAY, JANUARY 15, 2015**

I treasure my service to mankind and the people of the State of South Carolina as a member of the Circuit Court.

(11) Commission Members' Comments:

The Commission commented on Judge Newman's outstanding service on the Circuit Court bench since 2000 and noted his able service as a Business Court Judge.

(12) Conclusion:

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

**The Honorable Edward W. "Ned" Miller  
Circuit Court, At-Large, Seat 4**

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

(1) Constitutional Qualifications:

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

Judge Miller was born in 1952. He is 62 years old and a resident of Greenville, SC. Judge Miller provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1978.

(2) Ethical Fitness:

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

Ms. Brenda Bryant filed an affidavit in opposition to Judge Miller's candidacy. Ms. Bryant, however, did not personally appear at the Public Hearing for Judge Miller's candidacy, and thus, the Commission did not consider her affidavit of complaint.

Mr. Rickey Bryant, the husband of Ms. Brenda Bryant, also filed an affidavit in opposition to Judge Miller's candidacy. The affidavit made multiple allegations including that Judge Miller acted without



**THURSDAY, JANUARY 15, 2015**

jurisdiction regarding a lawsuit involving Ms. Brenda Bryant, and that he erred in issuing a bench warrant for Ms. Bryant.

The Commission heard testimony from Mr. Bryant and Judge Miller. The Commission also thoroughly reviewed all documents produced by Mr. Bryant and found no evidence that Judge Miller acted improperly.

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

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

Judge Miller testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- | <u>Conference/CLE Name</u>            | <u>Date</u> |
|---------------------------------------|-------------|
| (a) Orientation School for New Judges | 7/8/02;     |
| (b) SC Trial Lawyers Convention       | 8/1/02;     |
| (c) Judicial Conference               | 8/22/02;    |
| (d) Circuit Judge's Conference        | 5/7/03;     |

**THURSDAY, JANUARY 15, 2015**

- (e) Judicial Conference 8/21/03;
- (f) Criminal Law Update 1/23/04;
- (g) Civil Law Update 1/23/04;
- (h) Circuit Judge's Conference 5/5/04;
- (i) Judicial Conference 8/19/04;
- (j) Judicial Oath of Office 8/19/04;
- (k) Seminar for Chief Judges 12/10/04;
- (l) Criminal & Civil Law Update 1/21/05;
- (m) Circuit Judge's Conference 5/11/05;
- (n) Judicial Conference 8/24/05;
- (o) Criminal & Civil Law Update 1/27/06;
- (p) Circuit Judge's Conference 5/10/06;
- (q) Judicial Conference 8/23/06;
- (r) Criminal & Civil Law Update 1/26/07;
- (s) Circuit Judge's Conference 5/07;
- (t) Judicial Conference 8/22/07;
- (u) Criminal & Civil Law Update 1/25/08;
- (v) Judicial Conference 8/30/08;
- (w) ODC Ethics Seminar 10/21/08;
- (x) Criminal & Civil Law Update 1/23/09;
- (y) Circuit Judges Conference 5/6/09;
- (z) Judicial Conference 8/19/09;
- (aa) Criminal & Civil Law Update 1/22/10;
- (bb) Circuit Judges Conference 5/5/10;
- (cc) Judicial Conference 8/18/10;
- (dd) ODC Ethics Seminar 10/26/10;
- (ee) Criminal & Civil Law Update 1/21/11;
- (ff) Circuit Judge's Conference 5/4/11;
- (gg) Judicial Conference 8/17/11;
- (hh) Circuit Judges Conference 5/2/12;
- (ii) Judicial Conference 8/22/12;
- (jj) Economic Institute for Judges (Chicago, Ill) 10/22-25/12;
- (kk) Criminal & Civil Law Update 1/25/13;
- (ll) Circuit Judges Conference 5/1/13;
- (mm) Fast Track Jury Trials 6/7/13;
- (nn) Judicial Conference 8/21/13;
- (oo) Unlocking E-Discovery (Denver Co.) 9/19-20/13;
- (pp) Criminal & Civil Law Update 1/14;
- (qq) Judicial Conference 3/14;
- (rr) American College of Business Court Judges 10/24/07.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Ethics Course Panel at 2005 Public Defender Conference;
- (b) Panel Discussion concerning the Business Court Pilot Program at the S.C. Defense Trial Lawyers Conference in July 2008;
- (c) Ethics Court Panel at the 2008 Public Defenders Conference;
- (d) Presented on the Topic of the History of the Greenville County Bar and Practice of Law at the Greenville County Bar CLE in 2013 and 2014;
- (e) Presented at the Fast Track Jury Trial Seminar in June 2013;
- (f) Presented at the Solicitor's Conference 2014 on the subject of Gang related Trials.

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

(4) Character:

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

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

(5) Reputation:

Judge Miller reported that his rating by a legal rating organization, Martindale-Hubbell, is A.V.

(6) Physical Health:

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

**THURSDAY, JANUARY 15, 2015**

(7) Mental Stability:

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

(8) Experience:

Judge Miller was admitted to the SC Bar in 1978.

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

- (a) November 1978–April 1980, Southern Bank & Trust Company, Federal Regulations Compliance Officer;
- (b) April 1980–June 1981, Assistant Public Defender for Greenville County;
- (c) June 1981–June 1982, Sole Practitioner – General Practice;
- (d) June 1982– July 2000, Miller & Paschal, General Practice Concentration in Civil & Criminal Litigation;
- (e) July 2000–August 2002, Sole Practitioner – General Practice.

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

Circuit Court at Large, Seat No. 4 continuously since August 29, 2002.

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

- (a) State v. Evins, 373 S.C. 404, 645 S.E. 2d 904 (2007); This was a death penalty case in Spartanburg County of significant notoriety. The Defendant was convicted by a jury and sentenced to death. The case involved issues related to pretrial publicity, juror disqualification and judicial discretion with respect to admission of evidence;
- (b) State v. Inman, 395 S.C. 539, 720 S.E. 2d 31 (2011); This case was a capital case involving the murder and sexual assault of a Clemson University student by a previously convicted sex offender who had been released from a foreign state on parole. This case was reported in the national media and was followed intensely by the local media as well. The Defendant entered a guilty plea to all charges: murder, criminal sexual conduct in the first degree, first degree burglary and kidnapping. Over the Defendant's

**THURSDAY, JANUARY 15, 2015**

Constitutional objections, the sentencing phase was conducted without a jury. The case contained issues with respect to conditional guilty pleas, prosecutorial misconduct and witness intimidation. The Defendant was sentenced to death;

- (c) State v. Duncan, 392 S.C. 404, 709 S.E. 2d 662 (2001); This case involved a question of first impression with respect to immunity under the Protection of Persons and Property Act. The Defendant had been indicted for murder and his motion for dismissal of the indictment was granted pursuant to the language of the act. The Supreme Court affirmed my ruling that the immunity issue must be decided pre-trial and that the standard of proof to entitlement to immunity was by a preponderance of the evidence;
- (d) Koutsogiannis v. BB&T, 365 S.C. 145, 616 S.E. 2d 425 (2005); This case involved counterclaims against a bank filed in response to a collection action initiated by the bank against the plaintiff. The trial on the counterclaims was conducted after the case was remanded by the South Carolina Court of Appeals for failure of the original trial court to allow the Plaintiff to argue the merits of the counterclaims. Plaintiff was awarded a verdict on a gross negligence claim, which the Supreme Court affirmed. Issues involved in the case included jury instructions and attorney-client/agent-principal relationships and liability there under;
- (e) Ballard v. Roberson, et. al., 399 S.C. 588, 733 S. E. 2d 107 (2012); This case arose out of the Business Court Pilot Program. The case evolved as a shareholder derivative action with claims of stockholder oppression and a “freeze out” of the minority shareholder. It was an equitable action and tried without a jury. The majority engaged in classic acts of oppression, including unauthorized issuance of shares of stock which further diluted the minority’s position.

Judge Miller further reported the following regarding unsuccessful candidacies:

- (a) Circuit Court, Thirteenth Circuit, Seat 2 - February 2000;

**THURSDAY, JANUARY 15, 2015**

(b) Circuit Court at Large, Seat 3 - May 2000.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge Miller to be "Qualified" as to constitutional qualifications. They found him "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Judge Miller is married to Martha Walker Albrecht Miller. He has two children.

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

- (a) South Carolina Bar Association;
- (b) Greenville County Bar Association (1993 Board of Directors).

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

Judge Miller further reported:

My family and I are active communicants at Christ Church in Greenville. Formerly, I was active as a youth athletics coach at the Greenville YMCA. I was also a coach, board member and president of a youth soccer organization in Greenville.

(11) Commission Members' Comments:

The Commission commented that Judge Miller is known as an excellent jurist on the Circuit Court bench with a patient and professional demeanor.

(12) Conclusion:

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

THURSDAY, JANUARY 15, 2015

**The Honorable J. Mark Hayes, II  
Circuit Court, At-Large, Seat 5**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission determined the public hearing for Judge Hayes was unnecessary as there was no request for a hearing by at least six members of the Commission, his candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding his candidacy.

(1) Constitutional Qualifications:

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

Judge Hayes was born in 1958. He is 56 years old and a resident of Spartanburg, SC. Judge Hayes provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1984.

(2) Ethical Fitness:

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

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

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

Judge Hayes reported he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

**THURSDAY, JANUARY 15, 2015**

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

(3) Professional and Academic Ability:

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

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

- | <u>Conference/CLE Name</u>                                | <u>Date</u> |
|---|-------------|
| (a) Trial and Appellate Advocacy Section Civil Law Update | 01/24/14;   |
| (b) Criminal Law Section – Part 2                         | 01/24/14;   |
| (c) Introduction to Court-Annexed ADR                     | 09/13/13;   |
| (d) 2013 Annual Judicial Conference                       | 08/21/13;   |
| (e) Spring Conference CLE                                 | 05/01/13;   |
| (f) Trial and Appellate Advocacy Section                  | 01/25/13;   |
| (g) Part 2: Criminal Law Section                          | 01/25/13;   |
| (h) Civil Court Judicial Forum: Advanced                  | 10/26/12;   |
| (i) Trial & Appellate Advocacy Section                    | 01/20/12;   |
| (j) Part 2 Criminal Law Section                           | 01/20/12;   |
| (k) 2011 Annual Judicial Conference                       | 08/17/11;   |
| (l) Criminal Law Essentials                               | 05/20/11;   |
| (m) SC Circuit Court Judges' Conference                   | 05/04/11;   |
| (n) Trial & Appellate Advocacy Section                    | 01/21/11;   |
| (o) Criminal Law Section                                  | 01/21/11;   |
| (p) 2010 Judicial Conference                              | 08/18/10;   |
| (q) 2009 Annual Judicial Conference                       | 08/19/09;   |
| (r) Judges Conference                                     | 05/06/09;   |
| (s) 24 <sup>th</sup> Annual SC Criminal Law Update        | 01/23/09.   |

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

- (a) Spartanburg County Bar Association CLE, Genetic Privacy and The Fourth Amendment: Unregulated Surreptitious DNA Harvesting, Panelist, Wofford College, Spartanburg, SC, February 2014;



**THURSDAY, JANUARY 15, 2015**

- (b) S. C. Magistrates Annual Training, presenter, “DUI in SC Legal Update: Video Recording Challenges and Expert Witnesses,” West Columbia, S.C., November 2013;
- (c) ABA/NHTSA, panel related to the Assessment of South Carolina Impaired Driving, July 2013;
- (d) Charlotte School of Law, Legends and Leaders in the Law, Speakers Series, November 2012;
- (e) National Business Institute, Civil Court Judicial Forum: Advanced Discovery and Trial Practice, Columbia, S.C., October 2012;
- (f) S.C. Criminal Justice Training Conference, keynote speaker, N. Myrtle Beach, S.C., November 2011. Training conference for members of the S.C. Probation and Parole Association, S.C. Law Enforcement Officers’ Association, and S.C. Corrections’ Association;
- (g) S.C. Bar-Continuing Legal Education Division, speaker: Criminal Law Essentials, May 2011; individual presentation topic: “Straight from the Bench”;
- (h) South Carolina Association for Justice (SCAJ), Auto Torts, speaker, Atlanta, GA, December 2010;
- (i) National Christian Forensics & Communications Association (NCFCA): Judge, NCFCA Finals of the Lincoln-Douglas Debate, Bob Jones University, Greenville, S.C., June 2009;
- (j) Trial Judge for the South Carolina Bar Association Mock Trials, Upstate Division, February 2009;
- (k) S.C. Bar Convention, Panel Member on Current Issues in Internet Crime, January 2009;
- (l) Spartanburg Methodist College, School Law presenter, March 2008 and February 2009;
- (m) National Judicial College workshop on Courts and the Media, Atlanta, GA., October 2008;
- (n) Trial Judge for the Mock Trials for the S.C. Defense Attorneys Trial Academy, June 2007 and 2008;
- (o) Wofford College Judicial Symposium, host and presenter: The Constitution: The Third Branch of Government, An Insider’s View, September 2007; individual presentation topic: “The Judiciary and the Media”;

**THURSDAY, JANUARY 15, 2015**

- (p) USC Upstate, Criminal Justice Class presenter, November 2007;
- (q) South Carolina Delegate to the State Trial Judges Conference Annual Meeting: Chicago, Illinois, 2005; Honolulu, Hawaii, 2006; and San Francisco, California, 2007;
- (r) S.C. Budget and Control Board Insurance Reserve Fund: presenter to Government Lawyer Conference; individual topic presentations: Legislative Update, Lexington, SC, 2005, Ethics Update, 2006 and Ethics presenter 2010;
- (s) S.C. Solicitor's Conference: presenter, Myrtle Beach, S.C., 2004;
- (t) S.C. Worker's Compensation Conference: presenter, Asheville, N.C., 2003.

Judge Hayes reported that he has published the following:

- (a) "Ethics: A Thin Thread to Runnymede" as published in the Spring 2011 edition of the Voir Dire a publication of the American Board of Trial Advocates and also again featured in the Spring 2014 (cover) issue of The Justice Bulletin a publication of the South Carolina Association of Justice;
- (b) "JOL Service" as published in the Fall 2013 edition of the Highway to Justice;
- (c) "A Quick View of South Carolina's DUI Videotaping Statute: The mandates and interpretations you need to know to represent your DUI client" as published in the May 2014 edition of the South Carolina Lawyers.

(4) Character:

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

The Commission also noted that Judge Hayes was punctual and attentive in his dealings with the Commission, and the

**THURSDAY, JANUARY 15, 2015**

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hayes reported that his rating by a legal rating organization, Martindale-Hubbell, was A.V.

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

Appointed by County Council as a member of the Spartanburg Memorial Auditorium Commission, 1994 – 2003, Chair 2000 - 2003.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Hayes was admitted to the SC Bar in 1984.

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

- (a) From August 1984 to July 1985, I served as judicial clerk to the Hon. E. C. Burnett, III, then Circuit Court Judge for the Seventh Judicial Circuit of the State of South Carolina;
- (b) In August 1985 to December 1990, I became an associate with the general practice firm of Burts, Turner, Hammett, Harrison and Rhodes. After eighteen months, I was made a full partner in the law firm. Duties included general trial work in both civil and criminal matters. Shortly after becoming associated with the firm, I began developing a specialty area in education/school-related law;
- (c) On January 1, 1991, the firm of Harrison and Hayes was established. The character of my practice became more

## THURSDAY, JANUARY 15, 2015

focused on education law, appellate practice, and more complex civil litigation;

- (d) In January 2000, the law firm of Harrison, White, Smith, Hayes, & Coggins was formed. My primary focus in the practice was complex civil litigation, appellate practice, education law related work, and assistance with complex criminal litigation. Partner until May 2003;
- (e) In 2003, was elected by the South Carolina General Assembly to his present position as South Carolina Circuit Judge At-Large, Seat #5.

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

Elected April 9, 2003 to fulfill the unexpired term and subsequent full term of Gary E. Clary, retired; qualified May 22, 2003, re-elected February 2009; serving continuously.

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

- (a) S.C. Electric & Gas Co. v. Aiken Electric Cooperative, Inc. and the S.C. Public Service Commission

This case involved a review of a decision of the PSC to allow an electrical cooperative the right to provide electricity to a newly constructed school even though only part of the property upon which the school facility was located was within the cooperative's geographic area. Legally, this case required an examination of the role of the PSC in deciding statutory construction and the circuit court's proper role in reviewing a decision made by the PSC. The case was affirmed by the Court of Appeals in an unpublished opinion, S.C. Jud. Dept. – Opinion Number 2005-OP-292.

- (b) McSherry v. Spartanburg County Council

This case involved the Court reviewing a politically charged issue of a \$25.00 road maintenance fee adopted by a county council. Legally, the case dealt with a review of the County's procedure used in adopting the fee and the County's compliance with provisions of the Home Rule Act. Even though the Court and the Supreme Court's affirmation were expressly or implicitly critical of the

**THURSDAY, JANUARY 15, 2015**

method used by the County at its first reading, the adoption of the fee was upheld as legally sufficient. Interesting note as referenced in the Supreme Court's opinion, the County has since changed its implementation procedures. The Supreme Court's affirmation was issued on February 5, 2007 and can be found in Westlaw at McSherry v. Spartanburg County Council, 371 S.C. 586, 641 S.E.2d 431 (2007).

(c) Cracker Barrel Old Country Store, Inc. v. J.C. Faw, Denny's, Inc., 2005-CP-42- 604

The 17-page order issued in this case came after a non-jury hearing that involved the interpretation and application of deed restrictions to a commercial area developed by the plaintiff in 1992. The defendant sought to use the property to establish a competing business in violation of the plaintiff's deed restrictions. Even though titled as a Summary Judgment Order, the case was factually intensive and the attorneys conducted a full trial on the issues. The order, therefore, reflects both a factual and legal analysis. In an unpublished opinion, No. 2007-UP-053, the Court of Appeals affirmed the order on February 7, 2007.

(d) Smith v. NCCI, Inc. and Liberty Insurance Corp.

This case involved a complex fact pattern where a white-collar employee sought Worker's Compensation benefits for both a back injury and a mental injury due to an injury back accident that occurred doing his job as an auditor for an organization related to the Worker's Compensation industry. Legally, the case required the application of the substantial evidence standard of review and application of S.C. Administrative Procedures Act to the decision made by the full Commission. The significance of the case, outside of the usual fact scenario for a Worker's Compensation case, lies with the mental injury claim. The case presented an extraordinary opportunity to revisit the law as it relates to recovery of benefits for mental injuries and the factual burden which must be met by the person claiming these types of injuries. The Court of Appeals affirmed the order in its opinion located at Smith v.

**THURSDAY, JANUARY 15, 2015**

NCCI, Inc., 369 S.C. 236, 631 S.E.2d 268 (S.C. App. 2006).

(e) Turner v. City of Spartanburg, William Barnett, III, et al

This matter was designated as complex and specially assigned to me. The factual allegations of the case stem from a development project partly undertaken by the City of Spartanburg and private developers. When certain payments to the general contractor failed to be paid, a lis pendens was filed against the City and others for payment. My order dated June 19, 2006 supplemented my order of February 10, 2005. These two orders dismissed, initially, various individual defendants and, subsequently, the City of Spartanburg. The plaintiff had attempted to assert private cause of action against the City based upon S.C. Code section 29-6-250 which pertains to governments' construction projects and bonding requirements.

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

In March of 2013, I started service as a consultant with the American Bar Association (ABA) as a judicial outreach liaison officer (JOL) assigned to work with the National Highway Traffic Safety Administration (NHTSA) southeastern region. I was told a judge from Florida with whom I had previously worked with on a Drunk Driving Prevention Program had submitted my name to the ABA for consideration. The southeastern region consists of the states of Florida, Georgia, Alabama, South Carolina and Tennessee. The goal of the JOL program is to raise awareness of highway safety issues in order to reduce traffic fatalities and injuries by improving evidence base sentencing practices and to also assist with the establishment of drug and alcohol courts. South Carolina is one of only two states that have not been able to reach NHTSA standard of having a fatality rate of less than 0.93 deaths per 100 million vehicle miles. My understanding is that I was selected in part because I was from South Carolina and could focus most of my attention on South Carolina since South Carolina did not have its own State JOL. In South Carolina, I worked with S.C. Department of Public Safety, Director Phil Riley and his deputy

## THURSDAY, JANUARY 15, 2015

director Ed Harmon. From the ABA national office I worked with Gina Taylor and from NHTSA office in Atlanta I worked with Sandy Richardson. I participated in the Impaired Driving Program Assessment and organized educational training for over 600 magistrate and municipal judges in South Carolina. In January 2014, I ceased my service as Regional JOL. However, I have continued to be of service to the Department of Public Safety and Bob McCurdy at S.C. Court Administration to coordinate and arrange for educational programs for South Carolina magistrate and municipal judges.

The ABA's contract did provide compensation, however, I did not keep the money. Working with Phillip Hudson of Spartanburg Alcohol and Drug Abuse Commission (SADAC), two programs which deal with alcohol and drug abuse education and awareness were identified. Donations were made to the Community Alcohol and Drug Coalition Program and to the TACT program. The TACT program donation, which deals with teenage alcohol issues, was especially beneficial as their funding had expired and, I was informed, the donation allowed the program to remain functional into their next fiscal year. A third donation was also made to the South Carolina Bar Foundation fund which addresses lawyers with substance abuse issues.

Judge Hayes further reported the following regarding unsuccessful candidacies:

- (a) Supreme Court, Seat #5 (2007), qualified, not nominated;
- (b) Court of Appeals, Seat #6 (2007), qualified, nominated, not elected;
- (c) Court of Appeals, Seat #9 (2008), qualified, nominated, not elected.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualification found Judge Hayes to be "Well Qualified" in the evaluative categories of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and

**THURSDAY, JANUARY 15, 2015**

judicial temperament. The Committee found him “Qualified” in the evaluative criteria of constitutional qualifications.

Judge Hayes is not married. He has no children.

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

- (a) ABA Conference of State Trial Judges – former chair and vice chair of Committee on Fair and Impartial Courts;
- (b) SC Circuit Judges Conference;
- (c) ABA Judicial Division Member;
- (d) American Judges Association;
- (e) South Carolina Bar Association.

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

- (a) 2011 Justice Claude A. Taylor Award Distinguished Service Award presented by the Spartanburg County Bar Association;
- (b) 2004–10 The Supreme Court Commission on Continuing Legal Education and Specializations;
- (c) 1986–87 Significant Contribution to Public Schools in South Carolina Award by the South Carolina Board of Education;
- (d) Former Chairman of Piedmont Area Boy Scout of America.

Judge Hayes further reported:

Serving as a circuit court judge for the State of South Carolina continues to be a great personal privilege and a high professional honor. Every time I take the bench, I am humbled by the weight of the authority the General Assembly has vested in me by selecting me to be a circuit judge. I strive to honor the General Assembly’s trust and confidence by conducting myself on the bench in a manner that is respectful to any litigant who may come before me, regardless of the litigant’s position in society.

I also strive to honor the General Assembly trust and confidence by engaging in extra-judicial activities that promote a better understanding of the rule of law and of our justice system. I am very proud of the educational training for over 600



**THURSDAY, JANUARY 15, 2015**

magistrates and municipal judges that was conducted. I hope to write more articles and essays on law related topics, which will also encourage lawyers to promote their profession. I am most proud, however, of the hundreds of high school students who have written essays as part of the Law Day Essay Program. These students represent our state's and nation's future. My hope is that seeds of civic responsibility have been planted in each of these young adults by writing their essays. By my investing in this essay project, I believe that our state and nation will harvest more civic-minded individuals who have a better appreciation of the rule of law and respect for our great justice system.

(11) Commission Members' Comments:

The Commission commented that Judge Hayes has an outstanding reputation as a jurist and noted his great intellect which has ably served him in discharging his responsibilities on the Circuit Court bench.

(12) Conclusion:

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

**The Honorable William H. Seals, Jr.  
Circuit Court, At-Large, Seat 6**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission determined the public hearing for Judge Seals was unnecessary as there was no request for a hearing by at least six members of the Commission, his candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding his candidacy.

(1) Constitutional Qualifications:

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

**THURSDAY, JANUARY 15, 2015**

Judge Seals was born in 1961. He is 53 years old and a resident of Marion, SC. Judge Seals provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1990.

(2) Ethical Fitness:

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

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

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

Judge Seals reported that he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- (a) New Judges Orientation 07/08/2009;
- (b) SC Association for Justice Annual Convention 08/06/2009;
- (c) 2009 Annual Judicial Conference 08/19/2009;

**THURSDAY, JANUARY 15, 2015**

- (d) Annual Civil Law Update 01/22/2010;
- (e) Annual Criminal Law Update 01/22/2010;
- (f) SC Circuit Court Judges Conference 05/05/2010;
- (g) SC Association for Justice Annual Convention 08/05/2010;
- (h) 2010 Annual Judicial Conference 08/18/2010;
- (i) Trial & Appellate Advocacy Section 01/21/2011;
- (j) SC Circuit Court Judges Conference 05/04/2011;
- (k) General Jurisdiction 05/15/2011;
- (l) Part 2 Criminal Law Section 1/20/2012;
- (m) Trial & Appellate Advocacy Section 1/20/2012;
- (n) SC Circuit Court Judges Conference 05/02/2012;
- (o) 2012 Annual Judicial Conference 08/22/2012;
- (q) SCDTAA Annual Meeting 11/08/2012;
- (r) Trial & Appellate Advocacy Section 01/25/2013;
- (s) Part 2 Criminal Law Section 01/25/2013;
- (t) SC Circuit Court Judges Conference 05/01/2013;
- (u) 2013 Annual Convention 08/01/2013;
- (v) 2013 Annual Judicial Conference 08/21/2013;
- (w) SCDTAA Annual Meeting 11/01/2013;
- (x) Part 2 Criminal Law Section 01/24/2014;
- (y) Trial & Appellate Advocacy Section 01/24/2014;
- (z) SC Circuit Court Judges Conference 03/24/2014.

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

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

(4) Character:

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

The Commission also noted that Judge Seals was punctual and attentive in his dealings with the Commission, and the

**THURSDAY, JANUARY 15, 2015**

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Seals reported that his last available rating was BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Seals was admitted to the SC Bar in 1990.

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

(a) 1987-89, during summer months of law school, I worked for my father's law firm, Seals and Brogdan;

(b) 1990-93, worked for my father's partner, Jim Brogdan (my father deceased). During this time I practiced all areas of law, as Seals and Brogdan continued being a general practice law firm;

(c) 1993-2009, I opened my own practice, Seals Law Firm, and maintained a general practice of the law;

(d) 1996-2009, I was elected by the Marion City Council as Municipal Court Judge. I held this position while continuing my law practice. During this time, I received the Marion City Anonymous Committee Award in 2011, for my service as Municipal Court Judge;

(e) 2009 to present, I was elected to the position of Circuit Court Judge, At-Large, Seat 6.

In 2013, I was appointed Chief Administrative Judge, Civil, for the 12th Judicial Circuit.

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

**THURSDAY, JANUARY 15, 2015**

Marion Municipal Court Judge, elected by Marion City Council, (1996-2009) Criminal and traffic misdemeanors;

Circuit Court At-Large Seat 6 (2009-present) which is a court of general jurisdiction.

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

- (a) City of North Myrtle Beach v. East Cherry Grove Realty Co., LLC, The State of South Carolina, and John Doe  
This case has been involved in litigation for over 40 years and involves the issue regarding who holds title to the disputed canals in North Myrtle Beach. The question was before the court on three theories. That two quit claim deeds established title to the canals; that the canals had been dedicated to the public; and that the State of South Carolina holds title to the canals in trust for the public.
- (b) State Mutual Company v. Gerald Ray Ard and Susan M. Ard, individually and as natural mother, custodian parent, and natural guardian of Lauren Ashley A. and Brandon Todd A., minors under the age of fourteen (14)  
This case involved a Family Court Order and its directives in regards to a life insurance policy mention in same. This case involved contract law, constructive trust and principles of equity.
- (c) Don D. Gause v. Nathan Dale Smithers and Edward W. Hunt  
This case involved the issue of whether punitive damages may be assessed against a Father when his liability was predicated on the family purpose doctrine.
- (d) Celest Hemingway, as Personal Representative for the Estate of Ronnie Earl Davis and David Brown v. Marion County and Marion County Prison Camp  
This case involved the exclusivity provision of the Workers' Compensation Act as it relates to the claim falling within the personal comfort doctrine;
- (e) The State v. Herbert Causey  
This case involved the two prong inquiry to determine the admissibility of an out-of-court identification. It involved five (5) factors that should be considered in

**THURSDAY, JANUARY 15, 2015**

evaluating the totality of the circumstances to determine the likelihood of a misidentification.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Seals to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found him "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Seals is married to Phoebe Richardson Seals. He has one child.

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

- (a) Marion County Bar Association 1990 to present;
- (b) South Carolina Bar Association 1990 to present.

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

Judge Seals further reported:

I do not know of any information which would negatively affect my candidacy. I do believe that my personality in treating all people with respect, being patient, being a good listener, and allowing lawyers the opportunity to try their cases are positive attributes which help me every day in performing my duties as a judge. I also believe that growing up in and practicing law in a small town has provided me with a wide variety of experiences with multiple legal issues but more importantly in dealing with people which helps me in my duties as a judge.

(11) Commission Members' Comments:

**THURSDAY, JANUARY 15, 2015**

The Commission believes that Judge Seals has an excellent reputation as a jurist and he has provided very able service on the Circuit Court bench since 2009.

(12) Conclusion:

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

**The Honorable J. Cordell Maddox, Jr.  
Circuit Court, At-Large, Seat 7**

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

(1) Constitutional Qualifications:

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

Judge Maddox was born in 1958. He is 56 years old and a resident of Anderson, SC. Judge Maddox provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1983.

(2) Ethical Fitness:

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

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

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

Judge Maddox testified that he has not:

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

**THURSDAY, JANUARY 15, 2015**

- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

Conference/CLE Name

- (a) SC Bar 7th Annual Civil Law Update 01/23/09;
- (b) SC Bar 24th Annual SC Criminal Law Update 01/23/09;
- (c) Circuit Court Judge Conference 05/06/09;
- (d) SCAJ Annual Conference 08/06/09;
- (e) Annual Judicial Conference 08/19/09;
- (f) Civil Court Judicial Forum 09/30/09;
- (g) SC Bar Civil Law Update 01/22/10;
- (h) SC Bar Criminal Law Update-Part 2 01/22/10;
- (i) Circuit Court Judges Conference 05/05/10;
- (j) SCAJ Annual Conference 08/05/10;
- (k) Annual Judicial Conference 08/18/10;
- (l) SCDTAA Annual Meeting 11/11/10;
- (m) SC Bar Criminal Law Section 01/21/11;
- (n) SC Bar Trial & Appellate Advocacy Section 01/21/11;
- (o) Circuit Court Judges Conference 05/04/11;
- (p) SCAJ Annual Conference 08/04/11;
- (q) Annual Judicial Conference 08/17/11;
- (r) Sporting Clays 10/13/11;
- (s) SC Bar Criminal Law Section Part 2 01/20/12;
- (t) SC Bar Trial & Appellate Advocacy Section 01/20/12;
- (u) Spring Sporting Clays 04/12/12;
- (v) Circuit Court Judges Conference 05/02/12;
- (w) SCAJ Annual Convention 08/02/12;



**THURSDAY, JANUARY 15, 2015**

- (x) Annual Judicial Conference 08/22/12;
- (y) SCDTAA Annual Meeting 11/08/12;
- (z) SC Bar Criminal Law Section Part 2 01/25/13;
- (aa) SC Bar Trial & Appellate Advocacy Section 01/25/13;
- (bb) Circuit Court Judges Conference 03/24/14.

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

- (a) I lectured at the 2009 NBI CLE Program “Civil Court Judicial Forum;”
- (b) I lectured at the 2011 SC Bar Program “Sporting Clays;”
- (c) I lectured at the 2012 SC Bar Program “Sporting Clays;”
- (d) I lectured at the 2013 NBI Program “Judicial Forum on Trail Advocacy;”
- (e) Spoke at 2011, 2012, and 2014 Boys State.

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

(4) Character:

The Commission’s investigation of Judge Maddox did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Maddox did not indicate any evidence of disqualifying financial issues.

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

(5) Reputation:

Judge Maddox reported that his last available rating by a legal rating organization, was BV.

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

SC House of Representatives - 1996 to 2000. Report was timely filed.

**THURSDAY, JANUARY 15, 2015**

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Maddox was admitted to the SC Bar in 1983.

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

1983-1986 Welborn & Maddox: Predominantly civil matters and general real estate practice.

1986-1994 Jones, Spitz, Moorehead, Baird & Maddox: Predominantly civil matters with some real estate and criminal matters.

1994-2002 Glenn, Haigler & Maddox: Predominantly civil matters with some criminal matters.

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

Circuit Court At-Large, Seat 7. 2002 to Present.

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

- (a) Jack Webb et al v. CSX Transportation et al: This was a complicated tort case. The trial lasted almost 4 weeks. Significant and numerous trial motions and post-trial motions were dealt with over a period of one year.
- (b) State v. Temple: This case involved a pro se defendant charged with criminal sexual conduct first offense. The defendant acted as his own attorney during the pre-trial period, the trial and post-trial motions.
- (c) State v. Larry Dean McCluney: This case was my first criminal trial as a judge, in the summer of 2002. The defendant turned down a recommended sentence of 18 months and subsequently was convicted by a jury. The minimum sentence of 30 years imprisonment was given

**THURSDAY, JANUARY 15, 2015**

to the defendant. This case is significant because, as my first criminal trial, it will forever remind me that the actions of a judge have significant impact on the lives of those before the court.

(d) State v. \_\_\_: This matter was a criminal sexual conduct first offense charge tied before a jury. During the trial, several incidents occurred which made the case unique, including the outburst of a witness during the trial and subsequent hospitalization of the witness and the defendant.

(e) South Carolina Pharmaceutical Pricing Litigation Case: This is a complex multi-national case that was assigned to me in 2006. It involves the State of South Carolina suing several medical manufacturers and has required many hearings.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen's Committee on Judicial Qualification found Judge Maddox to be "Well Qualified" in the evaluative categories of ethical fitness, professional and academic ability, character, reputation, experience, physical health, mental stability, and judicial temperament. The Committee found him "Qualified" in the remaining evaluative criteria of constitutional qualifications.

Judge Maddox is married to Dr. Donna Schwartz Maddox. He has four children.

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

- (a) SC Association of Circuit Court Judges;
- (b) SC Bar Association.

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

- (a) Palmetto Golf Member: Inactive due to surgery in 2013;

**THURSDAY, JANUARY 15, 2015**

- (b) Advanced Science and Technology Adjudication  
Resource: Elected ASTAR Science and Technology  
Fellow in 2009.

(11) Commission Members' Comments:

The Commission commented that Judge Maddox, who has very ably served as a Circuit Court judge since 2002, has an excellent temperament.

(12) Conclusion:

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

**The Honorable David C. Brown  
Circuit Court, At-Large, Seat 8**

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

(1) Constitutional Qualifications:

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

Judge Brown was born in 1969. He is 45 years old and a resident of Florence, SC. Judge Brown provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1998.

(2) Ethical Fitness:

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

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

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

**THURSDAY, JANUARY 15, 2015**

Judge Brown testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- | <u>Conference/CLE Name</u>   | <u>Date</u> |
|--|-------------|
| (a) SC Circuit Court Judges Association                                    | 05/05/2010; |
| (b) The Investigation and Prosecution of CDV and CSC Crimes                | 05/28/2010; |
| (c) Orientation School for New Judges                                      | 07/07/2010; |
| (d) SCAJ Annual Convention   | 08/05/2010; |
| (e) 2010 Judicial Conference   | 08/18/2010; |
| (f) Lunch and Learn the Report of the Task Force on Professional Potential | 12/10/2010; |
| (g) SC Bar: Criminal Law Section   | 01/21/2011; |
| (h) SC Bar: Trial and Appellate Advocacy Section                           | 01/21/2011; |
| (i) Sporting Clays CLE: Ethics with Judges                                 | 04/14/2011; |
| (j) SC Circuit Court Judges' Conference                                    | 05/04/2011; |
| (k) 2011 Orientation School for New Judges                                 | 07/06/2011; |
| (l) SCAJ Annual Convention   | 08/04/2011; |
| (m) Annual Judicial Conference   | 08/17/2011; |
| (n) Sporting Clays CLE: Ethics with Judges                                 | 10/13/2011; |
| (o) SCDTAA Annual Meeting  | 11/03/2011; |
| (p) SC Bar: Part 2 Criminal Law Section                                    | 01/20/2012; |

**THURSDAY, JANUARY 15, 2015**

- (q) SC Bar: Trial and Appellate Advocacy Section  
01/20/2012;
- (r) Northwestern Univ. Economics Institute For  
Judges 04/23/2012;
- (s) NJC: General Jurisdiction 04/29/2012;
- (t) The 11 Hour Evidence Clock 06/07/2012;
- (u) SCAJ Annual Convention 08/02/2012;
- (v) Sporting Clays CLE: Ethics with Judges 10/18/2012;
- (w) SCDTAA Annual Meeting 11/08/2012;
- (x) George Mason Univ. 7<sup>th</sup> Annual Judicial Symposium on  
Civil Justice Issues 11/11/2012;
- (y) SC Bar: Part 2 Criminal Law Section 01/25/2013;
- (z) SC Bar: Trial and Appellate Advocacy Section  
01/25/2013;
- (aa) NJC: Sentencing and Management of Sex  
Offenders 02/11/2013;
- (bb) Spring Sporting Clays CLE: Ethics with the  
Judges 04/25/2013;
- (cc) Spring Judicial Conference 05/01/2013;
- (dd) Annual Judicial Conference 08/21/2013;
- (ee) Fall Sporting Clays: Ethics with the Judges 10/17/2013;
- (ff) Handling Capital Cases 11/04/2013;
- (gg) SC Bar: Trial and Appellate Advocacy 01/24/2014;
- (hh) SC Bar: Part 2 Criminal Law Section 01/24/2014;
- (ii) Spring Circuit Court Judges Conference 03/24/2014;
- (jj) Sporting Clays CLE: Ethics with Judges 04/24/2014;
- (kk) Mason Judicial Symposium on the Economics and  
Law of Public Pension Reform 04/27/2014;
- (ll) Fundamentals of E-Discovery 06/11/2014.

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

- (a) Francis Marion University—Adjunct Professor—Business Law.  
August 1999—May 2005;
- (b) Florence—Darlington Technical College—Adjunct Professor—  
Business Law. March 2000—May 2000;
- (c) The Investigation and Prosecution of Criminal Domestic  
Violence and Criminal Sexual Conduct Crimes –  
Lectured on Bonding Issues—May 2010;

**THURSDAY, JANUARY 15, 2015**

- (d) Panelist – Sporting Clays CLE: Ethics with Judge –April 2011;
- (e) Lecturer – Orientation School for New Judges–July 2011;
- (f) Panelist – Sporting Clays CLE: Ethics with Judges–October 2011;
- (g) Panelist – Sporting Clays CLE: Ethics with Judges–October 2012;
- (h) Panelist – Sporting Clays CLE: Ethics with Judges–April 2013;
- (i) Panelist – Sporting Clays CLE: Ethics with Judges–October 2013;
- (j) Panelist – Sporting Clays CLE: Ethics with Judges–April 2014.

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

(4) Character:

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

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

(5) Reputation:

Judge Brown reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

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

Florence County Voter Registration and Election Commission. Appointed March 2007 and resigned on February 5, 2008. While serving on this Commission, I did timely file my report with the State Ethics Commission.

THURSDAY, JANUARY 15, 2015

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Brown was admitted to the SC Bar in 1998.

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

- (a) Judicial Law Clerk for the Honorable M. Duane Shuler, South Carolina Circuit Court. August 1997–Summer 1998;
- (b) Bridges, Orr, Derrick & Ervin –August 1998–April 2001. Engaged in the practice of civil litigation, primarily defense;
- (c) The Law Office of D. Craig Brown, P.C. May 2001–March 2010. Engaged in the practice of civil litigation (plaintiff and defense) and criminal defense (state and federal);
- (d) Florence County Public Defender –Part-time–July 2006–August 2007;
- (e) Marion County Public Defender–Part-time–July 2006–March 2010;
- (f) South Carolina Circuit Court Judge, At-Large Seat No. 8–Elected February 2010–Present.

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

I was elected to the South Carolina Circuit Court, At-Large Seat No. 8 on February 3, 2010. I was sworn in on March 25, 2010, and have been serving continuously since then.

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

- (a) Affirmative Insurance Services, Inc., v. Salvador Cruz-Campos. Affirmed by the South Carolina Court of



**THURSDAY, JANUARY 15, 2015**

Appeals, May 16, 2012. Unpublished Opinion No. 2012-UP-308;

- (b) Mark Fountain v. First Reliance Bank, et. al. Affirmed by the South Carolina Supreme Court, July 11, 2012. Opinion No. 27141;
- (c) Sease v. State of South Carolina. Affirmed by the South Carolina Supreme Court, September 11, 2013. Memorandum Opinion No. 2013-MO-025;
- (d) State v. Matthews. Affirmed by the South Carolina Court of Appeals, February 12, 2014. Unpublished Opinion No. 2014-UP-063;
- (e) Susan Ann Bell Lynch v. Carolina Self Storage. Affirmed by the South Carolina Court of Appeals, March 26, 2014. Opinion No. 5213.

Judge Brown further reported the following regarding an unsuccessful candidacy:

I previously ran for Circuit Court, At-Large Seat No. 1. The screening process took place in the Fall of 2008. The Judicial Merit Selection Commission found that I was qualified and nominated me for election. The election for this particular seat took place in February 2009. I withdrew as a candidate for this seat on the morning of the election.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Brown to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Judge Brown "Well Qualified" in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Brown is married to Kay Hunt Brown. He has three children.

**THURSDAY, JANUARY 15, 2015**

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

- (a) South Carolina Bar Association;
- (b) Florence County Bar Association.

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

- (a) Florence County Small Fry Baseball Coach – 2010-11 & 2014;
- (b) Florence County Minors Baseball Coach – 2012–13;
- (c) City of Florence Junior Football League Coach – 2013;
- (d) Delmae Baseball League Board Member – 2013–14;
- (e) City of Florence Junior Football League Board Member – 2013-14.

Judge Brown further reported:

As I stated in my Personal Data Questionnaire in July 2009 when applying for the judicial seat that I now hold, I conveyed to the Commission the values of honesty, integrity, hard work, and treating others with dignity and respect. These values were instilled within me from a very young age by my parents and they have been values that I relied upon as a practicing attorney and now rely upon as a sitting judge. The importance of these values were confirmed when practicing law and have now been confirmed as a judge. Finally, they will continue to be values that I will rely upon in carrying out my job responsibilities as a Judge.

(11) Commission Members' Comments:

The Commission commented that Judge Brown has an excellent work ethic on the Circuit Court bench managing the docket and has very ably served as a Circuit Court judge since 2010.

(12) Conclusion:

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

**Jerome P. Askins, III  
Circuit Court, At-Large, Seat 9**

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

**THURSDAY, JANUARY 15, 2015**

(1) Constitutional Qualifications:

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

Mr. Askins was born in 1952. He is 62 years old and a resident of Johnsonville, SC. Mr. Askins provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1976.

(2) Ethical Fitness:

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

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

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

**THURSDAY, JANUARY 15, 2015**

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

- | <u>Conference/CLE Name</u>                                | <u>Date</u> |
|---|-------------|
| (a) Civil Court Mediation Certification                   | 02/23/2006; |
| (b) Mandatory ADR Training                                | 09/08/2006; |
| (c) Title Insurance Seminar                               | 10/04/2006; |
| (d) Title Insurance Seminar                               | 11/02/2007; |
| (e) Title Insurance Seminar                               | 11/07/2008; |
| (f) Ethics Update   | 12/19/2008; |
| (g) A Beacon You Can Count On-Title Insurance             | 04/21/2009; |
| (h) Handling Social Security Disability                   | 06/11/2009; |
| (i) Introduction to Court-Annexed ADR                     | 10/29/2010; |
| (j) Florence County Bar-Ethics                            | 12/10/2010; |
| (k) Plaintiff's Personal Injury                           | 02/28/2011; |
| (l) Protecting Assets while Qualifying for Medicaid       | 12/21/2011; |
| (m) 21 <sup>st</sup> Annual Criminal Trial Practice in SC | 02/24/2012. |
- (I am now exempt from CLE because I am over 60 years of age and I have practiced law for over 30 years).

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

- (a) Ethical Issues in Appointed Cases - 03/06/2003;
- (b) Recent Significant Ethical Issues - 05/05/2004.

Note - I have also spoken on several occasions to students at Johnsonville High School and Hemingway High School, including Career Day, etc.

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

(4) Character:

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

The Commission also noted that Mr. Askins was punctual and attentive in his dealings with the Commission, and the

**THURSDAY, JANUARY 15, 2015**

Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Askins reported that his rating by a legal rating organization, Martindale-Hubbell, is 4.4 out of 5.0 BV Distinguished (Peer Review Rating).

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Askins was admitted to the SC Bar in 1976.

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

After graduation from USC Law School in May 1976, I took a study course to prepare for the SC Bar Exam, which I took in July 1976. After the bar exam, I was employed as an associate of my father, Jerome P. Askins, Jr., who practiced in Hemingway, SC. I was employed by him until the end of 1980. We were joined by my brother, Gregory B. Askins, in the summer of 1980. My father retired in 1980 (died 1981), and my brother and I began a partnership in 1981, practicing as Askins and Askins. In April 1984, our firm merged with another two person firm to form Askins, Chandler, Ruffin and Askins. C. B. Ruffin withdrew in 1985, and I practiced with my brother and William H. (Bill) Chandler (Askins, Chandler, and Askins, LLP) from 1985 until December, 2006 when Bill Chandler died. My brother and I have continued the partnership through the present. My nephew, Carson B. Askins, was employed as an associate in 2011.

My practice has been a general practice. I have handled civil litigation representing mostly plaintiffs with some defense work, probate and estate matters, domestic relations cases, real

**THURSDAY, JANUARY 15, 2015**

property matters, contracts and some criminal cases. Most of my criminal defense work was court appointed. I served as Assistant Williamsburg County Public Defender for about 3 years in the 1990's. I am a certified circuit court mediator.

Mr. Askins further reported regarding his experience with the Circuit Court practice area:

Criminal Matters: I have handled mostly criminal defense, although I have prosecuted some cases in municipal court. Most of my criminal cases have been court appointed. I also served as Assistant Williamsburg County Public Defender for about 3 years in the 1990's. During this time, I handled numerous jury trials as well as guilty pleas. I am not certified to handle death penalty cases at present, but I have been appointed as counsel for defendants in two death penalty cases in the past. My last jury trial in a criminal case in General Sessions was as court appointed defense counsel in an armed robbery case where the defendant had a prior conviction for armed robbery and was facing life in prison upon conviction. In recent years, I was taken off the list for court appointments for indigents and minors, handling mostly DSS cases in Family Court and post conviction relief cases.

Civil Matters: When I began practicing law in 1976, I handled civil matters in the U.S. District Court, U. S. Bankruptcy Court, Family Court, County Court, Court of Common Pleas, Probate Court, and Magistrate's Court. More recently, I have not handled matters in the U. S. District Court or Bankruptcy Court, and I have handled only a few cases in Family Court, other than numerous Court appointed cases representing indigents and minors, and serving as a guardian ad litem. In the Court of Common Pleas, I have tried personal injury cases, representing plaintiffs, contracts cases representing plaintiffs and defendants, and collection cases primarily representing lenders although I have occasionally represented defendants. I have also tried contested matters in Probate Court. I have not had a jury trial in Common Pleas Court recently, but I have had numerous non-jury matters.

In addition to my experience in the court room, I believe experience in dealing with people of all walks of life in a small town general law practice for over 37 years would be invaluable

**THURSDAY, JANUARY 15, 2015**

to me as a circuit judge. My clients have been a widely diverse group, including indigents and multi-millionaires; young and old; male and female; African-Americans, Caucasians, and Hispanics; individuals and large corporations. Also, I have chaired or presided over numerous organizations, serving in positions such as Chairman of the Florence County Planning Commission; Chairman of Hemingway First United Methodist Church Administrative Council and Pastor/Staff Parish Relations Committee; President of Williamsburg County Bar Association; President of Johnsonville/Hemingway Lions Club; past Master of Indiantown Masonic Lodge#165. I am a certified circuit court mediator, and I have served as a special referee in non-jury cases.

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

- (a) Federal: 0;
- (b) State: Approximately 25%.

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

- (a) civil: 50%;
- (b) criminal: less than 1%;
- (c) domestic: less than 5%;
- (d) other: less than 45%.

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

- (a) jury: less than 5%;
- (b) non-jury: over 95%.

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

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

- (a) State v. E. Douglas and K. Douglas. This was a night hunting case. It was my first jury trial in General Sessions Court;
- (b) Smith, et. al. v. McClam, et al. This was an action to set aside a deed from an elderly woman to her son. We had a jury

**THURSDAY, JANUARY 15, 2015**

trial in Common Pleas, appeal to SC Court of Appeals, remand and appeal to SC Supreme Court;

(c) State v. Bobby Gene Ellison. The defendant was charged with attempt to buy cocaine. We had a jury trial in General Sessions. The defendant was deaf and mute so it was necessary to have an interpreter from the SC Association of the Deaf;

(d) State v. Steven Hanna. Jury trial in General Sessions Court for armed robbery. The defendant was about 26 years of age, had a prior conviction for armed robbery, and was facing mandatory life in prison upon conviction;

(e) State v. E. D. Wilson. This was a capital murder case. The defendant was charged with murdering two elderly people with an axe. Jury trial in General Sessions. After dealing with some constitutional issues, the defendant was allowed to plead guilty, and was sentenced to life in prison without parole.

The following is Mr. Askins account of three civil appeals he has personally handled:

(a) Smith, et. al. v. D. McClam, et. al. SC Court of Appeals, 280 S. C. 398, 312 S.E.2d 260 (1984); SC Supreme Court, 289 S. C. 452, 346 S.E.2d 720 (1986);

(b) Ray Realty, Inc. v. Badger R. Bazen, Inc. SC Court of Appeals, 96-UP-161 (May 23, 1996). Sole counsel at trial, co-counsel on appeal;

(c) Anderson Brothers Bank v. EBT Property Holding Company, Inc., et. al. SC Court of Appeals, unpublished opinion-Sole counsel at trial, co-counsel on appeal.

Mr. Askins reported he has not personally handled any criminal appeals.

Mr. Askins further reported the following regarding unsuccessful candidacies:

(a) Unsuccessful candidate for mayor of Johnsonville, SC, in November 1998 (I lost by 4 votes);

(b) Unsuccessful candidate for Circuit Court Seat #15 At Large in 2012-13.



**THURSDAY, JANUARY 15, 2015**

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Mr. Askins to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Askins is married to Donna Wofford Askins. He has two children.

Mr. Askins reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association;
- (b) Williamsburg County Bar Association, President 2003 and 2004;
- (c) Florence County Bar Association;
- (d) Previously, South Carolina Trial Lawyers Association;
- (e) Appointed to South Carolina Bench-Bar Committee by then South Carolina Chief Justice David W. Harwell 1993-94.

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

- (a) Johnsonville-Hemingway Lions Club-past president, board member, tail twister;
- (b) Phi Beta Kappa Honor Society;
- (c) Indiantown Masonic Lodge #165 and Shriner (not active in recent years);
- (d) Hemingway First United Methodist Church-Chairman of Administrative Council, Chairman of Pastor/Staff Parish Relations Committee, Trustee, Head Usher, President of United Methodist Men;
- (e) Florence County School District #5 Election Commission.

**THURSDAY, JANUARY 15, 2015**

Mr. Askins further reported:

I have aspired to be a circuit judge for some time. My father was an attorney and I was exposed to the legal profession at an early age. He was a country lawyer, as I am. I witnessed how he was as kind, respectful and patient with a poor uneducated sharecropper as he was with a wealthy businessman. I had good parents, good upbringing. Good grades and good behavior at school were demanded, not merely encouraged. Sunday school was mandatory. I decided as a boy that I wanted to be an attorney. During my years of practicing law, I decided that I wanted to be a judge someday. For me, the timing seems right-my wife has retired from teaching school and my children are adults. As far as I know, I am in good health and I intend to work indefinitely. In my thirty-seven plus years of practicing law, I have handled a wide array of cases for a vastly diverse group of clients. I believe the experience gained thus far during my career would be of great benefit-not just time in the courthouse, but time dealing with all kinds of people and all kinds of legal problems. Over the years, I have encountered outstanding judges-skilled and capable with the temperament to maintain order and decorum in the courtroom and control the proceeding while being patient, dignified, courteous and respectful to attorneys, parties, jurors and courtroom personnel. Unfortunately, I have also encountered judges who were rude, arrogant, impatient and inconsiderate of those around them. I very much want to serve and I am committed to being one of the good guys.

(11) Commission Members' Comments:

The Commission commented that Mr. Askins has a great deal of diverse criminal and civil experience which will serve him well as a jurist on the Circuit Court bench. They noted he exhibits an excellent temperament and demeanor.

(12) Conclusion:

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

**Tanya A. Gee  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. Gee was born in 1977. She is 37 years old and a resident of Columbia, South Carolina. Ms. Gee 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 2002.

(2) Ethical Fitness:

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

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

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

**THURSDAY, JANUARY 15, 2015**

(3) Professional and Academic Ability:

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

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

- (a) 2009 Annual Judicial Conference 08/19/09;
- (b) SCAJ 2010 Annual Convention 08/05/10;
- (c) 2010 Judicial Conference 08/18/10;
- (d) 2010 Hot Tips from Coolest Domestic Lawyers 10/01/10;
- (e) Workers' Comp Law 10/15/10;
- (f) Ethics and Technology 11/23/10;
- (f) It's All A Game: Top Trial Lawyers Take On Civ  
Pro 02/08/11;
- (g) 2011 Annual Judicial Conference 08/17/11;
- (h) 2011 Hot Tips from Coolest domestic Lawyers 09/16/11;
- (i) Abuse & Neglect Cases 11/18/11;
- (j) It's All a Game: Tope Trial Lawyers Tackle  
Evidence 02/17/12;
- (k) Master in Equity Bench/Bar 10/12/12;
- (l) Powerful Witness Prep 11/09/12;
- (m) JBO Inn of Court CLE 11/13/12;
- (n) Bankruptcy Practice in the District 11/16/12;
- (o) Family Court Bench/Bar 12/07/12;
- (p) S.C. Bar Convention 01/23/14;
- (q) Bridge the Gap 03/10/14;
- (r) Bridge the Gap 08/04/14.

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

- (a) I have lectured at the 2014 SC Bar Program "Bridge the Gap" for new lawyers on the topic of Appellate Practice;
- (b) I have presented case law updates to the family court bench and bar at the 2014 SC Bar Conference;
- (c) I have presented case law updates to the family court bench and bar at their annual bench/bar meeting in December of 2013;
- (d) I have presented bankruptcy law updates to lawyers who practice in the district in November of 2012;

**THURSDAY, JANUARY 15, 2015**

- (e) I have presented case law updates to the masters-in-equity and lawyers who appear before the masters in the annual masters-in-equity bench/bar CLE in November of 2012;
- (f) I have lectured paralegals and administrative assistants regarding the procedures for filing appeals in April of 2012;
- (g) I have presented a case law update on evidence to trial attorneys for the SC Bar's popular "It's All a Game" CLE in February of 2012;
- (h) I have lectured at the Children's Law Office CLE on appellate issues for appointed attorneys in Abuse and Neglect cases in November of 2011;
- (i) I have presented a case law update to domestic attorneys at a SC Bar sponsored CLE in September of 2011;
- (j) I have provided two civil law case updates to the appellate court and circuit court judges (and their law clerks) at the annual judicial conferences in 2010 and 2011;
- (k) I have lectured to the family court attorneys on the topic of petitions for supersedeas at the S.C. Bar sponsored "Hot Tips" CLE in October of 2010;
- (l) I have lectured on the nuts and bolts of filing appeals to criminal lawyers at a CLE sponsored by the Attorney General's Office in September of 2010;
- (m) I lectured to workers' compensation attorneys on appellate issues in May of 2008;
- (n) I lectured on the "art" of opinion writing to staff attorneys and law clerks at numerous seminars for appellate court attorneys from 2003 through 2010;
- (o) I have guest-lectured in classes at both USC Law and Charleston Law School about appellate procedures, preservation of error, legal writing, oral argument, and standard of review;
- (p) I have spoken to high school and middle school students about practicing law and the role of the judiciary.

Ms. Gee reported that she has published the following:

- (a) Noticing Appeals, co-author of ongoing blog on appellate issues, [www.noticingappeals.com](http://www.noticingappeals.com);
- (b) Why Compromising after the Battle Sometimes Makes Cents, author; Winter Edition of the SC Workers'

**THURSDAY, JANUARY 15, 2015**

Compensation Educational Association's Newsletter, Chronicles. Reprinted Nov. 28, 2011 by workcompcentral.com, found here: <https://ww3.workcompcentral.com/columns/show/id/85bf0ab4428a0f751ecac05dcab2907bj>;

(c) SC's Safe Haven for Abandoned Infants Act: A "Band-Aid" Remedy for the Baby-Dumping "Epidemic", author; 53 S.C. L. Rev. 151 (Fall 2001).

(4) Character:

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

The Commission also noted that Ms. Gee 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. Gee reported that she is not rated by any legal rating organization. She further reported, "In 2009, I was an inaugural recipient of the 'Leadership in the Law Award' presented by SC Lawyer's Weekly."

Ms. Gee reported that she has held the following public office: I was unanimously elected by the judges of the Court of Appeals to serve as Clerk of Court in February of 2010. I timely filed my Statement of Economic Interests with the State Ethics Commission.

(6) Physical Health:

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

**THURSDAY, JANUARY 15, 2015**

(7) Mental Stability:

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

(8) Experience:

Ms. Gee was admitted to the SC Bar in 2002.

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

- (a) Upon graduating from law school, I went to work for the Honorable Kaye G. Hearn, who was the Chief Judge of the SC Court of Appeals at the time. I began work in August of 2002, not as a law clerk, but as her “lawyer administrative assistant.” In January of 2003, I was elevated to a law clerk position. I remained in that position until July of 2007. While working for Chief Judge Hearn, I read appellate briefs and records in criminal, civil, family, workers’ compensation, and administrative law case; I researched the legal issues raised in these appeals; I wrote bench memoranda to assist the judges in their decision-making process; I orally presented cases to and fielded questions from the judges assigned to the case; and ultimately, I assisted with the drafting of opinions.
- (b) By August of 2003, I became Chief Judge Hearn’s senior law clerk. As senior law clerk, I was responsible for training new law clerks and administrative assistants and editing their work, in addition to my duties listed above. When necessary, I also helped the staff attorneys’ office with post-conviction relief petitions, appellate motions, and petitions for supersedeas. I wrote a Law Clerk and Staff Attorney manual and was responsible for updating the Court’s Scope of Review Outline. I also was responsible for creating orientation notebooks for six new appellate judges. Though not part of my duties, it was my pleasure to help organize over a dozen free CLEs for Judicial Department employees and to help with the Department’s annual Harvest Hope Food Drive and March of Dimes events.

**THURSDAY, JANUARY 15, 2015**

- (c) In August of 2007, I was appointed by the judges to be Chief Staff Attorney for the Court of Appeals. As Chief Staff Attorney, I was responsible for supervising and training ten staff attorneys, presenting motions to judges, and writing orders. I also spent some time working as a temporary law clerk to the Honorable C. Tolbert Goolsby, Jr., when he sat as a special circuit judge.
- (d) On February 2, 2010, I was unanimously elected by the judges on the Court of Appeals to serve as the Clerk of Court. In that position, I was responsible for the administration of the Court, including nine active judges and one retired judge, their chambers, the staff attorneys' office, the docketing office, and all support personnel. As clerk, I was the "face and voice" of the Court and handled all correspondence between the Court and outside parties.
- (e) After working for approximately ten years at the Court of Appeals in positions ranging from administrative assistant to Clerk of Court, I sought and obtained a job in private practice, working for my current employer, Nexsen Pruet. At Nexsen Pruet, I am a member of the Business Litigation Group, though my practice includes employment law, malpractice defense, family law, election law, and administrative law, in addition to business litigation. I am also a member of the Appellate Practice Group.

Ms. Gee further reported regarding her experience with the Circuit Court practice area:

Criminal Experience

With the exception of my experience working as a trial assistant for the York County Public Defenders' Office prior to law school, which I will discuss below, my experience in criminal matters has been appellate in nature.

In 2013, Chief Judge Few collaborated with the SC Commission on Indigent Defense, the Attorney General's Office, and the Supreme Court to launch an "Appellate Practice Project." Participants in this project were appointed to represent convicted criminal defendants in their appeals. Chief Judge Few asked me (along with other lawyers experienced in criminal



**THURSDAY, JANUARY 15, 2015**

appellate matters) to serve as a consultant to those participating in this project. As a consultant, I read records, discussed issues, researched law, and ultimately edited briefs prior to their filing.

From 2002 through 2010, while working as a law clerk and as Chief Staff attorney for the SC Court of Appeals, I handled hundreds of criminal appeals, ranging from guilty pleas to probation revocations to post-conviction relief actions to full-blown trials resulting in sentences of life without parole. This involved reading the guilty plea and trial transcripts in each of those cases. In addition to writing bench memoranda and opinions myself, I was also responsible for editing the other staff attorneys' work before it was submitted to the judges. From 2010 until 2012, when I served as Clerk of Court, I read and edited every criminal opinion published by the judges of the Court of Appeals.

As chief staff attorney, I was responsible for supervising other attorneys' review of all criminal appeals filed pursuant to Anders v. California. These appeals, which are referred to as Anders appeals, are filed when attorneys appointed to represent indigent defendants believe the appeal they have been assigned has no merit and should be dismissed. When such an appeal is received by the Court of Appeals, the staff attorneys are responsible for reviewing the entire Record on Appeal to determine whether any issue of arguable merit exists. While the great majority of Anders appeals are frivolous, as the appointed attorney attested, I discovered some issues that had merit, were sent back to the attorney for briefing, and ultimately resulted in a reversal.

Prior to attending law school, I worked approximately 15 hours a week for the York County Public Defenders Office, first as an intern and then as a trial assistant. During that time, I shadowed attorneys as they visited their incarcerated clients, I helped prepare questions for direct and cross-examination, and I attended trial in a paralegal-like capacity.

#### Civil Experience

Since entering into private practice, I have developed wide-ranging experience in civil matters. I have argued motions before trial judges and participated in trials, including making opening and closing statements, questioning witnesses on both direct and cross examination, and admitting documents into evidence during trial. Shortly after entering into private practice,

**THURSDAY, JANUARY 15, 2015**

I became involved in several election law cases, as a result of the Supreme Court's opinion in Anderson v. S.C. Election Commission. These cases were expedited, and several of them were tried (and appealed to the Supreme Court) between June 2012 and October 2012.

In addition to election cases, I have worked on class actions, contract disputes, professional negligence cases, insurance cases, and employment disputes.

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

- (a) Federal: I have physically appeared in federal court one time, in a Voters' Rights Act case. However, I appear in federal court by way of filings regularly.
- (b) State: Since January of 2014 to present, I have physically appeared in state court monthly/bi-weekly, and I appear in state court by way of filings frequently. From February 2013 until January of 2014, I underwent intensive, inpatient chemotherapy and surgery, and although I continued to work from the hospital, I did not make physical court appearances, except one appearance at the Court of Appeals in September of 2013. Prior to February 2013, I appeared in court bi-weekly.

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

- (a) Civil: 50%;
- (b) Criminal: 5%;
- (c) Domestic: 35%;
- (d) Other: 10% (administrative law).

Those percentages are based on my practice at Nexsen Pruet. If I were to include the cases I handled while at the Court of Appeals, the number of criminal cases would eclipse all other categories of cases.

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

- (a) Jury: 5-10%;

**THURSDAY, JANUARY 15, 2015**

(b) Non-jury: 90-95%.

Ms. Gee provided that she most often served as associate counsel.

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

Parsing out which five cases are the most significant to me is a particularly difficult question because all of my clients and their cases are significant to me for different reasons. Below are five cases that are particularly memorable for the reasons provided.

(a) Tempel v. S.C. Election Com'n, 400 S.C. 374, 735 S.E.2d 453 (2012):

This case is significant to me because it involved a temporary restraining order, a trial, and an appeal to the Supreme Court (which was then followed by a trial in federal court before a three-judge panel, pursuant to the Voters Rights Act). At issue was whether my client, Paul Thurmond (who was then a candidate for the state Senate) had properly filed his Statement of Economic Interests. Unlike other candidates who had been decertified prior to the primary election, Thurmond's name remained on the ballot, and he won the primary election. At trial, the circuit court determined Thurmond had not properly filed his election paperwork; however, we successfully argued that the remedy was not to remove Thurmond's name from the general election ballot, as plaintiff sought, but to have a special primary election. The SC Supreme Court affirmed this remedy.

(b) Dorchester County Democratic Party v. Dorchester County Republican

Party, Appellate Case No. 2012-21269 (S.C. Sup. Ct. Order Sept. 5, 2012):

This was also an election case involving the issue of whether my client, Sean Bennett, now a State Senator, had properly filed his Statement of Economic Interests. Like the Tempel case described above, this case involved a circuit court trial and appeal to the SC Supreme Court. This case is significant to me because on appeal, I successfully filed a motion to dismiss, arguing that the protestor bringing the action had not exhausted his administrative remedies. This short-circuited a lengthy and expensive appellate process for my client.

**THURSDAY, JANUARY 15, 2015**

(c) Bessinger v. Pinckney, Election Protest before the SC Election Commission (November 2012):

This case is significant to me because it was my first appearance before a quasi-judicial body and the first case I tried as sole counsel. At issue was whether my client, Senator Pinckney, lived in his district. After a trial before the commission, which included several witnesses and numerous documents entered into evidence, the Commission ruled unanimously in favor of Senator Pinckney.

(d) Heather C. v. Kevin C., 2013 WL 8541486 (Ct. App. 2013):

In this case, I represented a father, Kevin C., who had been accused of molesting his daughter. The accusation was made in the midst of a contentious divorce. Father vehemently denied the accusations and after passing two lie detector tests, no criminal charges were ever brought against him. In order to resume visitation with his children, he entered into a settlement agreement with Mother and the Department of Social Services that allowed him to visit with his children in the presence of a therapist. After entering into this agreement on the record, Mother appealed and refused to allow therapeutic visitation to begin. While the case was on appeal, a petition for supersedeas was filed against my client after I was diagnosed with cancer, and I successfully defended the petition by drafting a return from my hospital room. Oral arguments for the appeal were scheduled in September of 2013, and although I was too sick to argue the case, I appeared at the hearing because the case was so important to me. The Court of Appeals ruled in favor of my client and affirmed the settlement agreement.

(e) Hansen v. Fields Co., Appellate Case No. 2011-190886 (Opinion Pending, Argued Feb. 4, 2014 before the SC Supreme Court):

Although I do not yet know the outcome of this case, the issue raised on appeal will flesh out the extent to which a business can be held liable for the torts of its promoters. The issue in the case is whether the trial court erred in failing to grant a directed verdict in favor of my client, Beechwood Development Group, LLC, with regard to all of the causes of action asserted against it by the plaintiff. The jury returned a verdict of over \$1 million against my client, and I have argued on appeal that the verdict should be reversed because the wrongs alleged were all

## THURSDAY, JANUARY 15, 2015

committed by a promoter of the LLC, before the LLC even existed. I believe the result of this case could have a tremendous effect on economic development in SC.

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

- (a) Kerr v. BB&T, \_\_\_\_\_ S.E.2d \_\_\_\_\_, 2014 WL 1386873 (S.C. Sup. Ct., decided April 9, 2014);
- (b) Amisub of SC v. SCDHEC, 403 S.C. 576, 743 S.E.2d 786 (S.C. Sup. Ct., May 29, 2013);
- (c) Johnson v. Johnson, 2014 WL 2721686 (S.C. Ct. App., April 30, 2014);
- (d) Cunningham v. Anderson County, 402 S.C. 434, 741 S.E.2d 545 (S.C. Ct. App., Feb. 27, 2013);
- (e) Jarrard v. Federal Express, App. Case No. 2011-204646, (S.C. Ct. App. Order, Feb. 25, 2013).

The following is Ms. Gee's account of three criminal appeals she has personally handled:

- (a) State v. Craig, App. Case No. 2013-001690 (awaiting disposition) – Served as “mentor” to appointed attorney, Greg Placone, as part of the Appellate Practice Project;
- (b) State v. Thompson, App. Case No. 2012-213141 (awaiting disposition) – Served as “mentor” to appointed attorney, Michael Schott, as part of the Appellate Practice Project;
- (c) State v. Cardwell, App. Case No. 2012-213368 (awaiting disposition) – Served as “mentor” to appointed attorney, Melissa Fried, as part of the Appellate Practice Project.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Ms. Gee to be “Qualified” in the evaluative criteria of professional and academic ability, physical health, and experience. The Committee found Ms. Gee to be “Well Qualified” in the remaining evaluative criteria of constitutional qualifications, ethical fitness, character, reputation, mental

**THURSDAY, JANUARY 15, 2015**

stability, and judicial temperament. The Committee stated in related comments, “Ms. Gee has impressive credentials in the area of appellate law. Such attorneys also acquire exceptional knowledge of case law and statute law, and, no doubt, has Ms. Gee. The Committee has questions about her lack of trial experience.” The Committee stated in summary, “Ms. Gee’s lack of trial experience prevents her from being “Well Qualified,” but otherwise, she is qualified to serve as a Circuit Court Judge.”

Ms. Gee is married to Christopher Ray Koon. She has two children.

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

- (a) SC Bar Association;
- (b) Richland County Bar Association;
- (c) John Belton O’Neill Inn of Court.

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

- (a) Ebenezer Lutheran Church, Member;
- (b) Sarcoma Warriors, Board Member;
- (c) Liberty Fellowship, Class of 2012;
- (d) Compleat Lawyer Award (two time recipient, Bronze and Silver levels);
- (e) State Newspaper’s Twenty under Forty.

Ms. Gee further reported:

Last year, I battled cancer, and in my initial attempts to articulate “other information” relevant to my judicial application, I naturally turned to that experience because it was such a watershed event in my life. Undoubtedly, battling sarcoma and losing my right hip has changed my perspective on life. I received tremendous support from a generous community, and I have a much more refined sense of what is important and what is not. However, the trouble with writing about cancer is that you can’t bluff cancer. If I’m being honest with myself, when it comes to my potential performance as a SC circuit court judge, I was molded and shaped long before experiencing the

## THURSDAY, JANUARY 15, 2015

challenges of cancer. So instead, I would like to use this space to say a few words about my parents, their lives, and the lessons I've learned from them.

Neither of my parents came from much, but they are wildly successful in all the ways that matter. Everyone within their sphere of influence is a better person for having known them. I know that I am.

My dad grew up in a large family, the twelfth of thirteen children. His father ran away from home at an early age and never learned to read or write. My dad clawed his way out of poverty by joining the United States Army. He joined in the midst of the Vietnam War, deciding to volunteer rather than wait to be drafted. He surprised himself and everyone else by scoring extraordinarily well on aptitude tests, and based on those high scores, he was stationed in Germany guarding nuclear missiles. In Germany, he met my mom, and two years later, at the ages of 19 and 20, my mom and dad married. Shortly afterward, they made a home for themselves in the United States.

Initially, my dad found work at a steel mill. While he was at work, my mom stayed home and learned English by watching Sesame Street during the week. Tragedy struck shortly after my parents married when my dad's parents and his younger brother died in a house fire.

Through this adversity, my parents moved forward. My dad went from the steel mill to a packaging plant, where he worked throughout my sister's and my childhood. There, my dad rose through the ranks, working as a sweeper, a baler, a printer, and a die cutter. When he realized he could advance no further without a college education, he began working the nightshift so that he could attend college during the day. I was in the fourth grade at the time. In the afternoon, he and I would sit at the kitchen table doing homework together. Mine finished long before his, but I would sit there anyway to keep him company. Sometimes, I would type his papers for him using an electric typewriter. Several years later, my dad earned an Associate's Degree. His hard work paid off: he became a supervisor, and I learned the importance of education, work ethic, and perseverance.

My mom is brilliant and nurturing. The young woman who barely spoke English soon became fluent, and she moved on

## THURSDAY, JANUARY 15, 2015

from Sesame Street to the Reader's Digest Book Club. Her bookshelves are stuffed three books deep, and most of her books are falling apart at the seams. I loved nothing more than snuggling into her side as she read to me and still swear that she could read a cookbook out loud and make it interesting.

Whenever I was stressed or anxious, my mom would always know just the right thing to say. If a friend disappointed me, my mom would encourage me to treat my friend as if she were the person she ought to be because in doing so, my mom would tell me, I would help my friend become the person she was capable of being. When I was disheartened or ready to give up, my mom would put encouraging notes in my lunch bag, such as: "Hold fast to dreams, for if dreams die, life is a broken-winged bird that cannot fly." I later learned these bits of wisdom actually came from Johann Wolfgang von Goethe and Langston Hughes, but nevertheless, my mom's wisdom was always pitch perfect, despite being plagiarized.

My parents have always had high expectations and unconditional love for my sister and me. They taught us that we were born with gifts that we did not earn and that we had a responsibility to give back. The four of us lived in a two-bedroom, one bathroom home, and I only ever remember feeling lucky and rich. By all standards other than actual money in the bank, we were both.

From my parents, I have a good appreciation of the obstacles many in our state must overcome from birth. I know that life can beat us down, often through no fault of our own. And I know what a titanic struggle it sometimes requires to overcome these challenges. While my parents have ultimately been successful, I know there were plenty of moments when it all hung in the balance, when hard work and dedication almost weren't enough. When litigants come before me, I believe I will be able to appreciate the circumstances of their lives. However, I also know and understand what is possible. I know that, in most cases, the unfair circumstances in life can be overcome. I have very little patience or tolerance for excuses. There is a fine line between empathy and excuses, and the best judges know the difference. I believe that, if called upon for service to my state, the circumstances of my own life have prepared me to make that critical distinction.



THURSDAY, JANUARY 15, 2015

(11) Commission Members' Comments:

The Commission commented that Ms. Gee is very intelligent as evidenced by her outstanding performance on the Commission's Practice and Procedures test, which will assist her service as a jurist. They noted her integrity and wealth of administrative experience on the Court of Appeals.

(12) Conclusion:

The Commission found Ms. Gee qualified and nominated her for election to the Circuit Court.

**Clifford Scott**  
**Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Scott was born in 1954. He is 59 years old and a resident of Columbia, SC. Mr. Scott provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1981. He was a licensed attorney in GA since 1993 but resigned in November 2001.

(2) Ethical Fitness:

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

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

**THURSDAY, JANUARY 15, 2015**

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

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

Conference/CLE Name

- (a) SC Black Lawyers Annual Summit & Retreat 10/30/2008;
- (b) Ethics Judicial Family Seminar 12/05/2008;
- (c) Non-citizens in the Family Court Proceedings 02/28/2009;
- (d) Veterans Disability Benefits 03/24/2009;
- (e) SC Black Lawyers Annual Retreat 10/01/2009;
- (f) SC Black Lawyers Annual Retreat 10/01/2010;
- (g) Staying Out Of Trouble 02/26/2011;
- (h) Intellectual Property and the General Practitioner 02/27/2011;
- (i) Digital Law Office 02/27/2011;
- (j) The Virtual Office 02/27/2011;
- (k) South Carolina Association of Justice Convention 08/04/2011;
- (l) SC Black Lawyers Annual Retreat 10/14/2011;
- (m) USC School of Law Annual Reunion Ethics CLE 11/05/2011;
- (n) Capital Litigation for Prosecutors 05/21/2012;
- (o) S C Solicitors Annual Conference 09/23/2012;

**THURSDAY, JANUARY 15, 2015**

- (p) SC Black Lawyers Annual Retreat 09/26/2012;
- (q) S C Solicitors Annual Conference 09/22/2013;
- (r) SC Black Lawyers Annual Retreat 09/26/2013.

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

I taught a graduate school level course titled the Legal Aspects of Higher Education, in the USC College of Education, during the fall of 1993, and the spring of 1994.

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

(4) Character:

The Commission's investigation of Mr. Scott did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Scott did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Mr. Scott 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. Scott reported that to his knowledge he is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Scott was admitted to the SC Bar in 1981.

**THURSDAY, JANUARY 15, 2015**

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

Member of the United States Army Judge Advocate General's (JAG) Corps, from January 1982 through May 1987, during which I served as:

- (a) Trial Defense Counsel, assigned to the 24th Infantry Division (now known as the 3<sup>rd</sup> Infantry Division) and Fort Stewart Georgia, from April 1982 until August 1984. In this position, I appeared in over 100 courts martial proceedings in which I represented members of the United States military accused of criminal offenses. I also represented military service members in administrative proceedings;
- (b) Claims Judge Advocate with the United States Army Claims Service, from August 1984 through June 1987. In this position, I was responsible for investigating, and assisting in the supervision, management and resolution of federal tort claims at military installations and involving United States Army Corps of Engineer activities. I investigated and resolved claims which included: property damage claims, personal injury claims resulting from motor vehicle collisions, and Corp of Engineer activities; medical malpractice claims, involving catastrophic injuries such as brain damage and wrongful death.

This position required me to prepare detailed legal memoranda for consideration of the Judge Advocate General of the Army, the Secretary of the Army and the United States Department of Justice;

- (c) Associate with the law firm of Johnson, Toal & Battiste, P. A., June 1987 until November 1988;

I represented parties in civil, criminal, and administrative matters, and appeared in summary courts, Probate Court, Family Court, the Court of Common Pleas and the Court of General Sessions. I also represented parties in appellate matters and appeared, during my tenure with this law firm, before the SC Court of Appeals, the SC Supreme Court and the US Court of Appeals for the Fourth Circuit. During my association with this firm, I

**THURSDAY, JANUARY 15, 2015**

was entrusted to handle, on my own, professional liability matters and serious criminal cases;

- (d) Legal Counsel with the South Carolina Department of Mental Retardation (now known as the Department of Disabilities and Special Needs) from November 1988 through August 1989.

In this position, I provided legal representation to departmental officers and employees, and represented the agency in administrative hearings, such as intra agency employee grievance matters, and at the Budget and Control Board level, before the State Employee Grievance Committee;

- (e) Associate General Counsel, Univ. of South Carolina, from Sep. 1989- Jan. 1994.

In this position, I provided counsel and advice to University of South Carolina officers and employees, to include members of the President's Office and deans and departmental chair persons.

I prepared presentations for consideration by the Board of Trustees and other Officers of the University, and for state and federal agencies. I provided counsel and representation regarding issues involving first amendment freedoms, intellectual property, academic freedom, real property, federal and state labor and employment law, and state and federal regulatory issues.

I also represented the

University in administrative proceedings and in civil matters in the state courts.

- (f) Private Practice of Law Since January 31, 1994.

- (g) After reentering private practice in 1994, I represented clients in civil, criminal and administrative matters, to include:

State and federal tort claims and other personal injury matters; state employee grievances and other state administrative matters; workers compensation; probate court matters; domestic relations; adoptions; juvenile matters; military criminal and administrative matters; representation of veterans in veterans benefits matters; representation of clients in federal administrative matters, including EEOC, Merit Systems

**THURSDAY, JANUARY 15, 2015**

Protection Board, DOD administrative matters and social security cases.

- (h) From May 1996 through December 1998, I was a member of a partnership known as Gibbs, Scott and Redmond (the main office of which was in Florence). I operated primarily out of the Columbia Office.
- (i) From April 2000 through August 2004, I served as a part-time contract employee with the Newberry County Public Defender's Office. I appeared in court in at least two hundred cases while serving as a part time employee with the Newberry County Public Defender's Office between April 2000 through August 2004. I participated in four General Sessions jury trials as a part-time public defender during that period.
- (j) In addition to maintaining a private practice, since the spring of 2006, I have served as a part-time contract employee in the Office of the General Counsel of the University of SC. In that role, I provide legal advice and representation to University officials regarding various legal matters, including contractual matters, investigations, representation of the University in employee and student grievances, and EEO complaints.
- (k) Additionally, since March 2012, I have served as one of two part-time assistant solicitors in the Lee County office of the Solicitor for the Third Judicial Circuit.

Even though I still maintain my private office, since assuming the role as a part-time assistant solicitor in March 2012, the majority of my practice has been devoted to the assistant solicitor and University positions.

Mr. Scott provided the following list of his most significant litigated matters:

- (a) Unfortunately I do not remember the case name, and my call to the United States Court of Appeals for the Armed Forces (which, at the time, was the United States Court of Military Appeals) did not prove fruitful. The case occurred in 1983 or 1984, while I was a member of the United States Army Judge Advocate General's Corps,

## THURSDAY, JANUARY 15, 2015

stationed at Fort Stewart, Georgia. The Army brought a discharged soldier back on active duty to court-martial him for an offense which occurred prior to his discharge. I challenged the Army's right to do so and filed a petition and brief with the United States Court of Military Appeals. The case was significant, because, as I recall, this was an issue which was unsettled at the time. Additionally, as I recall, the court issued an order staying the court-martial proceedings. As a result, we were able to resolve the case through a negotiated resolution;

(b) United States vs. Charles Ragins, 840 F.2d 1184 (4<sup>th</sup> Cir. 1988).

This case was an appeal from the United States District Court of South Carolina to the United States Court of Appeals for the Fourth Circuit, and involved issues of double jeopardy. I prepared the brief and argued the case. The case was argued on December 4, 1987 and decided on March 8, 1988. In the version of the case which appears online, the case erroneously indicates I am/was from New York;

(c) State v. Corley, 1987-1988 time period. This was a case tried in the Court of General Sessions in Orangeburg County. The case was significant because, at the time, the defendant was considered by local law enforcement to be one of the more active drug dealers in the county;

(d) State vs. Lynch; tried in Lee County in 2005. The case was significant, because it involved two defendants who were charged with starting a riot and taking hostages at Lee Correctional Institution. The case received significant media coverage at the time of the prison riot;

(e) State vs. Magwood; tried in Charleston County Court of General Sessions in June 2011. The case was significant, because it involved a prominent member of the Charleston County Sheriff's Office who was charged with misconduct in office.

Mr. Scott further reported the following regarding unsuccessful candidacies:

**THURSDAY, JANUARY 15, 2015**

I applied for Fifth Judicial Circuit Court Seat Number Three in August 2011. I was nominated as one of the three candidates for consideration by the General Assembly. The Honorable Robert E. Hood was elected to that seat in February 2012.

I applied for At-Large Circuit Court Seat Number Fourteen in 2012. I was nominated as one of the three candidates for consideration by the General Assembly. The Honorable R. Keith Kelly was elected to that seat in February 2013.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Mr. Scott to be "Qualified" as to Character. The Committee found Mr. Scott to be "Well Qualified" as to constitutional requirements, ethical fitness, professional and academic ability, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated on related comments, "Mr. Scott is one of the few candidates who has considerable experience in civil litigation and as a prosecutor and defense attorney - that experience is impressive. He is quite intelligent and has a charming personality. This Committee had questions about the tax lien." The Committee stated in summary, "Mr. Scott is "Well Qualified" for the position of Circuit Court Judge."

Mr. Scott is married to Malvina Graham Scott. He has two children.

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

- (a) South Carolina Bar;
- (b) For several years, beginning in approximately 1998, I served on the South Carolina Bar Foundation Board;
- (c) I was also a member of the Introduction Subcommittee of the South Carolina Bar's Task Force on Diversity and Inclusiveness during the above time;
- (d) Former member of The South Carolina Bar's House of Delegates;



**THURSDAY, JANUARY 15, 2015**

- (e) During the mid 1990s, I was vice president and president of the South Carolina Black Lawyers Association, and I currently serve as treasurer of that organization.

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

- (a) Pee Dee Area Veterans Advisory Council (former member);
- (b) 2000 Compleat Lawyer Gold Award.

Mr. Scott further reported:

This statement will perhaps seem redundant, the essence of it having been stated in my earlier judicial application. It is included here, because it still reflects how I feel.

I come from a humble background. For most of my upbringing, I was very poor. However, my economic status during my formative years did not cause me to believe that I was less than anyone else, or that, conversely, others were better than me.

I graduated from a segregated Williamsburg County high school in 1973 (St. Mark Elementary and High School). While our school did not possess the resources of schools in more affluent communities, our teachers and our principal tried to instill in each of us qualities which would enable us to go out into the world and make a positive contribution.

I would like to think that I have contributed something positive to society, although probably not as much as I could have contributed at this point in my life. I hope, if I am given the privilege and honor of serving as a member of the South Carolina judiciary, that I will be able to make an even more meaningful contribution to our society, by upholding the laws that preserve the freedoms which still cause so many to flock to the shores of the United States.

Since becoming an attorney, my background has been quite varied. I believe the variety of my experience, and the length of time I have practiced law will aid me tremendously in deciding matters that come before me, and in dispensing justice impartially and evenhandedly.

When I was a young adult, perhaps not more than 19 or 20 years old, my great aunt (the sister of my maternal grandmother)

**THURSDAY, JANUARY 15, 2015**

told me I was “one in a hundred”. She obviously saw something in me that caused her to believe I had the potential to do great things in life. I recognize I probably haven’t fully realized the potential she saw in me.

Service as a judge is an honor and a privilege. I can think of no better way to live up to the potential which my Great Aunt saw in me. I recognize some readers of this statement may think this is overly sentimental, but it’s truly how I feel. Therefore, to the extent this statement aids those who will determine my qualifications to sit as a member of the Circuit Court, I would like each reader to know that the sentiments expressed in this statement are sincere and reflect my true feelings.

(11) Commission Members’ Comments:

The Commission commented on Mr. Scott’s 33 years of varied legal experience. They noted that his quality of relating to others such as, the jury, attorneys, and witnesses, would assist him on the Circuit Court bench.

(12) Conclusion:

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

**The Honorable James R. Barber, III  
Circuit Court, At-Large, Seat 10**

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

(1) Constitutional Qualifications:

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

Judge Barber was born in 1943. He is 71 years old and a resident of Columbia, SC. Judge Barber provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1969.

(2) Ethical Fitness:

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225

**THURSDAY, JANUARY 15, 2015**

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

Mr. Adrian Hammond filed an affidavit in opposition to Judge Barber's candidacy. The affidavit alleged that Judge Barber was not honest with the Commission regarding his status as Chief Administrative Judge in 2006 during his Fall 2008 Public Hearing. At that hearing, Mr. Hammond testified regarding his 2008 affidavit alleging Judge Barber received and was influenced by improper ex parte communications in a civil matter brought by Mr. Hammond, which Judge Barber subsequently dismissed. Following the 2008 Public Hearing, the Commission found that Mr. Hammond's complaint was without merit.

At the November 6, 2014 Public Hearing, the Commission heard testimony from Mr. Hammond and Judge Barber. The Commission also thoroughly reviewed all documents provided by Mr. Hammond and Judge Barber. The Commission found no evidence that Judge Barber misrepresented his status as Chief Administrative Judge. They noted Judge Alison Lee was the Chief Administrative Judge in 2007 and the testimony and documents provided indicated that Judge Lee sent out the non-jury roster in December 2006 for the January 2007 term which included Mr. Hammond's case. In summary, the Commission found Mr. Hammond's complaint was again without merit.

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

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

Judge Barber testified he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;

**THURSDAY, JANUARY 15, 2015**

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

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

(3) Professional and Academic Ability:

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SCCJC Judge's Conference	05/14/2008;
(b) 2008 Judicial Conference	08/20/2008;
(c) 7 <sup>th</sup> Annual Civil Law Update	01/23/2009;
(d) 24 <sup>th</sup> Annual SC Criminal Law Update	01/23/2009;
(e) JBOIC March Meeting	03/17/2009;
(f) SCCJC Judge's Conference	05/06/2009;
(g) A Time to Kill: Dostoyevsky	10/20/2009;
(h) Learning Ethical Behavior from	11/17/2009;
(i) Criminal Law Update-Part 2	01/22/2010;
(j) Criminal Law Update	01/22/2010;
(k) SC Circuit Court Judges Association	05/05/2010;
(l) SCAJ 2010 Annual Convention	08/05/2010;
(m) Opening Statements: A Civil Trial	09/07/2010;
(n) Direct Examination: A Civil Trial	09/14/2010;
(o) Cross-Examination: A Civil Trial	09/21/2010;
(p) Closing Argument: A Civil Trial	09/28/2010;
(q) Remarks by Rt Hon Lord Justice	10/20/2010;
(r) SCDTAA 43 <sup>rd</sup> Annual Meeting	11/11/2010;
(s) SC Circuit Court Judges' Conference	05/04/2011;
(t) SCAA 2011 Annual Judicial Conference	08/17/2011;
(u) SCDTAA Annual Meeting	11/03/2011;
(v) Part 2 Criminal Law Section	01/20/2012;
(w) Trial & Appellate Advocacy Section	01/20/2012;
(x) SCCJC Annual Circuit Court Judges Conference	05/02/2012;

**THURSDAY, JANUARY 15, 2015**

- (y) SCCA 2012 Annual Judicial Conference 08/22/2012;
- (z) Prosecutorial Misconduct 10/16/2012;
- (aa) SCDTAA Annual Meeting 11/08/2012;
- (bb) Trial and Appellate Advocacy Section 01/25/2013;
- (cc) Part 2: Criminal Law Section 01/25/2013;
- (dd) The Unconstitutionality of the Senate 03/19/2013.

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

- (a) I was an instructor at the USC College of Applied Science. I taught Business Law to undergraduate students which primarily covered contracts;
- (b) I have participated in a number of legal seminars as a speaker on various topics;
- (c) I am presently an Adjunct Professor at the USC School of Law teaching trial advocacy.

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

(4) Character:

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

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

(5) Reputation:

Judge Barber reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV.

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

- (a) Richland County Council- 1977-86 (Elected);

**THURSDAY, JANUARY 15, 2015**

(b) Richland Memorial Hospital Board of Trustees- 1990-94  
(Appointed by Governor Carroll Campbell).

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Barber was admitted to the SC Bar in 1969.

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

2/70 United States Department of Justice, Internal Security Division, Washington DC.

Initially I was employed in the Foreign Agents Registration Section which had the responsibility for enforcing the Foreign Agents Registration Act. The work was primarily administrative and regulatory.

I then moved to the Special Litigation Section. The work involved grand jury, United States District Court, and Circuit Court Appeals practice throughout the United States. It was primarily a criminal practice arising out of anti-Vietnam war criminal activities by various individuals and groups. I also handled Selective Service evasion cases in various courts.

10/72-8/77 Law Office of Henry H. Edens, Columbia, South Carolina.

This was a two-person office primarily engaged in civil litigation practice, a substantial portion of which was workers' compensation, personal injury and domestic practice. We did practice some criminal law.

8/77-6/97 Todd & Barber, PC, Columbia, South Carolina (successor to the firm of Marchant, Bates, Todd & Barber).

I have engaged in the practice of administrative, domestic, corporate, real estate and workers' compensation law.

**THURSDAY, JANUARY 15, 2015**

8/97-present SC Court Administration, Circuit Court Judge, Columbia, South Carolina.

8/12-present Adjunct Professor at the University of South Carolina School of Law.

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

Circuit Court Judge; July 1997-present.

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

- (a) Susan Olson v. Faculty House of Carolina, Inc. 354 S.C. 161, 580 S.E.2d 440 (S.C. 2003);
- (b) Sharon B. Koon v. Soraya Farid Fares and Dr. Marie A. Faltas 379 S.C. 150, 666 S.E.2d 230 (S.C. 2008);
- (c) The State v. Gary A. White 372 S.C. 364, 642 S.E.2d 607 (Ct. App. 2007);
- (d) Linda Gail Marcum v. Donald Mayon Bowden 372 S.C. 452, 643 S.E.2d 85 (S.C. 2007);
- (e) City of Camden v. Fairfield Electric Cooperative, Inc. 372 S.C. 543, 643 S.E.2d 687.

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

8/2012-present: Adjunct Professor at the USC School of Law teaching trial advocacy. My supervisor is Dean Wilcox.

Judge Barber further reported the following regarding unsuccessful candidacies:

I ran unsuccessfully in the Democratic Primary for the office of Lt. Governor in 1986. I ran unsuccessfully for At Large Circuit Court Seat No. 13 in 1996.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Barber to be "Well Qualified" in the evaluative criteria of constitutional

## THURSDAY, JANUARY 15, 2015

qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in related comments, "Judge Barber has served for many years as an outstanding Circuit Court Judge. He is a dedicated jurist who works hard at his craft. He is respected by all." The Committee stated in summary, "Judge Barber is eminently qualified to serve as a Circuit Court Judge."

Judge Barber is married to Susan Preston Foster Barber. He has three children, one of which is deceased.

Judge Barber reported that he was a member of the following Bar associations and professional associations:

- (a) Richland County Bar Association;
- (b) South Carolina Bar Association;
- (c) American Bar Association;
- (d) John Belton O'Neall Inn of Court.

Judge Barber provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations: University of South Carolina Alumni Association.

Judge Barber further reported:

- (a) Order of the Palmetto, 1986;
- (b) Recipient of President's Cup for distinguished service to South Carolina Association of Counties, 1981;
- (c) Named honorary President of South Carolina Association of Counties, 1986.

(11) Commission Members' Comments:

The Commission commented that Judge Barber has served since 1997 as a serious, steady jurist on the Circuit Court bench and noted that he is known for his management of the docket.

(12) Conclusion:

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

## FAMILY COURT



THURSDAY, JANUARY 15, 2015

QUALIFIED AND NOMINATED

**Spiros S. Ferderigos**  
**Family Court, Ninth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Ferderigos was born in 1978. He is 36 years old and a resident of Charleston, SC. Mr. Ferderigos provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2003.

(2) Ethical Fitness:

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

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

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

Mr. Ferderigos testified that 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.

**THURSDAY, JANUARY 15, 2015**

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

(3) Professional and Academic Ability:

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

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

- (a) 35<sup>th</sup> National Conference on Juvenile Justice 03/09/08;
- (b) Stewards of Children: The Child 05/12/08;
- (c) Forensic Science for Prosecutors 04/24/09;
- (d) Prosecuting Cases in Family Court 08/21/09;
- (e) Competency Hearings 05/21/10;
- (f) Prosecuting Cases in Family Court 08/16/10;
- (g) With Great Power Comes Great Responsibility 09/26/10;
- (h) NADCP 17<sup>th</sup> Annual Training 07/17/11;
- (i) 2011 SC Solicitors' Conference 09/25/11;
- (j) 2011 Judges and Attorneys Substance Abuse 12/02/11;
- (k) Prosecuting Cases in Family Court 08/24/12;
- (l) 2012 SC Solicitors' Conference 09/23/12;
- (m) Family Court Prosecutors' Workshop 02/13/13;
- (n) Substance Abuse and Lawyers 03/14/14;
- (o) Solicitor's Training 08/20/13;
- (p) Prosecuting in Family Court 08/23/13;
- (q) 2013 SC Solicitor's Association Annual Conference 09/22/13;
- (r) NADCP 20<sup>th</sup> Annual Training Conference 05/28/14;
- (s) Update on Criminal Electronic Monitoring and GSC Management 06/13/14.

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

I have lectured at the 2011 Judges and Attorneys Substance Abuse Seminar as a panelist discussing Drug Court Programs.

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

(4) Character:

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

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

(5) Reputation:

Mr. Ferderigos reported that he is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Ferderigos was admitted to the SC Bar in 2003.

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

- (a) Law Offices of Paul E. Tinkler, Charleston, SC  
Civil Litigation, October 2003 to March 2007  
Attorney for a civil litigation firm specializing in the field of domestic relations. Other areas of practice included personal injury, medical malpractice and business transactions. Complete autonomy in representing clients in a two lawyer firm;
- (b) Solicitor's Office, Ninth Judicial Circuit  
Criminal Litigation, March 2007 to present

**THURSDAY, JANUARY 15, 2015**

Assistant Solicitor for the Ninth Judicial Circuit, Family Court Division.

Includes complete autonomy in the prosecution of Murder, Armed Robbery, Narcotic and Weapon related charges;

- (c) Solicitor's Office, Ninth Judicial Circuit  
Special Counsel to the Ninth Judicial Circuit Juvenile Drug Court Program, January 2011 to present  
Representative and member of the Ninth Judicial Circuit Juvenile Drug Court Program. Sole Assistant Solicitor assigned to the program and intricately involved in the program's oversight, day to day affairs and recruitment;
- (d) Solicitor's Office, Ninth Judicial Circuit  
Managing Assistant Solicitor, June 2013 to present  
Promoted to Managing Assistant Solicitor in addition to the duties of Special Counsel to the Ninth Judicial Circuit Juvenile Drug Court Program and general duties of an Assistant Solicitor in the Ninth Judicial Circuit.

Mr. Ferderigos further reported regarding his experience with the Family Law practice area:

I have been blessed to practice extensively in both fields of domestic relations and juvenile justice in Family Court. I have personally and solely handled a large caseload of domestic relations matters in my approximate three and a half years in private practice. These cases involved nearly every aspect of domestic relations law. For divorces, I handled contested and non-contested cases. These include cases of adultery, habitual drunkenness, one year's separation, common law marriage and annulment. I have handled equitable division cases with nominal financial estates as well as multi-million dollar financial estates. I have represented military spouses and drafted Qualified Domestic Relations Orders. I have handled both simple child custody cases and complex child custody cases. The simple child custody cases being when custodians agree on visitation and child custody. The complex child custody cases include a spouse who is hiding his or her abuse of narcotics or alcoholism, a spouse secretly exposing his or her young child to a paramour, one parent removing the child from his or her homestate without a court order, and non-custodians petitioning

**THURSDAY, JANUARY 15, 2015**

the court as the “psychological parent” to gain custody of a child over the biological parents. I have represented clients in Department of Social Services matters in cases of abuse and neglect, navigating those clients through the judicial process and treatment services they require for re-unification with their child and fighting to put the family unit back together in a safe and nurturing environment. I have also handled numerous Rule to Show Cause hearings in Family Court domestic matters, ensuring that my client’s significant other or prior significant other follows the orders of the court.

For juvenile justice matters in Family Court, I have been an Assistant Solicitor for the Ninth Judicial Circuit for approximately seven and a half years. My prosecutions have resulted in numerous violent crime, non-violent crime and status offense adjudications that include Arson, Assault and Battery of a High and Aggravated Nature, Burglary, Disorderly Conduct, Lynching, Runaway and sexual misconduct crimes to name a few. Examples of contested cases resolved by trial include two Murder convictions, Armed Robbery convictions, narcotic related convictions, and weapon related convictions. I also successfully tried a contested Waiver Hearing where a juvenile defendant was transferred to General Sessions Court to be tried as an adult for Murder, Assault With Intent to Kill and Escape from Prison. I have also had the pleasure of spearheading the re-formation of the Charleston County Juvenile Drug Court Program where I have seen children addicted to narcotics and alcohol literally turn their lives around and become productive citizens of our community.

The area of domestic relations law that I do not have personal experience in is adoptions. Although I have not represented a client in an adoption matter, I have personally observed numerous adoption hearings and would be comfortable as a presiding judge navigating through the statutes and case law relating to adoptions to ensure that the legal standards are satisfied and the best interests of the child are met.

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

- (a) Federal: None;

**THURSDAY, JANUARY 15, 2015**

- (b) State: Approximately three days a week for Family Court Juvenile Delinquency Proceedings.

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

- (a) Civil: none;
- (b) Criminal: 100% (Family Court Juvenile Delinquency Proceedings);
- (c) Domestic: none.

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

- (a) Jury: none;
- (b) Non-jury: 100% (Family Court Juvenile Delinquency Proceedings).

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

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

- (a) State vs. Jones– I successfully prosecuted a contested juvenile delinquency Waiver Hearing resulting in the juvenile defendant being transferred to General Sessions Court to be tried as an adult for the charges of Murder, Assault with Intent to Kill and Escape from Prison. This matter is of significance as Waiver Hearings are one of the more complex and rare hearings to be held in Family Court. This matter is also of significance as I succeeded in bringing justice to a mourning family in a case where the court found that the juvenile defendant could not be rehabilitated after he hunted down a minor victim and shot the victim “execution style” in front of the victim’s sister. The same juvenile also repeatedly shot another minor victim resulting in permanent disfigurement. The family of the murdered victim desperately sought justice for the unnecessary death of their child. The other minor victim who was shot numerous times not only sought justice, but also feared for his safety should the defendant be

**THURSDAY, JANUARY 15, 2015**

adjudicated delinquent in Family Court where he could only be indeterminately committed for a period not to exceed his twenty-first birthday. By “waiving up” the juvenile defendant, the family of the murdered victim was able to receive the maximum justice afforded in our legal system, and the maimed second victim did not have to live in fear that the defendant would be released within a few short years of his conviction.

- (b) Rawlins v. Rawlins – This domestic relations matter is of significance as I represented a mother who was completely blind-sided by her spouse’s adultery with exotic dancers, abuse of narcotics, devaluation and concealment of marital/business assets, and attempts to transmute my client’s substantial inheritance to marital property. Motions for Emergency Hearing, Rules to Show Cause, Motions to Compel and other relief had to be sought to protect the minor child and protect the sanctity of the marital estate. Through the proper use of these motions, I succeeded in protecting my client’s minor child from her spouse’s dangerous behavior, preserved the marital estate, and used financial experts and private investigators to ensure the court had the proper evidence to issue a fair and proper ruling. After hearing testimony from my financial experts, private investigator, and other witnesses; the court imputed a significantly higher income to the spouse than he reported, awarded my client permanent periodic alimony, granted a divorce on the ground of adultery, granted primary custody to my client, denied the spouse’s demand to transmute my client’s significant non-marital estate to marital property, and awarded my client attorney’s fees and costs.
- (c) State vs. Williams and Gathers – This juvenile delinquency matter is of significance as I successfully prosecuted two juvenile defendants concurrently for Murder and received Murder adjudications against both defendants. This was a highly contested matter in which the juveniles denied shooting the victim when the victim came out to defend his younger brother who was being bullied by the defendants. By the end of the altercation, the victim was killed by a single gunshot wound to the head and another

## THURSDAY, JANUARY 15, 2015

shot to the body. I worked diligently with police investigators to re-create the crime scene, analyze the possible trajectories of the bullets and offered into evidence audio recordings of the shots fired that ultimately led to the defendants being found guilty of Murder beyond a reasonable doubt. The Family Court's ruling was appealed by one of the defendants; however, the Court of Appeals affirmed the Murder adjudication in an unpublished opinion.

- (d) Schenkler vs. Schenkler – This matter is of significance as I represented a mother in a complex divorce case whose psychiatrist spouse had committed adultery by prescribing medications to and taking sexual advantage of his patients while they were under the influence of the medications. When I was retained to represent the mother in this action, she was aware of her spouse's obsession with pornography; however, she never imagined what our investigations would bring to light regarding his sexual exploits. Although the parties had a nominal financial estate, this matter became heavily contested as I fought for the safety of the minor children. As the evidence of his adultery and inappropriate behavior with patients began to solidify, the spouse unexpectedly left the country. After I successfully navigated through the procedural hurdles related to the spouse's flight during litigation, trial moved forward in the spouse's absence with my client being awarded custody of the children, a fair equitable division of the marital estate, restraining order from the spouse contacting the children, and the court granting my client attorney's fees and costs.
- (e) State vs. Felder – This juvenile delinquency matter is of significance as I successfully prosecuted a juvenile for numerous counts of Arson and Malicious Injury to Property after he intentionally entered a downtown residence at approximately 9:50 am, lit the drapes of the residence on fire and fled as the building collapsed from the flames. The fire spread to two additional residences and engulfed those homes as well. In total, five homes were damaged (three completely engulfed in flames), numerous vehicles damaged, and pets of the homeowners



## THURSDAY, JANUARY 15, 2015

trapped in the blaze were killed. Fortunately, all of the residents had just left and were not asleep in their homes as the flames quickly spread through the buildings. This was a complex matter as the juvenile defendant initially denied his involvement. Numerous investigations had to be completed to determine where the fire started and a search for witnesses or individuals with information about the crime. In addition to working with the police department, I had the additional role of consoling and providing legal guidance to the victims who had lost everything. With the help of the Fire Marshal, police interviews and police surveillance video near the area; I was able to convince defense counsel that the juvenile defendant would be found guilty at trial. The juvenile pled accordingly and was committed to the Department of Juvenile Justice, providing some closure to the innocent victims as they began the process of slowly putting their lives back together.

The following is Mr. Ferderigos' account of three civil appeals he has personally handled:

- (a) Callen vs. Callen, 365 S.C. 618, 620 S.E.2d 59, SC, 2005  
Date of Decision: September 19, 2005  
(Personally handled along with Paul E. Tinkler and Lori Stoney);
- (b) Simmons vs. Simmons, 370 SC 109, 634 S.E.2d 1, SC App., 2006.  
Date of Decision: April 10, 2006  
(Personally handled along with Paul E. Tinkler);
- (c) Computer Products Inc. vs. JEM Restaurant Group, John E. McGrath, Monolith Software Solutions, Inc., and W. David Valmus, SC App., 2007.  
Date of Decision: February 12, 2007; Not Published.

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

**THURSDAY, JANUARY 15, 2015**

(9) Judicial Temperament:

The Commission believes that Mr. Ferderigos' temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. Ferderigos to be "Qualified" as to constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Ferderigos is married to Laura Williams Ferderigos. He has three children.

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

I am a member of the Charleston County Bar Association.

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

Mr. Ferderigos further reported:

First and foremost, I am a devoted husband and the father of three adorable children. My children are my life and I strive every day to set a good example for them and be the kind of father that they deserve. I believe that every child should have the same opportunities as my children and be raised in a nurturing and safe environment. I have devoted my legal career to the practice of family law because Family Court is the judicial arena where children are the primary focus of the law. Whether it is domestic relations where the "best interests of the child" is the cornerstone of the law, or juvenile delinquency proceedings that focus on rehabilitation rather than punishment; a Family Court judge is expected to make every effort within the law to protect children and attempt to bring normalcy in what is a tumultuous period in a child's life. A Family Court judge also has the duty to set appropriate boundaries for adult litigants whose lives have been turned upside down from divorce proceedings. I have personally observed how divorce proceedings can turn the most rational

**THURSDAY, JANUARY 15, 2015**

individuals into irrational litigants whose sole aim is to harm their spouse rather than seek the best interests of their children and reasonable financial resolution for their families. Throughout the chaotic mental, physical and emotional state that many individuals find themselves in during a domestic matter, it is up to the presiding judge to set appropriate boundaries that will foster litigants to move forward in a dignified manner and provide an opportunity for all parties to present the appropriate evidence before the court.

I am also the son of an immigrant father and mother. My father relocated to the United States of America from Greece as a teenager and became an American citizen in search of a better life for himself and his family. The unfair laws and lack of opportunity in his origin of birth crippled my father's ability to live in a dignified manner where he could raise a family and prosper through hard work. I have personally observed the unjust laws (or lack thereof) when visiting Greece where judicial verdicts are routinely given in favor of litigants who make the proper "contributions" to court officials, or observing officers imprison individuals with no warrant, no probable cause or any explanation whatsoever. I am very blessed that my father risked everything to seek a better life in the United States of America, a country where disputes are not handled in the streets or by a corrupt judiciary; but a country with a judiciary that allows all litigants from every walk of life, race and social status to have a truly fair trial. The necessity of a fair trial, following the rule of law, treating litigants with respect and a judiciary that is above reproach is something that is very dear to me and something that I will ensure should I be blessed with the opportunity to become a Family Court judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Ferderigos has eleven years of experience in diverse areas of family law. They also noted that he has great enthusiasm for service to others and for service on the family court as a jurist.

(12) Conclusion:

The Commission found Mr. Ferderigos qualified and nominated him for election to the Family Court.

THURSDAY, JANUARY 15, 2015

Alice A. Richter-Lehrman  
Family Court, Ninth Judicial Circuit, Seat 2

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Richter-Lehrman meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Richter-Lehrman was born in 1977. She is 37 years old and a resident of Mount Pleasant, South Carolina. Ms. Richter-Lehrman 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 2003.

(2) Ethical Fitness:

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

Ms. Richter-Lehrman 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. Richter-Lehrman reported that she has not made any campaign expenditures.

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

**THURSDAY, JANUARY 15, 2015**

(3) Professional and Academic Ability:

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

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

- | <u>Conference/CLE Name</u>  | <u>Date</u> |
|---|-------------|
| (a) Attorney and GAL Custody and Visitation Training                                  | 01/30/09;   |
| (b) Tax-Exempt Organizations: The Changing Regulatory Environment                     | 06/29/09;   |
| (c) Good Legal Writing for Attorneys  | 09/25/09;   |
| (d) 2009 Hot Tips from the Coolest Domestic Law Practitioners                         | 09/30/09;   |
| (e) 14th Annual Probate Court Seminar   | 12/15/09;   |
| (f) GAL Training  | 01/29/10;   |
| (g) Something Old, Something New, Don't Make the Judges Blue!                         | 04/16/10;   |
| (h) Lay Guardian Ad Litem and New Attorney Guardian Ad Litem Trainings                | 11/12/10;   |
| (i) In the Best Interest of the Child: The 2011 Guardian ad Litem Training and Update | 01/28/11;   |
| (j) 2010 Richland County Bar Ethics Seminar   | 02/16/11;   |
| (k) Taking Children Out of the Fire   | 06/17/11;   |
| (l) Beach Erosion & Property Protection   | 12/02/11;   |
| (m) 16th Annual Probate Court Seminar   | 12/13/11;   |
| (n) GAL Training and Update   | 01/27/12;   |
| (o) The State of the Judiciary in... (SCWLA)  | 08/07/12;   |
| (p) Law Practice Diversity: Leadership, (SCWLA)                                       | 10/05/12;   |
| (q) 2013 Guardian ad Litem Program Training and Update                                | 02/01/13;   |
| (r) Relocation Law in Family Court  | 07/17/13;   |
| (s) Bankruptcy Issues for Guardian ad Litem   | 08/21/13;   |
| (t) How We Do What We Do: Start to Finish   | 09/18/13;   |
| (u) GAL Role in Mediation/Arbitration and Settlement Conference                       | 10/16/13;   |
| (v) GAL in Schools  | 11/20/13;   |
| (w) Yikes! I've just gotten a DSS appointment   | 12/03/13;   |

**THURSDAY, JANUARY 15, 2015**

- (x) 18th Annual Probate Court Seminar 12/12/13;
- (y) Practical Tips: Fee agreements and ethics 12/31/13;
- (z) High Risk Issues 04/16/14;
- (aa) What Family Court Practitioners Need to Know 05/09/14;
- (bb) GAL's Representing Special Needs Children 05/21/14;
- (cc) TBD by Chief Justice Jean Toal 06/26/14;
- (dd) Family and Probate Court Mediation Certification Training  
07/10/14; and Advanced Negotiation Workshop  
CLE 07/14/14.

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

- (a) As an Adjunct Professor I taught Legal Research Analysis and Writing at Charleston School of Law in 2009-10;
- (b) I have assisted in organizing the Charleston Guardian Ad Litem Association monthly lunch CLE programs for some time now, have lead or served as a panelist on several panel discussions at these CLE's and have presented at a CLE on the Guardian's Role as an Advocate.

Ms. Richter-Lehrman reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Ms. Richter-Lehrman 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.

**THURSDAY, JANUARY 15, 2015**

(5) Reputation:

Ms. Richter-Lehrman reported that she is not rated by any legal rating organization.

(6) Physical Health:

Ms. Richter-Lehrman appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Richter-Lehrman appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Richter-Lehrman was admitted to the SC Bar in 2003.

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

Following my graduation from law school I clerked for the Hon. Diane S. Goodstein in the South Carolina Circuit Court for the First Judicial Circuit. My husband then accepted a job which required that we move to Charlotte, North Carolina, where I worked as a contract attorney at Moore and Van Allen's Charlotte Office. I worked at MVA with partners and associates on various litigation teams to assist in the defense of several large corporate clients involved with complex multi million dollar business/corporate litigation.

Subsequent to the birth of my son in 2004, I began remotely doing work in early 2005 for Richter and Haller, LLC in Mount Pleasant, South Carolina, mostly on civil cases involving complex legal issues. I moved back to the Charleston area in 2005 and have continued to work with The Richter Firm, LLC to the present. I have worked on very complex civil matters in both State and Federal courts in South Carolina over the years of my practice and have also been involved in handling civil cases involving multidistrict litigation. I have handled cases in administrative courts, bankruptcy courts (in both bankruptcy and adversarial proceedings), criminal courts, probate courts, and family courts in South Carolina. Upon coming to work at my current firm my practice quickly began to develop into primarily family and probate work with some continuing involvement

## THURSDAY, JANUARY 15, 2015

with civil and criminal matters. Today, I handle the Family Court caseload at The Richter Firm and my practice is predominated by work in probate and family court cases.

I have achieved Certification as a Family Court Mediator and am enjoying this new aspect of my practice.

Additionally, I have taught Legal Research, Analysis, and Writing at The Charleston School of Law from 2009-2010 and very much enjoyed the experience.

Ms. Richter-Lehrman further reported regarding her experience with the Family Court practice area:

As an advocate and as a Guardian ad Litem, my work in the Family Court has been both challenging and rewarding. Clients come to me with their most difficult problems and most personal family crises.

I have assisted clients in divorce and equitable division cases ranging from uncontested or simple matters to extremely complex and contentious matters and am very comfortable handling this type work. My divorce work over the years includes cases based on most, if not all of the Statutory grounds for divorce in South Carolina. I have dealt with cases involving adultery, abandonment, the parties having lived separate and apart for one year, physical abuse, and habitual drug/alcohol abuse and understand that oftentimes multiple issues exist in an individual case. I am also conversant and have handled cases involving complicated equitable division issues both in cases where there were substantial assets and where the assets were quite limited. I have represented clients in litigating when there are substantial assets involved and/or when there are disputes as to whether assets or property are marital in nature including representing third party defendants alleged to have an interest in property/assets which are marital in nature. My cases often require that multiple experts are involved, and where forensic accountants and/or other financial experts are needed. I have learned to identify and address issues that arise in equitable division matters and to deal with these issues effectively for my clients.

My child custody work overlaps to some extent with the cases for divorce and equitable distribution I handle. I am involved in child custody as a Guardian ad Litem in private actions



**THURSDAY, JANUARY 15, 2015**

involving child custody and also through my representation of parents in actions involving custody and in custody modification actions. Over the years of my practice I have found that my work as a Guardian ad Litem, first in DSS cases prior to the implementation of the volunteer GAL program and changes to the Statutory provisions, and then as a Guardian in private custody cases, has been extremely meaningful to me and I have established myself as a strong advocate for children and families through this work. I have been involved as a Guardian ad Litem in private cases involving custody issues resulting from divorce, changes of circumstance, and due to children having been removed from the custody of their parents because of abuse and neglect. I have represented clients in custody actions involving numerous issues that weigh in a custody determination, including drug and or alcohol misuse/abuse, exposure of child(ren) to inappropriate activities and/or content, exposure of child(ren) to a paramour or paramours; alienation of child(ren) by one parent as to the other, and attempts to remove the child(ren) from the jurisdiction without knowledge of the other parent, among other issues.

I have represented parties in TPR and adoption cases involving DSS and in private adoption matters. I do not take on large numbers of these type cases but have familiarity with the issues that arise in these cases but will continue to maintain a high level of knowledge in this area through educational opportunities, reading case law and statutes, and through other opportunities to learn about this area of family law.

Over my years of practice I have represented parties in DSS abuse and neglect cases both through appointment and as private counsel. I have served as Guardian ad Litem in DSS abuse and neglect cases, and I have experiences in which I was serving as the Guardian ad Litem in private cases and had issues of abuse and/or neglect arise which led to DSS becoming involved. I am knowledgeable in this area of the law and will continue to increase my knowledge as I have detailed above.

My experience in dealing with juvenile cases is not as extensive as my experience in other areas as I have not prosecuted and have taken on limited criminal defense work in the family realm. I have had several cases in which there were juvenile issues involved to some extent and I am committed to

**THURSDAY, JANUARY 15, 2015**

increasing my knowledge of this area of family law by observing other Family Court Judges hearing these cases, reading, attending continuing education opportunities focused on juvenile issues, and taking other opportunities to gain experience with these type cases.

I have been through a divorce in the South Carolina Family Courts and am now raising a child while practicing law full time; I know personally the challenges faced by those appearing in Family Court. Unlike other areas of law, my Family Court practice has enriched my life and allowed me to help others. As a Family Court Judge, I will apply my experience as an advocate, as a client, and as a Guardian ad Litem, as well as my experience in other areas of the law, with fairness, compassion, and dignity while seeking to uphold the highest judicial standards for the benefit of all who appear before me.

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

- (a) federal: Occasional;
- (b) state: Frequent.

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

- (a) civil: 20%;
- (b) criminal: 5%;
- (c) domestic: 50%;
- (d) other: 25%, Probate/Trust and Estate.

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

- (a) jury: Jury trials are requested by my office in most, if not all, of the civil and criminal cases handled in my practice. The number of these cases is not voluminous as our firm accepts and handles a smaller number of cases which involve more complex legal and factual issues and which, as a result, require a great deal of legal work over a longer period of time. The majority of these cases settle prior to trial;

**THURSDAY, JANUARY 15, 2015**

- (b) non-jury: All of my work in Family and Probate Court is non-jury. Over the past several years my practice has evolved to the point where the majority of my work is now done in Family and Probate Court.

Ms. Richter-Lehrman provided that in the Civil and Criminal cases I most frequently worked as chief or associate counsel with a team of attorneys in my firm and/or with co-counsel from other firms. In the Family Court cases I most often serve as sole counsel. I have, at times, worked as co-counsel or chief counsel in Family Court cases. In Probate Cases I have served almost exclusively as sole counsel. I have occasionally served as co-counsel with an attorney from another law firm in complex Probate matters.

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

- (a) Meredith Hastings v. Earl Carrara; Case No.: 2009-DR-10-4327-My firm and I represented the father of a minor child with special needs in this case brought by mother which sought to increase the amount of child support and to alter several other child related issues which had been previously adjudicated. This matter involved complex financial issues and required extensive work with accounting experts. It also dealt with difficult issues relating to procedural issues;
- (b) Allan Carl Ranta v. The Roman Catholic Diocese of Savannah a Corporation Sole, Most Rev. Raymond W. Lessard, J. Kevin Boland, in his capacity as the Bishop of The Roman Catholic Diocese of Savannah, a Corporation Sole, and Wayland Yoder Brown; Case No.: 2006-27-143-We represented the Plaintiff who was a child victim of sexual abuse in bringing suit against the Catholic Diocese of Savannah, Georgia as well as other parties. This case involved very complex procedural and substantive legal issues including those relating to repressed memory and a statute of limitations defense. This was a difficult case legally, procedurally, and factually due to the emotional nature of sexual abuse and the identities of the parties involved. After months

**THURSDAY, JANUARY 15, 2015**

of contentious litigation, settlement was reached with the Diocese and church officials through multi day mediation;

- (c) Robert Edward Turner, IV v. Leslie Larrison Turner and Leslie Larrison Turner v. Blair Selden Turner; Case No.: 2012-DR-10-1020-We represented the Plaintiff, and third party Defendant in a hotly contested case for change of custody of the minor children. We were able to successfully achieve a modification of custody which increased children's time with Plaintiff Father and prevailed on numerous difficult procedural and legal issues including Defendant's Motion to Seal this high profile case;
- (d) Anita Knox v. TRW & Associates, Inc., Commercial Roofing Solutions, LLC, Gramercy Capital Corp. d/b/a Gramercy Realty, Emcor Facilities Services, Inc., and Liquid Plastics, Inc.; Case No.: 3:11-cv-218-CMC-I, along with attorneys in my firm and co-counsel, represented multiple Plaintiffs suffering personal injury after exposure to toxic chemicals in the workplace. Successful negotiation resulted in settlement with all Defendants. Multiple experts for medical and financial issues were used to determine how each Plaintiff was negatively impaired due to their exposure. Each Plaintiff required a life care plan to determine damages and long term needs for physical, mental, and financial considerations;
- (e) South Carolina Department of Social Services v. Jonathan Evans, Jr., Jennifer Meyer, Mary Meyer, et all; Case No.: 2013-DR-10-2419-I represented the mother and maternal grandparents of the minor child in a DSS abuse case. The minor child was injured and placed into the custody of a third party while extensive investigation of how the injury occurred took place. After much negotiation and agreement with DSS we constructed a treatment plan to return the minor child to the custody of the mother.

The following is Ms. Richter-Lehrman's account of two civil appeals she has personally handled:

**THURSDAY, JANUARY 15, 2015**

- (a) Yelsen Land Company, Inc., Appellant v. The State of South Carolina and the State Ports Authority, Respondents in the South Carolina Supreme Court 03/14/12 (Opinion No. 27103) Yelsen Land Company, Inc. v. The State of South Carolina and the State Ports Authority, Op. No. 27103 (S.C. March 14, 2012);
- (b) Jane Doe, Appellant v. Charles Smith, Charleston County School District and James Island High School, Respondents in the South Carolina Court of Appeals 06/30/14 Jane Doe v. Charles Smith, et al., Op. No. 2013-000084 (S.C. Ct. App. June 30, 2014).

Ms. Richter-Lehrman reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Richter-Lehrman's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Ms. Richter-Lehrman to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee found her to be "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, mental stability, and experience.

Ms. Richter-Lehrman is not married. She has one child.

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

- (a) Charleston County Guardian ad Litem Association (Organizing Committee);
- (b) SC Women Lawyers;
- (c) Charleston County Bar;
- (d) SC Bar Family Law Section.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Town of Mount Pleasant SC Planning Commission (appointed 5-2011 - 5-2015);
- (b) Florence Crittenton Programs of SC Board of Directors (Board Secretary);
- (c) Junior League of Charleston;
- (d) Saint Mary's Catholic Church Altar Society;
- (e) Porter Gaud School Parents' Guild;
- (f) UNC at Chapel Hill-General Alumni Association.

Ms. Richter-Lehrman further reported:

I literally grew up around the legal profession as my father was a Family and Circuit Court judge and later returned to his private law practice during my childhood. I love the law and have always wanted to become an attorney. I see the opportunity to serve our state as a member of the judiciary in the Family Court as the culmination of the work I have done over the course of my lifetime through my education and career.

I have worked hard to gain an excellent education, both as an undergraduate and in Law School. I have sought out opportunities to gain diverse work experience in the realm of government and public service in the SC Senate, The U.S. Senate in Washington D.C., and the British Parliament at the Palace of Westminster through a sought after English Speaking Union Scholarship and have gained an immense appreciation for our system of government and for the body of laws created through the legislative process. I have also gained a unique appreciation of our common law judicial system through my summer studies at the University of Vienna School of Law in Austria while I was a student at the USC School of Law in Columbia. The program there was taught by faculty from the University of Vienna and from Loyola University-New Orleans School of Law and focused on the European Union Law and on Civil versus Common Law Systems. I was also able to hear Justices from the US Supreme Court speak as part of this program and was impacted by each of these individual's emphasis on judicial service as the highest form of public service available within the legal profession. I agree with them; I believe

**THURSDAY, JANUARY 15, 2015**

public service is a duty and would be so honored to serve our state as a member of the judiciary.

My career has provided me with a broad and deep body of experience and I have continually worked to ensure that my knowledge of the law is thorough. I have maintained involvement in my community and have been blessed with wonderful family and friends who are a source of strength to me. Throughout my career I have made it my goal to uphold the highest level of ethical and professional standards in my work and in all my community and personal undertakings. If elected I will continue to make this my goal and will incorporate the Judicial Canons and professional standards into my life. I will endeavor to serve humbly and honorably and to be a credit to our state, the legal profession, and the judiciary.

(11) Commission Members' Comments:

The Commission commented that Ms. Richter-Lehrman was very poised and articulate at the Public Hearing which will serve her well on the Family Court bench. They noted that she is certified as a Family Court mediator.

(12) Conclusion:

The Commission found Ms. Richter-Lehrman qualified and nominated her for election to the Family Court.

**Paul D. Schwartz  
Family Court, Ninth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Schwartz was born in 1956. He is 58 years old and a resident of Johns Island, SC. Mr. Schwartz provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1982.

**THURSDAY, JANUARY 15, 2015**

(2) Ethical Fitness:

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Children's Issues in Family Court	03/17/06;
(b) Auto Torts XXIX	12/01/06;
(c) Children's Issues in Family Court	03/23/07;
(d) SCTL A 2007 Annual Convention	08/02/07;
(e) Auto Torts XXX	11/30/07;
(f) 2008 SCTL A Annual Convention	08/07/08;
(g) Children's Issues in Family Court	11/19/08;
(h) Auto Torts XXXI	12/05/08;



**THURSDAY, JANUARY 15, 2015**

(i)	SCTLA 2009 Annual Convention	08/06/09;
(j)	Til Debt Do Us Part	11/04/09;
(k)	Auto Torts XXXII	12/04/09;
(l)	SCAJ 2010 Annual Convention	08/05/10;
(m)	2010 Auto Torts	12/03/10;
(n)	Federal Drugs Seminar	12/20/10;
(o)	DL 347 2010 GALupdate	12/30/10;
(p)	2011 SCAJ Annual Convention	08/04/11;
(q)	Auto Torts XXXIV	12/02/11;
(r)	Best Interest of the Child 2012	03/01/12;
(s)	2012 SCAJ Annual Convention	08/02/12;
(t)	Auto Torts XXXV	11/30/12;
(u)	Relocation Law in Family Court	07/17/13;
(v)	Bankruptcy Issues for Guardian Ad Litem	08/21/13;
(w)	How We Do What We Do: Start to Finish	09/18/13;
(x)	2013 Auto Torts XXXVI	12/06/13;
(y)	What Family Court Practitioners Need to Know	05/09/14.

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

- (a) I lectured at the How We Do What we Do, Start to Finish at the meeting of the Guardian Ad Litem, in Charleston, SC on 09/18/13. The course was a luncheon wherein I spoke and shared with other Guardian Ad Litem how I gathered information, organized it for reporting and performed the duties required of the Guardian Ad Litem. It was a practical how to do the job and be proficient at it. It was an hour long session;
- (b) I also spoke at another Guardian Ad Litem luncheon regarding the collection of fees in Family Court by Guardian Ad Litem. It was just under an hour and I provided forms and suggestions to attorney GALs on how to proceed.

Mr. Schwartz reported that he has contributed to the following publication:

South Carolina Jurisprudence: Volume 28. Fraud (1998). I contributed to this article, but did not author it. I am credited in the volume for my contribution. I did not write this!

THURSDAY, JANUARY 15, 2015

(4) Character:

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

The Commission also noted that Mr. Schwartz 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. Schwartz reported that he is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Schwartz was admitted to the SC Bar in 1982.

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

Out of law school I worked as an Associate for Dan M. David. That relationship became David, Lacour and Schwartz, which then became David and Schwartz. This was from 1982 until about 1992, when I became a sole practitioner at the office of David and Schwartz, where I was also an employee. The practice was always a general practice of law, wherein we handled family law and civil law suits of all kinds, as well as business matters, incorporations and wills, etc. From 1982 until 1992, the practice was about 50/50 between family law and civil law matters. My practice has

**THURSDAY, JANUARY 15, 2015**

remained a general practice of law, but since the late 1990s, I have done more and more family law and less civil cases. I began handling Guardian Ad Litem cases as a favor to a former Charleston County Family Court Judge, and I have been handling cases as the Guardian Ad Litem ever since, now for 20 years. Approximately 40% to 50% of my practice has become as a Guardian Ad Litem for children. I have developed a passion for easing the pain that children experience in divorce and in drawn out custody cases.

During my time as an attorney I have practiced in the Family Court, Circuit Court, appeared in the Federal Court, and the Probate Court. I have handled social security appeals for disability, and Appeals in the SC Court of Appeals and the SC Supreme Court. I briefed and argued appeals in the SC Supreme Court and the SC Court of Appeals.

Mr. Schwartz further reported regarding his experience with the Family Court practice area:

I have vast experience in all areas of Family Court, including divorce and equitable distribution of property, child custody, adoption, abuse and neglect, and juvenile justice. For over 30 years now I have practiced and handled cases in all of these areas. At any given time, I may have 5 to 10 divorce cases ongoing, and at least that many, usually more, Guardian Ad Litem cases. These usually involve to some degree property division, child custody, abuse and neglect issues, and even adoption. These cases involve preparing agreements and having them approved by the court, and addressing the various legal areas of equitable distribution of property and debt, support, child custody and visitation. We prepare spread sheets on the property issues, address the best interest of the children which is always the primary goal when children are involved. With abuse and neglect cases and DSS, I have handled every aspect of those cases except prosecution of them, as I have been the Guardian Ad Litem, Attorney for the Guardian Ad Litem, and represented every named party imaginable.

As a Guardian Ad Litem, I am focused exclusively on custody and visitation. I may have as many as 15 cases ongoing presently as Guardian Ad Litem. I handle and have handled many abuse and neglect cases over the years, and handled two (2) hotly contested

**THURSDAY, JANUARY 15, 2015**

cases in the past two years. In the past year, I have handled or am handling two (2) adoptions as attorney for the adopting parent. My experience in these practice areas is vast. The least of the areas I have practiced in is juvenile justice, but I have handled approximately 4-8 such cases in my career and I am comfortable that I would be well equipped to handle a case in any of the above areas.

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

- (a) Federal: very infrequent;
- (b) State: multiple appearances every week.

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

- (a) Civil: 35%;
- (b) Criminal: 5%;
- (c) Domestic: 50%;
- (d) Other: 10%.

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

- (a) Jury: 20% to 30% (all settled);
- (b) Non-jury: 70% to 80%.

Mr. Schwartz provided that it varied whether he served as sole counsel, chief counsel, or associate counsel. In many of the cases set for a jury trial he was a co counsel. In the majority of non jury matters he was sole counsel.

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

- (a) Gartside v Gartside, 383 SC 35; 383 Se2d 35 (Ct App 2009).

It is a reported case where I sought obtained and then kept an alimony reduction. This case addressed an issue where a person seeking a reduction need not seek work outside where he resides as argued by the former spouse. I tried the case in the Family Court as well. The case made good law on alimony;

**THURSDAY, JANUARY 15, 2015**

- (b) Unison v Schmidt, 339 SC 362, 529 SE2d 280 (2000). I sought cert in the Supreme Court to argue an uninsured motorist case. We had a severely injured child and we succeeded in making law as to a passenger being a permissive driver where the driver was not permissive as regards coverage for her injuries. This was what I termed before the Supreme Court, the carjacking case, I briefed and argued and was successful in over-turning the SC Court of Appeals. I was co-counsel in this case at trial, but I handled the appeal to the Supreme Court alone;
- (c) Swanson v Stratos, 350 SC 116; 564 SE2d 117 (Ct App 2002). I tried a case before the Master and successfully appealed the case to the Court of Appeals where our position was where there is a contract there can be no recovery in implied contract. I was able to reverse the Master and make law here;
- (d) Knudsen v Knudsen, 2002-DR-08-2340 June 4, 2004, I successfully defended a Motion for Superseedeas to the Court of Appeals. I represented an elderly female whose former husband was to have sold the marital home but he failed and refused to do so, and I successfully ordered its sale and got my client paid the money she was due and needed;
- (e) Todd v Todd, 2000-DR-10-4037. I handled a hotly contested divorce with an elderly abused wife. During the pendency of the case, the husband attempted to murder my client, but she survived. I successfully prevented depletion of the marital estate by the Husband, and I prevented his obtaining \$100,000 of the marital estate to fund his criminal defense.

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

- (a) Gartside v Gartside, 383 SC 35; 383 SE2d 35 (Ct App 2009), decided April 29, 2009, in SC Court of Appeals;
- (b) Unison v Schmidt, 339 SC 362, 529 SE2d 280 ( SC 2000), decided March 13, 2000. Argued in the SC Supreme Court;

**THURSDAY, JANUARY 15, 2015**

- (c) Swanson v Stratos, 350 SC 116; 564 SE2d 117 (Ct App 2002), decided May 13, 2002, in the SC Court of Appeals.

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

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

I was unsuccessful when I ran for an At large Family Court Seat in 2012. I ran for At Large Family Court 6 in 2012, and I was one of three (3) finalists. I applied August 9, 2012. In the end, it appeared that I would not obtain the necessary vote from the legislature, so I voluntarily stepped aside.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. Schwartz to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Schwartz is married to Nancy Lynn Bryson Schwartz. He has two stepchildren.

Mr. Schwartz reported that he was a member of the following Bar associations and professional associations:

- (a) SC Association of Justice, no offices held;
- (b) Charleston County Bar Association, Family Court Liaison, 2008;
- (c) SC Bar Association;
- (d) American Bar Association;
- (e) Charleston County Guardian Ad Litem Association.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Brith Sholom Beth Israel Congregation, on Board 2008-12, 3<sup>rd</sup> Vice President; 2012-13; 1<sup>st</sup> Vice President 2013-14;
- (b) Rotary Club of Charleston Breakfast, President 2001-02; Board of Directors, 1999-2003; Board of Directors 2014-15;
- (c) Charleston Habitat for Humanity, Board of Directors, 2005-10;
- (d) James Island Charter High School; Board of Directors, 2008-10, 2012-14; Chairman, Board of Directors, 2012-13; Vice Chairman of the Board, 2013-14;
- (e) College of Charleston Volunteer attorney for Student Assistance Program, 2008-11;
- (f) Beta Zeta Alumni Association at the College of Charleston for ATO, 2013-2014, on Board of Directors 2014;
- (g) Financial Advisor to the Alpha Tau Omega Fraternity at the College of Charleston, for Fall 2014.

Mr. Schwartz further reported:

I have always worked and I worked my way through high school, college and law school. I have always worked and earned my own way and I believe in people carrying their own weight. I have little compassion for those who do not support and at least attempt to support their children. I expect people to work and I expect parents to support their children. I was a victim of child abuse as a child and I am vigilant about preventing child abuse and I am very sensitive to recognition of the signs of that abuse and of the abusers. After 20 years as a Guardian Ad Litem, I believe I have gained insight necessary to be a Judge of the Family Court. I have practiced law now for over 30 years, and I am ready to give back and utilize my experience from the bench.

(11) Commission Members' Comments:

The Commission commented on Mr. Schwartz's excellent experience in Family Court as well as his outstanding work as a Guardian ad Litem. They noted his hard work ethic which would assist his service as a Family Court judge.

THURSDAY, JANUARY 15, 2015

(12) Conclusion:

The Commission found Mr. Schwartz qualified and nominated him for election to the Family Court.

**ADMINISTRATIVE LAW COURT  
QUALIFIED AND NOMINATED**

**The Honorable Harold W. "Bill" Funderburk, Jr.  
Administrative Law Court, Seat 3**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Funderburk meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Funderburk was born in 1949. He is 65 years old and a resident of Camden, SC. Judge Funderburk provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1985.

(2) Ethical Fitness:

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

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

Judge Funderburk testified that he has not:

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



**THURSDAY, JANUARY 15, 2015**

- (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 Funderburk 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 Funderburk to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- (a) US Court of Appeals 10/15/2009;
- (b) SC Local Government Attorneys 12/11/2009;
- (c) Administrative Law and Ethics 1/29/2010;
- (d) National Assoc. of Unemployment Insurance Appellate Boards 6/13-17/2010;
- (e) Internet for Lawyers 8/19/2011;
- (f) SCAARLA 2011 Ethics Seminar 10/7/2011;
- (g) Second Annual Everything You Need to Know about Ethics 1/18/2013;
- (h) Changes to the SC Probate Code 11/19/2013;
- (i) Top Trial Lawyers Tackle Evidence 2/21/2014;
- (j) Protecting Attorney-Client Privilege & Work Product 2/28/2014;
- (k) Voir Dire: Finding and Ferreting out Good and Bad Jurors 2/28/2014;
- (l) Legal Ethics and the Law of Lawyering 2/28/2014;
- (m) Social Media and Ethics 2/28/2014;
- (n) How to Cross-Examine an Expert Witness 2/28/2014.

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

- (a) Presented on the ethical dangers of social media to the National Association of Unemployment Appellate Boards Annual Conference, 2010;

**THURSDAY, JANUARY 15, 2015**

- (b) Made presentations on South Carolina Unemployment Law and Practice at various CLE seminars and to employer groups.

Judge Funderburk reported that he has published the following:

- (a) “Independent Contractors, Temporary Workers: More Myth than Reality,” South Carolina Lawyer, 11 (January/February 2000): 15–19;

- (b) “Dracula and Vlad Tepes: Fictional and Historical Discontinuities in Character,” 1 Journal of American Romanian Christian Literary Studies 116 (1980);

- (c) Ambition and Monomania: A Study of Moral Degeneration in the Plays of Christopher Marlowe, Dissertation: University of South Carolina, 1978.

(4) Character:

The Commission’s investigation of Judge Funderburk did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission noted that the state tax lien for individual income taxes filed against Judge Funderburk in 1995 has been satisfied.

The Commission also noted that Judge Funderburk 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 Funderburk reported that his rating by a legal rating organization, Martindale-Hubbell, is BV Distinguished 4.4 out of 5.

Judge Funderburk reported the following military service: Commissioned June 6, 1970; Active Duty, Sept. 1973-Dec. 1973, US. Army, Captain; Honorable Discharge, 21 August 1985.

**THURSDAY, JANUARY 15, 2015**

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Funderburk was admitted to the SC Bar in 1985.

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

- (a) After my graduation law school in 1985, I worked for the South Carolina Supreme Court as a staff attorney. My task was to draft memoranda of law as related to the facts of the cases on appeal or motions presented to the Court. I learned a great deal about trials (reading transcripts) and the law of South Carolina as I honed my skills in legal research
- (b) I left the Court in May 1987 when I accepted a position with Harvey and Battey, P.A. in Beaufort, SC. I was engaged in general practice working with most of the members of the firm. Because of some local issues, I was asked by Mr. Brantley Harvey to assist the DSS county office when the incumbent attorney resigned. I spent approximately half or a bit more of my time over the next seven months handling new cases and cleaning up the backlog. In spite of the emotional stress I saw in the families whose children had been removed, I found it to be a very rewarding experience. I learned a great deal about litigation (even without a jury), I learned to think on my feet, and developed techniques of examining and cross-examining witness;
- (c) Because of family issues, we decided to return to the midlands. I accepted a job with the South Carolina Employment Security Commission and began work there in late June 1988. As staff attorney, I handled Bankruptcy claims, mortgage foreclosures, probate claims, and tax appeals. Eventually, I also began

**THURSDAY, JANUARY 15, 2015**

reviewing and preparing benefit cases for commission action. In 1995, the chief attorney was promoted out of the Legal Department, and I was selected to replace him as General Counsel, a position I held until shortly before my retirement in January 2011;

- (d) Since then, I have volunteered with the Guardian ad Litem office in Camden representing guardians in abuse and neglect cases. I have also been appointed to represent other parties in Family Court.

Judge Funderburk further reported regarding his experience with the Administrative Law Court practice area:

Most of my career as an attorney was in the area of administrative law, and about 75% of the cases I handled over twenty-five years involved cases that are now heard by the Administrative Law Court. Prior to my retiring from the Dept. of Employment and Workforce, I handled several cases before the ALC and one as a private attorney since my leaving.

Judge Funderburk reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 5% Mostly filing claims for my agency against debtors and supporting those claims as necessary;
- (b) State: 95%.

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

- (a) Civil: 60% Representing the Dept. of Employment and Workforce (and its predecessor agency) on civil appeals to circuit court and to the ALC;
- (b) Criminal: 1% prosecuting benefits fraud and unpaid taxes;
- (c) Domestic: 39% (Mostly as advocate for guardians in abuse and neglect cases).

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

- (a) Jury: I prosecuted cases in Magistrate's Court for my former employer when jury trials were requested;
- (b) Non-jury: 99%.

**THURSDAY, JANUARY 15, 2015**

Judge Funderburk provided that he most often served as sole counsel for the agency or party he represented.

The following is Judge Funderburk's account of his five most significant litigated matters:

- (a) Pee Dee Nursing Home v. SC Employment Security Commission, 303 SC 232, 399 SE2d 777 (1990). The case involved whether a successor employer inherited the unemployment tax rate of the predecessor. This case established the criteria which should be considered when determining that 90% of a business had been acquired;
- (b) Kilgore Group v. SC Employment Security Commission, 313 SC 65, 437 SE2d 48 (1993). This is a leading case on the classification of workers (employees or independent contractors). Pivotal issue is that employee leasing company who contracted with the worker essential transferred that right of control to its client for whom the work was performed;
- (c) Murphy v. SC Employment Security Commission, 328 SC 542, 492 SE2d 625 (Ct. App. 1997). This case established that a worker who had worked a limited schedule could not qualify for unemployment benefits when she restricted the jobs she would accept to the limited schedule she had previously enjoyed;
- (d) Professional Samplers v. SC Employment Security Commission, 334 SC 392, 513 SE2d 374 (Ct. App. 1999). Rejected a claim that a company's treatment of workers as independent contractors, protected under an IRS "safe haven" rule could continue in the face of contrary state law. Appellant argued that the "safe haven" rule preempted South Carolina law and prevented the workers from being reclassified as employees;
- (e) McEachern v. SC Employment Security Commission, 370 SC 553, 635 SE2d 644 (Ct. App. 2006). This case clarified the definition of unemployed. A person employed by his own business and who continued to work full-time or more was not unemployed so as to

**THURSDAY, JANUARY 15, 2015**

qualify for unemployment benefits even when he did not draw any salary (by his own choice).

The following is Judge Funderburk's account of five civil appeals he has personally handled:

- (a) Pee Dee Nursing Home v. SC Employment Security Commission, 303 SC 232, 399 SE2d 777 (1990). The case involved whether a successor employer inherited the unemployment tax rate of the predecessor. This case established the criteria which should be considered when determining that 90% of a business had been acquired;
- (b) Kilgore Group v. SC Employment Security Commission, 313 SC 65, 437 SE2d 48 (1993). This is a leading case on the classification of workers (employees or independent contractors). Pivotal issue is that employee leasing company who contracted with the worker essential transferred that right of control to its client for whom the work was performed;
- (c) Murphy v. SC Employment Security Commission, 328 SC 542, 492 SE2d 625 (Ct. App. 1997). This case established that a worker who had worked a limited schedule could not qualify for unemployment benefits when she restricted the jobs she would accept to the limited schedule she had previously enjoyed;
- (d) Professional Samplers v. SC Employment Security Commission, 334 SC 392, 513 SE2d 374 (Ct. App. 1999). Rejected a claim that a company's treatment of workers as independent contractors, protected under an IRS "safe haven" rule could continue in the face of contrary state law. Appellant argued that the "safe haven" rule preempted South Carolina law and prevented the workers from being reclassified as employees;
- (e) McEachern v. SC Employment Security Commission, 370 SC 553, 635 SE2d 644 (Ct. App. 2006). This case clarified the definition of unemployed. A person employed by his own business and who continued to work full-time or more was not unemployed so as to

## THURSDAY, JANUARY 15, 2015

qualify for unemployment benefits even when he did not draw any salary (by his own choice).

Judge Funderburk reported he has not personally handled any criminal appeals.

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

I was sworn in on August 12, 2014, and signed a contract to begin my term of service on August 13, 2014. I was appointed by the Camden City Council. The jurisdiction of this court includes misdemeanors, traffic offenses, and violations of city ordinances occurring within the city limits of Camden, SC. It also includes bond hearings for these and other criminal charges arising within the city.

Judge Funderburk provided the following regarding his most significant orders and opinions:

Since I am still in training, I have not issued any orders or tried any cases. Accordingly, there has been no appellate review of anything I have done.

Judge Funderburk further reported the following regarding an unsuccessful candidacy:

I ran for Kershaw County School Board in 1989.

(9) Judicial Temperament:

The Commission believes that Judge Funderburk's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Funderburk to be "Qualified" in the evaluative criteria of character. The Committee found Judge Funderburk to be "Well Qualified" in the remaining evaluative criteria of constitutional qualifications, ethical fitness, professional and academic ability, reputation, physical health, mental stability, experience, and judicial temperament. The Committee's related comments stated, "Mr. Funderburk has an impressive breadth of knowledge and experience. His direct dealings with administrative law over a

**THURSDAY, JANUARY 15, 2015**

long public service career should qualify him for this position. This committee had questions about the tax lien and foreclosures.” The Committee stated in summary, “Mr. Funderburk is qualified to serve as Administrative Law Judge.”

Judge Funderburk is married to Laurie Slade Funderburk. He has four children.

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

- (a) South Carolina Bar. I have held no office in the Bar but served on the publications committee in the early to mid 90s;
- (b) In conjunction with my work at the South Carolina Employment Security Commission (now the Dept. of Employment and Workforce), I was a member of the National Association of Unemployment Insurance Appellate Boards from 1996 to 2010, served on its Board of Governors, and was its President from 2009 to 2010.

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

- (a) Kershaw County Library Board of Trustees, 2011–Present, Secretary;
- (b) Kershaw County Historical Society, Board Member, President, 2010-12;
- (c) Lyttleton Street United Methodist Church, Church Council, President, 2009-10.

Judge Funderburk further reported:

I have done many different things in my life and worked in jobs that brought me into contact with all kinds of people. I believe these experiences have made me sensitive to the struggles that people have, especially the difficulty that some have in communicating with others. I have also been fortunate to have learned from some very bright teachers and to have worked with individuals who cared deeply about their jobs, the organizations that employed them, and the people they served. I would hope



**THURSDAY, JANUARY 15, 2015**

to bring the skills I have learned and the examples of dedication and professionalism to which I have been exposed to any job. I understand the value of hard work and diligence. However, it is also important to be an active listener and to treat those who come into a courtroom with civility and respect. The best judges I have seen combine those characteristics with a humanity so genuine that even those ruled against know that they have been heard and understood. I hope to earn and maintain that respect for both myself and the court system I represent.

(11) Commission Members' Comments:

The Commission commented that Judge Funderburk's experience as General Counsel of the former Employment Security Commission would assist his able service on the Administrative Law Court. They noted that he is "Well Qualified" to serve as a jurist.

(12) Conclusion:

The Commission found Judge Funderburk qualified and nominated him for election to the Administrative Law Court.

**The Honorable Carolyn C. Matthews  
Administrative Law Court, Seat 3**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Matthews meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Matthews was born in 1950. She is 64 years old and a resident of Columbia, SC. Judge Matthews provided in her application that she has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1978.

(2) Ethical Fitness:

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

**THURSDAY, JANUARY 15, 2015**

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

Judge Matthews reported that she has made \$237.35 in campaign expenditures for mailings and postage to members of the General Assembly [other than those who are members of the Judicial Merit Selection Commission].

Judge Matthews testified that she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

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

(3) Professional and Academic Ability:

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

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

- (a) John Belton O'Neall Inn of Court 03/17/2009;
- (b) S. C. Women Lawyers Conference 09/30/2009;
- (c) JBOIC "Learning Ethical Behavior 11/17/2009;
- (d) S.C. Bar Convention "Trial & Appellate Advocacy" 01/22/2010;
- (e) S.C. Bar Convention: "Environment & Natural Resources" 01/22/2010;
- (f) S.C. Bar "Bridge the Gap" 03/08/2010;
- (g) S.C. Bar "Bridge the Gap" 08/02/2010;
- (h) League of Women Voters: "Independence &

**THURSDAY, JANUARY 15, 2015**

- Diversity” 10/06/2010;
- (i) JBOIC: “Rt. Hon Lord Justice of English Inn of Court” 10/20/2010;
- (j) S.C. Bar Convention: “Admin. & Regulatory Law” 01/23/2011;
- (k) S.C. Bar Convention: “Law Firm Management” 01/22/2011;
- (l) S.C. Bar Convention: “Environment & natural Resources” 01/22/2011;
- (m) “Bridge the Gap” Administrative Law 03/07/2011;
- (n) SCWLA: “Troubling Statistics” 06/02/2011;
- (o) SCWLA: “Women Lawyers & Leadership” 10/21/2011;
- (p) S.C. Bar Convention: “Government Law” 01/20/2012;
- (q) S.C. Bar Convention: “Health Care Law” 01/21/2012;
- (r) SCWLA “Autism and the Law” 04/05/2012;
- (s) SCWLA “Collaborative law in South Carolina” 07/26/2012;
- (t) SCWLA “The State of the Judiciary in SC” 08/07/2012;
- (u) SCWLA Conference “Law Practice Diversity & Leadership” 10/05/2012;
- (v) S.C. Bar Convention “Environment & Natural Resources” 01/25/2013;
- (w) S.C. Bar Senior Lawyers Conference 01/26/2013;
- (x) SCWLA “2013 Legislative Update by Katherine Wells 08/13/2013;
- (y) S.C. Bar SCWLA “Vision for Success” Conference 10/10/2013;
- (z) S.C. Bar Convention “Environment & Health Care Law” 01/24/2014;
- (aa) S.C. Bar Convention “Senior Lawyer Division” 01/24/2014.

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

- (a) I have lectured at the 1900 SC Bar Program “Bridge the Gap” for new lawyers on “Administrative Law” from 1999-2010;

**THURSDAY, JANUARY 15, 2015**

- (b) I have made presentations on the topic of “Appellate Advocacy” to Circuit Judges attending the 1982 Supreme Court Conference;
- (c) I have made a presentation on “South Carolina State Government Restructured” at the 1993 S.C. Bar Convention;
- (d) I have lectured on “Res Judicata and Collateral Estoppel” to the S.C. Attorney Generals and State Agency Attorneys in 1986;
- (e) I have given a “1994 Legislative Update on Natural Resources” to the S.C. Bar Convention Natural Resources Section;
- (f) I have participated in a panel discussion on “Judicial Independence” at the S.C. Women Lawyers Conference in 2000;
- (g) I have participated in a panel discussion “Ensuring Judicial Independence & Diversity in South Carolina” in 2010 before the S.C. League of Women Voters;
- (h) I have taught “Tips from the Bench” from 2002-2007 at S.C. Bar Continuing Education Seminars;
- (i) I have taught “Ethics and Professionalism—the 8 Commandments” to attorneys for The S.C. Association of Counties in 2002;
- (j) I have taught “Ethics for State Government Attorneys” in 2003;
- (k) I have taught “How Judges Perceive Lawyers” in 2003 at USC Law School;
- (l) I have taught “Rules! Rules! Rules! – Success with Judge and Jury” at a Bar-Sponsored CLE in 2008;
- (m) I have taught “The Lighter side of the Law” to a S.C. Women Lawyers CLE seminar in 2003 and 2010;
- (n) I have lectured on “The 10 Commandments of Administrative Law” before the National Association of Unemployment Insurance Appeals Professionals on June 26, 2014;
- (o) I have lectured on “Evidence” at the Charleston School of Law;
- (p) I have lectured to the National Association of Unemployment Insurance Appeals Professionals on June 26, 2014;

**THURSDAY, JANUARY 15, 2015**

- (q) I will participate in a panel discussion on August 14, 2014, in Charleston with Justice Hearn, Judges McDonald, Mullen, Harrington, and Kirchner regarding balancing being a Judge and a Mother.

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

(4) Character:

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

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

(5) Reputation:

Judge Matthews reported that her last available rating by a legal rating organization, Martindale-Hubbell, was AV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Matthews was admitted to the SC Bar in 1978.

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

- (a) Staff Attorney, South Carolina Supreme Court (1978-81)

**THURSDAY, JANUARY 15, 2015**

- Reviewed and researched civil and criminal appeals; Recommended disposition by Court; Supervised junior Staff Attorneys. Assisted at settlement Conferences. Drafted Court Rules;
- (b) Law Clerk, S.C. Supreme Court, Justice George T. Gregory, Jr. (1981-82)  
Reviewed and researched civil and criminal appeals and motions; Drafted opinions, rules, and Orders for Justice Gregory; Assisted at hearings on Extraordinary Writs such as Mandamus and Supersedeas; reviewed Attorney Disciplinary proceedings;
- (c) Assistant Attorney General, State of South Carolina (1982-86)  
Researched and wrote more than 200 appellate briefs and argued more than 80 appeals solo before S.C. supreme Court, S.C. Court, and U.S. Supreme Court. Coordinated appeals with Solicitors; Prosecuted Medical Board and other licensing Board cases. Wrote Attorney General's Opinions as directed by the Attorney General. Represented State agencies; Coordinated Continuing Legal Education seminars; Chaired first Law Enforcement Leadership Conference;
- (d) Counsel, S.C. House of Representatives Judiciary Committee, David H. Wilkins, Chairman (1986-88)  
Managed research and drafting of Legislation and amendments for all legislation referred to Judiciary Committee. Coordinated legislative efforts with Governor's Office, Legislative staff, and state agencies. Supervised Staff Attorneys and Law Clerks and 5 subcommittees of Judiciary Committee;
- (e) Partner, Nelson Mullins Riley & Scarborough (1988-96)  
Administrative practice before State Agencies such as DHEC, Department of Water Resources, Department of Insurance, and Public Service Commission. Governmental Relations; Appellate practice;
- (f) Partner, Woodward Cothran & Herndon (1996-1998)  
Commercial Litigation; Appellate and Administrative Law Practice before state agencies, including Administrative Law Court, DHEC, Insurance Commission, and PSC. State and Federal Governmental Relations;

**THURSDAY, JANUARY 15, 2015**

- (g) Carolyn C. Matthews, Attorney and Counselor at Law (December 1998-May 1999)  
Administrative and Appellate Law; State and Federal Governmental Relations;
- (h) Administrative Law Judge, Seat #3 (June 2, 1999-present; reelected February 9, 2000; reelected February 2, 2005; reelected February 2010)  
Contested Cases from State Agencies, including: DHEC, DOR, DNR, DOI, DOT, DSS, OCRM, SLED, County Auditors and Assessors Regulatory Hearings from State Agencies governed by a single director.  
Appeals from State Agencies, including LLR  
Injunctions, Petitions for Stay, and other procedural Motions.

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

Administrative Law Judge, Seat #3, Elected June 2, 1999; reelected in 2000, 2005 & 2010.

By statute, the Administrative Law Court has jurisdiction over (1) Contested Cases from State Agencies [including DHEC, DOR, DOT, DHHS, Department of Insurance, DNR, Secretary of State, Budget and Control Board, Tourism Expenditure Review Committee, and SLED]; (2) Appeals from the 50 Licensing Boards of LLR and other agencies [including Medicaid Appeals, State Fire Marshal Appeals; Appeals of Day Care and Foster home license revocations; DOC, DSS, OMVH, DEW, Human Affairs Commission, Mining Council, State Ports Authority, and PEBA]; and (3) Hearings regarding the need for and reasonableness of Regulations promulgated by agencies governed by a single director [e.g., Department of Insurance and LLR]

Administrative Law Judges have all the powers of Circuit Judges to issue Injunctions and Extraordinary Writs [e.g., Supersedeas, Mandamus, Quo Warranto and Procedendo] and contempt. [Section 1-23-630]

Administrative Law Judges cannot rule on the Constitutionality of a Statute or Regulation, but can rule on whether a party's constitutional rights have been violated by the application of a statute of regulation. Dornan v. S.C. Department of Health and

**THURSDAY, JANUARY 15, 2015**

Environmental Control, 350 S.C. 159, 565 S.E.2d 119 (SC App. 2002).

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

(a) Heath Hill v. S.C. DHEC and SCE&G [08-ALJ-07-0183-CC, July 10, 2008]

This procedural order granted a Motion to Lift Automatic Stay under S.C. Code Section 1-23-600(H)(4), which became effective only 9 days before the hearing on this Motion. It is significant because it demonstrated the magnitude of the decisions entrusted to the Administrative Law Court—whether SCE&G would be allowed to proceed with construction of a landfill to dispose of byproducts of coal combustion during the pendency of the Contested Case. The new statute required me to hold a hearing within 30 days after the Motion to Lift Stay was filed, and to issue an Order within 15 days after the four-hour arguments on the Motion.

I ruled that SCE&G had satisfied the statutory standard for lifting the stay; i.e., “for good cause shown or ir no irreparable harm will occur ....” Moreover, if the Legislature imposes a statutory time frame, Administrative Law Judges are required to comply with it.

(b) Sonoco Products Company v. S.C. Department of Revenue [03-ALJ-17-0440-CC, August 30, 2005, aff’d, 378 S.C. 385, 662 SE2d 599 (S.C. 2008)]

In this property assessment case, the DOR assessed three of Sonoco’s corporate office buildings, located across a public street and a railroad from its manufacturing plant, at a 10.% ratio as “Manufacturing-related property.” Sonoco contended that the office buildings were not “contiguous” to the plant within the meaning of S. C. Code Ann. Section 12-43-220(a), and should be assessed at a 6.5% ratio.

I affirmed the DOR, ruling that the buildings were contiguous to the Manufacturing Plant. The circuit court reversed; the S.C. Supreme Court reversed the Circuit Court and affirmed my Order.



**THURSDAY, JANUARY 15, 2015**

This order is significant because it addresses the primary rule of Statutory Construction—ascertaining the intent of the Legislature.

- (c) Anonymous No. 1, Registered Dental Hygienist and Anon. No., RDH v. S. C. Department of Labor, Licensing, and Regulation [06-ALJ-11-0562-AP and 06-ALJ-11-0563-AP, Filed October 25, 2007; aff'd by Court of Appeals, 2012 WL 10841386, April 18, 2012]

Two Dental Hygienists were disciplined by the Board of Dentistry for failing to meet the Standard of Care in placing sealants on children's teeth in a school setting. This Order is an example of the Administrative Law Court's Legislative duty to review sanctions imposed by approximately 50 Licensing Boards of the Department of Labor, Licensing, and Regulation, including Doctors, Nurses, Realtors, and Contractors in order to protect the public health and welfare. The availability of an appeal to the ALC is vital to give licensees and the licensing boards due process and an opportunity to be heard.

- (d) Kim Murphy v. S. C. Department of Health and Environmental Control and District 5 of Richland and Lexington Counties [11-ALJ-07-0134-CC; Aff'd. 396 S.C. 633, 723 SE2d 191 (2012)]

This case is significant because it reflects the complex environmental issues which come to the Administrative Law Court. This case took almost 3 weeks to try, and involved numerous issues. It was highly controversial, and my ruling had enormous impact on the school District, which could not commence renovation of Chapin High School until I ruled on the permitting decisions of DHEC. It also reflects the principle that Agency Regulations are construed in the same manner as Statutes; i.e., the Legislative Intent is controlling, and deference is given to the Agency's interpretation of its regulations. The S.C. Supreme Court affirmed my decision.

- (e) South Carolina Department of Motor Vehicles v. Brown [08-ALJ-21-0476-AP; aff'd. 2011 WL 11733618 (S.C. Ct. App. 2011) ; aff'd 406S.C. 626, 753 SE2d 524 (2014)]

This case is significant because it addresses one of the primary principles of appellate review: issue preservation. The

## THURSDAY, JANUARY 15, 2015

DMV cases which are appealed to the ALC are submitted on briefs only; we do not hear arguments on those cases. Thus Drivers License suspensions for DUI are reviewed based on the record made before the OMVH, which is a statutorily-created division within the Administrative Law Court.

Judge Matthews further reported the following regarding unsuccessful candidacies:

Circuit Court (1995)- withdrew when it became apparent I could not win. Court of Appeals (2004) I was found “Qualified, but not Nominated” by the Judicial Merit Selection Commission.

Chief Judge, Administrative Law Court (2009). I was found “Qualified and Nominated,” but withdrew when I did not have the requisite votes.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Matthews to be “Well Qualified” in the evaluative criteria of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee’s related comments stated, “Judge Matthews is well respected amongst both bench and Bar. She has all the necessary qualifications to be an outstanding judge.” The Committee stated in summary, “Judge Matthews is eminently qualified to serve as Administrative Law Judge.”

Judge Matthews is married to John Andrew McAllister, Jr. She has three children.

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

- (a) S.C. Bar Association [November 8, 1978-present]
- S.C. Bar Senior Lawyers Commission [appointed 2014]
- S.C. Bar House of Delegates [1998-99]

**THURSDAY, JANUARY 15, 2015**

- S.C. Bar Task force on Professional Satisfaction & Retention [2008-11]
- Mentor, S. C. Young Lawyers Division [1998-99]
- S.C. Bar Legislative Counsel Committee [1991-96]
- S.C. Bar Committee on Continuing Legal Education [1994-97]
- S.C. Bar Practice & Procedure Committee: Drafted Legislation creating Court of Appeals [1993-94]
- S.C. Bar Committee on Administrative & regulatory Law [2009-present]
- S.C. Bar Committee on Conventions [2008-present];
- (b) Richland County Bar Association [1978-present]  
Chair, Legal Services Committee [1996-99]  
Chair, Richland County Bar Programs Committee [1991-92];
- (c) South Carolina Women Lawyers Association [1995-present]  
State President [2012-13]  
Secretary [2009-12]  
Board of Directors [1995-2001; 2009-14];
- (d) Board of Directors: National Conference of Women's Bar Associations;
- (e) American Bar Association [1978-present];
- (f) National Association of Women Judges [2012-present];
- (g) National Association of Women Lawyers [2010-present];
- (h) S. C. Administrative & Regulatory Law Association [2000-present];
- (i) National Association of Administrative Law Judges [1999-present].

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

- (a) Woman of Distinction Award – 2012 South Carolina Girl Scouts Mountains to Midlands;
- (b) Governor's Advisory Committee to Study the Commission on Women;
- (c) Leadership South Carolina Graduate - 1993;
- (d) Leadership South Carolina Alumnae Association;

**THURSDAY, JANUARY 15, 2015**

- (e) Fellow, Richard W. Riley Furman University Diversity Leaders Institute 2011.

Judge Matthews further reported:

The General Assembly of South Carolina has conferred on me the privilege of serving the state as an Administrative Law Judge for the past 16 years. Because ALJ's hear Contested Cases from many state agencies, including DHEC, the Department of Revenue, and the Department of Transportation, we are affording due process and an opportunity to be heard to many citizens of South Carolina who have no other forum.

Contested cases involve matters as diverse as Certificated of Need for Hospitals, designation as a Minority Business Enterprise, Environmental permitting and penalties, Property Tax Assessment cases from every county in the state, and permits for bridges and docks in the eight coastal counties. We also hear appeals from the 50 licensing boards of LLR, including doctors, dentists, nurses, realtors, and contractors. Our orders affect the livelihood of these individuals and protect the public welfare and safety.

In my 36-year legal career, I have been fortunate to serve as Staff Attorney at the S.C. Supreme Court, as Law Clerk to the late Chief Justice George T. Gregory, Jr., and as an Assistant Attorney General for the State of South Carolina. During my tenure with the Attorney General, I was assigned to the Criminal Appeals Division, and worked closely with the Solicitors in reviewing transcripts, writing more than 200 appellate briefs and arguing solo more than 80 appeals before the Supreme Court and Court of Appeals in upholding criminal convictions. I also prosecuted licensees on behalf of the Medical Board and several other Boards, and handled their civil appeals.

I have also served as Counsel to the House Judiciary Committee. In that position, I worked with all members of the General Assembly in drafting legislation and amendments, reviewing legislation and regulations, and being part of the process of statutory enactment. While serving as Counsel to the Chair of the House Judiciary Committee, I received a true understanding of the fundamental principle of statutory construction: that is, that the Legislature's intent is paramount.

In 10 years of private practice, I concentrated on administrative and appellate law and governmental relations. I represented clients

## THURSDAY, JANUARY 15, 2015

before state agencies, including the Department of Insurance, DHEC, OCRM, and the Public Service Commission. I also participated in complex civil and federal court litigation. I became a partner at the State's largest law firm.

I am fortunate to have been born in South Carolina, to parents who instilled in me and my three sisters many values. We were taught to treat all persons equally, and to "do unto others as we would have them do unto us." I saw my parents and all my relatives treating people of all classes, races, and creeds with equal compassion, humility, and dignity. We were taught that we could achieve anything through education, hard work, and perseverance. I was divorced when my daughter was only 5 years old, and as a single parent, I had to work very long hours as an Assistant Attorney General, House Judiciary Committee Counsel, and to become a partner at the largest law firm in the state [I was the only single parent in a firm of more than 200 lawyers at the time.] I understand the demands of the private practice of law. Whenever possible, I try to accommodate attorneys' schedules, and will never embarrass an attorney or litigant in the courtroom.

I am one of the few attorneys in the state who has worked for all three branches of state government—Judicial, legislative, and Executive—providing a unique perspective and fundamental understanding of the Separation of powers Doctrine. I have practiced law for 36 years and have tried, heard, and appealed a wide variety of cases. My legal experience is extremely broad and diverse. I am 63 years old and believe I can continue to contribute on the Administrative Law Court.

I am the Administrative Law Judge who is most involved in County, State, and National Organizations to improve professionalism in Courts and improve the practice of law. I am the ALJ most frequently asked to speak and serve on panels at various Continuing Education Conferences and state and national conferences. I travel out of Columbia and out of state to participate in such conferences at my own expense, and am committed to raising the profile and enhancing the professionalism of the S. C. Administrative Law Court. I believe I am a good Ambassador for the Court and for the State of South Carolina.

### (11) Commission Members' Comments:

**THURSDAY, JANUARY 15, 2015**

The Commission commented that a second day of public hearing was held to further explore concerns regarding Judge Matthews' work ethic raised by members of the bench and bar in response to her Ballot box survey. The Commission noted that the issue of her work ethic was also reviewed at her last public hearing in 2009. Specifically, the Commission heard testimony at the December 1, 2014 Public Hearing regarding Judge Matthews' work ethic that she was often not physically in the office, and off most Fridays, as well as her performance in completing orders within her self-imposed 30-Day Rule. The Commission noted that her 30-Day Rule is not an Administrative Law Court rule or one they had knowledge of that was adopted by the other Administrative Law Court judges. Therefore, the Commission found that there was not sufficient evidence that her performance as a judge on the Administrative Law Court was impacted by her work habits. The Commission also expressed concern regarding the manner in which cases were allocated to the six judges on the Court. The Commission further found that there was nothing definitive to disqualify her for re-nomination to the Administrative Law Court. They also noted her able service for the past 16 years on the Court.

(12) Conclusion:

The Commission found Judge Matthews qualified and nominated her for re-election to the Administrative Law Court.

**The Honorable Deborah B. Durden  
Administrative Law Court, Seat 4**

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

Pursuant to S.C. Code Ann. §2-19-40, the chairman of the Commission waived the public hearing for Judge Durden, upon recommendation of the Commission members, since her candidacy for re-election was uncontested, and there was no substantial reason for having a public hearing regarding her candidacy.

(1) Constitutional Qualifications:

## THURSDAY, JANUARY 15, 2015

Based on the Commission's investigation, Judge Durden meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Durden was born in 1961. She is 53 years old and a resident of Columbia, South Carolina. Judge Durden provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992.

(2) Ethical Fitness:

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

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

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

Judge Durden reported that 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 Durden reported 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 Durden to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

**THURSDAY, JANUARY 15, 2015**

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

Conference/CLE Name

- (a) Practice before Masters in Equity 04/02/09;
- (b) Rule 608 Appointments 05/07/09;
- (c) Live Note 08/14/09;
- (d) SC Women Lawyers Conference 09/30/09;
- (e) Internet for Lawyer 01/21/10;
- (f) Civil Law Update 01/21/10;
- (g) Changing Landscape of Water and Air Regs 01/22/10;
- (h) Breakfast Ethics 01/23/10;
- (i) Advanced Legal Writing 09/17/10;
- (j) Law Office Technology 01/21/11;
- (k) Administrative Law 01/21/11;
- (l) Environmental and Natural Resources 01/21/11;
- (m) Ethics 02/03/11;
- (n) Bridge the Gap 08/01/11;
- (o) Internet for Lawyers 09/01/11;
- (p) SCWLA Nonprofits 09/01/11;
- (q) Bridge the Gap 03/05/12;
- (r) RCBA Ethics & Substance Abuse 11/09/12;
- (s) Bridge the Gap 7/31/12;
- (t) Immigration Law 3/1/12;
- (u) Bridge the Gap 3/11/13;
- (v) Bridge the Gap 8/5/13;
- (w) 2013 Legislative Update 8/13/13;
- (x) Bridge the Gap 1/2/14;
- (y) Administrative Law Update 1/10/14;
- (z) Consumer Law 1/23/14;
- (aa) Environmental and Natural Resources 1/23/14;
- (bb) Probate, Estate Planning 1/24/14;
- (cc) Tax Law 1/25/14;
- (dd) Breakfast Ethics 1/26/14;
- (ee) Advanced Legal Research 6/9/14;
- (ff) WestlawNext 5/29/14.

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



**THURSDAY, JANUARY 15, 2015**

- (a) I have lectured at the SC Bar “Bridge the Gap” programs for new lawyers giving an overview of practice before the Administrative Law Court since 2011;
- (b) I made presentations on the topics of accommodation taxes and bankruptcy sales in property valuation to judges attending the 2012 National Conference of State Tax Judges;
- (c) I made a presentation on the topic of personal property valuation litigation to the 2010 Academy for County Auditors, Treasurers and Tax Collectors;
- (d) I taught training sessions for SCDOT staff on the effect of S.C. Act 114 of 2007 which restructured the agency;
- (e) I lectured at a SC Bar Government Law Section CLE concerning state legislative action related to eminent domain law;
- (f) I lectured at a CLE hosted by the International Eminent Domain Institute on the topic of relocation assistance benefits, and how newly promulgated federal regulations would affect those benefits in the future;
- (g) I taught a segment of a CLE for attorneys who handle condemnation cases for SCDOT explaining relocation assistance benefits available for landowners and displaces and the interplay between those benefits and just compensation payments made in condemnation litigation;
- (h) I taught a segment of a CLE for attorneys who handle SCDOT condemnation cases for SCDOT on the subject of FOIA and Discovery Requests and strategies for avoiding surprise at trial.

Judge Durden reported that she has published the following book:

Ten Commandments of Practice at the ALC (SC Bar Bridge the Gap CLE materials 2011) and annual updates of those materials.

(4) Character:

The Commission’s investigation of Judge Durden did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge

**THURSDAY, JANUARY 15, 2015**

Durden did not indicate any evidence of a troubled financial status. Judge Durden has handled her financial affairs responsibly.

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

(5) Reputation:

Judge Durden reported that she is not rated by any legal rating organization.

(6) Physical Health

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

(7) Mental Stability:

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

(8) Experience:

Judge Durden was admitted to the SC Bar in 1992.

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

(a) 1991-92 Judicial Law Clerk

1. After graduation from USC law school and sitting for the SC bar exam, I moved to Anchorage, Alaska, where I served as law clerk to Alaska Superior Court Judge Karen Hunt from August 1991 to September 1992. Judge Hunt handled complex civil litigation and I performed legal research related to those cases and wrote memoranda of law and proposed orders on all motions to dismiss and motions for summary judgment. I also evaluated motions for injunctive relief filed with the court.

2. I served as law clerk to Alaska Superior Court Judge John Reese from December 1992 to April 1993 handling family court matters. I reviewed motions filed

**THURSDAY, JANUARY 15, 2015**

with the court and recommended action on those motions. During this time I studied for the Alaska Bar exam and took that exam in January, 1993.

(b) 1993-97 Private Practice

1. In April 1993, I became an associate at Faulkner, Banfield, Doogan and Holmes' Anchorage office. Faulkner Banfield is a large firm with offices in Juneau, Fairbanks and Anchorage, Alaska representing primarily business clients. During my association with the firm I worked on Workers Compensation matters, professional liability cases, and tort cases. Approximately 50% of the cases I worked on were in the Federal District Court. I also successfully argued an appeal of a constitutional issue before the Alaska Supreme Court.

2. In 1994, my husband's service commitment to the U.S. Air Force ended and I left Faulkner Banfield so that he and I could move to SC. I became an Associate at Gergel, Nickles & Grant. During my association with the firm from 1994 to 1997, I represented teachers and other employees in employment matters and worked on motions and discovery in tort claims cases, Fair Labor Standards Act cases, and other civil litigation.

(c) 1997-2009 Government Service

In August 1997, I accepted a position as Assistant Chief Counsel at the SC Department of Transportation. While at SCDOT I handled a wide variety of legal matters including condemnation cases, contract matters, legislative issues, environmental matters, and administrative law. I handled all contested cases at the Administrative Law Court for the department concerning environmental permits, the payment of relocation assistance benefits, and the certification of Disadvantaged Business Enterprises. I drafted and promulgated all agency regulations. I counseled agency staff and associate counsel on condemnation and real estate law. My responsibilities at SCDOT also involved reviewing and analyzing legislation pending at the state legislature, drafting proposed legislation and

**THURSDAY, JANUARY 15, 2015**

amendments, and providing testimony before legislative subcommittees.

(d) 2009-Present Administrative Law Judge

Since February 2009 I have served as a judge on the SC Administrative Law Court.

Judge Durden provided the following concerning her most significant orders or opinions:

(a) Hickey v SC Department of Health and Human Services, (Docket No. 10-ALJ-08-0656) not reported. Held that PCA II benefit cap must be promulgated as a regulation to be enforceable;

(b) Answer Carolina v SC Department of Revenue, (Docket No. 08-ALJ-17-0481) not reported. Held answering service business not liable for telecommunications tax;

(c) Emerson Electric Co. and Affiliates v. SC Department of Revenue, (Docket No. 08-ALJ-71-0351) not reported; affirmed by S.C. Supreme Court at 395 S.C. 481, 719 SE 2d 650 (2011). Held allocation statute applies to nonresident corporation for interest expense deductions where no taxable dividend income was earned, and rejected as-applied constitutional claims;

(d) Carolina Walk LLC and Serrus Carolina Walk, LLC v. Richland County Assessor, reported at 2012 WL 529413; affirmed in unpublished opinion of the S.C. Supreme Court at 2014 WL 2575405. Held purchase price was not an arms-length sale that could be used to establish fair market value of real property. More contemporaneous sales within the same development were more compelling evidence of the value of the subject properties;

(e) Cellular Sales of SC, LLC v. S.C. Department of Employment and Workforce, reported at 3013 WL 173705; affirmed in unpublished opinion by SC Court of Appeals at 2014 WL 2586885. Held sales representative and others similarly situated were employees and not independent contractors.

**THURSDAY, JANUARY 15, 2015**

Judge Durden reported the following about her unsuccessful candidacy for judicial office:

I ran, unsuccessfully, for a seat on the Administrative Law Court in 2006. I was found qualified and nominated by the Judicial Merit Selection Commission, but withdrew from the race prior to the election in the General Assembly.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Durden to be "Well Qualified" as to constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in related comments, "Judge Durden is obviously very bright and engaged in her profession. She has excellent knowledge and demeanor. She is well-respected by her colleagues." They stated in summary, "Judge Durden is eminently qualified to serve as Administrative Law Judge."

Judge Durden is married to Wiley Kevin Durden. She has three children.

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

- (a) SC Bar Association;
- (b) SC Women Lawyer's Association.

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

- (a) Girl Scout Leader, 2001-14;
- (b) Trenholm Road United Methodist Church.

(11) Commission Members' Comments:

The Commission noted Judge Durden's able and dedicated service on the Administrative Law Court since 2009.

**THURSDAY, JANUARY 15, 2015**

(12) Conclusion:

The Commission found Judge Durden qualified and nominated her for re-election to the Administrative Law Court.

**QUALIFIED, BUT NOT NOMINATED**

**William A. "Bill" McKinnon  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. McKinnon was born in 1973. He is 41 years old and a resident of Rock Hill, SC. Mr. McKinnon provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2001. He was also admitted to the Washington, DC Bar in 2004.

(2) Ethical Fitness:

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

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

Mr. McKinnon 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;

**THURSDAY, JANUARY 15, 2015**

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Ethical Considerations for the Criminal Lawyer	1/29/09;
(b) Ethical Considerations in Marketing Your Law Firm	1/29/09;
(c) SCAJ Annual Convention	08/06/09;
(d) Ethical Considerations Surrounding Technology	2/23/10;
(e) Richland County Bar Ethics Seminar	2/24/10;
(f) Ethics and ADR Revisited	2/24/10;
(g) New and Old DUI	2/25/10;
(h) SCAJ Annual Convention	08/05/10;
(i) Legal Ethics and Practice	2/17/11;
(j) ADR: An Ethical Perspective	2/18/11;
(k) Staying Out of E-Trouble	2/21/11;
(l) The South Carolina LLC	2/10/12;
(m) Lawyer Depression	2/21/12;
(n) Duke Lacrosse Case	2/21/12;
(o) Criminal Practice Annual	2/24/12;
(p) Tort Law Update	2/8/13;
(q) Top Trial Lawyers Tackle Evidence	2/15/13;
(r) Lions of the Bar	2/18/13;
(s) Everything You Need About Ethics	1/17/14;
(t) Richland County Bar Ethics	2/26/14;
(u) International Child Adoption	2/26/14;
(v) Tort Law Update	2/27/14.

**THURSDAY, JANUARY 15, 2015**

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

I have lectured at the 2008 SCAJ Annual Convention about Email Subpoenas to Third-Party Internet Service Providers.

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

(4) Character:

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

The Commission also noted that Mr. McKinnon 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. McKinnon reported that he is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

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

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



**THURSDAY, JANUARY 15, 2015**

- (a) Law Clerk to the Hon. Joseph F. Anderson, Jr., Chief Judge of the United States District Court for the District of South Carolina (2001-02);
- (b) Law Clerk to the Hon. Andrew J. Kleinfeld, Circuit Judge, United States Court of Appeals for the Ninth Circuit (2002-03);
- (c) Covington & Burling, Washington, DC, (2003-04). 100% litigation with a nation-wide practice, split approximately 50/50 between complex corporate litigation (representing defendants) and white collar criminal defense, including defense of securities violations;
- (d) Lewis, Babcock & Hawkins, Columbia, SC (2004-06). 100% civil litigation, including complex civil cases in the federal and state courts of South Carolina, and appeals in both the federal and South Carolina appellate courts. My practice included all aspects of civil litigation, and was approximately 2/3 plaintiff-side and 1/3 defense side;
- (e) Solo Private Practice, Columbia, SC (2006-07). 100% civil litigation, almost entirely a single plaintiff-side trust litigation matter involving a prominent family and a significant amount of money;
- (f) McGowan, Hood & Felder, LLC, Rock Hill, SC (2007-Present). 80% civil litigation, which was entirely plaintiff-side, and 20% criminal defense. My civil practice consists of about 50% medical malpractice work and the remainder is complex civil litigation in the federal and state courts, including appeals. My criminal defense work is in the state court system only. I assist other lawyers with ethics issues on a pro-bono basis.

Mr. McKinnon further reported regarding his experience with the Circuit Court practice area:

My civil litigation experience includes medical malpractice, insurance law, copyright law, general person injury, school liability, Federal §1983 claims, jail liability, employment law, motor vehicle accidents, and truck accidents with medical malpractice being my primary concentration. I have experience with all procedural aspects, including appeals, jury trials, motions practice, discovery practice, and have taken many, many depositions. My practice is currently 100% plaintiff, but I have

**THURSDAY, JANUARY 15, 2015**

represented defendants earlier in my career at Covington & Burling and Lewis, Babcock and Hawkins. I also assist other lawyers, on a pro-bono basis, who have ethical issues. My practice focuses on cases with significant damages and/or death cases.

My criminal experience is entirely within the Sixteenth Circuit General Sessions Court (other than a small handful in the York County Magistrates' Court). Approximately half of the cases I have handled involve drug charges of some sort, with the remainder ranging from armed robbery to grand larceny to assault and everything in between. I am not death penalty qualified. I am familiar with both PTI and Drug Court from assisting clients into those diversion programs.

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

- (a) Federal: approx. 3-4/year;
- (b) State: approx. 15-20/year.

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

- (a) Civil: 80%;
- (b) Criminal: 20%;
- (c) Domestic: 0%

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

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

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

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

- (a) White v. Palmetto Health Alliance, et al. Complex medical malpractice case involving three different doctors attending an expectant mother for a delivery lasting four days, with severe brain damage to the infant during delivery. Seven figure settlement;

**THURSDAY, JANUARY 15, 2015**

- (b) Wise v. Doctor's Care, et al. Complex medical malpractice case involving four physician defendants, a hospital, an urgent care clinic, and allegations of comparative negligence on the part of the decedent. Seven figure settlement;
- (c) Mattel Lead Paint Class Action – Part of Plaintiff's leadership in national class action involving lead paint on toys, resulting in eight-figure national settlement;
- (d) Dash v. WWE and Floyd Mayweather. Copyright action against World Wrestling Entertainment and boxer Floyd Mayweather for unauthorized use of song in Wrestlemania pay per view. Issues of first impression regarding damages in copyright law. Dash v. Mayweather, et al., 731 F.3d 303 (4<sup>th</sup> Cir. 2013);
- (e) Grier v. Amisub. Medical malpractice case originally dismissed because Notice of Intent to File Suit did not have causation opinion from physician. Dismissal reversed by South Carolina Supreme Court, settling issue of whether causation opinion is necessary in physician affidavit. Case settled after remand. Grier v. Amisub, 397 S.C. 532 (2012).

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

- (a) Grier v. Amisub, South Carolina Supreme Court, May 2, 2012, 397 S.C. 532 (2012);
- (b) Dash v. Mayweather, et al., US Court of Appeals for the Fourth Circuit, September 26, 2013, 731 F.3d 303 (4<sup>th</sup> Cir. 2013);
- (c) Hearn v. Lancaster County, US Court of Appeals for the Fourth Circuit, 2014 WL 1427765, (4<sup>th</sup> Cir. 2014);
- (d) Layman v. State, 368 S.C. 631 (2006) (I wrote the briefs, but did not argue this appeal);
- (e) Morris v. SC Workers' Comp. Comm'n, 370 S.C. 85 (2006) (I wrote the briefs, but did not argue this appeal).

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

THURSDAY, JANUARY 15, 2015

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee found Mr. McKinnon to be "Qualified" in the evaluative criteria of constitutional qualifications. The Committee found him to be "Well Qualified" in the criteria of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary, "Mr. McKinnon has been reviewed twice now by this Committee. On each occasion, he has received accolades for his deep legal knowledge and intellectual capacity. He is easy-going and affable with a temperament well-suited to the bench."

Mr. McKinnon is not married. He does not have any children.

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

- (a) South Carolina Association for Justice (SCAJ);
- (b) American Association for Justice (AAJ).

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

- (a) National Rifle Association – Firearm Safety and Pistol Instructor;
- (b) Westminster Presbyterian Church – Formerly a Deacon and now an Elder.

Mr. McKinnon further reported:

Until this year, when I was elected an Elder, I served as a Deacon at Westminster Presbyterian Church in Rock Hill. My job in the diaconate was "emergency care" of congregational members. That is, if someone lost their job and couldn't pay their power bill, or their air conditioner broke in the summer and they couldn't pay to fix it, I would get that call. I spent a lot of time assisting, counseling, and praying with people struggling with some very

**THURSDAY, JANUARY 15, 2015**

difficult circumstances. I do think this experience changed me. I think that as a result of this work, I will be more able to put myself in the shoes of litigants, victims, and defendants. Additionally, I have significant experience with students, having been a teacher and currently a volunteer with the youth group at my church, experience which has given me significant insight into how children are impacted by difficult family situations.

Finally, I think my wide range of experience will help me be more effective as a judge. I have worked at a firm with over 300 lawyers in one office, and been a solo practitioner. I've appeared in Magistrate's Court a few times, and filed cert petitions with the US Supreme Court. I've been a law clerk in a trial court and an appellate court. I've argued about every type of motion that exists. I've defended criminal clients. I think this breadth of experience will help me better relate to, and work with, all of the various lawyers we have in the Sixteenth Circuit, as well as the members of the public who come before me as litigants or defendants.

(11) Commission Members' Comments:

The Commission commented that Mr. McKinnon is very intelligent, noting he went to Princeton for his undergraduate degree and graduated number one in his law school class. The Commission also noted that Mr. McKinnon is known for his outstanding legal work product.

(12) Conclusion:

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

**William V. Meetze  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

**THURSDAY, JANUARY 15, 2015**

Mr. Meetze was born in 1968. He is 46 years old and a resident of Marion, SC. Mr. Meetze provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1999.

(2) Ethical Fitness:

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

Mr. Meetze 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. Meetze reported that he has made \$239.17 in campaign expenditures for envelopes, paper for cover letters, stamps (\$154.12), and printing an information sheet to mail to members of the Legislature (\$85.05).

Mr. Meetze testified that 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. Meetze 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. Meetze to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- | <u>Conference/CLE Name</u>     | <u>Date</u>            |
|--------------------------------|------------------------|
| (a) Public Defender Conference | September 23-25, 2013; |

**THURSDAY, JANUARY 15, 2015**

- (b) Capital Case Litigation Initiative April 30-May 2, 2012;
- (c) Public Defender Conference September 26-28, 2011;
- (d) Capital Case Litigation Phase II May 1-3, 2011;
- (e) Omnibus Crime Reduction Act November 22, 2010;
- (f) Public Defender Conference September 27-29, 2010;
- (g) Public Defender Conference September 28-30, 2009;
- (h) SC Bar Criminal Law Update January 23, 2009;
- (i) Public Defender Conference September 29-October 1-2008.

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

I have taught the law school class at Palmetto Boys State each year for the past twelve years.

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

(4) Character:

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

The Commission also noted that Mr. Meetze 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. Meetze reported that he is not rated by any legal rating organization.

(6) Physical Health:

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

**THURSDAY, JANUARY 15, 2015**

(7) Mental Stability:

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

(8) Experience:

Mr. Meetze was admitted to the SC Bar in 1999.

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

- (a) Law clerk for The Honorable James E. Brogdon, Jr. 1998-99;
- (b) Assistant Solicitor 16<sup>th</sup> Judicial Circuit 1999-2002;
- (c) Assistant Public Defender-York County 2002-06;
- (d) Assistant Public Defender for the 12<sup>th</sup> Judicial Circuit 2006-Present.

Mr. Meetze further reported regarding his experience with the Circuit Court practice area:

I have been practicing criminal law in General Sessions Court since August of 1999. I was a prosecutor in the Sixteenth Circuit for a little under three years and during that time I prosecuted individuals charged with non-drug related criminal offenses that carried a penalty of up to fifteen years in prison. In August of 1999 I began work as an Assistant Public defender in York County. As an Assistant Public Defender I represent indigent defendants charged with anything from lower level misdemeanors all the way up to armed robbery, burglary first degree and murder. In 2006, I was given an opportunity to come back home and work in the Twelfth Judicial Circuit. I accepted a position in the Florence County Public Defender's Office and have worked there since that time. I have continued defending indigent defendants charged with all types of offenses, however; I have a much larger concentration of A, B, and C felonies at this point. I have defended people in cases involving all levels of criminal activity including major drug trafficking, criminal sexual conduct and murder. My primary experience in civil matters has been as a law clerk for the Honorable James E. Brogdon, Jr. Judge Brogdon was the Chief Administrative Judge for both the Twelfth Circuit and the Third Circuit during my one year Clerkship. I was able to observe many terms of Common



**THURSDAY, JANUARY 15, 2015**

Pleas Court both jury and non-jury. During that year Judge Brogdon was also assigned some complex litigation and I was able to work on and gain valuable experience.

Even though I do not have any practical experience practicing law in Common Pleas Court, I have no reservations regarding my ability to quickly develop the skills necessary to provide effective service as a Circuit Court Judge in Common Pleas Court. My entire career has been as a trial attorney and as a result I am very familiar with the rules of evidence and those rules function in both General Sessions and Common Pleas Court. I am also familiar with the rules of civil procedure and that will serve me well as a Circuit Judge in Common Pleas Court as well. My entire legal career I have done my own legal research and I consider myself quite competent at both legal research and interpretation of both statutory and case law. Also, the fact that I don't have practical experience in civil court also means that I wouldn't come into the job with any biases or pre-conceived ideas with regard to one type of case or another. I am perfectly suited to Judge these matters objectively which is imperative to effective service as a Circuit Judge. I am also smart enough to know that I don't know everything. I treat people with the respect that we all deserve.

Even though my legal experience has been exclusively in General Sessions Court, It has provided me with the opportunity to deal with the public and help to forge the ideals of character and patience. It is a humbling profession and one that takes a well-honed variety of skills to perform well. It is humbling by virtue of the fact that hard work and diligent preparation are guarantees of nothing. You can work extremely hard, try a very good case and still not get the outcome that you had hoped would result. Recognizing that there is no room for arrogance in the court room and displaying the proper characteristics of patience and temperament make me an outstanding candidate for a spot on the Circuit Court Bench.

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

- (a) Federal: 0%;
- (b) State: 100%.

**THURSDAY, JANUARY 15, 2015**

I have appeared in General Sessions Court an average of at least two weeks a month for the last five years. There may be a month here and there where we don't have court; however, there are many months where we have three straight weeks of court with two of those weeks running two court rooms. Since August of 2011 I have worked every term of General Sessions Court in both Florence and Marion Counties.

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

- (a) Civil: 0%;
- (b) Criminal: 100%;
- (c) Domestic: 0%.

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

- (a) Jury: 10% (As a public defender I handle many cases every year and a small percentage actually go to trial);
- (b) Non-jury: 90%.

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

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

- (a) State v. Syllester D. Taylor (694 S.E. 2d 60, 2010) I handled this case at the trial level. It was trial in absence where I preserved all motions and eventually the conviction was reversed by the Court of Appeals. The Supreme Court subsequently reversed the court of appeals in (736 S.E. 2d 663, 2013). However, even though Mr. Taylor eventually lost his appeal, this case is an example of our legal system at work and even though Mr. Taylor was absent from his trial he was represented effectively and was not denied any opportunity or due process of law in spite of his absence.
- (b) State v. Tavario Brunson This was a very high profile case in Florence County that I tried along with another

**THURSDAY, JANUARY 15, 2015**

attorney. The evidence against Mr. Brunson was quite overwhelming to include a recorded confession and a positive DNA match. Mr. Brunson was convicted of murder and that result was never really in question. I believe this is an important case because it is an example of our Constitution at work. Mr. Brunson exercised his right to a Jury trial and even though the evidence was overwhelming he was provided an excellent defense and to this day I believe it is one of the most well tried case I have been involved in.

- (c) State v. Ralph Thompson This was a case in York County where Mr. Thompson was charged with several counts of forgery. It was a case where Mr. Thompson gave a statement to police regarding where he had gotten the check. It was the kind of story that on its face sounded made up and that is exactly what the police and prosecutors believed he was doing. However, through my investigation of Mr. Thompson's story and the presentation we made at trial, the jury returned a not guilty verdict within ten minutes. It is important because it just shows that sometimes when people can't seem to get anyone to believe you, if you stick to the truth things can work out and justice can be served.
- (d) State v. Robert Johnson Mr. Johnson was charged with numerous counts of criminal sexual conduct with a minor 2<sup>nd</sup> degree. This is a case that really illustrates the whole process from investigation, to charges being filed, to negotiations and eventually a trial. Mr. Johnson did go to trial and he was convicted. I worked hard to get him an offer that I believed was appropriate and fair. Mr. Johnson did not agree and he went to trial. This was a very serious case in Florence County as Mr. Johnson had been suspected of this type of activity for a while without sufficient evidence to charge him. Even though I did not win the trial, it is another case that I worked very hard on and did a great job of trying the case.
- (e) State v. Montez Barker This is a death penalty case in which I was appointed lead counsel. It is important by the nature of the offense and the fact that a man's life was literally on the line. Death Penalty cases take an extreme

**THURSDAY, JANUARY 15, 2015**

amount of work and dedication. You are working as a team with another attorney that has been appointed as second chair as well as fact and mitigation investigators not to mention my client's family was heavily involved as well. We were able to work hard and in the end were able to spare Mr. Barker's life by negotiating a plea for him where he would not face the death penalty. It takes a lot of work and relationship building to get a capital client to trust you enough to eventually agree that pleading guilty where you will be receiving a life sentence is in his best interest. That is what happened in this case and it is one of the most satisfying results I have ever had in a case.

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

Mr. Meetze further reported the following regarding unsuccessful candidacies:

(a) Candidate for Twelfth Circuit Public Defender, January 2008

I was not nominated for the position;

(b) Candidate for Twelfth Circuit Public Defender, December 2011

I was not nominated for the position;

(c) Candidate for Judge, Circuit Court At-Large, Seat 16 Fall of 2012

Qualified bur not nominated.

(9) Judicial Temperament:

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

**THURSDAY, JANUARY 15, 2015**

(10) Miscellaneous:

The Pee Dee Citizen's Committee on Judicial Qualification found Mr. Meetze to be "Qualified" as to constitutional qualifications, physical health and mental stability. He was found "Well-Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament.

Mr. Meetze is married to Anna Braddock Meetze. He does not have any children.

Mr. Meetze reported that he was a member of the following bar association and professional association:  
Florence County Bar Association.

Mr. Meetze provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:  
Palmetto Boys State Staff-Dean of the Law School and Operations and Program Director.

Mr. Meetze further reported:

I was fortunate to grow up in a stable, loving and supportive family. When you are young you assume that everyone's family is just like yours. As you grow up and gain life experience you learn that is not the case. You learn that people are different. Socioeconomic backgrounds are different as well as family histories and other things as well. As I grew up and particularly when I got to high school I was exposed to these differences. I had been taught and recognize that different doesn't mean better or worse it just means different. Just because someone is different doesn't mean they should be treated differently. I always tried to treat people the same regardless of their family background or anything else. I always made friends easily and was always a good judge of character. If you were of sound character and a genuine and decent person then that is what I cared about. Because of that I always had a variety of friends from diverse backgrounds. That has always been a strength of mine and it is a strength that I believe has helped prepare me to be a Judge.

**THURSDAY, JANUARY 15, 2015**

During school I always had a summer job and that job was always working on the maintenance crew of a golf course. I even did the same work after college on a full time basis for two and a half years. It taught me great work ethic and it provided me with friends that I would not have otherwise had. They were people that grew up different from me. They didn't have bank accounts, they paid their bill with cash on pay day and they knew that they would never go to college. I always took those things for granted but having the diverse group of friends that I have has helped me gain a keen perspective on life and on people. These same people who are different from me in so many ways, when you get to know them you find out they love football. They love to play golf. They love their families. They are funny and they laugh and they cry just like the rest of us. And even though I grew up in a family of college educated and what I would consider successful parents, no one in our family ever looked down at any of my friends or anyone else because of what they did for a living or because of where they lived or what their parents did. I was very fortunate to have the parents I had to teach me how to live and how to judge people and situations. They knew that because of how they raised me that if I became friends with a particular person, they trusted my judgment of that person and knew they were good regardless of any other circumstance in their background.

I believe that in life it is important to treat everyone the same way you would like to be treated and to not judge people without getting to know them first. I have been fortunate to have been raised just that way and was given the freedom to make my own judgments about people and other things. In life I have had all kinds of experiences and I have known all kinds of people. I have also been fortunate enough to have been involved in the Palmetto Boys State program for the past twenty-nine years. The friends and influences that I have had as a result of my involvement in that program have provided a valuable combination of leadership and communications skills. Those skills as well as the influences of my parents, my friends and my diverse life experiences have joined with my legal experience to provide me with the characteristics of patience, temperament, knowledge and communication that make for an outstanding member of the Judiciary. I am humbled to have this opportunity

**THURSDAY, JANUARY 15, 2015**

and am confident in my ability to serve with honor and integrity that the job requires.

(11) Commission Members' Comments:

The Commission commented on Mr. Meetze's intelligence and his varied criminal experience. They noted his dedicated commitment to Palmetto Boys State.

(12) Conclusion:

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

**Timothy W. Murphy  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Murphy was born in 1958. He is 56 years old and a resident of Sumter, SC. Mr. Murphy provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2006. He was also admitted to the Pennsylvania Bar in 1986, but he is presently inactive.

(2) Ethical Fitness:

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

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

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

**THURSDAY, JANUARY 15, 2015**

Mr. Murphy testified that 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. Murphy 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. Murphy to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- (a) Spring 2014 - CJA Mini Seminar 5/2/14;
- (b) Fall 2013 - Federal Criminal Practice 10/24/13;
- (c) 2013 Annual Public Defender Conference 9/23/13;
- (d) Spring 2013 - CJA Mini-Seminar 5/3/13;
- (e) Lawyer Mentoring Program 3/1/13;
- (f) Special Issues in Military Divorce (teaching) 12/11/12;
- (g) Fall 2012 - Federal Criminal Practice 10/25/12;
- (h) 2012 Annual Public Defender Conference 9/24/12;
- (i) Fall 2011 - Federal Criminal Practice 10/20/11;
- (j) 2011 Annual Public Defender Conference 9/26/11;
- (l) Understanding the Immigration Case 7/6/11;
- (m) Spring 2011 - CJA Mini-Seminar 5/13/11;
- (n) Omnibus Crime Reduction Seminar 11/22/10;
- (o) Fall 2010 - Federal Practice Seminar 11/22/10;
- (p) Sentencing Guidelines Seminar 10/4/10;
- (q) 2010 Public Defender Conference 9/27/10;
- (r) Spring 2010 - CJA Mini-Seminar 5/7/10;
- (s) Fall 2009 - Federal Criminal Practice 10/29/09;
- (t) Federal Sentencing Guidelines 10/15/09;
- (u) 2009 SC Public Defender Conference 9/28/09;



**THURSDAY, JANUARY 15, 2015**

- (v) Spring 2009 - CJA Mini-Seminar 5/1/09;
- (w) A Tangled Web: A Civil Case 12/22/08;
- (x) Guideline Seminar 10/6/08;
- (y) 2008 Public Defender Conference 9/28/08.

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

- (a) 2012: CLE (SC Bar) Special Issues in Military Divorce: one credit on-demand webcast for SC Bar CLE Division;
- (b) 2011: CLE Representing Service Members and Veterans, Columbia SC: Taught sections on military organizations and issues unique to criminal representation of military clients;
- (c) 2009: CLE Special Issues in Military Divorce, Columbia SC: Taught section about unique issues relating to military divorce and child support;
- (d) 2003: United States Army Judge Advocate General School, Charlottesville, VA: Lectured on homeland security issues to military attorneys;
- (e) 2002-03: Defense Equal Opportunity Management Institution (DEOMI), Patrick AFB, FL: Taught sections on unlawful discrimination and sexual harassment to students studying to become AF social actions representatives;
- (f) 1994-96, 2000-01: United States Air Force Judge Advocate General School, Maxwell AFB, AL: Taught trial advocacy courses, also critiqued less experienced military attorneys using NITA method;
- (g) 1993-97: United States Air Force Academy, Colorado: see duties below;
- (h) 1987-90: University of Maryland (Overseas Division), RAF Greenham Common, UK: Taught Business Law I and II to military members;
- (i) 1987-88: City Colleges of Chicago (Overseas Division), RAF Greenham Common, UK: Taught classes on real estate law and police practices to military members;
- (j) 1985-86: Duquesne University School of Law, Pittsburgh PA (Teaching Assistant): Taught section of legal writing and research to first year law students.

**THURSDAY, JANUARY 15, 2015**

Mr. Murphy reported that he has published the following:

- (a) Since December 2010 he has written 15 law related information articles in the quarterly *Sumter Living Magazine* titled “Murphy’s Law.”
  1. Keep Your Eye on the Road: Laws for Summer Recreation Vehicles (Vol. 11 No. 3);
  2. Public Defenders: Advocates for the Poor (Vol. 11 No. 2);
  3. The Church, the State and the Constitution (Vol. 11 No. 1);
  4. Understanding the Veterans’ Disability Claims Process (Vol. 10 No. 6);
  5. Child Custody and Support (Vol. 10 No. 4);
  6. Marriage and Divorce in South Carolina (Vol. 10 No. 2);
  7. Crime Committed by Kids: The Juvenile Justice System (Vol. 10 No. 1);
  8. Make My Day: The Castle Doctrine in South Carolina (Vol. 9 No. 6);
  9. The Military Justice System (Vol. 9 No. 5);
  10. Duties of a Landowner to Their Guests . . . and Trespassers Too (Vol. 9 No. 4);
  11. Adoption - A Permanent Solution to a Temporary “Problem” (Vol. 9 No. 3);
  12. What to Expect if You Get Arrested (Vol. 9 No. 1);
  13. Magistrate Court: The “People’s Court” in South Carolina (Vol. 8 No. 6);
  14. Answers to Common Questions About Wills (Vol. 8 No. 5);
  15. Nothing Simple About Simple Documents and Forms (Vol. 8 No. 4).
- (b) *A Defense of the Role of the Convening Authority: The Integration of Justice and Discipline*. 28 *The Reporter* 3 (September 2001);
- (c) *Law for Air Force Officers*. Kendall-Hunt Publishing Co., Dubuque Iowa (1997) General Editor & Contributing Author;
- (d) *Excerpts from the Nuremburg Trials*. 6 *USAFA Journal of Leg. Studies* 5 (1995-1996) (with Jeff E. Whitfield);
- (e) *A Matter of Force: The Redefinition of Rape*. 39 *AF Law Review* 19 (1996);

**THURSDAY, JANUARY 15, 2015**

- (f) *The Commonwealth of Independent States: Mechanism for Stability or Domination?* 5 USAFA Journal of Leg. Studies 57 (1994-1995);
- (g) *Corroboration Resurrected: The Military Response to Idaho v Wright*. 145 Mil. Law Rev. 166 (1994);
- (h) *Preparing Prosecuting and Understanding Spouse Abuse Cases*. 19 The Reporter 7 (1992).

(4) Character:

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

The Commission also noted that Mr. Murphy 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. Murphy reported that he is not rated by any legal rating organization.

Mr. Murphy reported the following military service:

January 15, 1987 - February 1, 2007, United States Air Force, Lieutenant Colonel, retired.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Murphy was admitted to the SC Bar in 2006.

## THURSDAY, JANUARY 15, 2015

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

After graduating from Duquesne School of Law, I served from August 1986 to January 1987 as the Law Clerk for two trial level judges (Hon. Gary G. Leasure and Hon. J. Frederick Sharer) for the Circuit Court in Allegany County, Cumberland, Maryland. I also served as the county legal law librarian. In this position, I assisted the court with research, writing orders and opinions and other duties as directed by the judges. I left this position to enter active duty with the United States Air Force;

After a period of training (Jan-March 1987), I served as the Assistant Staff Judge Advocate for the 501st Tactical Missile Wing at RAF Greenham Common, United Kingdom between March 1987 and July 1989. I supervised two paralegals and was responsible for adjudicating various tort claims, international claims and medical claims filed against the Air Force totaling over \$250,000 per year. I was the primary legal advisor to the base clinic on medical tort liability and standard of care issues. As a base level prosecutor, I tried thirteen courts-martial, including three where I was specifically requested "by name" to travel to other Air Force bases in the United Kingdom. The cases included vehicular homicide, child sexual abuse, drug distribution, spouse abuse, aggravated assault and other crimes under the Uniform Code of Military Justice (UCMJ). I also successfully represented the Air Force in an eviction action against a British subject before the British Crown Court;

In July 1989 I transferred from the base legal office and became the Area Defense Counsel for RAF Greenham Common, RAF Welford and RAF Fairford, United Kingdom until June 1990. I represented military defendants in a dozen courts-martial, two litigated administrative boards and over 150 various other actions. Cases included rape, arson, assault and other violations of the UCMJ. I never lost a litigated case and was able to get three charged cases dismissed before trial by the commander. My supervisor ranked me as top defense attorney in the United Kingdom;

From June 1990 to June 1993, I was stationed at Travis Air Force Base, California where I served as one of four full time lead supervisory prosecutors representing the United States at 21 AF bases in an 8 state region throughout the western USA. I

## THURSDAY, JANUARY 15, 2015

obtained convictions in over 60 courts-martial in a three year period in felony level cases, including rape, armed robbery, aggravated assault, child sexual abuse, spouse abuse, desertion, drug use and distribution, various forms of fraud and theft. I was the first Air Force prosecutor to make use of expert testimony regarding "Battered Spouse Syndrome" to help explain the reluctance of beaten spouses to testify truthfully against their abusers. My responsibilities also included training base level prosecutors in trial preparation and advocacy;

From June 1993 until February 1997, I was stationed at the United States Air Force Academy teaching various undergraduate legal courses in the Department of Law. Over the course of my tour, I rose to the academic rank of Associate Professor and for three years served as the Course Director of the only legal "core" course at the Academy required for all cadets. In addition to my own teaching load, this duty required me to direct the work of 11 faculty members. I also taught two electives (criminal law and constitutional law). I served as the Academic Advisor in Charge for the Department's undergraduate Legal Studies major, as an advisor and hearing officer for the Academy's Honor Code system, and as a faculty recruiter and tutor for the AFA football team. During my last year, I was chosen to create a new "core" course and oversee the writing and publication of its textbook. In addition to my academic responsibilities, I was the prosecutor in one court martial of a cadet for assault, and served as the Article 32, UCMJ hearing officer (similar to a magistrate in a preliminary hearing) in about six other military cases at various Colorado Springs AF bases. I was selected as the Academy's "Outstanding Educator in Law" for the 1996-1997 academic year;

From February 1997 until July 2000, I was assigned as the Staff Judge Advocate (SJA) for the 435<sup>th</sup> Airlift Wing at Dover Air Force Base, Delaware, supervising a staff of seven attorneys, ten paralegals and three civilian support staff at a base consisting of over 5000 active duty personnel. I was responsible for legal advice to over 30 commanders on a wide range of criminal and civil issues, including military justice, environmental law, contracts, labor and employment, property, fiscal and tax law, torts and various administrative actions. On behalf of the base commander, I personally negotiated with legal representatives

**THURSDAY, JANUARY 15, 2015**

and other officials from state and federal governments on various issues of concern to the base. These included direct negotiations with the Attorney General of Delaware regarding jurisdiction in criminal cases involving active duty airmen, EPA and state environmental officials on fines for regulatory violations and local authorities regarding zoning restrictions related to property next to the base. I was responsible for the administration of a military justice system that, over a three year period, prosecuted over 30 courts-martial and over 250 other adverse criminal actions, as well as an additional 150 cases in US Magistrate Court. Additionally, I settled various tort and medical claims against the United States totaling over \$18 million. In 2000, I provided legal briefings, both “on the record” and “on background”, to local and national media organizations—including “60 Minutes”—during the national coverage of UCMJ proceedings against an officer who refused to obey an order to take the anthrax vaccine;

From July 2000 until January 2002, I was assigned as the Chief Appellate Defense Counsel and Deputy Division Chief of the AF Appellate Defense Division at Bolling AFB, DC. I represented military defendants on appeal before the Air Force Court of Criminal Appeals, the US Court of Appeals for the Armed Forces and the United States Supreme Court. I provided daily management and direction to a staff of 19 attorneys and 3 paralegals, personally argued 5 cases before service courts, and drafted 90 briefs in cases ranging from murder to dereliction of duty. During my tour, I supervised the drafting of over 1400 briefs to the military appellate courts and an additional dozen writs to the US Supreme Court;

From January 2002 to June 2004, I was assigned to the Headquarters of the Air Force Judge Advocate General Corps at the Pentagon in the Administrative Law Division. I was the primary legal advisor on issues arising from re-organization, homeland security, civil rights, equal opportunity and matters dealing with federal civilian employees. I wrote eight published Civil Law Opinions of the Air Force Judge Advocate General that established precedential policy on matters involving command structures, the constitutionality of various minority recruitment programs and the forced deployment of civilian

## THURSDAY, JANUARY 15, 2015

federal employees in support of operations in Iraq and Afghanistan;

From June 2004 until my retirement from the Air Force in February 2007, I was the Deputy Staff Judge Advocate of Ninth Air Force and US Central Command Air Forces (9AF/CENTAF) at Shaw Air Force Base, South Carolina. The 13 member legal office at 9AF/CENTAF provided advice to four bases in the USA and over 13 bases and units in Southwest Asia on issues ranging from the UCMJ to flyover rights for AF aircraft under international law. During this assignment, I also was deployed three times as the Staff Judge Advocate (primary legal advisor) at the Combined Air Operations Center at Al Udeid AB in Qatar. In addition to supervising two attorneys, I provided time-sensitive operational legal advice on myriad targeting and other international legal issues arising under the laws of armed conflict to the commander controlling combat air operations in Iraq and Afghanistan. I held a Top Secret Security Clearance during my military career and retired with the rank of Lieutenant Colonel;

After my retirement in February 2007, I joined The Law Offices of Wade S. Kolb, Jr. in Sumter, South Carolina as an associate for one year, and then as a partner in the firm of Kolb & Murphy, Attorneys at Law, LLC. My practice with the firm consists of criminal defense in federal trial and appellate courts (including military courts-martial), and general civil practice in state and federal courts. My general practice has consisted mostly of probate issues, breach of contract, accidents and claims before various federal administrative bodies. These include proceedings involving the Veterans Administration, Social Security Administration and Equal Employment Opportunity Commission. I have a small family law practice consisting almost exclusively of military clients;

At the same time, I have served as a part-time Public Defender in Sumter County, representing indigent clients in Circuit Court. Since July 2012, I have also served as the Chief Public Defender for Sumter County, where I assist the Chief Defender for the Third Circuit with administrative responsibilities unique to Sumter County. My caseload as a Public Defender has varied between 150-300 active cases. I have represented indigent clients in a number of litigated cases, including murder, criminal

**THURSDAY, JANUARY 15, 2015**

sexual conduct with a minor, criminal sexual conduct first degree, burglary, assault with intent to kill and other crimes.

Mr. Murphy further reported regarding his experience with the Circuit Court practice area:

As noted, in my capacities as a public defender and in private practice, I have represented hundreds of criminal defendants before the Circuit Court and US District Court, as well as at a General Courts-martial held on Shaw AFB. Cases that have proceeded to trial include defendants accused of murder, criminal sexual conduct, armed robbery, burglary and other offenses.

I have represented plaintiffs in the relatively few civil cases I have handled. They include three automobile accident cases which were settled either shortly before or after the filing of a complaint in the Court of Common Pleas, and one case in US District Court alleging the tort of intentional infliction of emotional distress against a Florida corporation on behalf of an employee. All cases settled prior to trial. I also handled about five debt collection actions in magistrate court. Three of these went to trial and my client received a judgment in all three cases. The remaining civil cases I have handled involve administrative claims under the Federal Tort Claims Act (two medical malpractice cases), Veterans Claims, Social Security claims and various discrimination and harassment claims under Federal law before the Equal Employment Opportunity Commission.

During my Air Force career, I handled a wide variety of cases and claims involving civil law issues, including medical malpractice, various tort actions, contract law, environmental law, employee law and zoning issues. Thus, while I have not litigated a wide variety of civil matters, I do believe that I have the requisite understanding of these types of cases as a result of my experience.

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

- (a) Federal: 25%;
- (b) State: 75%.



**THURSDAY, JANUARY 15, 2015**

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

- (a) Civil: 15%;
- (b) Criminal: 70%;
- (c) Domestic: 10%;
- (d) Other: 5%.

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

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

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

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

- (a) United States v. Scheffer, 523 US 303; 118 S. Ct. 1261; 140 L. Ed. 2d 413 (1998). As the trial prosecutor in this case, I moved to suppress the results of an exculpatory polygraph offered by the defendant to deny his use of illegal drugs. The defendant had moved at trial that he was entitled to introduce this evidence and that military rules of evidence mandating exclusion were in violation of the due process clause. At trial, I successfully argued against the defense motion. On appeal, after one military appellate court held otherwise, the US Supreme Court concluded that the military rules of evidence mandating exclusion of polygraph evidence did not violate the due process clause and the conviction in this case was ultimately affirmed;
- (b) South Carolina v. Stavis, 2009-GS-43-0801. This was the last of three trials in which I represented Mr. Stavis, the last two of which he was facing life imprisonment without parole if convicted. He was acquitted at each trial. In this case, Mr. Stavis was charged with CSC 1<sup>st</sup>, Kidnapping and Burglary First degree. The State's evidence included a DNA sample. At trial, I elicited testimony from the alleged victim during cross-examination that flatly contradicted the testimony of a

**THURSDAY, JANUARY 15, 2015**

police officer testifying for the State. I was also able to introduce evidence that the alleged victim had a poor reputation for truthfulness, had racial bias and undercut the argument that the encounter was non-consensual. The case received some coverage in the local media and, given the prior acquittals, the State gave a maximum effort to secure a conviction. It was an extremely difficult case factually given the DNA evidence;

(c) United States v. Manginell, 32 MJ 891 (AFCMR 1991).

This case, arising from “Operation Just Cause” (the US invasion of Panama in 1989) was the first military prosecution for the charge of “looting” under Article 103, UCMJ in about twenty-five years. During my preparation as the trial prosecutor, I discovered a conflict in the military legal authorities concerning the definition of “looting” and whether an element of “force” was required for the crime. In support of the legality of defendant’s guilty plea to the charge, I drafted a detailed brief supporting the conclusion that the crime of “looting” did not require an element of force. On appeal, the Air Force appellate court agreed with my analysis and referenced my brief in its opinion upholding the plea. The case was relied upon in subsequent military cases concerning this crime, and the current definition of “looting” in military legal authorities clearly reflect its holding concerning the absence of force;

(d) South Carolina v. Shannon, 2010-GS-43-0648. I

represented Mr. Shannon at trial on a murder charge. He was accused of shooting and killing his girlfriend. The defense strategy was to seek a conviction for involuntary manslaughter, arguing that while my client was reckless, the shooting was not malicious. The defense case was “proven” through the State’s witnesses and evidence, including the 911 tape submitted by the State, the testimony of first responders and some helpful testimony from the forensic experts from SLED. I also successfully argued against the State’s contention that a charge for involuntary manslaughter was not supported by the facts. Mr. Shannon was convicted by the jury of

**THURSDAY, JANUARY 15, 2015**

involuntary manslaughter and was sentenced to five years;

- (e) United States v. Hennis, 40 MJ 865 (AFCMR 1994). The complexity of this case is not evident in the appellate opinion. I served as the trial prosecutor. The defendant was charged with various indecent acts upon his minor daughter at his duty stations in Utah and in Idaho. On the evening before trial, defendant and his civilian defense attorney left Idaho, traveled to Utah and attempted to enter guilty pleas to similar charges in state court. Utah authorities returned the defendant to military authorities. However, defendant's wife and daughter (the victim) refused to return to Idaho to testify in his court-martial. As a result, the prosecution case rested on a detailed "diary" summarizing and detailing the abuse that was required as part of her medical treatment. I successfully overcame a defense motion to suppress this "diary" under the hearsay exception for statements made in furtherance of a medical diagnosis. I also successfully argued against attacks on military jurisdiction and bias in the selection of the court-martial panel. After losing this motion, defense conceded certain facts (that serve as the basis for the appeal). Defendant was convicted without the testimony of the victim.

The following is Mr. Murphy's account the civil appeal he has personally handled:

I have never appealed a civil case to the Court of Appeals or the Supreme Court. I have been involved in an appeal of one probate matter to the Court of Common Pleas. The case was Wise v. Manley, 2007-CP-14-190. The Court of Common Pleas remanded the case to the Probate Court requesting clarification on one of the issues and shortly afterward, the case settled.

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

- (a) United States v. Washington, 54 MJ 936 (AF Court of Criminal Appeals 2001); remanded United States v

**THURSDAY, JANUARY 15, 2015**

Washington, 57 MJ 936 (US Court of Appeals Armed Forces 2002) decision date: 9/20/2002;

- (b) United States v. Whitney, 55 MJ 413 (US Court of Appeals Armed Forces 2001) decision date: 9/20/2001;
- (c) United States v. Traum, ACM No. 34225 (AF Court of Criminal Appeals 2002) (unpublished) decision date: 6/28/2002;
- (d) United States v. Ross, 416 Fed. Appx 289 (4<sup>th</sup> Cir. 2011) (unpublished) date decided: 3/16/11;
- (e) United States v. David, 12-4492 (4<sup>th</sup> Cir. 2013) (unpublished) date decided: 1/31/13.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizen's Committee on Judicial Qualification found Mr. Murphy to be "Qualified" as to constitutional qualifications, physical health, and mental stability. He was found "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Murphy is married to Jody Diane (Henderson) Murphy. He has two children.

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

- (a) Sumter County Bar Association, (2007 to present);
- (b) South Carolina Bar Association, (2007 to present);
- (c) Law Related Education (LRE) Committee (2007-present; Chair, "We the People" sub-committee, (2012-present);
- (d) Military and Veterans Law Council (2012-present);
- (e) Duquesne University Law School Alumni Association.

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

- (a) Sumter-Palmetto Rotary Club (2007-present; Board member, 2013-present);

**THURSDAY, JANUARY 15, 2015**

- (b) Military Officers Association of America, Santee-Wateree Chapter (2011-present, Vice-President, President);
- (c) Sumter-Shaw Community Council (2007-present);
- (d) Saint Anne Catholic School Advisory Board (2012-13, President);
- (e) Our Lady of the Skies Catholic Faith Community Advisory Council (2012-present);
- (f) Chapel Finance Working Group, (2012-present).

Mr. Murphy further reported:

By their words and example, my parents impressed upon me growing up the importance of service and treating others with respect, without regard to background, and without regard to the attitude or actions of others. These values probably explain what attracted me to both the legal profession and the military. I've tried to keep this standard as I've had the opportunity to meet and deal with a wide variety of people from different backgrounds and cultures from across our country and throughout the world. What I have observed is that, notwithstanding their differing backgrounds and cultures, most people have similar outlooks and values, and most people reciprocate the type of treatment they receive. Lawyers are in the "people business."

No matter the nature of the representation or the area of law involved, attorneys tend to deal with people who are "in distress" as well as "under stress." The lessons and example my parents provided to me have served me well as a husband, father, officer and an attorney, and should I have the privilege, they would provide the basis of my conduct as a Circuit Court judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Murphy has a good range of experience, mostly with military law. They noted his excellent presentation at the Public Hearing and his even temperament.

(12) Conclusion:

**THURSDAY, JANUARY 15, 2015**

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

**Jocelyn Newman  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. Newman was born in 1977. She is 37 years old and a resident of Columbia, SC. Ms. Newman provided in her application that she has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2004.

(2) Ethical Fitness:

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

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

Ms. Newman reported that she not made any campaign expenditures.

Ms. Newman 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.

**THURSDAY, JANUARY 15, 2015**

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

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

- (a) 2014 Bar Examiner Credit 03/01/14;
- (b) Social Media 02/26/14;
- (c) SC Bar Convention 01/23/14;
- (d) HIPPA and HITEC Implications 01/22/14;
- (e) SCDTAA Annual Meeting 11/07/13;
- (f) Gray's Inn of Court versus SC School of Law 09/11/13;
- (g) Identity Fraud & Abuse in Your Client's Industries 04/24/13;
- (h) SCDTAA Trial Academy 04/17/13;
- (i) 2013 Bar Examiner Credit 03/01/13;
- (j) SCDTAA Annual Meeting 11/08/12;
- (k) SCIRF Law Enforcement Defense Seminar 10/05/12;
- (l) SCBLA Annual Retreat 09/26/12;
- (m) The State of the Judiciary in SC 08/07/12;
- (n) SCDTAA Trial Academy 06/07/12;
- (o) Seminar on Depression and Substance Abuse 05/23/12;
- (p) NCBE Annual Bar Admissions Conference 04/20/12;
- (q) Trials of a Young Lawyer: Avoiding a Comedy of Errors 04/11/12;
- (r) 2012 Bar Examiner Credit 03/01/12;
- (s) SCDTAA Annual Meeting 11/03/11;
- (t) SCIRF Law Enforcement Defense Seminar 10/07/11;
- (u) Musical Chairs in the Jury Box 09/28/11;
- (v) Ethics Case Law Review 02/16/11;
- (w) 2010 Ethics Case Law Review 12/15/10;
- (x) Authenticating Digital Evidence 10/27/10;
- (y) SCIRF Law Enforcement Defense Seminar 10/01/10;
- (z) Trial and Error: A Day of Litigation Skills 08/20/10;
- (aa) Ethics Seminar 02/24/10;

**THURSDAY, JANUARY 15, 2015**

- (bb) Occupational Fraud by Dixon Hughes 12/16/09;
- (cc) Professionalism at the Movies 12/15/09;
- (dd) Ethics Seminar 11/18/09;
- (ee) SCDTAA Annual Meeting 11/05/09;
- (ff) SCBLA Annual Retreat 10/01/09.

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

- (a) I have given a lecture about fraudulent insurance claims at the Seibels Bruce Group, Inc., on behalf of the Claims and Litigation Management Alliance;
- (b) I have instructed paralegal education courses at Central Carolina Technical College in Sumter, SC;
- (c) From 2008 until 2009 I taught LSAT and SAT review courses at Kaplan Test Prep & Admissions.

Ms. Newman reported that she has published the following:

- (a) “Standing Your Ground” in Civil Actions, The Defense Line (SC Defense Trial Attorneys’ Association, Columbia, SC), Fall 2013, at 51;
- (b) C. Tyson Nettles, Unsung Hero, S.C. Young Lawyer, Aug, 2011, at 13;
- (c) Judicial Profile of The Honorable Clifton Newman, The Defense Line (SC Defense Trial Attorneys’ Association, Columbia, SC), Spring 2009, at 13.

(4) Character:

The Commission’s investigation of Ms. Newman did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Newman did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Ms. Newman 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.



**THURSDAY, JANUARY 15, 2015**

(5) Reputation:

Ms. Newman reported that her rating by a legal rating organization, Super Lawyers, is South Carolina Rising Star in 2012, 2013, and 2014.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Newman was admitted to the SC Bar in 2004.

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

After graduating from law school, I was employed as judicial law clerk for the Honorable G. Thomas Cooper, Jr., then-Resident Circuit Court Judge for the Fifth Judicial Circuit. For approximately half of that time, Judge Cooper served as Chief Administrative Judge for General Sessions Court in Richland County; therefore, I had the opportunity to research key issues in criminal law and to observe a wide range of criminal trials, guilty pleas, motions hearings and other administrative hearings (e.g., admission to pre-trial intervention and other diversion programs). I also assisted Judge Cooper in the trial and sentencing of a death penalty case.

In 2005, after the completion of my judicial clerkship, I became an Assistant Solicitor in the Fifth Judicial Circuit. In that position, I served as prosecutor for all types of criminal cases, whether felony or misdemeanor. I also served as lead counsel in the trials of several misdemeanor actions and as associate counsel in the trials of “most serious” felony cases. Finally, my job duties included representing the State of SC in Circuit Court in cases appealed from Magistrate’s Court.

In 2007, I joined Richardson Plowden & Robinson, P.A., a firm that practices primarily civil law. As an associate at Richardson Plowden, I first practiced in the Lobbying and

**THURSDAY, JANUARY 15, 2015**

Governmental Affairs practice group. In that capacity, I served as counsel for both plaintiffs and defendants primarily in cases involving issues of governmental regulation. I also served as a lobbyist for one legislative season. In 2008, I changed focus and joined the General Litigation practice group. As a member of that practice group, I most often serve as defense counsel in cases involving personal injury, construction defects, real property, constitutional violations, and a number of other subjects. From time to time, I represent plaintiffs in similar actions and criminal defendants in minor cases. I very frequently serve as associate trial counsel for attorneys in all practice groups within the firm. For a period of time, I also served as appointed counsel in Family Court and Post-Conviction Relief actions.

My criminal experience over the past five years has been limited, but has included the representation of the accused in a bank fraud action in which there were issues concerning the existence of evidence and the State's compliance with discovery rules. However, from 2005 until July 2007, I was employed as an Assistant Solicitor. During that time, I focused exclusively on criminal matters.

For the past five years, my primary focus has been civil matters. During that time, I have tried more than ten civil cases (representing the defendant in at least seven and the plaintiff in at least three) in both Magistrate's Court and Circuit Court. Those cases involved issues such as proper application of the South Carolina Tort Claims Act ("SCTCA"), comparative negligence and its application to judgment awarded pursuant to the SCTCA, the propriety of advisory verdicts in civil actions and whether the Circuit Court is bound by such verdicts, violation of the constitutional rights of prison inmates, and a wide range of other issues.

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

- (a) Federal: several times a year;
- (b) State: weekly.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Civil: 90%;
- (b) Criminal: 5%;
- (c) Domestic: 5%.

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

- (a) Jury: 50%;
- (b) Non-jury: 50%.

Ms. Newman provided that she served most often as associate counsel, but frequently sole counsel.

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

- (a) King v. American General Finance, Inc., 386 S.C. 82 (2009) –

In this case, I represented the plaintiffs, each of whom had obtained loans from Defendant American General Finance, Inc. Plaintiffs alleged that Defendant violated the "attorney preference statute" (S.C. Code § 37-10-102) by lending money but failing to determine the borrower's preference for legal counsel to be involved in the transaction at the time of the loan application. This case was significant in that it lent judicial interpretation to the "attorney preference statute" and established that the law requires that such preference be determined contemporaneously with the credit application. The appellate court also reversed the trial court's decertification of the case as a class action;

- (b) Kelly v. White, 2011 WL 939015 (not reported in F.Supp.2d)

– In this action, I represented the defendants, all of whom are employees of the South Carolina Department of Corrections ("SCDC"). Plaintiff, an inmate, filed this action pursuant to 42 U.S.C. § 1983, alleging that his civil rights were violated by the use of excessive force against him. This case is significant in that the court's decision turned on its determination of whether equitable tolling should apply to the statute of limitations. The court

**THURSDAY, JANUARY 15, 2015**

determined that where prisoners attempt to exhaust all available administrative remedies within SCDC yet SCDC fails to respond to their written requests, the statute of limitations will be equitably tolled for only one hundred fourteen days – the total length of SCDC’s internal grievance procedure when properly used. Thus, “the 114-day rule” was established in prisoners’ civil rights actions involving SCDC;

- (c) State of South Carolina v. Alphonso Simmons (not reported) – I represented the State of S.C. as an Assistant Solicitor in this action. The defendant was charged South Carolina approximately 60 offenses at the time, both in Richland and Kershaw Counties. We elected to try him on 14 of those offenses – 5 counts of armed robbery, 8 counts of kidnapping and 1 count of grand larceny. This case was significant in that there were significant disputes about the relevance, introduction and suppression of certain evidence, all of which arose because the defendant was on a “crime spree” throughout Richland and Kershaw Counties. Therefore, much of the evidence related to the case being tried was discovered at other crime scenes, and the introduction of that evidence could potentially infringe on the defendant’s presumption of innocence and his right to remain silent. Ultimately, the case was tried to jury and a guilty verdict was rendered on all 14 charges;
- (d) Crusader v. Thomas Robinson, 2009-CP-18-2300 (not reported) – In this trial I represented the plaintiff, a rent-to-own company who filed a claim and delivery action against the defendant in Magistrate’s Court. The defendant filed several counterclaims, which moved the case to Circuit Court. The case was tried over a seven-day period in the Dorchester County Court of Common Pleas. This action was significant to my legal career because I was able to win a directed verdict on my case-in-chief. In addition, the remainder of the trial involved a wide range of legal issues, including the authentication of evidence, impeachment of several witnesses, a witness’s misconduct during trial, opposing counsel’s absence from trial, opposing counsel’s improper statements during opening statements and closing arguments, and many,

**THURSDAY, JANUARY 15, 2015**

many other issues. The jury's verdict (in favor of the plaintiff on the defendant's counterclaims) rested on the distinction between liability and damages. Post-trial motions were filed and argued regarding the potential impropriety of the jury's findings and whether the court should grant an *additur* – all of which were denied;

- (e) Barnhill v. Barnold, 2007-CP-40-2358 (not reported) – In this case, I represented the defendant, a corporation owned by the ex-wife of the plaintiff. The plaintiff had done work for the company without pay since its inception in the 1980's. After the parties' divorce, the plaintiff sued for 25 years' worth of wages. This trial was significant in that it was an equitable matter tried in the Court of Common Pleas with an advisory jury – an uncommon occurrence in litigation. The advisory jury returned its verdict along with a note to the court explaining how they arrived at the verdict. Despite his request for the advisory jury, the plaintiff disagreed with its decision and petitioned the court for a judgment far in excess of that which was awarded by the jury. Ultimately, the court entered a judgment identical to the one advised by the jury.

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

Herron v. Century BMW, Supreme Court of South Carolina, decided April 19, 2010, reported at 387 South Carolina 525 (2010).

The following is Ms. Newman's account of the criminal appeal she has personally handled:

From 2005 to 2007, as an Assistant Solicitor, I represented the State of South Carolina (Richland County) in several appeals of Magistrates Court decisions. To my knowledge, none of those decisions was reported.

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

In August 2012, I submitted an application and was a candidate for South Carolina Circuit Court At-Large Seat 16. I completed the judicial screening process in November 2012 and was found to be "qualified, but not nominated."

**THURSDAY, JANUARY 15, 2015**

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Ms. Newman to be "Qualified" in the evaluative criterion of experience. They found her "Well Qualified" in the evaluative criteria of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and judicial temperament. The Committee stated in related comments that "Ms. Newman made a very positive impression on the Committee in every way. The Committee could certainly see Ms. Newman as a Circuit Court Judge, but some think she needs more seasoning, both in life experiences and in the courtroom." The Committee stated in summary, "Ms. Newman is qualified to serve as a Circuit Court Judge."

Ms. Newman is not married. She does not have any children.

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

- (a) South Carolina Bar;
- (b) Richland County Bar Association;
- (c) South Carolina Board of Law Examiners, Associate Member, January 2012 - present;
- (d) South Carolina Defense Trial Attorneys' Association;
- (e) Columbia Lawyers Association - President, 2012;
- (f) South Carolina Black Lawyers Association;
- (g) South Carolina Bar Foundation - Member, Board of Directors, July 2012 - present.

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

- (a) Mensa;
- (b) Alpha Kappa Alpha Sorority, Inc;
- (c) John Belton O'Neall Inn of Court, Treasurer 2014 - 2015.

Ms. Newman further reported:

**THURSDAY, JANUARY 15, 2015**

I have served our judicial system as counsel for both plaintiffs and defendants, as a prosecutor and as a criminal defense attorney, and in both civil and criminal practices. I am now eager to step into a different role within the system and take on more responsibility as a jurist who is confident, capable, and able to enhance the public's trust and confidence in our legal system. I was raised in a family of public servants, which is, in part, what inspired me to become an attorney. Since graduating from law school, I have hoped to one day become a judge.

(11) Commission Members' Comments:

The Committee commented that Ms. Newman is known as a hardworking lawyer and noted her active involvement with the SC Board of Bar Examiners and the Bar's Foundation. They also noted her excellent demeanor at the Public Hearing.

(12) Conclusion:

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

**Robert L. Reibold  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Reibold was born in 1970. He is 44 years old and a resident of Columbia, SC. Mr. Reibold provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1995.

(2) Ethical Fitness:

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

**THURSDAY, JANUARY 15, 2015**

Mr. Reibold 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. Reibold reported that he has made \$5.40 in campaign expenditures for mailings.

Mr. Reibold testified that 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. Reibold 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. Reibold to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- | <u>Conference/CLE Name</u>                      | <u>Date</u> |
|---|-------------|
| (a) Robert Masante's: Killer Expert Depositions | 4/1/2005;   |
| (b) Advanced Personal Injury Practice           | 4/14/2005;  |
| (c) Writing Credit – SC Lawyer Magazine         | 7/22/2005;  |
| (d) ABC's of Effective Ethical Practice         | 10/14/2005; |
| (e) E-Discovery and Evidence                    | 5/5/2006;   |
| (f) Legal Aspects of Condominium Regimes        | 8/25/2006;  |
| (g) 6 <sup>th</sup> Annual Civil Law Update     | 1/25/2008;  |
| (h) A Day in Discovery – Part 1                 | 1/26/2008;  |
| (i) A Day in Discovery – Part 2                 | 1/26/2008;  |
| (j) New Rules of Professional Conduct           | 2/10/2008;  |
| (k) Rules, Rules, Rules                         | 12/12/2008; |
| (l) Civil Court Judicial Forum                  | 9/30/2009;  |



**THURSDAY, JANUARY 15, 2015**

- (m) Annual Free Ethics Seminar 11/6/2009;
- (n) Employment & Labor Law 1/22/2010;
- (o) Torts & Insurance Practice – Part 1 1/22/2010;
- (p) Torts & Insurance Practice – Part 2 1/23/2010;
- (q) Alternate Dispute Resolution 1/2011;
- (r) Annual Free Ethics Seminar 11/4/2011;
- (s) Dispute Resolution Section 1/29/2012;
- (t) Trial & Appellate Advocacy Section 1/20/2012;
- (u) Employment and Labor Law Section 1/20/2012;
- (v) DL – 265 Lawyer Depression and Mental 10/20/2012;
- (w) Circuit Court Judicial Forum: Advanced 10/26/2012;
- (x) Annual Free CLE Ethics & Substance 11/9/2012;
- (y) Dispute Resolution Section 1/24/2013;
- (z) Employment and Labor Law Section 1/25/2013;
- (aa) Trial & Appellate Advocacy Section Civil Law Update 1/24/2014;
- (bb) Criminal Law Section – Part 2 1/24/2014;
- (cc) S.C. Circuit and Family Court Arbitrator 5/5/2014.

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

- (a) I made a presentation as a speaker at the Automobile Torts CLE in the Fall of 2000;
- (b) I made a presentation as a speaker at the Masters in Equity CLE in October of 2010.

Mr. Reibold reported that he has published the following:

- (a) The South Carolina Unfair Trade Practices Act – Is it Time for a Change? (South Carolina Lawyer, May/June 2013) (Author);
- (b) South Carolina Equity: A Practitioner’s Guide (S.C. Bar CLE 2010) (Co-Author);
- (c) Hidden Danger of Using Private Detectives (South Carolina Lawyer, July 2005) (Author);
- (d) Cutting the Fishing Trip Short: Protecting an Adjuster’s Claim File (South Carolina Lawyer, July/August 2000) (Author);
- (e) The Big Catch: An Adjuster’s Claim File (South Carolina Lawyer, July/August 2005) (Author).

THURSDAY, JANUARY 15, 2015

(4) Character:

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

The Commission also noted that Mr. Reibold 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. Reibold reported that his rating by a legal rating organization, Martindale-Hubbell, is AV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Reibold was admitted to the SC Bar in 1995.

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

- (a) 1996, law clerk to the Honorable J. Ernest Kinard, Jr., Judge of the Circuit Court;
- (b) 1996-2000, associate at Swagart & Walker, P.A.;
- (c) 2000-02, Swagart, Walker & Reibold, P.A.;
- (d) 2002-05, Swagart, Walker, Martin & Reibold, P.A.;
- (e) 2005-08, Walker, Martin & Reibold, LLC;
- (f) 2008 to the present, Walker & Reibold, LLC.

Mr. Reibold further reported regarding his experience with the Circuit Court practice area:

**THURSDAY, JANUARY 15, 2015**

My experience in criminal matters has been limited. I had exposure to General Sessions Court during my judicial clerkship. Since that time, I have handled a Post-Conviction Relief proceeding in which my client alleged ineffective assistance of his trial counsel. I have also represented a business charged with violations of a local noise/odor ordinance.

I have primarily been involved exclusively in civil matters. I have represented both plaintiffs and defendants in Magistrate's Court, Circuit Court, the South Carolina Court of Appeals, and the South Carolina Supreme Court. I have also represented both plaintiffs and defendants in the United States District Court for the District of South Carolina. At least 95% of my practice has been devoted to litigation. The types of matters I have handled range from personal injury actions, to wrongful death and survival claims, employment discrimination litigation, products liability actions, breach of contract, fraud, and unfair trade practice claims.

To some extent, my background has prepared me to handle criminal actions. I became familiar with the operations of the Court of General Sessions during my judicial clerkship. I have had exposure to criminal law in PCR proceedings and in two criminal matters in which violations of local ordinances have been alleged. I have also regularly used the South Carolina Rules of Evidence as a civil litigator, and these rules apply equally in criminal actions.

I would compensate for my lack of experience in criminal matters through education. I have read a criminal law reference text, and begun to attend criminal law continuing legal education seminars. If elected, I continue to attend continuing legal education seminars in criminal law and procedure. Additionally, I would engage in private study of criminal issues in order to ensure competency.

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

- (a) Federal: approximately 20 cases;
- (b) State: between 160 and 175 cases.

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

- (a) Civil: 98%;

**THURSDAY, JANUARY 15, 2015**

- (b) Criminal: 2%;
- (c) Domestic: 0%;

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

- (a) Jury: 98%;
- (b) Non-jury: 2%.

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

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

- (a) Michael Ritz c. Taylor Toyota. My partner and I represented an automobile dealer facing a class action suit challenging its assessment of closing fees under the Dealer's Act, which permits automatic double damages, punitive damages up to three times actual damages, and attorney's fees over a four year period. Plaintiff was represented by a number of prominent South Carolina attorneys, including A. Camden Lewis, Dick Harpootlian, Gedney Howe, and Michael Spears. The case was the first of close to 300 similar cases filed to reach trial. The case was tried in Aiken, SC, and a defense verdict was obtained;
- (b) Roberts v. LaConey, 375 S.C. 97, 650 S.E.2d 474 (2007). I sought permission to file an amicus brief in this case which was filed in the South Carolina Supreme Court's original jurisdiction. The case was decided in favor of the parties represented by my firm, and helped define what constitutes the unauthorized practice of law in the State of South Carolina;
- (c) Brown v. Stewart, 348 S.C. 33, 557 S.E.2d 626 (Ct.App. 2001). Among other things, this case involved the question of when a corporate shareholder may maintain a breach of fiduciary action against corporate board members or directors. I assisted in the trial of this case and argued the appeal, which helped to clarify an uncertain area of law in SC;
- (d) Butler v. Ford Motor Company, et al., 724 F.Supp.2d 575 (D.S.C. 2010). In this case, I represented a small tire company from Georgia who had been improperly sued in

## THURSDAY, JANUARY 15, 2015

South Carolina. The case is significant to me because I was able to have the case relocated to a proper forum, and prevent what appeared to be forum shopping;

- (e) Long v. Wray Automotive. In this federal case, I represented a car dealership who had been sued for loss of filial consortium. I argued that such a cause of action did not exist in South Carolina. The federal district court predicted that South Carolina would not recognize such a claim. This decision can be found at Long v. Wray Automotive, 2006 WL 3612875 (D.S.C.), and helped to clarify an ambiguous area of law.

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

- (a) Brown v. Stewart, et al., South Carolina Court of Appeals, November 19, 2001 (reported at 348 S.C. 33, 557 S.E.2d 676 (Ct.App. 2001) ( brief and oral argument);
- (b) Hall v. Fedor, South Carolina Court of Appeals, March 25, 2002 (reported at 349 S.C. 169, 561 S.E.2d 654 (Ct.App. 2002) (on brief);
- (c) OptimumPath, LLC v. Belkin, et al., United States Court of Appeals for the Federal Circuit, May 7, 2012 (brief and oral argument);
- (d) Sign N Ryde, LLC v. Larry King Chevrolet, South Carolina Court of Appeals, December 9, 2011 (brief and oral argument);
- (e) Diane Henderson v. Summerville Ford-Mercury, SC Supreme Court, September 11, 2013 (reported at 405 S.C. 440, 748 S.E.2d 221 (2013) (brief and oral argument).

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

Mr. Reibold further reported the following regarding unsuccessful candidacies:

I have run for Circuit Court Judge on two prior occasions, in 2011 and 2012.

**THURSDAY, JANUARY 15, 2015**

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee reported that Mr. Reibold is "Well Qualified" in the evaluative criteria of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in related comments, "Mr. Reibold is an impressive attorney with a wealth of civil experience. We question his experience in the criminal field. He is obviously bright, intellectual, and very motivated." The Committee stated in summary, "Mr. Reibold is Well Qualified to serve as a Circuit Court Judge."

Mr. Reibold is married to Shealy Boland Reibold. He has has one child.

Mr. Reibold reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association, Member, House of Delegates 2008-14;
- (b) Richland County Bar Association.

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

- (a) Member, Board of Directors, Keep the Midlands Beautiful Honored as Board Member of the Year for South Carolina Keep America Beautiful Affiliates in 2005;
- (b) Appointed Member, City of Columbia Tree and Appearance Commission, 2007-13;
- (c) Advisory Board Member, Salvation Army Command of the Midlands.

Mr. Reibold further reported:

I have been involved in community affairs for some time. Over the past 15 years, I have worked as a volunteer at public events, raised money for the American Cancer Society, and served as a board member for local non-profit organizations. I am also a

**THURSDAY, JANUARY 15, 2015**

member of the 2002 Leadership Columbia class. I was appointed by Columbia City Council to the Columbia Tree and Appearance Commission, where I continue to serve. I have recently been appointed as an advisory board member for the Salvation Army of the Midlands. These activities demonstrate my commitment to public service.

I have also been active in promoting the legal profession. I have been twice elected to the House of Delegates for the South Carolina Bar Association. I have authored a number of articles and co-authored a legal text published by the South Carolina Bar Association.

Service as a Circuit Court Judge is a natural outgrowth of this commitment service and the legal profession. That commitment, combined with my belief in the importance of the judicial system, has lead me to seek judicial office.

(11) Commission Members' Comments:

The Commission commented that Mr. Reibold was well-spoken at the Public Hearing and provided one of the best speeches on why he wanted to serve as a judge. The Commission also favorably noted Mr. Reibold's experience handling complex cases.

(12) Conclusion:

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

**Jennifer Kneece Shealy  
Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. Shealy was born in 1961. She is 53 years old and a resident of Mount Pleasant, SC. Ms. Shealy provided in her application

**THURSDAY, JANUARY 15, 2015**

that she has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1986.

(2) Ethical Fitness:

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

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

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

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

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

- | <u>Conference/CLE Name</u>                                 | <u>Date</u> |
|--|-------------|
| (a) Ethics for Government Attorneys                        | 12/14/2012; |
| (b) FOIA Issues for Government                             | 12/14/2012; |
| (c) Lawyering Mentoring Second Pilot Program               | 04/20/2011; |
| (d) The Investigation and Prosecution of Criminal Domestic | 01/28/2011; |



**THURSDAY, JANUARY 15, 2015**

- (e) Mental Illness, Victimization, and Criminal 06/02/2011;
- (f) The Prosecution of Sexual 07/29/2011;
- (g) South Carolina Solicitor's Conference 09/25/2011;
- (h) The Prosecution of Sexual Assault 07/30/2010;
- (i) 2010 in Review: Case Law 02/17/2010;
- (j) Prosecution Bootcamp Ethics Only 02/19/2010;
- (k) Capital Litigation 06/26/2009;
- (l) Federal Criminal Litigation 10/29/2009;
- (m) Victim's Rights in the Criminal 04/15/2008;
- (n) 2008 S.C. Solicitor's Association 09/28/2008.

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

- (a) I moderated the Ethics Panel discussion at the South Carolina Public Defender Conference in 2004 and 2005. As moderator, I selected questions that would be relevant to the audience regarding ethical issues facing public defenders and to watch out for in prosecutors;
- (b) I have made a presentation at the Prosecution Commission's "2010 in Review: Case Law, Legislation, and Other Developments of Interest to Prosecutors." Walter William Thompson and I lectured on the following topic: Significant Changes, Resulting Issues, and Possible Responses;
- (c) I presented along with The Honorable Roger Young at a joint CLE with the Department of Psychiatry at MUSC in 2011. Judge Young and I discussed the criminal process as it related to findings of incompetency, competency, and insanity;
- (d) I have previously presented at the Criminal Law Update, but I do not have the dates of those presentations. My CLE submissions do not reflect which conferences I attended that I also presented.

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

(4) Character:

The Commission's investigation of Ms. Shealy did not reveal evidence of any founded grievances or criminal allegations

**THURSDAY, JANUARY 15, 2015**

made against her. The Commission's investigation of Ms. Shealy did not indicate any evidence of a troubled financial status. Ms. Shealy has handled her financial affairs responsibly.

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

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

I was appointed to the South Carolina Indigent Defense Commission and served from January 2004 to June 2007. I timely filed my reports with the State Ethics Commission.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Shealy was admitted to the SC Bar in 1986.

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

(a) 1986-88, Attorney/Law Clerk for the Honorable Ralph K. Anderson, Jr.

I worked for Judge Anderson for just shy of two years when he was a Circuit Judge. I served as his law clerk when he was assigned to the Fourth Circuit and presided over civil and criminal court. Judge Anderson was then assigned to Richland County where he was assigned for the remainder of my clerkship. As a law clerk, I observed court

**THURSDAY, JANUARY 15, 2015**

and sat at the bench with the judge, participated and held status conferences with attorneys to set court schedules, and researched the law and drafted orders.

(b) 1988-92, Associate at the Jack Swerling Law Firm

I worked with Jack Swerling for four years; he had previously taught me Trial Advocacy in law school. He hired me to try cases with him. We tried enumerable criminal cases in State and Federal Court. I assisted in preparing the trials, examining witnesses (including expert witnesses) and doing opening and closing arguments. Our trials ranged from murder to multi-defendant Federal drug trafficking charges. We also had several Battered Women Syndrome cases. I also had the opportunity to write appellant briefs and argue in front of our Court of Appeals, our Supreme Court, and the Federal Fourth Circuit Court of Appeals. While working with Mr. Swerling, I was appointed to and defended a death penalty case: *The State v. Jonathan Simmons*.

(c) 1992-95, Kneece, Kneece, and Brown

I worked in my family's law firm where I continued in the field of criminal defense. I defended a Federal murder client and was appointed to a second death penalty case which I tried along with I. S. Leevy Johnson: *The State v. Thomas Ivey*.

My husband and I adopted one child, moved to Charleston for my husband's position as an assistant U.S. Attorney, adopted a second child, and I stayed home with my children for approximately four years (with the exception of the trial of the Ivey case, the trial of a Federal drug case and the trial of a Federal blackmail case).

(d) 1999-2001, Assistant Public Defender, Charleston Public Defender's Office

I worked in the Public Defender's Office in Charleston trying an assortment of criminal cases. I defended indigent defendants who were charged with murder and other serious crimes. I assisted my colleagues by second chairing them in their trials as well.

(e) 2001-02, Assistant Public Defender and Deputy Public Defender, York County Public Defender's Office

**THURSDAY, JANUARY 15, 2015**

I served as the Deputy Public Defender in the York Office under Harry Dest, Chief Public Defender after being in his office as an assistant. Again, I defended indigent defendants charged with serious crimes.

(f) 2002-06, Chief Public Defender, Charleston County Public Defender's Office.

As Chief Public Defender, I assigned myself the difficult murder cases and defended a large number of defendants in trial. I also managed an office consisting of General Sessions attorneys, Family Court attorneys, and Magistrate level attorneys. I was able, through work with the Charleston County Council, to elevate our employees' salaries to be commiserate with the Charleston Solicitor's Office's salaries. This proved to be a large increase for the individual members of our office. I also reached out to members of our community to educate them about what our office did and to build alliances with groups that could assist our clients.

(g) 2007-present, Managing Assistant Solicitor, Ninth Circuit Solicitor's Office

I am currently employed in the Charleston Solicitor's Office as a managing assistant solicitor. My caseload consists of primarily complex serious crimes with a focus on murder cases, burglary cases, home invasion cases, and attempted murder cases. I prosecute these cases and enjoy this caseload consisting of a lot of trial work. I also have a team of attorneys that I counsel, advise, and guide. I routinely select a young, less-experienced attorney to sit with me on my trials, allowing them the opportunity to be involved in a complex case involving serious crimes, interesting evidentiary issues, and victims who have dealt with immeasurable loss. I also frequently sit with a less experienced attorney on his/her case for guidance and participation. I am assigned several law enforcement agencies to be the go-between to assist in good relations between the offices and to share feedback about what is working and what may work better in the preparation for cases for trial.

**THURSDAY, JANUARY 15, 2015**

Ms. Shealy further reported regarding her experience with the Circuit Court practice area:

Essentially, my career has focused on criminal law. I have defended criminal clients, both private clients and indigent/appointed clients. I have defended them in circuit court primarily but also Federal and Appellate Court. My entire career has centered on the courtroom, from my start with Judge Anderson to my present practice. I have prosecuted criminal clients, both privately represented defendants and appointed defendants. I have tried two death penalty cases. I have tried cases in many counties in our state and been exposed to a large number of judges during my career. I have had cases that have dealt with difficult evidentiary issues, unusual issues that occur during trials, experts in a variety of specialties, mental health issues of defendants and witnesses, and a variety of types of evidence and analyses that are conducted. I have experienced trials where jurors are excused mid-trial, trials where mistrials have been warranted, trials where children must testify, and trials where co-defendants mid-trial choose to cooperate with the State.

During the last five years, some of the trials that stand out are as follows:

State v. Antonio Patterson (2010). I prosecuted Mr. Patterson for criminal sexual conduct in the First Degree. Mr. Patterson sexually assaulted a young female who was at his house for a party. He confined her inside his home during the assault. Upon conviction, Mr. Patterson pled to another sexual assault. The jury returned a guilty verdict.

State v. Nancy Fontaine (2011). I prosecuted a Murder case where the defendant was the wife of the deceased who she stabbed in the heart after a night of partying at Edisto Beach. The Defendant had multiple bruises all over her body, and the defense asserted that the bruises came from the victim on the night in question. Law enforcement seized the Defendant's computer soon after arrest, but did not provide the State with the forensic analyses of the computer until days before trial. The "dumping" of the computer reflected the Defendant's penchant for reaching out to men for sexual encounters, although married. Because of the delay in the production of the material from the

## THURSDAY, JANUARY 15, 2015

computer, none of its contents were allowed to show motive in the case. The jury returned a guilty verdict of voluntary manslaughter.

State v. Darold Drayton (2012). I prosecuted a murder case where a young woman willingly left her home in Bluffton in her own car with a male “friend,” who when they reached Charleston County slit her throat and set her on fire. He returned to the Bluffton area with a cut on his hand and enlisted the assistance of his cousin to take him to get medical treatment and to pawn the young lady’s engagement ring. Each time he was asked what had happened to cause his injury, a new, untruthful story emerged. Most of the case was investigated in Beaufort County. The issues in the case involved the use of phone records, the admission of the deceased victim’s statement to her fiancé about who she was traveling to Charleston with, the admission of cell tower information showing the location of the victim and defendant during the pivotal times, and most interestingly, mid-trial a juror alerted the court that he saw the fiancé of the victim offer a witness twenty dollars after testifying. Though the Judge’s initial reaction was to grant a mistrial, the juror and the fiancé were interviewed by the court at my request with counsel present and the fiancé explained that he felt bad for the witness who seemingly did not have enough money for lunch, and the juror explained he thought the gesture appeared kind and not as a payoff. The exchange was brought up during the trial. The jury returned a guilty verdict.

State v. James Rose (2013). I prosecuted a home invasion where a team of three males came into a home and shot a man while his daughter, a teenager, his girlfriend, and his cousin were in the home. All men were masked, and two of the three were never identified. The defendant had just left the residence and may not have been inside for the shooting, however, circumstantial evidence supported that this defendant planned it, and brought the other men with him to the residence. The issue in the case involved whether the hand of one charge (accomplice liability) was appropriate when the defendant was not in the residence at the time of the shooting. The jury returned a guilty verdict.

State v. Kevin Howard (2014). I prosecuted Mr. Howard for the murder of his cousin who he abducted from his home and

**THURSDAY, JANUARY 15, 2015**

killed in a remote area of Charleston. No eyewitnesses testified as to the killing and two other defendants participated. The defendant's girlfriend described activities after the murder when she was enlisted to pick up Mr. Howard. He recruited the help of his girlfriend to make sure that the two uncharged codefendants kept quiet while he was in jail awaiting trial. The jury returned a guilty verdict.

I have not had civil experience. I believe that my training as an attorney and my twenty-eight years of experience in the courtroom will assist me in presiding over civil court. I have experienced many trials, and every trial has had legal issues that arise. Our Rules of Evidence are wrestled with routinely, and I certainly value the need for both sides to present their cases within the parameters of our laws, to be treated courteously, and for the judge to be well-prepared for the likely issues. I know how much attorneys appreciate a fair, prepared judge, and how we welcome a judge wanting full arguments as to the parties' positions. I also look forward to experiencing civil court and intend to be well-prepared. I have begun studying the Rules of Civil Procedure and studying advance sheets and CLE materials relating to civil practice in South Carolina. I hope to attend a number of civil CLEs as well before the end of the year.

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

- (a) federal: none;
- (b) state: We have court usually three weeks out of each month; court appearances can vary between every day of the week of court to some months with three of four days of appearances. We try to consolidate our days of guilty pleas. My trials usually last four to five days. I am also responsible for a team of attorneys which mandates frequent appearances in court for scheduling purposes.

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

- (a) civil: 0%;
- (b) criminal: 100%.

**THURSDAY, JANUARY 15, 2015**

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

Regarding this question in my role as a prosecutor, with the exception of cases handled by dismissal, all my cases are handled in court: either in trial court or plea court.

- (a) jury: see above;
- (b) non-jury: see above.

Ms. Shealy provided that she most often served as lead counsel (First Chair) on all of her cases and assisted other attorneys as Second Chair on their cases.

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

(a) The death penalty case State v. Jonathon Simmons, Simmons v. South Carolina, 512 U.S. 154 (1994), that I tried earlier in my career, presented the opportunity to make law that was reviewed by the U.S. Supreme Court and reversed the sentencing portion of the trial. We had our client plead to two criminal sexual conduct charges prior to trial. Those two convictions meant that if he were convicted of the murder in our case, his sentence would automatically be a Life sentence with no eligibility for parole. We asked the trial judge to charge the jury that Life meant Life when instructing about the choice between the death penalty and a life sentence. The judge refused, and the sentencing was reversed.

(b) In the State v. Prayther Clifton, 302 S.C. 431 (1990), I represented Mrs. Clifton in her trial and in her appeal that clarified the principle that where there is a lesser included offense charged, a jury must be instructed that if there is reasonable doubt as to a greater offense, it should be resolved in favor of the defendant. I wrote the brief and argued the matter in the South Carolina Court of Appeals.

(c) In the State v. Anthony Mann (2003), I defended Mr. Mann of killing an alleged drug dealer in the drug dealer's home. A witness, a young female, left the scene with Mann and was found dead in a remote area of Charleston County. Mann faced charges on the double homicide. The trial involved many witnesses who allegedly heard Mann brag about his activities. The State chose to try both murders at the same time.



**THURSDAY, JANUARY 15, 2015**

(d) In the State v. Terrell Chandler (2010), I prosecuted Mr. Chandler for murder. Chandler had identical twins who assisted him by luring the victim to an apartment complex for the purpose of selling drugs. The police originally arrested Chandler believing he was an accomplice and that one of the twins, Che Carr, was the triggerman. In preparing the case, it became apparent that the triggerman was Chandler and that Che Carr's brother Storme Carr was also an accomplice. I directly indicted Storme Carr and another accomplice. The trial had interesting identification issues, handwriting analyses in that the defense offered their own expert, jail telephone recordings, fingerprint analysis, a cooperating co-defendant, and an eyewitness to the shooting who fled the scene as the passenger in the vehicle that the driver was shot in.

(e) In the State v. Latrone Butler (2014), I prosecuted Mr. Butler for kidnapping, attempted murder, and carjacking. The victim saw the defendant earlier in the day when he was knocking on the door of the next-door neighbor's home. The victim left her home and returned. She then saw a male resembling the man she had seen earlier at her neighbor's. She did not get a great look at his face. The man approached, forced the victim back into her car, and drove her around until they were in a remote area. He continued to forbid her to look at him. The defendant stopped, grabbed her and removed her from the car. Then, he began several attempts to break her neck. A car approached, the defendant fled in the victim's car, and the victim was left in the road having passed out due to his efforts. The victim walked to the closest home and law enforcement was alerted. The victim was later shown a lineup. The defendant's photo was in the lineup. The victim gave a qualified identification of the defendant indicating that she was not positive. The defendant was later found with the victim's keys in his pants inside a club with the victim's car outside. This case was significant in that it dealt with a less than completely certain identification.

Ms. Shealy reported that she has not personally handled any civil appeals.

The following is Ms. Shealy's account of the criminal appeal she has personally handled:

**THURSDAY, JANUARY 15, 2015**

State v. Prayther Clifton 302 SC 401 (1990)

\*\*While I was employed with Mr. Swerling, I argued an appeal in front of the Fourth Circuit Court of Appeals and handled other state appeals (in the Court of Appeals and the Supreme Court); however, neither Mr. Swerling nor I can remember the names of the defendants.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Ms. Shealy to be "Qualified" as to constitutional qualifications, physical health and mental stability. They found her "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated, under related comments for Professional and Academic Ability," no civil experience. But the committee believes that she will easily master the civil side. Also, her extensive experience in court on both sides of criminal cases will be of considerable value. "

Ms. Shealy is married to Miller Williams Shealy, Jr. She has two children.

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

- (a) Criminal Law Section Committee: July 1, 2002 through July 1, 2014. 2009-10: Vice Chairperson, 2010-11: Chairperson Elect, 2011-12: Chairperson, 2012-13: Immediate Past Chairperson, 2013-14 Section Delegate;
- (b) South Carolina Women's Lawyer's Association;
- (c) House of Delegates;
- (d) Justice Toal's Committee on Public Information (2006);
- (e) South Carolina Public Defenders Association;
- (f) Charleston County Bar, Executive Committee (2000-01).

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

**THURSDAY, JANUARY 15, 2015**

Member, Stella Maris Roman Catholic Parish.

Ms. Shealy further reported:

I would gratefully welcome the opportunity to be a Circuit Judge. I have devoted my adult life to the practice of law and to my family and friends. I have been fortunate to work in the private sector as a defense attorney, the public sector as a public defender, and the public sector again as a prosecutor. I am pleased that two of my references are the elected Solicitor and the Circuit Public Defender where I practice. I believe that I would bring to the bench a wealth of experience. My career has been in the courtroom. I have tried many, many cases, and my courtroom history is full of interesting issues and challenges. The stakes and emotions have been high in my cases, and I am experienced in dealing with the difficult matters. I also am abundantly aware of the need for professionalism and civility in the legal field. As a Circuit Judge, I would apply my work ethic to make sure that I am prepared, on time, available to counsel, and courteous in all my dealings. I will aggressively research all legal issues before me.

I have had the opportunity to try cases with seasoned attorneys and very new attorneys. During my career, I have witnessed behavior amongst attorneys and from the bench that disappointed me. I would strive to create an atmosphere in the courtroom that balances the necessary formality with the awareness that the unexpected frequently occurs. I have experienced from the families of victims as well as defendants the palpable emotions of those who are involved in controversy. I understand the need for a judge to control his or her courtroom with professionalism and courtesy.

While civil court would be new for me, I would eagerly engage in the necessary preparation to meet the rigors of civil court.

(11) Commission Members' Comments:

The Commission commented that Ms. Shealy has extensive criminal legal experience. They noted her great oration at the Public Hearing which would assist her as a Circuit Court judge.

**THURSDAY, JANUARY 15, 2015**

(12) Conclusion:

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

**David W. Wolf**  
**Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Mr. Wolf was born in 1971. He is 43 years old and a resident of Charleston, SC. Mr. Wolf provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1999.

(2) Ethical Fitness:

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

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

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

Mr. Wolf testified that 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.

**THURSDAY, JANUARY 15, 2015**

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

(3) Professional and Academic Ability:

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

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

- (a) Law Office Technology 01/22/09;
- (b) Mastering Cross-examination 02/06/09;
- (c) Ethics in E-Discovery 02/27/09;
- (d) May Your Office Be With You 06/30/09;
- (e) Law Office Seminar 01/23/10;
- (f) Lawyer Mentoring Orientation – Training Workshop 01/28/10;
- (g) Masters in Opening Statements and Closing Arguments 02/12/10;
- (h) Ensuring Independence and Diversity in the Judiciary 10/08/2010;
- (i) Lawyer Mentoring Second Pilot Program 12/15/2010;
- (j) Law Office Technology 01/20/2011;
- (k) Law Firm Management 01/20/2011;
- (l) American Inns of Court Meeting (Petigru) 09/19/2011;
- (m) American Inns of Court Meeting (Petigru) 10/12/2011;
- (n) Law Office Technology 01/19/2011;
- (o) Law Firm Management 01/21/2012;
- (p) What Works For Me 02/03/2012;
- (q) American Inns of Court Meeting (Petigru) 09/12/2012;
- (r) American Inns of Court Meeting (Petigru) 10/10/2012;
- (s) American Inns of Court Meeting (Petigru) 01/09/2013;
- (t) What Works For Me 02/01/2013;
- (u) American Inns of Court Meeting (Petigru) 02/13/2013;
- (v) Lawyer Mentoring Program 04/29/2013;
- (w) Risk Management for Lawyers 07/24/2013;
- (x) American Inns of Court Meeting (Petigru) 09/11/2013;
- (y) Solo & Small Firm Conference 09/20/2013;
- (z) American Inns of Court Meeting (Petigru) 10/09/2013;

**THURSDAY, JANUARY 15, 2015**

- (aa) American Inns of Court Meeting (Petigru) 11/13/2013;
- (bb) American Inns of Court Meeting (Petigru) 01/8/2014.

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

- (a) I have spoken to Charleston School of Law students on the following topics:
  - 1. Setting up a private practice
  - 2. Current Issues in a Commercial and Business Law Practice
  - 3. Business and Commercial Law (various topics)
  - 4. Primer for Solicitor/Public Defender Summer Clerks;
- (b) I have spoken to prospective business organizers about the choice of business entities available at civic organizations, such as the Charleston Chamber of Commerce and other business networking groups.

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

(4) Character:

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

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

(5) Reputation:

Mr. Wolf reported that his rating by a legal rating organization, Martindale-Hubbell, is BV since 2005.

(6) Physical Health:

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

**THURSDAY, JANUARY 15, 2015**

(7) Mental Stability:

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

(8) Experience:

Mr. Wolf was admitted to the SC Bar in 1999.

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

(a) 1999 – 2001

Law Clerk to the Honorable Daniel F. Pieper – Reviewed case files and prepared bench memoranda; kept notes of the evidence presented for each element of a cause of action, criminal offense, or defense; discussed and debated legal issues relevant to the case; and drafted judicial orders and otherwise assisted the judge in his decision making process for each hearing or trial.

(b) 2001 – 2003

Staff Attorney for the Charleston County Public Defender – Handled cases from assignment following arrest and bond hearing through preliminary hearing; discovery and investigation; pre-trial preparation; trials and post-trial pleadings for charges ranging from property crime enhancements and drug possession to burglary and murder.

(c) 2003 – 2006

Associate and Of Counsel to Savage & Savage, P.A. – Assisted the partners with handling civil and criminal matters; particularly involved in numerous high-profile criminal proceedings by reviewing discovery and investigating defenses and preparing pre-trial motions; participated in trials and post-trial pleadings; also participated in a limited number of appellate matters in Federal cases.

(d) 2005 – 2014

Partner in law practice primarily focusing on providing advice and services to small to medium sized businesses, including transactional and litigation matters and serving as counsel or local counsel for several large public entities in matters in the State of South Carolina. Continue to accept a limited number of criminal matters

**THURSDAY, JANUARY 15, 2015**

and remain on the criminal appointment list to continue involvement in General Sessions Court.

Mr. Wolf gave the following detailed account of his legal experience since graduation:

As a staff attorney at the Charleston County Public Defender's Office and an associate at Savage & Savage, P.A. working closely with Andy Savage, I have worked on hundreds of criminal cases at the Magistrate/Municipal Court, General Sessions Court and Federal Court levels. The types of cases I have handled include simple possession of marijuana, minor in possession of alcohol, property crime enhancements, drug trafficking, kidnapping, criminal sexual conduct, burglary and murder. For those cases, I typically developed trial notebooks, supervised the investigation of the charged offenses, attempted to develop meritorious defenses, prepared motions and participated in trials in those matters which weren't resolved prior to trial. Although my practice area has shifted to civil business and commercial matters, in the past I have worked on significant issues such as:

- (1) use of a necessity defense in a Murder/Leaving the Scene of an Accident Where Death Results [State v. Jerrod Herrin];
- (2) the availability of an involuntary manslaughter charge for the killing of bystanders when a self-defense theory has been presented because a jury could find the defendant recklessly disregarded the bystanders' safety [State v. Albert Nole, Jr.];
- (3) enforcement of a plea agreement once the defendant has detrimentally relied on the agreement [State v. Andrew Hunt];
- (4) the lawfulness of an arrest pursuant to a municipal arrest warrant which is executed in a different county without obtaining a counter signature from a Magistrate in the county which the defendant is to be arrested [State v. Demetrius Smalls];
- (5) whether a fourteen year old should be waived to the General Sessions Court in a Murder case where the defendant was not the triggerman (handled in Family Court, but implicated General Sessions issues) [State v. Quinton Summers];
- (6) factors relevant to determining the reliability of an identification [State v. Jacques Jefferson and State v. Demetrius Smalls];



**THURSDAY, JANUARY 15, 2015**

(7) voluntariness of a defendant's statement after numerous hours of custodial interrogation and limited rest and sustenance [State v. Demetrius Smalls];

(8) Admissibility of diatom (tiny fossil remains of micro-organisms found in water) evidence to attempt to determine whether a decedent drown in a pond or died elsewhere and was placed in the pond post-mortem [State v. Renee Britt]; and

(9) transferred self-defense [State v. Albert Nole, Sr.]. Many of these cases were high profile cases which garnered substantial media attention and required additional poise in presenting our theory of the case.

While a law clerk to the Honorable Daniel F. Pieper, I was exposed to a wide variety of procedural and substantive issues in the Court of Common Pleas.

During my tenure at Savage & Savage, P.A. and since establishing Wolf & Wolf, LLC, I have handled civil matters generally related to business and commercial transactions. I have represented large corporations, such as Rock-Tenn Company [acquired by Smurfit-Stone in 2011]; AGFAPhoto USA, Corp; and Mueller Water Products, Inc., as well as smaller commercial enterprises. In addition to attempting to collect past due and wrongfully withheld obligations or to work out obligations due which could not immediately be paid on behalf of my clients, I have initiated mechanics lien foreclosures, consumer protection suits, protection of intellectual property rights, actions to dissolve Limited Liability Companies or Corporations, breach of contract claims, bailment liability, fair debt collection practices act violations, unfair trade practices acts, wrongful dishonor of a letter of credit and many others. I have handled such claims from the investigation and preparation of the Summons and Complaint, through the discovery process, pre-trial motions hearings, preparation for trial and in some instances, trial of the matter. Additionally, I have defended clients who have been accused of premises liability, breach of contract on an account, fraud and misrepresentation, patent infringement, conversion, failure to pay business brokerage fees, and mechanics lien foreclosures. My representation of parties involved with these cases has been fairly evenly divided between plaintiffs and defendants. Significant issues I have addressed in civil cases over the past five years include:

**THURSDAY, JANUARY 15, 2015**

- (1) collection of past due receivables from supply of materials to a large construction project after the sole shareholder of a corporation passed away, such that the collection efforts were split between the pursuit of a mechanic's lien/breach of contract action in Circuit Court and an estate claim in Probate Court [Atlantic Track and Turnout Co. v. Brason Construction Company, Inc. and Kelly Knight as Personal Representative of the Estate of James D. Bragg, Sr., 2013-CP-08-0577 and Estate of James D. Bragg, Sr., 2012-ES-18-00462];
- (2) does a share transfer require that certificates be provided to the purchaser in order to be effective [Rodney Miller v. Louis Drake and Leonard Neal, 2009-CP-10-6482];
- (3) does a debt collector violate the Fair Debt Collection Practices Act by misrepresenting to the parents of an adult debtor that the parents executed a guarantee of the debt when no such guarantee exists [Ed and Dawn Rice v. Greentree Associates, L.P., Stonemark Management, LLC, NCC Business Services, Inc., NCC Business Services of America, Inc., and NCC Holdings, Inc., 2009-CP-18-1426];
- (4) what damage is a consumer permitted to recoup when a lender violates the statutory provisions related to a right to cure notice and the permissible period in which the consumer may cure [Marvetta S. Holmes and Daemeon Holmes v. Barnett Finance Company, Inc., 2009-CP-10-3463];
- (5) is a warehouseman responsible for lost articles which were the subject of a dispute between a foreign manufacturer and a local importer that lasted for more than a year before the importer was granted title [Acciris Company, Inc. v. The Burris Company of Charleston, LLC, and M. Bruce Burris, 2009-CP-10-1360];
- (6) tort liability for misrepresentations which induced an asset purchase agreement for the sale of a business [Ruben Kornfeld and Tuscan Bistro, Inc. v. Scotto Company of Summerville, LLC, 2009-CP-18-3348 and China Gourmet, Inc. v. Robin Dale Cumbie and Trayco, LLC, 2009-CP-10-4998];
- (7) Mental Capacity to enter into a contractual relationship [Wachovia Dealer Services, Inc. v. Amelia T. Coker as Personal Representative of the Estate of Theodore J. Coker and FreedomRoads, LLC, Holiday Kamper Company of Columbia, LLC d/b/a Camping World RV Sales, 2009-CP-10-1430];

**THURSDAY, JANUARY 15, 2015**

(8) contractual dispute between a landscape company and an HOA regarding the seasonality of the hours expended performing the contractual services and the amount of compensation due after the HOA terminated the contract [Realiscape, Inc. v. The Commons at Tanner Plantation Homeowners Association, Inc., 2010-CP-08-4385];

(9) disputes amongst business owners over the management of the business [Girly Girls Boutique, LLC v. Jade A. Whited, 2011-CP-08-939; Omar Abbas v. O&A of Charleston, LLC, 2012-CP-10-6182];

(10) pursuit of brokers fee in multi-million dollar business sale [JSO Associates v. Price, 6:09-2284] and

(11) does a commissioned sales representative have a right to continue receiving commissions after notifying the sales company that he could not continue performing his job due to medical reasons, when the independent contractor agreement provides no right to continuing commissions or the right of the sales represented to force the sales company to buy the “book of business” [Ralph Levine v. EMS Payment Solutions, LLC, 2011-CP-10-9518].

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

- (a) Federal: Infrequent (approximately 3 case appearances in the last 5 years);
- (b) State: Frequent (approximately 30 case appearances in the last 5 years).

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

- (a) Civil: 90% (primary focus in business and commercial matters);
- (b) Criminal: 5% (greater emphasis in earlier years of my practice);
- (c) Domestic: 0%;
- (d) Other: 5% (administrative).

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

**THURSDAY, JANUARY 15, 2015**

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

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

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

- (a) Rock-Tenn Company v. South Carolina Bank and Trust, N.A., 2007-CP-10-5017 – This matter involved a claim of wrongful dishonor of a Letter of Credit issued by the bank to Rock-Tenn. While the bank asserted that my client failed to strictly comply with the documentary requirements of the Letter of Credit, we were able to undermine the bank's position and invoked the preclusionary rule set forth in the Uniform Customs and Practice for Documentary Credits 500, which were expressly adopted by the terms of the Letter of Credit prepared by the bank, that prohibited the bank from prevailing on its strict compliance theory and the matter was settled favorably to my client after each party filed motions for summary judgment;
- (b) State v. Albert Nole – Successfully argued that a former constable who became involved in a roadside dispute with a person who had been charged with drug related criminal activity was entitled to Involuntary Manslaughter and Transferred Self-Defense charges when the defendant shot the other person and two bystanders, killing the bystanders, after the defendant asserted the other person pulled a gun on him and the defendant shot to defend himself. After asserting that although the defendant's conduct to suppress the threat presented by the other person was intentional, the jury could find that the deaths were unintentional but caused by the defendant's reckless disregard for the safety of the two bystanders;
- (c) Ralph Levine v. EMS Payment Solutions, LLC, Michael Werner and Charles Koci, 2011-CP-10-9518 - After Levine notified EMS that he was unable to perform his commissioned sales representative function, EMS terminated the contractual relationship. Due to Levine

## THURSDAY, JANUARY 15, 2015

medical condition and out of loyalty, EMS offered to purchase Levine's book of business for a certain sum by installment payments. Levine refused the offer and demanded a greater sum in a lump sum payment and when EMS would not agree, filed suit for Interference with a contractual relationship, conversion, breach of contract and other causes of action. Levine acknowledged he had no evidence to establish the existence of a third party contract for the intentional interference claim and that his contract with EMS did not give him the right to receive commissions after his contract expired. After the jury was selected, Judge McDonald heard the Defendants' Summary Judgment Motion and dismissed three of the seven causes of action, before encouraging Plaintiff to consider the settlement offer from the Defendant because the remaining causes of action may not survive directed verdict. The matter settled in the wake of that hearing;

- (d) United States v. Huffines - The defendant was charged with possession of child pornography for thumbnail images which were displayed on pages which popped up onto the defendant's computer screen while performing searches on the internet. In preparation for the trial of the case, I prepared a motion requesting that the government be required to present the images to the jury in the context in which the images arrived on the defendant's computer rather than in larger images utilized by the government during the inspection of the evidence. When the Court granted this motion, the government elected not to proceed with the case and the charges were ultimately dropped;
- (e) DSS v. DC and KR - My client was a fourteen year old girl whose two month old child was slapped in the face by the child's father after my client left the child with its paternal grandmother. After returning to find the child's face red and one eye swollen shut, my client and the child's paternal aunt (who was a nurse) took the child to the hospital. During examinations of the child, healed fractures to his legs were discovered and the child was taken into emergency protective custody. Handling the

## THURSDAY, JANUARY 15, 2015

matter pro bono, I worked with my client's family in an effort to have the child returned to the maternal grandmother's custody in an effort to reunite the child with his family. After a three day trial on my client's abuse and neglect charges, which resulted in a lesser finding of medical neglect rather than the abuse and neglect alleged, my client was provided with a treatment plan to work towards reestablishing custody. In addition, the maternal grandparents were given conditions to fulfill before they could petition for custody of the child. Ultimately, the grandparents satisfied the conditions set for them and the child was placed in the custody of the grandmother, where he currently resides and is thriving. Despite the substantial time devoted to this case, the satisfaction of restoring a family unit was a very rewarding experience.

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

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

- (a) United States of America V. Theodore Thomas Wagner, Fourth Circuit Court of Appeals, Decided February 23, 2004 in an unpublished opinion No. 03-4409 – I prepared the Anders brief while an associate at Savage & Savage, P.A. for Andrew J. Savage, III, who was counsel of record in this CJA case;
- (b) United States of America V. Terrance Smalls, 134 Fed. Appx. 609, 616, 2005 WL 1395162 (4th Cir. 2005) (unpublished) – I prepared the appellate brief for Andrew J. Savage, III, who was counsel of record in this CJA case, asserting that the defendant's sentence was imposed in violation of the Sixth Amendment pursuant to the Supreme Court's ruling in United States v. Booker, 543 U.S. 220 (2005), because the sentencing court found facts beyond those admitted by the defendant to conclude a life sentence was appropriate under the sentencing guidelines. The defendant's

**THURSDAY, JANUARY 15, 2015**

sentences were vacated and the matter was remanded for resentencing

- (c) United States of America V. Terrance Smalls, Fourth Circuit Court of Appeals, Decided June 13, 2006 in an unpublished opinion No. 05-4879 – I prepared the Anders brief while Of Counsel to Savage & Savage, P.A. for Andrew J. Savage, III, who was counsel of record in this CJA case.

Mr. Wolf further reported the following regarding unsuccessful candidacies:

I was a candidate for this seat in the Fall of 2010 and, while found qualified, I was not selected as one of the three candidates for the Legislature's consideration. I was also found qualified as a candidate for the Berkeley County Master in Equity position this Spring.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. Wolf to be "Qualified" in the evaluative criteria of constitutional qualifications, professional and academic ability, physical health, mental stability, and experience. The Committee found him "Well Qualified" in ethical fitness, character, reputation, and judicial temperament. The Committee stated in summary, "Concern about lack of trial experience."

Mr. Wolf is married to Heather Carey Wolf. He has two children.

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

- (a) SC Bar Association – Member of the House of Delegates;
- (b) Charleston County Bar Association;
- (c) James L. Petigru American Inn of Court.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Charleston Chamber of Commerce;
- (b) American Cancer Society;
- (c) Clemson University College of Business and Behavioral Sciences Accounting, Finance and Legal Studies Advisory Board;
- (d) Charleston Charter School for Math & Science - Chairman of Board of Directors;
- (e) BSA Pack 14 - Den Leader & Treasurer

Mr. Wolf further reported:

Since my admission to the South Carolina Bar in 1999, I have endeavored to give back to the community both through pro bono legal assistance and through more traditional community service. I have participated in organizations such as Kiwanis, Habitat for Humanity, and The American Cancer Society to make our community a better place. Since I went into private practice in 2003, I have continued to set aside time to give back to the community through Young Lawyer Division community service projects such as donating school supplies, Wills for Heroes and participation in Law Week events. Additionally, I have contributed significant time in free and/or reduced fee representation to people, who were not in a position to retain my services but desperately needed legal services, and charitable organizations seeking tax exempt status in order to make a positive difference in our community. I believe my decision to seek the vacant At-Large Seat No. 9 is an extension of my desire to give back to the community by providing conflict resolution services on behalf of the State of South Carolina. Based upon my exposure to the judicial function as a law clerk, I have maintained an interest and sought to expand my experience in all aspects of a Circuit Court practice in order to maximize my effectiveness were I selected for such an opportunity. I would put the same effort into being a successful judge as I have into being a successful law clerk, staff attorney in a public agency, and private practitioner. My practice over my career has provided exposure to varying legal matters that generally come before the circuit court, which would allow for a smooth transition into this position if given the opportunity.



THURSDAY, JANUARY 15, 2015

(11) Commission Members' Comments:

The Commission believes that Mr. Wolf is a careful and thoughtful representative of his clients' interests. They noted he would approach the bench with similar diligence and care.

(12) Conclusion:

The Commission, by a vote of nine to one, found Mr. Wolf qualified, but not nominated, to serve as a Circuit Court judge. Commission Member, Senator Malloy voted to find him "Unqualified" based on his limited legal experience.

**Mindy W. Zimmerman**  
**Circuit Court, At-Large, Seat 9**

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

(1) Constitutional Qualifications:

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

Ms. Zimmerman was born in 1980. She is 34 years old and a resident of Newberry, SC. Ms. Zimmerman provided in her application that she has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2006.

(2) Ethical Fitness:

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

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

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

**THURSDAY, JANUARY 15, 2015**

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

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

- | <u>Conference/CLE Name</u>                               | <u>Date</u> |
|--|-------------|
| (a) SC Solicitor's Conference                            | 9/24/2006;  |
| (b) NDAA – Prosecutor's Bootcamp                         | 2/12/2007;  |
| (c) SC Solicitor's Conference                            | 9/23/2007;  |
| (d) NDAA – Prosecuting Drug Cases                        | 9/30/2007;  |
| (e) Community Response to Child Abuse and Neglect        | 2/21/2008;  |
| (f) NDAA – Trial Advocacy I                              | 6/9/2008;   |
| (g) SC Solicitor's Conference                            | 9/28/2008;  |
| (h) SC Solicitor's Conference                            | 9/28/2009;  |
| (i) Stewart Title – Review and Updates for Real Property | 3/16/2010;  |
| (j) Recognizing and Reporting Child Abuse                | 3/24/2011;  |
| (k) Public Defender's Conference                         | 9/26/2011;  |
| (l) Lawyer Mentoring Orientation Workshop                | 1/26/2012;  |
| (m) SC Bar Family Court Mediator certification Training  | 11/12/2012; |
| (n) Lawyer Mentoring Orientation Workshop                | 1/30/2013;  |
| (o) SC Bar Guardian Ad Litem Course                      | 1/31/2014;  |
| (p) Old Republic Title Companies Fall Seminar            | 10/8/2014.  |

**THURSDAY, JANUARY 15, 2015**

Ms. Zimmerman reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

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

(4) Character:

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

The Commission also noted that Ms. Zimmerman 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. Zimmerman reported that she is rated by a legal rating organization, Martindale-Hubbell, with a client rating 5 out of 5. "I now have a Martindale-Hubbell Peer Review Rating of BV."

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Zimmerman was admitted to the SC Bar in 2006.

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

- (a) November, 2006 to February, 2009: Assistant Solicitor with the Eighth Judicial Circuit Solicitor's office prosecuting

**THURSDAY, JANUARY 15, 2015**

criminal cases in Laurens and Newberry Counties. For two years, I handled primarily narcotics offenses in both Laurens and Newberry. During my last year with the Solicitor's Office, I handled general crimes, magistrate court appeals, and docket management for Newberry County;

- (b) February, 2009 to present: In February of 2009, along with my law partner, Benjamin L. Shealy, I formed Zimmerman and Shealy, LLC. We handled real estate transactions, mortgage closings, magistrate's trial work, criminal trial defense, civil trial work, domestic relations trial work, and estate and probate matters;
- (c) For the first year of our practice, we could not engage in criminal defense, because I agreed to work as a special prosecutor for the Eighth Judicial Circuit for the terms of General Sessions Court held in Newberry County. I also handled prosecution in juvenile cases in Newberry County during that time. Since I no longer act as a special prosecutor, our firm has been successful in building a criminal defense case load.

Ms. Zimmerman further reported regarding her experience with the Circuit Court practice area:

With regards to my experience in criminal matters; I was fortunate in that my first job as a practicing attorney was as an Assistant Solicitor. Young Assistant Solicitors generally learn a lot of lessons the hard way, as they are quickly given large caseloads with plenty of opportunity for in-court experience. My position was no different. I initially prosecuted narcotic offenses in Laurens and Newberry Counties, which involved negotiating hundreds of cases, but it also gave me the opportunity to gain a vast amount of trial experience. Drug cases are generally easy to prepare for trial, with little notice, as most of your witnesses are law enforcement or informants that require very little preparation. Because of this, I was generally the go-to attorney for filling holes in the trial docket.

After nearly a year in handling exclusively drug cases, I was given the opportunity for advancement. I moved my office into the Newberry County Courthouse, where I prosecuted a wide assortment of crimes. In addition, I was charged with managing

## THURSDAY, JANUARY 15, 2015

the docket for that county. During this time, I handled cases ranging from larcenies, burglaries, drug offenses, criminal domestic violence, and even our County's most serious offenses, such as Murder and Felony Driving Under the Influence. I learned the value of working with law enforcement, victims, and community groups (such as MADD, SADD, etc.) to ensure all voices get heard. Different crimes impact various individuals, in many different ways. Often those impacted crave an avenue, simply to express the emotional consequences. As a prosecutor, I quickly learned that being a good lawyer is not all about having a skilled tongue...sometimes the most important skill is to be a good listener.

In 2009, I decided to face the next chapter in my professional career. I, along with a fellow prosecutor, decided to open Zimmerman and Shealy, LLC. Initially, as a safety net of sorts for this venture, I kept a contract, working as a special prosecutor for the Eighth Judicial Circuit. After our first year; however, we moved into the realm of criminal defense. During my time as a prosecutor, I developed a reputation for being relaxed under pressure, at-home in the Courtroom, quick on my feet, and unafraid to face a challenge. That reputation helped me to build a very successful criminal defense practice, which has included the same variety of criminal law that I once prosecuted. The interesting thing for me in this new chapter of my career has been the added value of listening while on this side of the aisle. While sympathy was such a critical part of prosecuting, I believe empathy is a crucial element of criminal defense. So often it is necessary to hear about the path that led a client to a particular charge. I don't want to only help resolve that one criminal charge, but I look for ways in which I might help each client avoid subsequent charges. While there are many clients who don't want to change, I have helped clients with mental health issues, drug and alcohol addictions, depression, poverty, and many other problems that lie below the surface. Each criminal client is more than what his or her indictment reads, and as a defense attorney, I try to listen and look for ways to help that person find healing and personal growth.

With regards to my experience in civil litigation; since opening Zimmerman and Shealy, LLC, I have litigated numerous civil cases as counsel for Plaintiffs and Defendants. My first case

**THURSDAY, JANUARY 15, 2015**

in Common Pleas resulted in Summary Judgment in favor of my client. That ruling was followed by an appeal by the Plaintiff, and I was successful in convincing the Appellate Court to uphold that Judgment. From that experience; however, I learned the true value of the record. Since that time, I have worked various other civil cases, included property disputes, personal injury, slip and fall, and debt collections.

In additional to my experience in Common Pleas, a large fraction of my law practice is devoted to domestic matters. The Family Courts in South Carolina follow, with only small exceptions, the same rules of procedure as the Court of Common Pleas. In addition, trials in Family Court are much the same as Common Pleas Non-Jury trials. I believe that my vast Family Court experience only boosts the strength and depth of my experience in civil litigation.

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

- (a) Federal: 0%;
- (b) State: 100%.

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

- (a) Civil: 10%;
- (b) Criminal: 30%;
- (c) Domestic: 60%.

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

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

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

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

- (a) State v. Tyrone Cannon  
2009-GS-36-852 through 856  
Newberry County General Sessions Court

**THURSDAY, JANUARY 15, 2015**

I served as defense counsel for Tyrone Cannon. Mr. Cannon was charged with Assault and Battery with Intent to Kill; however, he had been previously diagnosed with Mild Mental Retardation. At the first attempt to litigate this matter, during a competency hearing, I was able to reveal significant flaws in the procedure by which the Court Ordered evaluation was conducted, resulting in a mistrial of the case. After subsequent evaluations, several hearings on the matter, and the election of a new Solicitor, I was able to negotiate the case to an Assault and Battery of a High and Aggravated Nature.

(b) State v. Roy Johnson

2008-GS-36-311 through 315

Newberry County General Sessions Court

I prosecuted Roy Johnson, along with his two co-defendants. Both of his co-defendants pled guilty after being noticed of the possibility of a sentence of life without parole; however, Roy Johnson did not have the requisite criminal history for the service of such upon him. These three individuals committed a violent home invasion, in which a mentally handicapped girl was duct-tapped to her bed and brutally beaten. In addition, her father was beaten and nearly shot to death. The family was saved only due to the mother's quick thinking. She escaped, went to a neighboring house, and brought help before her husband and daughter were killed. Although never proven in Court, it was the belief of the State that this was a gang initiation. Roy Johnson was convicted of this offense; however, only after a second trial, because the jury hung on the first trial.

This case was significant because I was able to get to know this family. The cruel nature of this offense and the innocent nature of the victims is something that has always stayed with me.

(c) State v. Sophie Egleston

E443330, 31, and 32

Lexington County Magistrate Court Appeal: 2011-CP-32-303

Lexington County Court of Common Pleas

**THURSDAY, JANUARY 15, 2015**

I defended Ms. Elgeston on the charges of Driving Under the Influence, False Information, and Use of the License of Another in Magistrate's Court. Although the jury acquitted Ms. Elgeston on the charge of Driving Under the Influence, she was convicted of the other two offenses. I subsequently appealed the case to the Circuit Court, and was successful in getting the conviction overturned on the charge of Use of the License of Another, due to an error in the charge given by the trial court and a lack of evidence presented by the State. This case was significant, because it happened while Ms. Egleston was in college. Three years later, Ms. Egleston came back to me, because she was applying for a job at a bank, and wanted to have the False Information conviction expunged from her record. I was able to obtain that expungement, since she only had one conviction, which meant that my efforts on appeal, allowed this young woman to obtain a good job. I was also able to see Ms. Egleston had grown from the girl she was in college into a mature, responsible young woman.

(d) Cathy Frick v. Hughey G. Capps

2010-CP-36-356

Newberry County Court of Common Pleas

AND

2010-DR-36-360

Newberry County Family Court

This case was significant due to the very unusual nature of the case. I represented Ms. Frick, who owned a home in Newberry County. Ms. Frick was an avid outdoorsman, who developed a close friendship with Mr. Capps who was a fishing guide. Subsequently, Mr. Capps suffered a heart attack, which started him on a downward financial spiral. When he lost his home, Ms. Frick allowed him to move into her home, where he lived for several years. However, this situation later caused problems with Ms. Frick's boyfriend. Eventually, Ms. Frick filed for an eviction, but at that hearing, Mr. Capps claimed the parties were husband and wife, because of a common law marriage. The Magistrate ruled that, since they lived in the same house, they probably were married, and dismissed the eviction. Ms. Frick then hired me. I



**THURSDAY, JANUARY 15, 2015**

filed an appeal to the Circuit Court from the dismissal of the eviction and an action in Family Court seeking to declare that the parties were not married. The Circuit Court granted the appeal on the basis that only Family Court and Probate Court have the jurisdiction to determine the question of common law marriage, and thus, the Magistrate should not have dismissed the eviction, but instead referred the case to the Family Court for a ruling on the question of the validity of the marriage. Subsequently, the Family Court ruled that there was absolutely no evidence of intent to marry. Thus, after a very interesting passage through the Court system, Mr. Capps was evicted from Ms. Frick's residence.

- (e) Thomas Jeffrey Frady v. Leonard Scott Gregory and Thomas H. McAllister  
2012-CP-36-414

Newberry County Court of Common Pleas

I served as counsel for Thomas H. McAllister. This case was significant because of the very interesting facts that led to the action. McAllister was friends with Frady, who operated a business as an auto mechanic in a garage that he did not own. During a period of incarceration, Frady requested that McAllister continue to operate the garage, because the building was old and if the electricity was every disconnected, it would have to be brought to current code in order to reconnect. During the period in which McAllister was operating the business, Gregory worked as the mechanic. Gregory was working on a vehicle, which had apparently been left in drive, and the vehicle ran over Gregory and crashed into the garage. McAllister, through a different attorney, was able to receive a cash settlement for property damage, all of which was reinvested back into repairs on the building. Subsequently, Frady was released from incarceration, purchased the building, and sued both Gregory and McAllister, claiming that the funds should have been given to him, as the owner of the business, instead of being reinvested back into the building. We were successful in convincing the trial court that Frady was not damaged by the repairs to the building, but the facts of the case were

**THURSDAY, JANUARY 15, 2015**

very unique, particularly considering that actual title-owner of the building at the time of the loss was not a party to the action.

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

- (a) Wayne Turner  
I served as Defense Counsel at trial for Wayne Turner  
2007-CP-36-412  
Newberry County Court of Common Pleas  
I defended the appeal on behalf of Wayne Turner.  
Unpublished Opinion 2011-UP-563  
South Carolina Court of Appeals;  
Grant of Summary Judgment in Favor of Defendant was upheld.
- (b) Charlotte Barfield v. James Simmons  
I defended the appeal on behalf of James Simmons  
Case Tracking #201194246  
South Carolina Court of Appeals;  
Following the submission of briefs, the appellate dismissed the appeal.
- (c) Dr. William Edward Bull, III v. Vicky Raycene Bull  
I filed the appeal on behalf of Dr. Bull from the Eighth Circuit  
Family Court, Judge McGowan presiding.  
2013-002204  
South Carolina Court of Appeals  
Appeal is currently pending;
- (d) Allen Koon and Larry Koon v. Thomas Jackson  
I filed the appeal on behalf of Thomas Jackson from the Eighth  
Circuit Court of Common Pleas, Judge Hocker presiding.  
Appeal from 2014-CP-36-00109  
South Carolina Court of Appeals  
Appeal is currently pending;
- (e) Austin Byrd v. Courtney Hawkins  
I filed the appeal on behalf of Austin Byrd from the Eighth  
Circuit Family Court, Judge Smithdeal presiding.  
Appeal from 2012-DR-36-433  
South Carolina Court of Appeals  
Appeal is currently pending.

**THURSDAY, JANUARY 15, 2015**

The following is Ms. Zimmerman's account of two criminal appeals she has personally handled:

(a) State v. Sophie Egleston

Appeal from Lexington County Magistrate Court to Circuit Court

Reversed in part and Affirmed in part;

(b) State v. Jesse V. Osborne, III

Appeal from Newberry County Magistrate Court to Circuit Court

Tickets F327898 and F503955

Reversed in full – Directed Verdict of Not Guilty.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee found Ms. Zimmerman to be "Qualified" in the evaluative criteria of constitutional qualifications. The Committee found Ms. Zimmerman "Well Qualified" in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary, "Ms. Zimmerman has won great respect from members of the Bench and Bar in a variety of fields: criminal law (both for the defense and for the prosecution), family law, and general civil law. She has a wide reputation as a person of strong character, and is known to be even-tempered and unflappable."

Ms. Zimmerman is married to Donald Franklin Zimmerman. She does not have any children.

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

- (a) Newberry County Bar Association;
- (b) South Carolina Bar Association;
- (c) South Carolina Association for Justice;
- (f) ALTA.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Newberry Business Alliance;
- (b) Newberry County Chamber of Commerce;
- (c) South Carolina Jaycees
  - Outstanding First Timer Award (1<sup>st</sup> Qrt, 2012)
  - Outstanding Young Business Leader (2012);
- (d) Newberry County 100<sup>th</sup> Anniversary Girl Scout Celebration Committee Fund Raising Coordinator / Bookkeeper (2012).

Ms. Zimmerman further reported:

I believe my life experiences have certainly prepared me for this position. My parents divorced with I was young. They both had only a high school education, both worked entry level positions in manufacturing industries when I was a child. I worked multiple jobs from the time I was twelve years old in order to help support my family, while finishing high school with a high grade point average, remaining on the Dean's List through college, obtaining my bachelor's degree in only three years, and completing the courses necessary for my master degree and law degree at two different universities, which were approximately three and half hours drive apart, nearly simultaneously.

I watched my parents work hard every day, which taught be the value of earning what you have. I am driven, dedicated, and determined, because in my life, anything less is simply unacceptable. I face every element of my life with self-motivation; however, I have never been afraid to watch and learn from those around me. These skills will certainly serve me well on the bench.

I believe that my background will help me relate to the litigants before me, since many of them will be from the same working-class environment. I understand the struggles that come with that, and those roots will always keep me grounded.

(11) Commission Members' Comments:

The Commission commented that Ms. Zimmerman has a good temperament which would serve her well presiding over Circuit Court cases. They noted her excellent work ethic.

THURSDAY, JANUARY 15, 2015

(12) Conclusion:

The Commission, in an eight to two vote, found Ms. Zimmerman qualified, but not nominated, for election to the Circuit Court. Commission Members, Senator Larry Martin and Senator Gerald Malloy, voted to find her “Unqualified” based on her limited legal experience.

**The Honorable John L. Duffy, III**  
**Family Court, Ninth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Judge Duffy was born in 1976. He is 38 years old and a resident of North Charleston, SC. Judge Duffy provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 2006.

(2) Ethical Fitness:

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

Judge Duffy 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 Duffy reported that he has made \$219.15 in campaign expenditures for business cards, stationary (\$179.20), and name tags (\$39.95).

Judge Duffy testified that he has not:

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

**THURSDAY, JANUARY 15, 2015**

- (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 Duffy 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 Duffy to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- (a) Adoption Law In South Carolina and Beyond 08/1/14;
- (b) Prosecuting the Impaired Driver 7/22/14;
- (c) High Risk Issues 04/16/14;
- (d) 5<sup>th</sup> Annual South Carolina Gun Law Seminar 02/21/14;
- (e) In the Best Interest of the Child: 2014 GAL Training/Update 01/31/14;
- (f) Prosecuting the Impaired Driver 07/17/13;
- (g) Federal Criminal Practice 10/24/13;
- (h) Orientation School for Municipal Judges 07/16/12;
- (i) U.S. Sentencing Guideline 09/26/12;
- (j) DUI Defense A-Z 11/11/11;
- (k) Federal Criminal Practice 10/20/11;
- (l) Blues Bar-B-Q and Bar CLE 07/08/11;
- (m) U.S. Sentencing Guideline 04/08/11;
- (n) Federal Drug Court Seminar 12/20/10;
- (o) 3<sup>rd</sup> Annual Reese I. Joye DUI 11/05/10;
- (p) Federal Criminal Practice-Fall 2010 10/28/10;
- (q) Presentation by Chief Justice Toal 07/15/10;
- (r) Bridging the GAP: Defending DUI 11/13/09;
- (s) Federal Criminal Practice-Fall 2009 10/29/09;
- (t) Annual Continuing Legal Education 08/13/09;
- (u) Advanced Sentencing Guidelines 07/30/09.

**THURSDAY, JANUARY 15, 2015**

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

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

(4) Character:

The Commission's investigation of Judge Duffy did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Duffy did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Judge Duffy 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 Duffy reported that his last available rating by a legal rating organization, Super Lawyers, was a 2014 "Rising Star."

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Duffy was admitted to the SC Bar in 2006.

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

- (a) The Wigger Law Firm (6/2006–7/2007): 100% Litigation, Plaintiff's Work (personal injury, employment law, social security disability. Handled all appointed Family Court Matters for the Firm);

**THURSDAY, JANUARY 15, 2015**

- (b) O'Neill & Phipps, LLC (2/2007–2/2012): General Practice of Law;
- (c) The Duffy Law Firm, LLC (3/2012–present): General Practice (primarily Family Law).

Judge Duffy further reported regarding his experience with the Family Court practice area:

- (a) Divorce & Equitable Distribution:

In the course of my practice, I have been afforded the opportunity to be involved with divorces based on all the various grounds for divorce permitted by the South Carolina Code. While the majority of cases are routine divorces based on one year's continuous separation, I have also had the chance to handle divorce based on the grounds of physical cruelty, adultery, habitual drunkenness and on the periphery, abandonment. In all cases, I have aimed, first and foremost, to protect the children of the parties (where there were children involved) as it my belief that children should be insulated from litigation as much as possible. Subsequent to insulating children, I take a through look at the evidence of the fault basis to see if the matter can truly withstand the scrutiny of the Court. Upon the completion of discovery, I spend a substantial amount of time reviewing the information that has been submitted and figuring out how the issues in the cases are resolved or complicated by the information provided. In most cases the basis for divorce is clear-cut and requires little more than a basic presentation of facts. In the matter of equitable distribution the details become more important, as often, one side is attempting to hide an assets or claim that an asset is non-marital in nature.

I have recently settled a contested divorce based on one year's separation where the husband sought to exclude the marital residence as part of the marital estate by claiming that he used only his own personal, premarital funds to buy the land and build the home on the land. The parties owned a townhouse prior to their move to the residence in question. After conducting a thorough



**THURSDAY, JANUARY 15, 2015**

review of the financial documentation produced in discovery, I conducted research into transmutation and how to “follow” an asset through financial documentation to determine if an asset had, in fact, transmuted into marital property. In this case, a review of the joint tax returns showed that the husband had claimed the townhome and the marital residence on a yearly basis to receive the benefit of the available tax breaks associated with homeownership. During mediation, I was able to express to the mediator my findings, who in turn reviewed the statutory law and case law with opposing counsel. Because of this, an all day mediation, that was expected to result in a continuation of litigation, was concluded in several hours, and my client received an extremely favorable result without the necessary expense of trial.

It has been the policy of my office to attempt to resolve matters outside of judicial intervention as much as possible. I understand the risks that are inherent in taking a matter to the Court for resolution, and this is a matter that is reviewed thoroughly with my clients at all points of litigation. From the outset, I establish realistic goals for my clients and make sure that we have the same understanding of what can be done and what the client would like to have happen. Therefore, I have found that it is important to take stock of a client’s financial situation and the marriage’s financial status early in litigation and to determine what my client should be entitled to and how the fault basis of a divorce affects my client’s ability to get either more or less of the marital estate.

I believe that it is important for a judge to encourage resolution between the parties and to take any steps necessary and permissible to encourage parties to resolve their matter on their own. To that end, a Judge should order parties to participate in meaningful mediation and encourage parties to understand that they lose control of the outcome of their case when a matter is tried and submitted to a Judge for decision. Additionally, I believe that it is important that the Court

**THURSDAY, JANUARY 15, 2015**

not entertain frivolous motions or motions that show a clear abuse of the judicial system by a litigant. It is additionally, extremely important, that matters pending in Family Court be resolved quickly as there are often children involved and these matters have a huge impact on litigants financially and emotionally. Quick resolution is imperative to permitting families to heal and move forward.

(b) Child Custody:

The majority of cases handled in my office revolve around children, whether the issue is custody, visitation, support or other child related issues. The policy of my law firm is to remain child focused and make sure that clients understand and focused on the impact litigation has on their children.

Recently, I represented a father in seeking custody of his children from his former wife. The wife had been engaging in increasingly erratic behavior, which reached an intolerable level when the ex-wife assaulted his current wife in the presence of the minor children. Based on the assault and the alienation that was shown to the Court, my client was granted custody of the children. Subsequently, the ex-wife's behavior continued to the point that she ended up with supervised visitation only. I have relied heavily on the Guardian in determining how I should proceed and move forward in this matter, in the hopes that we will be able to resolve the matter in a fashion that will promote a healthy relationship between both parties and the children. This matter is pending a final hearing on the matter with a co-parenting plan in place to assist the family going forward.

I have had several cases involving children born during wedlock and the need to severe legal paternity to establish legal protection for the biological father and children. I find paternity to be a particularly important matter in my cases as a father should have full legal rights to their children, and should be held responsible for their children; additionally, children have a right to know who their father is and be afforded an opportunity

**THURSDAY, JANUARY 15, 2015**

to know their paternal family. Currently, I have a case where the biological father is seeking visitation with his child and the mother has used the legal paternity of the child as a grounds for denial of visitation. I have worked closely with opposing counsel on bringing this matter to conclusion without Court intervention, however, it may now be that this matter is in need of judicial intervention to force the mother to understand the gravity of the matter and to grant my client the rights that he is entitled to, and to sever the legal paternity of the mother's husband.

It is generally the policy of my office to proceed in custody litigation with the client's understanding that joint custody is going to be in the best interests of their child. Certainly, I have cases where a child should not be subjected to contact with abusive parents, and have pursued termination of parental rights in one case. Since my law firm is a "child focused" law firm, I make it a point of representing the client's interest which will always include an analysis of what the client can do to protect their child, including what the client will need to do to support the child's relationship with the other parent. I believe that custody and visitation matters should be carefully constructed and as detailed as possible to ensure that any agreement protects the children involved, while minimizing any risk to my client needing to seek modification or needing additional legal assistance against a modification request by the other party. Child custody should be structured to give both parties an active role in the life of their child and provide the child with stability and assurance that both parents are part of the child's upbringing.

I would bring this "child focused" philosophy to the bench with me if elected. I firmly believe that children should enjoy a relationship with both parents, and that both parents should be involved in the decisions regarding their children. However, the parent's rights to be involved must be subordinate to the child's right to have a healthy, stable and safe upbringing. To that end,

**THURSDAY, JANUARY 15, 2015**

any parent that presented as a potential risk to their child should be limited in access to that child as is necessary to protect the health, safety and welfare of the child, while the parent is afforded an opportunity to correct or eliminate the risk of harm. In the event a parent was unable to act in a manner that showed focus on the wellbeing of their child, I would protect the child to the extent permissible by the facts, pleadings of the case and the law were enacted by the legislature.

(c) Adoption:

I have very limited experience with adoption, as my firm does not focus on adoptions. However, I have had the pleasure and privilege of working with three families where adoption either was or, is currently, the ultimate goal of litigation.

In the last two weeks, I was able to finalize a SCDSS adoption after being involved in the matter since July 2012. The case involved a fairly routine Abuse & Neglect action, followed by an equally unremarkable termination of parental rights action. However, it was after the parental rights had been terminated as to both parents that this case became unique and highly litigious. My clients were the foster parents of the minor child, age 4, who had been in their care since he was approximately 7 months old. My clients are the only family that the minor child has ever known and he is an established member of my clients family. In September 2013, following the termination of parental rights, the paternal grandfather and his current wife sought to adopt the minor child under the family member adoption statute. My clients filed a competing action for adoption under the general adoption statute. This matter quickly escalated and had the potential become a public spectacle. During the course of the litigation, the DSS case workers acted contrary to statutory law and gave the appearance of bias based on the race of my clients verses the race of their son. By turning to the Children's Code, and with the help of my law partner, I was able to control the tone and course of litigation to give permanence to my clients' son. However, it required the

**THURSDAY, JANUARY 15, 2015**

filing of several motions, including an injunction, to force the caseworkers to conform their behavior and to bring the matter to conclusion. Additionally, this case required me to work with General Counsel for DSS, the local attorney for DSS and opposing counselors. I was put in a position where the majority of these matters could be handled by simply reaching out to those attorneys and seeking explanation and redress. These relationships were ultimately the reason that this matter was successfully resolved to the benefit of my clients' son.

Currently, I have just intervened into another foster care case where my clients are seeking to terminate the parental rights of the biological parents and adopt the child in their care. This case is likely to be litigious as well, and it is unlikely to resolve without at least one, possibly two, fully contested trials. Based on the information I currently have, I believe that we will successfully conclude this case to the child's best interest.

I am currently involved with a private termination of parental rights and stepparent adoption matter. The minor child in this case has been traumatized by the actions of his mother in abusing another sibling. This matter is highly contested and will be brought to trial for the Family Court to ultimately decide.

Regardless of whether the case is a DSS case or a private case, adoptions are the most important function of the Family Court. In no other situation is the Court able to substantially protect a child and offer a child a stable life, than in the timely handling of all adoption matters. It should be the goal of all members of the bench to be accommodating in adoption matters to have them scheduled and resolved as quickly as possible. The Court must also ensure that the record is clear and that the adoption is handled properly to avoid any appeal or challenge to the Adoption Decree. There are certainly situations where the Court will follow all applicable laws in reaching a decision and the matter will still be appealed, as in the Baby Veronica case. However, what

**THURSDAY, JANUARY 15, 2015**

is clear about that case was that every member of the judiciary involved followed the laws as written and based on the understanding of those laws at the point in which the case was before them. As the judges and justices took the matter into consideration, it was always a matter of what the law meant rather than the procedural errors of any Court. For that reason, a young lady now has a stable home and is legally adopted with no further question as to the legitimacy of that Adoption Decree

(d) Abuse & Neglect:

Since being admitted to the South Carolina Bar I handled several DSS appointments pursuant to the prior rule regarding appointments. In all those cases, I was able to guide my clients through the process and help them reach resolution of their matter with DSS. Additionally, I was appointed to serve as a Guardian ad Litem for children in DSS cases prior to the change in the appointment rule. I found that working with DSS was consistently a challenge and led to no end in frustration. Again, as above, the objective became one of fostering a relationship with one of the attorneys at DSS so that I could reasonably move my cases forward without waiting for DSS to take action.

Since March 2012, I have taken several private DSS actions into my caseload. My clients in these cases are generally Spanish speakers without any real concept of what they have done and what needs to happen going forward. I have utilized my fluency in Spanish and legal training to assist these families in understanding the proceedings and what would be expected of them for the benefit of their children. My firm has administratively appealed three DSS determinations; one was successfully overturned one was lost at an administrative hearing and the other was filed with Court for Intervention and determination.

I believe that I have a very unique view of DSS and the cases they handle. I certainly have seen how frustrating they can be to work with, and, conversely, how easy they can be if the matter is approached in a reasonable

**THURSDAY, JANUARY 15, 2015**

manner. My wife was an attorney for Charleston County DSS, and she conveyed a great deal of information to me on the perspective of the DSS attorney and the limitations that those attorneys must work under. Due to her experience, I have been able to get a very thorough understanding of the Children's Code and its nuances, how it should be applied, what the statutes really convey and how the process is suppose to work. I believe that this insight, when applied from the bench, would greatly benefit the children that are the subject of the case, provide litigants clear understanding of what is required of them, and promote attorneys, state and private, to move matters forward as envisioned by the legislature by the enactment of the Children's Code as currently in place. These matters must be handled quickly and efficiently with the permanency and best interest of the children first and foremost at all times.

(e) Juvenile Justice:

After I was admitted to the South Carolina Bar, I have handled several DJJ cases. These cases covered various matters including Possession of a Stolen Motor Vehicle, Assault and Battery (both basic and of an Aggravated Nature) and Strong Armed Robbery. I was successful in keeping all of my appointments from ultimately serving jail time, other than evaluations, and instead I was able to get them engaged in some type of program to help them alter and amend the path they chose. Since March 2012, I have not had any DJJ cases as those matters would be handled by attorneys with contracts with the state for representation.

Despite the lack of continuing contact with DJJ cases, I have garnered a great deal of experience as a municipal judge with the minors that come before me. In the handling of these cases, I find that it is important to consider the past criminal history of the minor, the offense for which they are accused of committing, and how having a criminal record will affect the rest of their lives. With minors, the goal should always be rehabilitation through community outreach programs or restitution; the State should desire to encourage these

## THURSDAY, JANUARY 15, 2015

minors to conform to the expectations of society so that they may become a beneficial member of society rather than a tax burden. However, this in no way should suggest that minors should not be subject to harsh punishment where the case facts, the law and circumstances demand such punishment.

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

- (a) Federal: 3-5 appearances a year;
- (b) State: 2-3 appearances a week.

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

- (a) Civil: 10%;
- (b) Criminal: 30%;
- (c) Domestic: 50%;
- (d) Other: 10%.

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

- (a) Jury: 1-2%;
- (b) Non-jury: 1-5%.

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

The following is Judge Duffy's account of his five most significant litigated matters:

- (a) A.M. & K. M. v. J. M. & SCDSS. (2013-DR-10-3566):  
This case involved the adoption of a foster child who had been in the placement of my clients since he was 7 months old and is now 4. This case began as an Abuse and Neglect case which was only remarkable for the fact that the parents of the minor child who was the subject of the litigation were eventually subjected to an action for termination of parental rights wherein DSS was successful in severing the parents from the child. Subsequent to that hearing, the matter became extremely contested and complex. Naturally, my



**THURSDAY, JANUARY 15, 2015**

clients sought to adopt the minor child, however, the paternal grandfather and his current wife filed an action for adoption of the minor child as well. In order to protect the status of the minor child, and my clients standing to adopt, I was forced to monitor both the Abuse and Neglect case as it remained following the termination of parental rights case and both adoption actions. During the course of litigation counsel for the grandparents filed for intervention into the Abuse and Neglect action, which was denied by the Court. Additionally, due to the actions of the DSS caseworkers and supervisors, I was forced to seek an injunction against DSS permitting the paternal grandparents access to the minor child after DSS attempted three times to grant visitation without notification to my clients; this would have been highly traumatic to the child as he had never met the paternal grandparents. The Court granted the injunction against DSS and admonished the caseworker for failure to properly communicate with the foster parents and the Guardian and noted that it was a violation of statute for the caseworker to be supplying information to the grandparents. Once the conduct of the caseworkers' behavior was addressed with the Court, I was able to focus on the adoption petitions and filed a Motion to Dismiss the Complaint for Adoption filed by the paternal grandparents. The basis for the motion was that the paternal grandparents had filed under the relative adoption statute and that, since the child was in the home of my clients, the paternal grandparents lacked standing to petition for adoption of this particular child. After much delay, the Court heard argument on the matter of standing on the part of the paternal grandparents and dismissed their petition. Reconsideration was filed for, however the paternal grandparents elected to withdraw their motion. I was able to finalize the adoption of the minor child the next day by requesting assistance from General Counsel and the Guardian in clearing their schedules and due to the accommodation of the Court in fitting this matter into the docket.

(b) Payton v. Platts (2010-CP-08-3322):

**THURSDAY, JANUARY 15, 2015**

This case involved a claim for personal injury of a retired member of the Marine Corps. The claimant was struck by a drunk driver while disabled on the side of the road resulting in aggravation of a pre-existing condition. The defendant was driving a vehicle without any insurance coverage. During the course of treatment for injuries sustained my client underwent electroshock therapy due to the severity of aggravation of the pre-existing condition; as a result, my client suffered memory loss including the majority of information obtain as part of his postgraduate work preventing him from entering into his chosen profession. I filed action against the claimant's own insurance for uninsured motorist coverage which resulted in protracted discovery and litigation. Despite clear evidence that my client was negatively impacted and severely injured due to this collision, his insurance would not agree to cover the client in full for his injuries. This matter was tried before a jury over the course of three days; ultimately, the jury was charged and rendered a verdict in favor of my client.

- (c) Thomas v. Gulf Stream Coach, Inc. & Boat N RV Megastore  
(2008-CP-27-695):

This matter involves the purchase of a luxury RV by my clients that was rendered uninhabitable and unusable almost immediately after purchase, and therefore useless, by the presence of mold and fungus growth in the cabin of the RV and severe rot and water leakage. This RV was to be my clients' retirement plan so that they could take it out on the road and see America. After months of trying to clean the RV and eliminate the mold and fungus, using all available remedies known to my clients, as well as those recommended by the RV dealer and manufacturer, my clients requested that the manufacturer take repossession of the RV and return the expended funds to them. The manufacturer declined to take possession of the RV on the grounds that the defect was either not their fault or easily remedied by the warranty. The matter was filed with the Court of Common Pleas and proceeded through discovery and several settlement attempts. No suitable offer was ever made that would make my clients whole, and so the matter

**THURSDAY, JANUARY 15, 2015**

was set for trial. By consent of all parties, it was set for binding arbitration. After hearing all evidence and witness testimony, the arbiter found in favor of my clients against both Defendants. The matter was appealed by the Defendant, Gulf Stream Coach Inc., and has been pending for some time. I was just notified that the Court of Appeals had decided that it will render decision on the matter without argument and I am hopeful that this matter will come to a quick, and favorable conclusion for my clients. I had associated another firm to assist in the arbitration and subsequent appeal.

(d) Schwuchow v. Schwuchow (2013-DR-10-2322):

This matter involved a divorce based on one year's continuous separation by the parties and for equitable division of the marital estate. There was no argument that this matter was properly a divorce based on one year's separation, rather, the matter was what constituted the marital estate and how it should be equitably divided. My client was a Russian immigrant with a solid grasp of the English language, but did not fully understand her rights and what out of the marital estate should be considered hers. My client had fears that her husband would refuse to give her anything and that she would be left penniless and without the means to re-establish herself. Once litigation commenced it was apparent that client's fears were well placed. The Defendant asserted that there was no marital estate and that my client was not entitled to any portion of the marital home and land, which was the biggest asset the parties had. Opposing counsel quickly confirmed that there was a marital share of retirement that my client would be entitled to but that she would not receive anything else from the Defendant. Standard discovery was engaged in including all tax records. In this case, discovery was able to give me a complete picture of what I was dealing with, as my client did not fully understand her standing in the marriage financially because of her cultural barrier and the exclusion of my client in relation to financial matters during the marriage by the Defendant. On the surface of the matter it appeared that my client was perhaps not entitled to any portion of the home as there was no evidence to support

**THURSDAY, JANUARY 15, 2015**

marital funds being used for the home's construction or maintenance. I completed thorough research on ways in which personal property could be transmuted into marital property. My review of the tax records showed that the Defendant had filed "married filing joint" since he married my client and that each year in which a deduction for home ownership, repairs or improvements was offered, the Defendant utilized the home to the mutual benefit of the parties. Based on the joint claiming of the tax benefit, I was able to convey our position to the mediator, who in turn reviewed my research with opposing counsel. As the Defendant was extremely interested in maintaining the marital residence, a very generous cash settlement was extended to my client for her special equity share in the marital residence. As a result, the parties were able to avoid costly litigation and settle the matter fully between them.

(e) United States of America v. Eliseo Milian Tapia (2:11-cr-02277):

This matter involved a client who was charged with Conspiracy to Possess with Intent to Distribute Narcotics by a joint task force consisting of Homeland Security and the Beaufort County Sheriff's Office. While the evidence against my client showed that he had knowledge of what was taking place in the home, I did not believe that it rose to the level the government depicted and that my client's situation deserved to be reviewed thoroughly and carefully in the hopes of being granted a downward departure of the Sentencing Guidelines. Discovery in my client's case was voluminous and required several weeks to get through fully. After careful review of the discovery, and the permissible grounds for departure from the Guidelines, I drafted a motion to the Court and outlined concisely what grounds there were for departure and how those grounds were applicable to my client. Based on that motion, and argument by the AUSA and myself, the Court found that there were mitigating circumstances that justified a departure from the Guidelines which greatly reduced the sentence that my client ultimately received.

The following is Judge Duffy's account of the civil appeals he has personally handled:

**THURSDAY, JANUARY 15, 2015**

- (a) Amy Lynn Lapp v. SCDMV, South Carolina Court of Appeals, 692 S.E.2d 565, 387 S.C. 500;
- (b) Khouri v. Harrison, South Carolina Court of Appeals, 2011-DR-10-3572. I represented the Guardian *ad Litem* in the matter. It was dismissed soon as the filing of Notice of Appearance;
- (c) Thomas v. Gulf Stream Coach, Inc. et al., This matter is still pending at the Court of Appeals, Ct. of Appeals Case Number 2012-213361; Circuit Court Case Number 2008-CP-27-0695. The Brief was written by associate Counsel, and the matter is still pending.

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

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

North Charleston Municipal Court

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

(a) City of North Charleston v. David W. Carter (Citation Number: 50992 FS).

Municipal Court Return to the Charleston County Court of Common Pleas;

(b) City of North Charleston v. Yasheemah S. Law (Warrant Number M-727518),

Municipal Court Return to the Charleston County Court of Common Pleas;

(c) City of North Charleston v. Robert Stephen Smith (Citation Number: 15925 FW).

Municipal Court Return to the Charleston County Court of Common Pleas;

(d) City of North Charleston v. Shondell Devon Mitchell (Citation Numbers: 958866

GJ; 958667 GJ). Municipal Court Return to the Charleston County Court of Common Pleas;

(e) City of North Charleston v. Jenni Baldovin (Citation Number 57172 FZ).

**THURSDAY, JANUARY 15, 2015**

Municipal Court Return to the Charleston County Court of Common Pleas.

Judge Duffy reported the following employment while serving as a judge:

The Duffy Law Firm, LLC. Full Time: Practicing Attorney and Owner. March 1, 2012 until present. General Practice of Law with emphasis on Family Court. I have no supervisor there.

(9) Judicial Temperament:

The Commission believes that Judge Duffy's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Judge Duffy to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability and experience. The Committee found Judge Duffy to be "Well Qualified" as to the remaining criteria of ethical fitness, professional and academic ability, character, reputation and judicial temperament.

Judge Duffy is married to Abigail Scudder Duffy. He has one child.

Judge Duffy reported that he was a member of the following bar association and professional organization:

Charleston County Bar Association.

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

- (a) Hibernian Society of Charleston. Member of the Social Committee;
- (b) Charleston Rifle Club. Presently, I am the club's Solicitor (Attorney for the Club), and previously was acting Director of Membership. I plan to continue to this association, unless directed by Court Administration not to, as I am on a bowling league and find it to be a relaxing distraction. The Charleston Rifle Club is

**THURSDAY, JANUARY 15, 2015**

known for its annual bowling tournament in February each year. All money raised goes to the March of Dimes.

Judge Duffy further reported:

Throughout my life I have been told that being a lawyer was what I should “be doing.” I was unwilling to accept that I was destined to be a lawyer, but eventually understood that it was not what I “should be doing,” but rather it was what I wanted to do. Based on that realization, I went to law school and returned to Charleston upon graduation. Immediately upon passing the Bar, I was offered a job at the Wigger Law Firm. I loved the experience that I received in this capacity but eventually wanted to branch out of Plaintiff’s work and undertake a variety of legal issues. When I was offered a job with O’Neill & Phipps, LLC I jumped at the opportunity to get such broad legal experience including Plaintiff’s work, Defense work, Criminal Defense, Business Law and Real Estate Law. When O’Neill & Phipps dissolved in 2012, I was left with three options. Both Mr. O’Neill and Mr. Phipps offered me positions in their successor law firms, but my wife had established her own practice and said that she would love to have me join her. At the same time, I was offered a part-time position as municipal judge with the City of North Charleston. Once I was offered that position and knew that I would be appointed, I decided that working for myself in my wife’s practice was going to be the best option for me. I have never once regretted this decision and will be content where I am if I am not selected to serve as a Family Court Judge.

My family has a history of service to the State of South Carolina. My father is a municipal judge for the Towns of Mount Pleasant and Sullivan’s Island, and occasionally fills in on the Isle of Palms Municipal Court. My uncle is a United States District Court Judge in Charleston. Additionally, my wife served as a State Attorney for both Child Support Enforcement and Abuse and Neglect. I was raised to serve the community in whatever fashion I could; and I have put my legal degree to work doing just that. I enjoy the work that I am engaged in privately, but my services as a municipal judge have refocused my desire to serve South Carolina.

I believe that I have proper temperament to serve as a judge and the ability to fairly judge the facts of any given case, and not

**THURSDAY, JANUARY 15, 2015**

the parties personally. I have been hyper diligent in ensuring that there is no improper communication between defendants, attorneys or police officers and myself in my current position. I know that Court is highly stressful for all the parties to an action and that there is always something of great importance that necessitates the need for judicial intervention. I have found that in being patient with litigants, permitting them to argue their case and explain their logic and reasoning, and in return, clearly explaining my decision to them in a manner they can understand, most litigants are pleased with the experience in my court even if they are unhappy with my ruling. It is important to be heard, so judges must listen carefully to all litigants and allow each party a fair opportunity to be heard.

I love being a judge. I respect the power and authority of the position and refrain from any abuse of the Court's discretionary power. There is no easy decision in any case, and judges have to make the right decision regardless of their personal feelings or emotions. I want to continue to serve South Carolina as a member of the judiciary and believe that I would be a strong Family Court Judge and capable of executing the requirements of the position fairly and without prejudice to any party.

I know that many believe Family Court to be a horrible place and that there is little redeeming quality to Family Court that would make it an attractive position to seek. I disagree. Family Court is a place where children are protected, lives can be made better and where brilliant attorneys show competency in the law through their maneuvering of their cases through the legal process. There is nothing routine about Family Court and I look forward to working my cases every day; I know that I will enjoy any time on the bench in the same manner and for the same reasons.

As to anything negative I can report, my only concern is my daughter. She is just under two years of age, and I am concerned that I may be expected to travel more than is fair to her. My wife and I have spoken to several judges about this concern and have been reassured that Court Administration is accommodating to this matter as much as possible. My wife and I expect that I would be gone from time to time, and have been able to make plans for the care of our daughter in the event that I do have to travel in any given week. Additionally, I understand that I will



**THURSDAY, JANUARY 15, 2015**

be expected to train with a Judge in another circuit upon appointment for several weeks. My wife and I have been able to figure out what she will need to do during that time and how she intends to ensure that I have regular contact with my daughter. Based on the assurances of the judicial members who have answered my questions, and the confidence I have in my wife's ability to care for our daughter, I believe this to be a marginal concern in seeking this appointment.

(11) Commission Members' Comments:

The Commission commented on Judge Duffy's Family Court experience in all the areas a Family Court judge would preside over. They noted his sincere desire to serve as a Family Court jurist.

(12) Conclusion:

The Commission found Judge Duffy qualified, but not nominated, to serve as a Family Court judge.

**Sean F. Keefer  
Family Court, Ninth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

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

Mr. Keefer was born in 1966. He is 48 years old and a resident of Charleston, SC. Mr. Keefer provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1997.

(2) Ethical Fitness:

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

Mr. Keefer demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

**THURSDAY, JANUARY 15, 2015**

judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Keefer reported that he has spent approximately \$150 on campaign expenditures for postage, stationary, and thank you cards related to his race.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
<u>2013-2014</u>	
(a) SC Bar DR Section Counsel Attended/Presenter	1/24/2014;
(b) Guardians in School	11/20/2013;
(c) Schoolin' the Newbies Attended/Presenter	9/25/2013;
(d) 2013 GAL Update	8/15/2013;
(e) Introduction to Court Annexed ADR	7/19/2013;
<u>2012-2013</u>	
(a) What Works	2/1/2013;
(b) 2012 Judges and Attorneys Substance Abuse	12/07/2012;
(c) Using Early Neutral Evaluation in Family Court	6/22/2012;
<u>2011-2012</u>	

**THURSDAY, JANUARY 15, 2015**

- (a) SC Bar Convention DR Section Counsel Presenter  
1/19/2012;
- (b) Taking the Children Out of the Fire  
(Presented/Attended omitted inclusion on CLE  
report) 6/17/2011;
- (c) Guardian *ad Litem* Program Workshop 6/2/2011;  
2010-2011
- (a) SC Bar Convention DR Section Counsel Presenter  
1/20/2011;
- (b) Family Mediation Training (Assistant Instructor)  
1/3-1/7-2011;
- (c) Mini Summit on Justice for Children 12/2/2010;
- (d) SCDTAA Joint Meeting 7/22/2010;
- (e) Representing the Volunteer 5/7/2010;  
2009-2010
- (a) Family Court Bench Bar 12/3/2009;
- (b) Till Debt Do Us Part 11/4/2009;
- (c) Collaborative Law Overview 3/27/2009.

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

- (a) I have presented at the last four SC Bar Conventions during the Dispute Resolution Section program. My topics have always been related to Family Law Dispute Resolution issues. This has also included moderation of panels related to the same issues. For the 2015 SC Bar Convention, I am in the process of organizing and moderating the entire SC Bar Dispute Resolution Section CLE to include course planning for the program;
- (b) I was a presenter at the Charleston County Bar Family Liaison Committee's annual "Schoolin' the Newbies" seminar in September of 2013. I co-presented on the issues of Fast Track Custody Cases and Civility in the Practice;
- (c) I have presented on the Fast Track Process at the Charleston County Family Court Liaison Committee's CLE "Taking the Children out of the Fire." My presentation was part of a panel designed to address the

**THURSDAY, JANUARY 15, 2015**

issues faced by children during litigation and strategies to remove them from conflict;

- (d) I have guest lectured at the Charleston School of Law on the Department of Social Services abuse and neglect process and on mediation. Please note these were guest lectures as part of a class for other instructors.

Mr. Keefer reported that he has published the following:

Legal

- (a) The Path to Alternative Dispute Resolution (Volume I– Issue I–Fall 2012 – Resolved– Journal of Alternative Dispute Resolution–Charleston School of Law) Author;

Non-Legal

- (b) The Trust (Old Line Publishing–2011) Author.

(4) Character:

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

The Commission also noted that Mr. Keefer 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. Keefer reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

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

I was a member of the City of Charleston Board of Zoning Appeals – Site Design from 2003 to 2005. My reason for departure was my resignation. The Mayor of Charleston appointed me to this board. I am not aware of any filing requirement with the State Ethics Commission and thus did not make any filings with the Commission.

In 2004 I was appointed to a citizens committee created to make recommendations regarding a potential smoking ban in the City of

**THURSDAY, JANUARY 15, 2015**

Charleston. The Mayor of Charleston appointed me to the Committee. While on the Committee, I served as chairperson. I served until the Committee concluded its work and made recommendations in 2004. I did not make any filings with the State Ethics Commission.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Keefer was admitted to the SC Bar in 1997.

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

(a) 1997-2000 - The Mason Law Firm, PA

My first legal employment post-law school was at The Mason Law Firm, PA. While I engaged in a variety of practice areas, including civil, real estate, criminal and probate, my focus was domestic matters. During my time with The Mason Law Firm, I was involved in virtually every type of domestic matter including, child custody, child support, spousal support, equitable distribution, divorce, DSS matters, juvenile criminal defense, adoption and name changes.

During my first year of practice, I was trained as a Family Court mediator and following this I began to work as a mediator in the Family Courts.

While at The Mason Law Firm, I handled all aspects of case preparation from intake to trial. This also included numerous and frequent court appearances in all aspects of Family Court matters with a concentration on custody, support matters (child and spousal), equitable distribution and alimony, to include temporary hearings, trials, and Rules to Show Cause. It was while at The Mason Law Firm that I was first exposed to juvenile justice cases as

**THURSDAY, JANUARY 15, 2015**

well as Department of Social Services matters from protective services, termination of parental rights and vulnerable adult perspectives. During my time with The Mason Law Firm, I represented with equal weight, both Plaintiffs and Defendants;

(b) 2000-2005 - Andrews & Shull, PC

In 2000 I accepted a position as an associate attorney with the law firm of Andrews & Shull, PC, a firm with a focus on domestic relations. As a result of the firm's focus on family law matters, my practice and focus changed, accordingly allowing me more exposure to the Family Courts.

In addition to continuing the concentration on Family Law litigation matters, I began to do private Guardian *ad Litem* work that I continue to this day.

As a result of the domestic relations focus of Andrews & Shull, I was exposed to more complex domestic relations matters. Not only did I build my own practice, but through work with other attorneys in the office, I was regularly involved in complex litigation matters. This resulted in my involvement, both on my own and as second chair, in numerous contested cases where resolution was reached through a variety of avenues including trial, direct negotiation, and alternative dispute resolution.

During my time with Andrews & Shull, I continued to be involved in a variety of Family Court cases. My criminal practice was minimized and replaced by my Guardian *ad Litem* work.

In addition to my regular Family Court litigation practice and Guardian *ad Litem* work, I continued to grow my dispute resolution practice by expanding my mediation practice and also beginning to do Family Court arbitrations. I also handled the firm's DSS appointments;

(c) 2006-2010 - Sean F. Keefer, LLC

In 2006, I opened my own solo practice. I continued to handle contested domestic matters, though the focus of my practice became alternative dispute resolution of Family Court cases. During this time, I also began to handle more Department of Social Services abuse and neglect cases, as well as termination of parental rights

**THURSDAY, JANUARY 15, 2015**

cases, regularly appearing on behalf of defendants or as a Guardian *ad Litem* for children. I continued with my private Guardian *ad Litem* work.

It was at this time that largely all of my other non-Family Court work ended thus allowing me to devote substantially all of my time to Family Court and Family Court related issues;

(d) 2010-PRESENT - Keefer & Keefer, LLC

In 2010, my wife left the law firm of Haynsworth, Sinkler, Boyd and the law firm of Sean F. Keefer, LLC became Keefer & Keefer, LLC. My Family Court work continued, though I ceased to represent Defendants in Department of Social Services cases following my accepting the position of Contract Attorney with the South Carolina Guardian *ad Litem* Program. I served as the Contract Attorney for Berkeley County.

In 2012, following my leaving the Berkeley County GAL contract attorney position I have focused my practice on domestic mediation and private Guardian *ad Litem* work. While mediation and Guardian work make up a large part of my practice, I still take contested cases in the Family Courts, assisting clients with adoptions, divorces, property division, custodial matters, post-separation/divorce support enforcement and modification matters and other issues.

Presently my law partner and Wife serves as the Contract Attorney for the Berkeley County Volunteer Guardian *ad Litem* Program which allows me to, as needed, appear in DSS cases to assist should she have conflicts.

Mr. Keefer further reported regarding his experience with the Family Court practice area:

Divorce And Equitable Division Of Property

Since my admission to practice law in South Carolina, I have represented clients involving every recognized ground for divorce in South Carolina with the exception of desertion, though I still frequently have to address the particulars of the law as it relates to desertion. I have represented clients on each side cases including one-year

**THURSDAY, JANUARY 15, 2015**

separation, adultery, physical cruelty and habitual drunkenness grounds.

In the area of equitable division of property, I have regularly and frequently been involved in cases involving the division of virtually any type of property or the division of near every form of debt. I have represented clients on both sides of the issues encountered in this area. My work includes counseling clients, discovery, working with experts, depositions, settlement negotiations, motions practice, litigation, trial work, drafting of agreements, and the enforcement of agreements. My involvement with equitable distribution has literally been across the spectrum of this area of practice. I have been involved as a litigator and mediator in complex cases of great financial worth but have also been involved in cases of small financial value but of great personal importance to the parties.

In my litigation practice I have prepared and handled such cases for trial, settled such cases through negotiation and mediation and have counseled numerous clients in this area.

In my dispute resolution practice, I have learned to expedite my understanding of these issues in order to assist the parties in reaching fair and equitable resolutions to their disputes. Often in mediations it becomes apparent that one party will need more time than the other, be it to understand the issues, to have their position heard or sometimes simply because they need time to think. I have learned to be attentive, responsive to concerns, firm in my opinion and respectful of the party involved in the mediation in these situations.

I deal with this area of Family Law multiple times per week.

#### Child Custody

The volume and frequency of my work related to child custody mirrors that of my work in the area of equitable division.

I have represented clients in child custody matters who have never been married, those who have been married but are separating, parties with child custody issues who



**THURSDAY, JANUARY 15, 2015**

have been divorced, parties who have change of circumstances cases in existing arrangements or agreements, parties seeking to gain custody and parties faced with losing custody. I have been involved with parents, grandparents, and other relatives. This work has involved settlement negotiations, temporary hearings, discovery, depositions, litigation, dispute resolution, trials and Rules to Show Cause.

This issue regularly presents in my mediation practice requiring me not only to be involved with the parties and their attorneys, but frequently Guardians *ad Litem* involved in the cases. In mediation my work involves my quickly coming to an understanding of the issues and assisting the parties in reaching a resolution that will work not only for them but as to the best interest of the children. It is in this area that I am frequently called upon to help formulate visitation schedules, parenting plans, timesharing approaches and other issues related to child custody. As with equitable distribution issues, I have learned to, when asked, communicate information as to a parties' position without being defeatist or working to impede the progress of mediation.

As a result of my own Guardian *ad Litem* practice I deal with custodial issues from a Guardians point of view on a regular basis. I have conducted numerous investigations in this area that have included involvement with the parties, the minor child or children, friends, family, school officials, the clergy, medical professionals, and a variety of other professionals and others involved in this area. As a Guardian I have frequently testified at trial which has given me the perspective of courtroom experience that is not always realized as an attorney in the Family Courts, as I have been subject to both direct and cross examinations as well as questions from the Court.

Through my work as a mediator, a Family Court practitioner and as a private Guardian *ad Litem*, I deal with the issue of child custody on a near daily basis.

Adoption

I have always handled adoptions as a part of my practice. I frequently serve as a Guardian *ad Litem* for children who

**THURSDAY, JANUARY 15, 2015**

are being adopted. In the last several years I have handled a number of adoption cases where I have represented adoptive parents in both step-parent and non-DSS adoptions, allowing me to stay active in this area.

Abuse and Neglect

From the time I began my practice, I handled Department of Social Services, (DSS), cases for both myself and for other attorneys in my and other firms. This included serving as counsel for named Defendants, serving as the Guardian *ad Litem* for subject children, serving as counsel for others appointed as the Guardians *ad Litem* and representing volunteer Guardians *ad Litem*.

From 2006 until 2010 I accepted DSS appointment referrals and served as counsel for Defendants and as a Guardian *ad Litem* for children in DSS cases as a regular part of my practice. During this time, I attended numerous merits hearings, permanency planning hearings, the occasional probable cause hearing, trials, including termination of parental rights, and frequent DSS mediations. Occasionally I was appointed as the attorney for volunteer Guardians *ad Litem*.

In 2010, I ended my referral practice and began to work as the contract GAL attorney for Berkeley County where I appeared in court generally twice a week for hearings where I represented volunteer Guardians in contested merits trials, permanency trials and termination of parental rights trials. I also represented Guardians at numerous DSS mediations. I held this position for almost 2 years.

I have also participated in numerous DSS mediations as counsel for a named party, for the Guardian *ad Litem* or as the mediator. In the capacity of assisting other attorneys for scheduling conflict purposes, I still occasionally appear at DSS hearings generally in the capacity of representing the volunteer Guardians.

Juvenile Justice

During the first years of my practice I regularly represented juveniles in the Family Courts. In recent years my juvenile justice practice has been minimal and the number of cases in which I have been involved has been much less than earlier in my career.

**THURSDAY, JANUARY 15, 2015**

While my work in this area of law has not been as frequent as other areas, I am familiar with the procedures, laws and the practice area. I have regularly observed DJJ matters in the Charleston County Family Courts to better familiarize myself with the process, issues and manner in which the cases are handled. Based on the totality of my past work in this area as well as my recent and ongoing observations, I believe that I have a sufficient foundation to successfully and fairly serve as a Family Court Judge in juvenile justice matters.

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

- (a) Federal: 0%;
- (b) State: 100%.

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

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 95%;
- (d) Other: 5%.

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

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. Keefer provided that he most often served as sole counsel or as a Guardian *ad Litem*.

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

- (a) A. W. v. C. W. – 1999 – Charleston County Family Court  
The issues presented in this case involved children's issues, equitable distribution, transmutation of property, spousal support and attorneys' fees. While part of the case was resolved through negotiations, the disposition of the marital home was left unresolved. Though the case

**THURSDAY, JANUARY 15, 2015**

resulted in a trial, I was able to assist my client in obtaining a favorable result in showing that transmutation occurred and, as a result, was able to assist my client in retaining possession of the residence for her and the then minor children. This matter remains significant as it was the first case that I handled from intake to trial entirely on my own;

- (b) M. R. E. v. J. O. E. – 2010 – Charleston County Family Court

This was a post-divorce, spousal support termination/modification case.

The Plaintiff brought the action seeking the termination of his previously established alimony obligation. While the Plaintiff was able to show a change of circumstances based on a reduction in his income, the critical issue was that of underemployment and voluntariness of this reduction.

Through careful and focused discovery and preparation for trial, my client was able to encourage a settlement that resulted in the establishment of a non-modifiable sum of permanent alimony. While the case could have resulted in a very drastic and life altering result for my client by termination of her alimony, the result not only concluded the matter, but likely served to keep the issue of her spousal support payments from later being revisited;

- (c) T. C. v. S. C. – 2012 – Charleston County Family Court

In this post-divorce action, I represented a Mother against whom an action had been filed wherein the Father was seeking a change of custody based on a variety of allegations including the Mother's decision-making capacity and the minor child's performance at school. I assisted the Mother by successfully defending a Temporary Hearing where custody was not changed and child support was increased over the objection of the Plaintiff. Litigation continued and ultimately the matter was settled in mediation in a fashion that resulted in no change of custody for my client, a further increase in child support and the payment of my client's attorneys' fees;

- (d) J.M.B. v. E.W. – 2011 – Charleston County Family Court

I had the pleasure of representing a Father who had suspected for years he was the father of a minor child. The child's

**THURSDAY, JANUARY 15, 2015**

mother had given lip service to agreeing to a paternity test, but she never followed through and kept the Father from having a relationship with his child. Following the Mother's unexpected death, paternity was established.

At the time the action was filed, the minor child was living with the deceased Mother's Husband. The case began in a very heated fashion with the Husband indicating a claim for custody of the minor child. As litigation proceeded, I was able to work to establish counseling for the minor child and his Father. As the case continued, I was able to assist my client by shifting the focus of the case away from a potential trial and to one of focusing on a resolution that served the best interest of my client and his child. Ultimately, the case concluded with my client and his son being reunited and with care given to allow for and to foster the relationship the minor child had with his half-sibling;

- (e) DSS v. C.B., J.D., C.L. and L.W. – 2008 - Berkeley County Family Court

I represented a Defendant Father in this Department of Social Services Termination of Parental Rights. My client, after a long blue collar-working career had retired and then become involved with the Mother, though they were never married. A child resulted from their relationship.

Through the child's life, my client had regularly been involved with her and had provided for her support. When the child was taken into DSS custody, the Mother hid this fact from the Father. Ultimately he learned of the DSS involvement and requested an attorney.

After I was appointed, I learned the Father did not want to have his parental rights terminated. A trial resulted.

The case was significant in that at trial I was able to show that both the Mother, through overt actions, and the Department of Social Services, through minimal contact with my client, had done little to allow my client to participate in the action at the child protective services stage. The Court denied the Department's request to terminate my client's parental rights and through my efforts I was able to assist the Father in preserving his relationship with his daughter.

**THURSDAY, JANUARY 15, 2015**

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

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

In August of 2012, I applied for Family Court At Large Seat 4. I was determined by the Judicial Merit Selection Commission to be Qualified but not selected.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. Keefer to be "Qualified" as to constitutional qualifications, physical health, and mental stability. They found him "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Keefer is married to Wendy Raina Johnson Keefer. He does not have any children.

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

- (a) SC Bar Association.
  - 1. Member – Ninth Circuit Resolution of Fee Dispute Board – 2007-09
  - 2. Member – SC Bar Dispute Resolution Council – 2009-Present
  - 3. Secretary – SC Bar Dispute Resolution Council – 2012-13
  - 4. Vice-Chairman – SC Bar Dispute Resolution – 2013
  - 5. Chairperson Elect – SC Bar Dispute Resolution – 2013-14;
- (b) Charleston County Bar Association.

**THURSDAY, JANUARY 15, 2015**

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

- (a) Mediation and Meeting Center of Charleston
  - 1. Board Member – 2008-12
  - 2. Board Treasurer – 2009-11
  - 3. Vice-Chair – 2011-12;
- (b) SC Collaborative Law Institute
  - 1. Board Member – 2007-09
  - 2. Treasurer – 2008-09;
- (c) Free and Accepted Masons – Oxford Lodge #67 – Oxford, Ohio.

Mr. Keefer further reported:

Through my career, I have been fortunate and privileged to regularly and frequently appear before many different Family Court Judges. From my experience and exposure to these individuals, I have formed the belief that a successful judge is one who is attentive, consistent, fair in applying the law, respectful of parties and attorneys and who will, when necessary, make a well reasoned decision, even if difficult.

I have been fortunate to have assisted numerous individuals at different stages of the Family Court process by serving as counsel, as Guardian for their children or even as a Guardian for parties, as mediator or arbitrator.

My time before numerous judges and working with so many in the Family Court process has educated me to understand that it is paramount to remember that while an issue may be crystal clear to an attorney or a judge because of his or her background and experience. Often for clients and parties this is their first exposure to the Family Court process. They simply do not have the same understanding of the process. I believe that this is a proposition that should be remembered by Family Court Judges and should guide them in a fair and consistent application of the law and in their dealings with parties who appear before them.

I believe that litigants come to the Court seeking and expecting a fair and consistent approach and that in performing their duties judges should not seek to be activist, but rather should strive for the consistent application of existing law.

**THURSDAY, JANUARY 15, 2015**

Dockets may be heavy, but for each litigant his or her case is unique and often singularly import to them. I believe Judges should remember and be cognizant of this reality.

My background exposed me to virtually every type of case that could be heard by the Family Court. Through my work as a Guardian *ad Litem* I have even frequently found myself on the witness stand. The totality of my experience, I humbly submit, has created a foundation upon which a successful judicial career as a Family Court Judge can be built.

(11) Commission Members' Comments:

The Commission Members commented on Mr. Keefer's excellent presentation at the Public Hearing. They noted his diverse family court practice and his contributions to the SC Bar's Dispute Resolution Board.

(12) Conclusion:

The Commission found Mr. Keefer qualified, but not nominated, to serve as a Family Court judge.

**UNQUALIFIED**

**Autrey C. "Michael" Stephens  
Circuit Court, Fourth Judicial Circuit, Seat 2**

**Commission's Findings: UNQUALIFIED**

(1) Constitutional Qualifications:

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

Mr. Stephens was born in 1954. He is 60 years old and a resident of Dillon, SC. Mr. Stephens provided in his application that he has been a resident of SC for at least the immediate past five years and has been a licensed attorney in SC since 1994.

(2) Ethical Fitness:

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



**THURSDAY, JANUARY 15, 2015**

Mr. Stephens 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. Stephens reported that he has made a total of \$581.28 in campaign expenditures for a badge (\$11.34), candidate cards (\$442.79), and stamps and stationary (\$127.15).

Mr. Stephens testified that 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. Stephens 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. Stephens to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- (a) Blues, Bar-B-Q- and Bar CLE 7/11/2008;
- (b) 2008 Public Defender Conference 9/29/2008;
- (c) OID Best Practices Seminar 2/20/2009;
- (d) 2009 Public Defender Conference 9/28/2009;
- (e) 2010 Public Defender Conference 9/27/2010;
- (f) Omnibus Crime Reduction and Sentencing Act 11/22/2010;
- (g) Lawyering Mentoring Second Pilot Program 3/3/2011;
- (h) Capital Case Litigation Initiative 5/1/2011;
- (i) Blues, Bar-B-Q and Bar CLE 7/8/2011;
- (k) Lawyering Mentoring Second Pilot Program 3/30/2012;

**THURSDAY, JANUARY 15, 2015**

- (l) LEAPP Ethics School 9/20/2012;
- (m) 2012 Public Defender Conference 9/24/2012;
- (n) Gideon at 50: How Far We've Come, How Far to Go 9/20/2013;
- (o) 2013 Annual Public Defender Conference 9/23/2013.

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

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

(4) Character:

The Commission's investigation revealed concerns regarding the character of Mr. Stephens. Members of the Bench and Bar as well as Clerks of Court were sent an electronic survey by Ballotboxonline based on the nine evaluative criteria to complete on each judicial candidate. Responses were made by the survey participants on an anonymous basis. Based on negative Ballot Box submissions concerning his work ethic, his dealings with other attorneys, his professionalism in and outside of the courtroom, and his responses to those concerns which were addressed at the Public Hearing, it is the Commission's opinion that Mr. Stephens is "Unqualified" to serve on the Circuit Court. The Commission also took into consideration the report from the SC Bar's Judicial Qualifications Committee which found Mr. Stephens' "Unqualified" in regards to his "character."

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

The Commission also noted that Mr. Stephens was punctual and attentive in his dealings with the Commission.

(5) Reputation:

The Commission noted that the evaluative criteria with regard to "reputation" provides: "Practicing lawyers and those who have constant exposure to the state's court system must have

**THURSDAY, JANUARY 15, 2015**

confidence in those who make up the state's judiciary." Several responses on Mr. Stephens' Ballot Box survey raised questions regarding his reputation as an attorney. The SC Bar's Judicial Qualifications Committee also found Mr. Stephens "Unqualified" as to the evaluative criteria for "reputation."

Based on the Ballot Box submissions and Mr. Stephens' responses to those concerns addressed at the Public Hearing, it is the Commission's opinion that this candidate does not meet the evaluative criteria for "reputation." The Commission also took into consideration the SC Bar's Judicial Qualifications Committee's finding of "Unqualified" for Mr. Stephens regarding his reputation.

Mr. Stephens reported that he is not rated by any legal rating organization.

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

January 1981 - March 1986, Elected Clerk of Court for Dillon County. All reports were timely filed.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Stephens was admitted to the SC Bar in 1994.

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

(a) March 30, 1994 to March 31, 1995 - Circuit Court Judicial Law Clerk;

(b) April 1995 to April 1996 - Richland County Public Defender, (Criminal Defense);

**THURSDAY, JANUARY 15, 2015**

(c) April 1996 to January 1997 - Fourth Circuit Solicitor's Office, (Criminal Prosecution);

(d) January 1997 to February 29, 2008 - Sole Practitioner A.C. Stephens, P.C., Criminal Defense, Real Estate Closings, Civil Practice;

(e) March 2008 to Present - Chief Public Defender, Fourth Judicial.

Mr. Stephens further reported regarding his experience with the Circuit Court practice area:

Over my career, I have had experience with both the prosecution and defense of criminal cases. In March of 2008, I was selected as Chief Public Defender for the Fourth Judicial Circuit and selected again in March 2012 to continue in this capacity. During this time, I have personally tried criminal matters such as distribution of drugs, assault and battery with intent to kill and arson. I was also co-counsel with lawyers from the Office of Indigent Defense Death Penalty Trial Unit on two cases.

A considerable part of my responsibilities include assisting and training younger lawyers in my office in the proper manner of investigating cases, developing communications with clients, developing trial issues and strategy, preparing voir dire, and selection of juries. In this capacity, I have served as co-counsel with several of the younger lawyers in our office. These cases included such issues as voluntariness of statements, search and seizure, videotaped buys, alibis, competency evaluations, self-defense and a complete lack of defense.

Prior to becoming Chief Circuit Defender, I was in private practice, which included representation of clients in both criminal and civil matters. My criminal practice included representation of defendants charged with murder, embezzlement of public funds, trafficking drugs and criminal sexual conduct.

I also represented plaintiffs as well as defendants in Common Pleas, as well as Magistrate's Court. While in private practice, I handled a variety of civil cases but my civil practice consisted primarily of personal injury cases and matters involving property law. These cases focused mainly on matters such as mortgage foreclosures, the representation of defendants in an

**THURSDAY, JANUARY 15, 2015**

action to apply restrictive covenants to the defendants' property, cases that involved partition of property and actions to quiet title, a variety of personal injury claims, small property claims for plaintiffs and defendants in magistrate's court.

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

- (a) Federal: 0%;
- (b) State: 100%.

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

- (a) Civil: 0%;
- (b) Criminal: 100%;
- (c) Domestic: 0%.

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

- (a) Jury: 20%;
- (b) Non-jury: 80%.

Mr. Stephens provided that he most often served as co-counsel. He further stated: "I have been sole counsel, but most often assist as associate counsel with younger lawyers in the office."

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

- (a) Jackson et al v Hayes et al (Dillon County) I defended an action in state court whereby plaintiffs sought to apply restrictive covenants to the neighboring property of the defendants. The case was tried in circuit court without a jury. The defendants prevailed and were able to construct townhouses in which they realized a profit but also added a benefit to the neighborhood as well as addition to the city tax rolls.
- (b) State v Charles Turner (Dillon County) The defendant and his brother were charged with murder and were unable to make bail. The brothers were tried jointly and the defense was self-defense. The issue of prior difficulties

**THURSDAY, JANUARY 15, 2015**

between the parties was part of the defense. The jury acquitted both defendants.

- (c) State v Stacy David (Marlboro County) The defendant was accused of embezzlement of public funds from the Marlboro County Clerk of Court. The case was prosecuted by the South Carolina Attorney General's office. The case involved financial audits as well as issues of who had access to the funds. The charges were made in 1996 but it was 2002 before the case was tried. The case involved employees of the former Clerk of Court who were defeated for reelection, which cause political issues. The defendant was acquitted by a jury.
- (d) State v Earl Galloway (Marlboro County) The defendant was accused of drug trafficking. The defense was entrapment. The defendant and the sheriff who brought the charges had a history of personal animosity. The case was tried and the jury acquitted the defendant.
- (e) Hayes v Huggins (Dillon County) I represented the plaintiffs in action for injuries suffered in an automobile accident. The case involved the usually issues of fault, proximate cause and damages. In this case the clients were hearing impaired which brought an added dimension to preparation and trial of the case.

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

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

Spring 1982, Acting Judge of Probate, Dillon County.

I was appointed by the Governor according to the statute, since I was serving as Clerk of Court for Dillon County. I served until the Governor appointed a replacement.

Mr. Stephens further reported the following regarding unsuccessful candidacies:

- (a) Candidate, Dillon County Judge of Probate, 1982;
- (b) Candidate, Dillon County Judge of Probate, 1986;
- (c) Candidate, South Carolina House Seat 55, 2006.

**THURSDAY, JANUARY 15, 2015**

(9) Judicial Temperament:

The Commission's investigation revealed concerns regarding the judicial temperament of Mr. Stephens. Numerous negative Ballot Box submissions revealed issues with his temper and impartiality, and based on his responses at the Public Hearing, the Commission believes that Mr. Stephens is "Unqualified" to serve on the Circuit Court based on this evaluative criteria.

(10) Miscellaneous:

The Pee Dee Citizens Committee found Mr. Stephens to be "Qualified" as to constitutional qualifications, physical health, and mental stability. The Committee found him "Well Qualified" as to ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Stephens is married to Robin Renee Smith Stephens. He has four children.

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

- (a) South Carolina Bar Association;
- (b) Dillon County Bar;
- (c) South Carolina Public Defender Association.

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

Mr. Stephens further reported:

My father was a decorated World War II veteran who was fortunate enough to receive his degree from the University of South Carolina. Immediately upon graduation he was employed as a rural letter carrier where he worked for 40 years. People who lived on my father's route still tell me how you could depend on him delivering the mail every day at the same time like clockwork. Also, during that time he operated a small farm. After having four children my mother commuted to St. Andrews College in Laurinburg and earned a degree and taught school until she retired. My parents instilled in us a good work ethic, the importance of church in our life, civic duty and caring for

**THURSDAY, JANUARY 15, 2015**

our neighbors. My parents worked every day, we attended church on Sunday morning, Sunday night, Wednesday night and any special times. I remember my parents voted in every election because they felt it their duty as citizens. My parents visited neighbors in times of need. Most importantly my parents taught us the importance of a loving, caring, and loyal family

These lessons and love guided and sustained me through good times and the bad times I have experienced throughout my life. What I learned has continued to strengthen my marriage of 34 years.

My father told me that as far as life goes “you have to take it as it comes.” Those few words have helped develop patience, understanding and caring for my children, my wife and my fellow human beings. But most importantly it gave to me the acceptance of myself as a person and that I must have patience, understanding and caring for me before I am able to have it for others.

(11) Commission Members’ Comments:

The Commission commented that numerous questions were raised by Mr. Stephens’ Ballot Box results and his report from the SC Bar’s Judicial Qualifications Committee finding him overall “Unqualified” and “Unqualified” for the evaluative criteria of character and reputation, none of which were sufficiently answered to the satisfaction of the Commission by Mr. Stephens during his public hearing. The investigation of this candidate has revealed several concerns regarding Mr. Stephens’ character, reputation, and temperament, and the Commission believes he is not qualified for a position on the Circuit Court bench.

(12) Conclusion:

The Commission, unanimously, found Mr. Stephens not qualified to serve as a Circuit Court judge.

**CONCLUSION**

The Judicial Merit Screening Commission found the following candidates QUALIFIED AND NOMINATED:

**COURT OF APPEALS**

[SJ]

423



**THURSDAY, JANUARY 15, 2015**

Seat 5                      The Honorable John C. Few  
Seat 6                      The Honorable Aphrodite K. Konduros

**CIRCUIT COURT**

4<sup>th</sup> Judicial Circuit, Seat 2      The Honorable Roger E. Henderson  
5<sup>th</sup> Judicial Circuit, Seat 3      The Honorable Robert E. Hood  
9<sup>th</sup> Judicial Circuit, Seat 3      The Honorable Roger M. Young  
13<sup>th</sup> Judicial Circuit, Seat 1      James C. Alexander  
   The Honorable Perry H. Gravely  
13<sup>th</sup> Judicial Circuit, Seat 3      The Honorable Robin B. Stilwell  
14<sup>th</sup> Judicial Circuit, Seat 2      The Honorable Carmen T. Mullen  
15<sup>th</sup> Judicial Circuit, Seat 2      The Honorable Benjamin H. Culbertson  
At-Large, Seat 1              The Honorable W. Jeffrey Young  
At-Large, Seat 2              The Honorable R. Markley Dennis, Jr.  
At-Large, Seat 3              The Honorable Clifton B. Newman  
At-Large, Seat 4              The Honorable Edward W. "Ned" Miller  
At-Large, Seat 5              The Honorable J. Mark Hayes, II  
At-Large, Seat 6              The Honorable William J. Seals, Jr.  
At-Large, Seat 7              The Honorable J. Cordell Maddox, Jr.  
At-Large, Seat 8              The Honorable David C. Brown  
At-Large, Seat 9              Jerome P. Askins, III  
   Tanya A. Gee  
   Clifford Scott  
At-Large, Seat 10              The Honorable James R. Barber, III

**Family Court**

9<sup>th</sup> Judicial Circuit, Seat 2      Spiros S. Ferderigos  
   Alice A. Richter-Lehrman  
   Paul. D. Schwartz

**Administrative Law Court**

Seat 3                      The Honorable Harold W. "Bill" Funderburk, Jr.  
   The Honorable Carolyn C. Matthews  
Seat 4                      The Honorable Deborah B. Durden

**The Judicial Merit Selection Commission found the following  
candidates  
QUALIFIED, BUT NOT NOMINATED**

**Circuit Court**

[SJ]                              424

**THURSDAY, JANUARY 15, 2015**

At-Large, Seat 9

William A. "Bill" McKinnon  
William V. Meetze  
Timothy W. Murphy  
Jocelyn Newman  
Robert L. Reibold  
Jennifer K. Shealy  
David W. Wolf  
Mindy W. Zimmerman

**Family Court**

9<sup>th</sup> Circuit, Seat 2

John L. Duffy, III  
Sean F. Keefer

**The Judicial Merit Selection Commission found the following  
candidate  
UNQUALIFIED**

**Circuit Court**

4<sup>th</sup> Circuit, Seat 2

Autrey C. "Michael" Stephens

Respectfully submitted,

/s/Rep. Alan D. Clemmons

/s/Rep. Bruce W. Bannister

/s/Rep. David J. Mack III

/s/Ms. Susan T. Wall

/s/Mr. Robert M. Wilcox

/s/Sen. Larry A. Martin

/s/Sen. George E. Campsen III

/s/Sen. Gerald Malloy

/s/Ms. Kristian C. Bell

/s/Mr. Joseph Preston Strom, Jr.

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**MOTION ADOPTED**

On motion of Senator SHEHEEN, with unanimous consent, the Senate stood adjourned out of respect to the memory of Ms. Patricia Watts of Camden, S.C. Ms. Watts was a graduate of Limestone College and Winthrop University. She taught school and operated

[SJ]

425

**THURSDAY, JANUARY 15, 2015**

Camp Interlaken. Ms. Watts spent many years in Texas where she had many accomplishments including being named Female Citizen of the Year in 1991. She was a member of First Baptist Church in Camden, State Chair of the Junior Women's Club of S.C. and served as Treasurer of the Children's Trust Fund. She was a loving wife, devoted mother and doting grandmother who will be dearly missed.

**ADJOURNMENT**

At 12:09 P.M., on motion of Senator LEATHERMAN, the Senate adjourned to meet tomorrow at 11:00 A.M. under the provisions of Rule 1 for the purpose of taking up local matters and uncontested matters which have previously received unanimous consent to be taken up.

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**THURSDAY, JANUARY 15, 2015**

**SENATE JOURNAL INDEX**

S. 8.....	27	S. 342.....	20
S. 9.....	28	S. 343.....	22
S. 12.....	15	S. 344.....	23
S. 40.....	15	S. 345.....	23
S. 271.....	26	S. 346.....	23
S. 336.....	18	S. 347.....	24
S. 337.....	18	S. 348.....	24
S. 338.....	19		
S. 339.....	19	H. 3291.....	25
S. 340.....	19	H. 3311.....	25
S. 341.....	20	H. 3315.....	26