

Judicial Merit Selection Commission

Report of Candidate Qualifications Fall 2012

Date Draft Report Issued: Thursday, January 10, 2013

Date and Time:

Final Report Issued: **Noon**, Tuesday, January 15, 2013

**Judicial candidates are not free to
seek or accept commitments until
Tuesday, January 15, 2013, at Noon.**

Judicial Merit Selection Commission

Sen. Larry A. Martin, Chairman
Rep. F. G. Delleney, Jr., Vice-Chairman

Rep. Alan D. Clemmons
John P. Freeman
John Davis Harrell
Sen. George E. "Chip" Campsen, III
Rep. David J. Mack, III
Amy Johnson McLester
Sen. Floyd Nicholson
H. Donald Sellers



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Jamey Goldin
Lyn Odom
Katherine Wells
Brad Wright

January 10, 2013

Dear Members of the General Assembly:

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

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

Judicial candidates are **prohibited** from asking for your commitment until **12:00 Noon on January 15, 2013.** **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 15, 2013.** In sum, no member of the General Assembly should, orally or by writing, communicate about a candidate's candidacy until the time designated after release of the **Judicial Merit Selection Commission's Report of Candidate Qualifications.** If you find a candidate violating the pledging prohibitions or if you have questions about this report, please contact the Commission office at 212-6623.

Thank you for your attention to this matter.

Sincerely,

Sen. Larry A. Martin
Chairman

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

Judicial Merit Selection Commission

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January 10, 2013

Members of the SC General Assembly
SC State House
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 2012 screening.

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

In April 2000, the Commission determined that Section 2-19-70(C) means no member of the General Assembly should engage in any form of communication, written or verbal, concerning a judicial candidate before the 48-hour period expires following the release of the Commission's report. The Commission would like to clarify and reiterate that until at least 48 hours have expired after the Commission has released its final report of candidate qualifications to the General Assembly, only candidates, and not members of the General Assembly, are permitted to issue letters of introduction, announcements of candidacy, or statements detailing the candidates' qualifications.

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

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

Sincerely,

Sen. Larry A. Martin
Chairman

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

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INTRODUCTION

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

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

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

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

- (1) survey of the bench and bar;
- (2) SLED and FBI investigation;
- (3) credit investigation;
- (4) grievance investigation;
- (5) study of application materials;
- (6) verification of ethics compliance;

- (7) search of newspaper articles;
- (8) conflict of interest investigation;
- (9) court schedule study;
- (10) study of appellate record;
- (11) court observation; and
- (12) investigation of complaints.

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

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

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

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

This report is the culmination of weeks of investigatory work and public hearings. The Commission takes its responsibilities seriously, as it believes that the quality of justice delivered in SC'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.

COURT OF APPEALS QUALIFIED AND NOMINATED

**The Honorable John D. Geathers
Court of Appeals, 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 Geathers, 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 Geathers meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Geathers was born in 1961. He is 51 years old and a resident of Columbia, SC. Judge Geathers 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 1986. He was also admitted to the North Carolina Bar in 1992.

(2) Ethical Fitness:

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

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

Judge Geathers reported he has not:

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

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

(Judge Geathers scored the highest of any candidate who completed the Commission's Practice and Procedures Tests.)

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Writing Credit: John D. Geathers & Justin R. Werner, The Regulation of Alcoholic Beverages in SC (2007); Ethics Course with Prof. Dershowitz and Ethics in the Electronic Age	2007;
(b) Judicial Conference	2008;
(c) Trial Lawyers Annual Convention; Annual Judicial Conference; SC Bar Civil Law Update; SC Bar Criminal Law Update	2009;
(d) 4th Amendment for Appellate Judges; Annual Bar Convention; Annual Judicial Conference	2010;
(e) Annual Judicial Conference; Southern Region High Court Conference	2011.

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

- (a) Lectured at CLE: Appellate Practice in SC, April 30, 1999;
- (b) Lectured at CLE: The CON Contested Case, May 2, 2003;
- (c) Lectured for SC Environmental Class, USC Law School, Jan. 28, 2003 and Jan. 16, 2004;
- (d) Lectured at Bridge The Gap, May 2005;
- (e) Co-taught Administrative Law at: the University of SC School of Law, Fall 2010 and Fall 2011 and the Charleston School of Law, Spring 2012.

Judge Geathers reported that he has published the following:

- (a) John D. Geathers & Justin R. Werner, The Regulation Of Alcoholic Beverages in SC (2007);
- (b) John D. Geathers, “*The Matter Does Not Appear to Me Now as It Appears to Have Appeared to Me Then*”: *Motions for Reconsideration Before the ALJ Division, S.C. LAW.*, Nov. 2002, at 27;
- (c) John D. Geathers and Justin R. Werner, “*An Inglorious Fiction*”: *The Doctrine of Matrimonial Domicile in SC*, 18 WIS. WOMEN’S L.J. 233 (2003);
- (d) John D. Geathers and Justin R. Werner, “*An Inglorious Fiction*”: *The Doctrine of Matrimonial Domicile in SC*, S.C. TRIAL LAW. BULL., Fall 2003, at 14 (Adaptation from article cited above);
- (e) Solicited as a contributing author to update two chapters in an upcoming edition of an administrative law treatise: *SC Administrative Practice and Procedure*, second edition, by Randolph R. Lowell (Columbia, S.C.: S.C. Bar- CLE Division, 2008).

(4) Character:

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

The Commission also noted that Judge Geathers 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 Geathers reported that he is not rated by any legal rating organization.

- (6) Physical Health:
Judge Geathers appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Geathers appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Geathers was admitted to the SC Bar in 1986.

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

I was employed for approximately eight months as the OSHA attorney for the SC Department of Labor upon graduation from law school in 1986. I resigned from the Department to accept employment with the Office of Senate Research of the SC Senate, where I became Senior Staff Counsel. Upon being elected to the Administrative Law Court in 1994, I subsequently resigned from employment with the Senate. I served as an ALJ for thirteen years, until 2008 upon being elected to the Court of Appeals.

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

I was elected to the Administrative Law Court in 1994 and served until 2008, upon election to the Court of Appeals. An ALJ presides over hearings of contested cases and conducts appellate review of cases of designated agencies. See Sections 1-23-380 and 1-23-600 of the S.C. Code.

I was elected to the SC Court of Appeals in 2008. The Court of Appeals has such jurisdiction as prescribed by the General Assembly by general law. Art. V, sec. 9, S.C. Constitution. Pursuant to section 14-8-200, the Court of Appeals hears most types of appeals from the circuit court and Family Court, not otherwise reserved to the Supreme Court in its original jurisdiction. The Court also hears PCR matters as directed by the Supreme Court. Also, the Court of Appeals hears appeals from the Administrative Law Court and the Workers' Compensation commission.

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

- (a) Church v. McGee, 391 S.C. 334, 705 S.E.2d 481 (Ct. App. 2011), reh'g denied, (Feb. 28, 2011).
Carolyn R. Church brought this quantum meruit action against Carroll E. McGee (Carroll), individually and as personal representative of the Estate of William LuRue McGee (Decedent), as well as Ted O. McGee, Jr. (Ted), as trustee of the McGee family trust (collectively Respondents), seeking compensation for caregiving services provided to Decedent in his final years. In these cross-appeals, Church challenges the circuit court's finding that she expected no compensation when she provided the caregiving services. She also challenges the circuit court's refusal to remove Carroll as personal representative of Decedent's estate. Carroll challenges the circuit court's failure to allow a setoff of \$35,000 against Decedent's \$100,000 bequest to Church. Carroll also challenges the circuit court's award of prejudgment interest on the amount the court determined the estate owed Church. We reversed the award of prejudgment interest and affirmed the remainder of the circuit court's order.
- (b) State v. Geer, 391 S.C. 179, 705 S.E.2d 441(Ct. App. 2010), cert denied, (June 7, 2012).
Shirley Mae Geer appeals her conviction for possession of crack cocaine. Geer asserts the trial court erred by (1) failing to dismiss the charges against her or to grant a continuance in order to give her time to request and review exculpatory evidence withheld by the State that was favorable to her defense; (2) denying her motion to quash the indictment

on the ground of selective prosecution; (3) denying her motion to suppress drug evidence seized as the result of an unreasonable, warrantless, beneath-the-skin search that was unsupported by probable cause; and (4) denying her motion to suppress the drug evidence because the State failed to present a sufficient chain of custody. We affirmed.

- (c) Normandy Corp. v. S.C. Dep't of Transp., 386 S.C. 393, 688 S.E.2d 136 (Ct. App. 2009), cert. denied (Mar. 2, 2011).

This declaratory judgment action stems from a condemnation action filed by Appellant SC Department of Transportation to acquire approximately six acres of land from Respondent Normandy Corporation for the construction of the Carolina Bays Parkway in Horry County. Respondent brought this action to resolve several issues relating to the applicability of the Clean Water Act to the affected parcel as of the date of the condemnation filing for the ultimate purpose of determining the just compensation owed to Respondent. Appellant argues that the master-in-equity erred by ruling that, as of the condemnation date, the parcel did not contain any wetlands within the jurisdiction of the Clean Water Act and that the parcel contained fifteen acres of wetlands that could legally be drained. Appellant also contends that the master-in-equity did not have subject matter to determine the amount of wetlands existing on the parcel as of the condemnation date. We affirmed.

- (d) Divine v. Robbins, 385 S.C. 23, 683 S.E.2d 286 (Ct. App. 2009), cert. denied (Jan. 6, 2011).

Josette Robbins appeals the Family Court's decision to award John Divine sole custody of their minor child. Ms. Robbins claims that the Family Court's ruling was erroneous because (1) the court placed undue weight on Mr. Divine's expert witness' testimony; (2) the court improperly exercised its discretion on several evidentiary rulings; (3) the court improperly determined credibility issues regarding the parties and their witnesses; and (4) her trial counsel's ineffective representation prevented her from having a meaningful hearing in violation of her due process rights. We affirmed.

- (e) Timmons v. Starkey, 380 S.C. 590, 671 S.E.2d 101 (Ct. App. 2008), aff'd, 389 S.C. 375, 698 S.E.2d 809 (2010).

Elizabeth Timmons (Timmons) filed this action against Jane Starkey (Starkey) and UBS Financial Services, Inc. (UBS), alleging that Starkey, a UBS employee, converted funds in Timmons' investment account to her own use. UBS appeals the circuit court's denial of its motion to compel arbitration. The Court of Appeals reversed on the ground that the arbitration clause in the parties' contract encompassed Timmons' claims against UBS.

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

I co-taught an Administrative Law Course at the University of SC School of Law in the fall of 2010 and 2011, and at the Charleston School of Law in the spring of 2012.

Judge Geathers reported the following regarding unsuccessful candidacies:

I was qualified and nominated for election to the Court of Appeals by the Commission for the judicial elections held on February 6, 2008. I withdrew my candidacy. Also, I was qualified and nominated for election to the circuit court in 2006. I withdrew my candidacy. I was also qualified for the circuit court on another occasion.

- (9) Judicial Temperament:

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

- (10) Miscellaneous:
The Midlands Citizen’s Committee on Judicial Qualification found Judge Geathers to be “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Judge Geathers “Well qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. In summary, the Committee stated, “Judge Geathers is truly an asset to our State and our judiciary. We were honored to interview him, and we enjoyed and appreciated our interview very much. We have the utmost appreciation for him personally and for his honorable and outstanding service to our State. We believe he is most eminently qualified to continue his impeccable service on the Court of Appeals.”

Judge Geathers is married to Doris W. Geathers. He has two children.

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

- (a) SC Bar (admitted 1986);
- (b) NC Bar (admitted 1992).

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

- (11) Conclusion:
The Commission found Judge Geathers qualified and nominated him for re-election to the Court of Appeals.

**The Honorable Paula H. Thomas
Court of Appeals, 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 Thomas, 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 Thomas meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Thomas was born in 1957. She is 55 years old and a resident of Pawleys Island, SC. Judge Thomas 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 1986.

- (2) Ethical Fitness:
The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Thomas.

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) NC/SC Appellate Judge's Conf.	3/01/07;
(b) '07 Annual Judicial Conference	08/22/07;
(c) 23 rd Annual SC Criminal Law	01/25/08;
(d) 6 th Annual Civil Law Update	01/25/08;
(e) 08 Judicial Conference	08/20/08;
(f) 7 th Annual Civil Law Update	01/23/09;
(g) 24 th Annual SC Criminal Law	01/23/09;
(h) '09 Annual Judicial Conference	08/19/09;
(i) '10 Judicial Conference	08/18/10;
(j) SC Circuit Court Judges Conf.	05/04/11;
(k) '11 Orientation New Judges	07/06/11;
(l) Applied Science & Law 21 st Century Technology	07/15/11;
(m) '11 Annual Judicial Conference	08/17/11;
(n) Southern Region High Court Conference	09/15/11;
(o) Annual Meeting	11/03/11.

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

- (a) Speaker for "Restructured State Government and the state of Administrative law, August 1993;
- (b) Speaker for "So You Want To Be A Judge" Women in Law, Columbia, SC, April 1996;
- (c) Speaker-Circuit Court Judges Orientation- Preservation Issues- July 8, 2011;
- (d) Speaker-Sumter Ladies Woman Club- "Being a judge and how to get there" March 21, 2012.

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

(4) Character:

The Commission's investigation of Judge Thomas did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge

Thomas did not indicate any evidence of a troubled financial status. Judge Thomas has handled her financial affairs responsibly.

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

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

Elected SC House Seat 108, November 1992, served until June 1996.

All [ethics] reports were filed; no penalties.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Thomas was admitted to the SC Bar in 1986.

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

- (a) January 1987- September 1987: Law Offices of Kenneth W. Thornton, Georgetown, SC- Associate- Family Court and Circuit Court matters;
- (b) September 1987-August 1988: Rubillo & Thomas, Georgetown, SC- Partner- Family Court and Circuit Court matters;
- (c) August 1988-January 1993: Law Office of Paula H. Thomas, Pawleys Island, SC-Sole practitioner- Family Court and Circuit Court matters;
- (d) January 1993- January 1994: Thomas & Gundling, Pawleys Island, SC- Partner- Family court and Circuit Court matters;
- (e) January 1994-May 1994: Lawmore, Thomas, Gundling & Kelaher, PA- Pawleys Island, SC-Partner- Family Court and Circuit Court matters;
- (f) May 1994-Janary 1995- Thomas, Gundling & Kelaher, Pawleys Island, SC- Partner, Family Court and Circuit Court matters;
- (g) January 1995-July 1996: Law Office of Paula H. Thomas, Pawleys Island, SC- Sole practitioner, Family Court and Circuit Court matters.

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

- (a) Elected May 1996, SC Circuit Court, At-Large Seat #1;
- (b) Elected May 1998, SC Circuit Court, 15th Judicial Circuit, Seat #1;
- (c) Elected February 2007 SC Court of Appeals, Seat #4.

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

- (a) Stringer v. State Farm Mutual Auto Ins. Co., 386 S.C. 188, 687 S.E. 2d 58 (Ct. App. 2009) (en banc) (cert. denied)
- (b) State v. Mitchell, 378 S.C. 305, 662 S.E. 2d 493 (Ct. App. 2008), cert. dismissed as improvidently granted by 386 S.C. 597, 689 S.E. 638 (2010) (Confrontation Clause)
- (c) State v. Adams, 397 S.C. 481, 725 S.E. 2d 523 (Ct. App. 2012)

(first case in SC to address whether the placement and monitoring of a GPS device on a person's car without a warrant is an unreasonable search under United States v. Jones, 132 S. Ct. 945 (2012) and the Fourth Amendment[]]

- (d) Campbell v. Robinson, 398 S. C. 12, 726 S. E. 2d 221 (Ct. App. 2012) (first case to address whether an engagement ring is the donor's or donee's property after the engagement is cancelled)
- (e) Williams v. Smalls, 390 S.C. 375, 701 S.E. 2d 772 (Ct. Ap. 2010) (cert. denied) (First case to address whether "liability for owners of trespassing stock" statute imposed strict liability on an owner of livestock for personal injuries suffered when automobile driver collided with escaped livestock).

Judge Thomas further reported the following regarding an unsuccessful candidacy:
Ran unsuccessfully for Court of Appeals, Seat #2 in 2004.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizens Committee found Judge Thomas to be "Well qualified" for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her to be "Qualified" for constitutional qualifications, physical health, and mental stability. The Committee also stated, "Judge Thomas sets the standard of excellence as an appellate court judge while not allowing the position to change her demeanor in everyday life."

Judge Thomas is married to Don Stanley Thomas. She has three children.

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

- (a) SC Bar Association;
- (b) SC Appellate Judges Association;
- (c) American Bar Association.

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

Judge Thomas further reported:

10 years on the Circuit Court Bench and 6 years on the SC Court of Appeals.

(11) Conclusion:

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

CIRCUIT COURT QUALIFIED AND NOMINATED

**The Honorable DeAndrea Gist Benjamin
Circuit Court, Fifth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Benjamin was born in 1972. She is 40 years old and a resident of Columbia, SC. Judge Benjamin 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 1997.

(2) Ethical Fitness:

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

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Circuit Court Judges Conference	May 2, 2012;
(b) SC Bar Convention	January 20, 2012;
(c) SC Defense Trial Lawyers Association	November 3, 2011;
(d) SC Black Lawyers	October 14, 2011;
(e) SC Solicitor's Association	September 25, 2011;

(f)	SC Annual Judicial Conference	August 17, 2011;
(g)	SC Association of Justice Conference	August 4, 2011;
(h)	SC Circuit Court Judges' Conference	May 4, 2011;
(i)	2011 Orientation School for New Judges	July 6, 2011;
(j)	Investigation and Prosecution of CDV	June 16, 2010;
(k)	Domestic Litigation	May, 21, 2010;
(l)	Child Welfare in SC	January 23, 2010;
(m)	Criminal Law Update I	January 22, 2010;
(n)	SC Bar Family Law Update	January 22, 2010;
(o)	SC Black Lawyers Annual Conference	October 1, 2009;
(p)	Ethics 2008	July 14, 2009;
(q)	24 th Annual Criminal Law Update I & II	January 23, 2009;
(r)	SC Black Lawyers Annual Conference	October 30, 2008;
(s)	Ethics 2007	July 14, 2008;
(t)	CDV: Law Enforcement Response	October 10, 2008;
(u)	A Day in Discovery Part 2	January 26, 2008;
(v)	23 rd Annual Criminal Law Update I & II	January 25, 2008.

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

- (a) While employed at the Attorney General's Office, I assisted in training Summary Court Judges Criminal Domestic Violence classes. (1999-2001);
- (b) SC Black Lawyers Association–Family Law Panel Discussion (Fall 2008);
- (c) I have also presented to the Young Lawyers Division Section at the Division's Conferences in the past;
- (d) SC Solicitor's Association – September 2011;
- (e) SC Black Lawyer's Association – October 2011.

Judge Benjamin reported that she has published the following:

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

(4) Character:

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

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

(5) Reputation:

Judge Benjamin reported that she is not rated by any legal rating organization.

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

I served on the Juvenile Parole Board from July 2001–June 2004. I was appointed by Governor James H. Hodges, Jr. I timely complied with State Ethics reports.

- (6) Physical Health:
Judge Benjamin appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Benjamin appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Benjamin was admitted to the SC Bar in 1997.

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

- (a) SC Judicial Department, Judicial Law Clerk, The Honorable L. Casey Manning. (August 1997–August 1998).
- (b) Fifth Circuit Solicitor’s Office, Assistant Solicitor, Juvenile/Family Court Division. (August 1998–November 1999) – I prosecuted felonies and misdemeanors involving juvenile offenders. I also served on the local Juvenile Drug Court.
- (c) SC Attorney General’s Office, Assistant Attorney General (November 1999- July 2001). I was assigned to the prosecution division where I prosecuted cases involving violent acts against women and children, sexual assault offenses, elder abuse cases, and civil commitments under the Sexually Violent Predator (SVP) law.
- (d) SC Juvenile Parole Board, Member and Vice Chair (July 2001–June 2004). I was a member of a ten-member board that presided over the retention and release of juveniles from the SC Department of Juvenile Justice. I served as Vice-Chair from July 2002-June 2003;
- (e) Gist Law Firm, Partner (July 2001–April 2011). I am a partner in my family law firm. I handle all of the Family Court cases in our office. My family law practice includes marital litigation, child custody disputes, child support cases, DSS abuse and neglect cases, adoptions, and representation of juveniles in Family Court. My practice also includes Employment Law, Criminal law, and some Personal Injury work. I have also been appointed in the past to serve as a Guardian ad Litem in DSS cases and in child custody disputes.
- (f) City of Columbia Municipal Court, Municipal Judge (July 2004–May 2011). Presides over the municipal courts for the City of Columbia. I handle misdemeanor criminal and traffic offenses, specialized Criminal Domestic Violence court and Quality of Life court. I preside over a term of Jury Trials every six weeks.
- (g) Circuit Court Judge, Fifth Judicial Circuit (May 2011 – present).

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

- (a) City of Columbia Municipal Court – 2004-11;
- (b) Fifth Circuit , Circuit Court Judge – 2011- present.

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

- (a) State vs. Hinson (Murder Trial);
- (b) George Lee vs. University of SC and Gamecock Club (Contract dispute/Non- Jury Trial);
- (c) Trumaine Mooror vs. Norfolk Southern (Federal Employee Liability case)
- (d) State vs. Stukes (Criminal Sexual Conduct Trial);
- (e) Jason and Natasha Singley vs. Norfolk Southern (Personal Injury Case).

Judge Benjamin further reported the following regarding an unsuccessful candidacy:

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

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Judge Benjamin to be "Well qualified" in the evaluative categories of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her "Qualified" for the constitutional qualifications, physical health, and mental stability. In summary, the Committee noted the following: "The Committee was honored to interview Judge Benjamin again, and we enjoyed our time with her. We appreciate her service and look forward to her continued service on the Circuit Court. We find her to be eminently qualified to [serve] on the Circuit Court and we are confident she will continue to serve in an outstanding manner."

A complaint was filed against Judge Benjamin by Dr. Marie-Therese H. Assa'ad-Faltas. Finding no merit in the complaint after reviewing the complaint as to the candidate's character, competency, or ethics, the Judicial Merit Selection Commission dismissed the complaint.

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

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

- (a) SC Bar Board of Governors - 2007-09;
- (b) SC Bar, Chair, Young Lawyers Division – 2006-07;
- (c) SC Bar, House of Delegates – 2002-09;
- (d) SC Bar, Young Lawyers Division, Fifth Circuit Representative 2001-03;
- (e) American Bar Association, Young Lawyers Division, District Representative – 2003-05;
- (f) American Bar Association, Minorities in the Profession Scholar–1998-99;
- (g) Women Lawyers Association;
- (h) SC Black Lawyers Association;
- (i) Columbia Lawyers Association;
- (j) Appleseed Legal Justice Center, Former Board Member.

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

- (a) Edventure Children's Museum;
- (b) Congaree Girls Scouts;
- (c) Appleseed Legal Justice Center Board;
- (d) St. John Preparatory School Board;
- (e) Columbia Alumnae Chapter of Delta Sigma Theta;
- (f) USC Community Advisory Board.

Judge Benjamin further reported:

During my first year as a Circuit Court Judge, I have worked hard in disposing of both criminal and civil cases. I treat everyone with the respect and dignity that they deserve. I have upheld the dignity and decorum of the courtroom and I have worked hard to make prompt yet thorough decisions.

As a municipal judge I received excellent ratings from my peers, lawyers appearing before me, police officers, jurors and community members.

I have been a fair and impartial Judge and I believe in treating everyone with dignity and respect.

- (11) Conclusion:
The Commission found Judge Benjamin qualified and nominated her for re-election to the Circuit Court.

**The Honorable J. Derham Cole
Circuit Court, Seventh Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

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

Judge Cole was born in 1952. He is 60 years old and a resident of Spartanburg, SC. Judge Cole 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 1977.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Cole.

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

Judge Cole reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Bar Annual Convention	January 2007;
(b) SC Association of Circuit Judges Annual Meeting	May 2007;
(c) SC Association for Justice Annual Convention	August 2007;
(d) SC Defense Trial Attorneys Ass'n Annual Meeting	November 2007;
(e) SC Bar Annual Convention	January 2008;

(f)	SC Association of Circuit Judges Annual Meeting	May 2008;
(g)	SC Association for Justice Annual Convention	August 2008;
(h)	SC Defense Trial Attorneys Ass'n Annual Meeting	November 2008;
(i)	SC Bar Annual Convention	January 2009;
(j)	SC Association of Circuit Judges Annual Meeting	May 2009;
(k)	SC Association for Justice Annual Convention	August 2009;
(l)	SC Defense Trial Attorneys Ass'n Annual Meeting	November 2009;
(m)	SC Bar Annual Convention	January 2010;
(n)	SC Association of Circuit Judges Annual Meeting	May 2010;
(o)	SC Association for Justice Annual Convention	August 2010;
(p)	SC Defense Trial Attorneys Ass'n Annual Meeting	November 2010;
(q)	SC Bar Annual Convention	January 2011;
(r)	SC Association of Circuit Judges Annual Meeting	May 2011;
(s)	SC Association for Justice Annual Convention	August 2011;
(t)	SC Public Defender Association Annual Conference	September 2011.

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

- (a) Annual Public Defender Conference – Criminal docketing system and Sentencing Considerations Panel Discussion;
- (b) Annual SC Bar Convention – Criminal Law Update and View From the Bench;
- (c) Annual SC Defense Trial Attorneys Association meeting Panel Discussion on Punitive Damages;
- (d) Annual Solicitor's Conference – Criminal Law Update and Panel Discussion of Significant Cases.

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

(4) Character:

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

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

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

SC House of Representatives – 1987-92. I was elected to House seat District #32. State Ethics Commission reports were timely filed. No penalties imposed.

(6) Physical Health:

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

(7) Mental Stability:
Judge Cole appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:
Judge Cole was admitted to the SC Bar in 1977.

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

- (a) Assistant Circuit Solicitor – Seventh Judicial Circuit – 1977-85;
- (b) Cole and Taylor–General Practice Law Firm – Civil and Criminal litigation 1985-92;
- (c) Resident Judge, Seventh Judicial Circuit – 1992-2012.

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

1992–2012, Resident Judge, Seventh Judicial Circuit, SC; elected; general jurisdiction – civil and criminal and limited appellate jurisdiction.

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

- (a) State v. Willie Earl Pilgrim, 326 SC 24 (1997); 320 SC 409 (Ct. App. 1995) writ of certiorari granted;
- (b) Dennis Nelson v. Yellow Cab Co., 349 SC 589 (2002); 343 SC 102 (Ct. App. 2000) writ of certiorari granted;
- (c) State v. Ricky Dennis Gentry, 363 SC 93 (2005);
- (d) Carolyn Farnsworth v. Davis Heating & Air, Inc., 367 SC 634 (2006) Supreme Court certified the case from the Court of Appeals;
- (e) William D. Curtis v. Brandon T. Blake, 392 SC 494 (Ct. App. 2011); 381 SC 189 (2009) writ of certiorari granted upon Court of Appeals dismissal of appeal as being untimely filed and remanded for hearing on appeal.

Judge Cole further reported the following regarding an unsuccessful candidacy:
Circuit Solicitor, Seventh Judicial Circuit – unsuccessful - 1984

(9) Judicial Temperament:
The Commission believes that Judge Cole’s temperament has been and would continue to be excellent.

(10) Miscellaneous:
The Upstate Citizen’s Committee found Judge Cole 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 Cole is married to Candace Linn Carlson Cole. He has three children.

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

- (a) American Bar Association;
- (b) SC Bar Association;
- (c) Spartanburg County Bar Association;
- (d) SC Association of Circuit Judges – President – 2010-12; Vice President – 2008-10;
- (e) Supreme Court Commission on Judicial Conduct – Panel Chairman.

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

- (a) The Piedmont Club;
- (b) Bobby Chapman Junior Invitational Board of Directors;
- (c) The Spartanburg County Historical Association;
- (d) The Spartanburg Art Museum;
- (e) The Converse Heights Neighborhood Association.

Judge Cole further reported:

I believe that my twenty plus years of experience as a Circuit Court judge has allowed me the opportunity to develop the requisite knowledge, patience, and understanding of humankind from all walks of life and social status, such that I can fulfill my duties and responsibilities intelligently, fairly, impartially, and compassionately.

- (11) The Commission found Judge Cole qualified and nominated him for re-election to the Circuit Court.

Thomas R. Goldstein
Circuit Court, Ninth Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Goldstein was born in 1953. He is 59 years old and a resident of Charleston, SC. Mr. Goldstein 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.

(2) Ethical Fitness:

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

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

Mr. Goldstein 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Right to counsel in Magistrate and Municipal Courts	June 15, 2012;
(b) Chas. Ctny. Bar Assoc. What Works for Me	February 3, 2012;
(c) Writing to Win	November 17, 2011;
(d) Chas. County Bar Assoc. What Works for Me	February 4, 2011;
(e) Health Care Reform Update	March 1, 2010;
(f) Federal Court Electronic Courtroom Training	December 17, 2009;
(g) S.C.A.J. Auto Torts Seminar	December 4, 2009;
(h) Hot Tips from the Coolest Practitioners	September 18, 2009;
(i) Chas. County Bar Assoc What Works for me	February 13, 2009;
(j) SC Bar Masters in Cross Examination	February 6, 2009;
(k) Real Estate Development	August 18, 2008;
(l) Chas. County Bar Assoc. What Works for me	December 20, 2007;
(m) ABOTA Hot Topics in Trial Practice	December 14, 2007.

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

- (a) I lectured at Municipal Association Seminar on Zoning and §1983;
- (b) I lectured at C.L.E. seminars on "Advanced Zoning and Land Use" April 20, 2006, "Zoning and Land Use" on November 29, 2006, November 17, 2004, and September 28, 2004, and "Evidence and Advocacy in the Courtroom" on November 7, 2003.

Mr. Goldstein reported that he has published the following:

- (a) Articles on American poets, William Dickey, X. J. Kennedy, C. K. Williams, and Paul Zimmer in Dictionary of Literary Biography, Donald J. Greiner, Ed., Gale Research Company, 1980;
- (b) Article on Ezekiel Russell in Boston Printers, Publishers and Booksellers, 1600-1840, Benjamin Franklin V, ed.;
- (c) Member of editorial board for Moise, Credibility and Character Evidence, S.C. Bar, 2003.

(4) Character:

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

The Commission also noted that Mr. Goldstein 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. Goldstein reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

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

I serve on the Charleston County Board of Zoning Appeals, which is a quasi judicial body.
(See § 6-29-780.)

- (6) Physical Health:
Mr. Goldstein appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Goldstein appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Goldstein was admitted to the SC Bar in 1982.

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

- (a) Charleston County Public Defender's Office 1982-83;
- (b) Law Offices of Kenneth W. Thornton 1983-85;
- (c) Law Offices of Charles Bernstein 1985-87;
- (d) Belk, Cobb, Infinger & Goldstein 1988-present
(formerly Belk, Cobb, Howard & Chandler).

Mr. Goldstein further reported regarding his experience with the Circuit Court practice area:
The first year of my practice was devoted entirely to criminal matters. Since that time, my practice has been primarily civil although I have handled criminal matters, including criminal trials and appeals. My first appeal involved a criminal case called State v. Sparkman, 287 S.C. 489, 339 S.E.2d 865 (1986). Since the public defender's office, my practice has been primarily civil with an emphasis in constitutional claims. I have handled cases in all trial courts in the state and administrative bodies in the state and in Washington, and I have handled cases all appellate levels in the state and federal systems. I have filed three petitions for *certiorari* in the U. S. Supreme Court.

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

- (a) Federal: 10%;
- (b) State: 90%.

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

- (a) Civil: 70%;
- (b) Criminal: 10%;
- (c) Domestic: 10%;
- (d) Other: 10%.

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

- (a) Jury: 50%;
- (b) Non-jury: 50%.

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

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

- (a) Annie Mae Grant vs. Litchfield Company, Georgetown County Court of Common Pleas, Hon. Wylie Caldwell, non-jury. The most satisfying case I ever handled. I prevented the

loss of 22 acres of heirs property deeded to a freed slave named Vergil Blye by the Pyatt family in the 1880's from being lost to partition sale. I traveled all over the country, tracking down the heirs of Vergil Blye;

- (b) Douan vs. Charleston County, S. Carolina Supreme Court. 357 S.C. 601, 594 S.E.2d 261 (2003) Prevented the implementation of a sales tax passed by a referendum question that was worded to insure passage;
- (c) Bogart et. al. vs. City of North Charleston. Tried United States District Court before Hon. David Norton and a jury. Prevented City of North Charleston unlawfully down zoning a parcel of real estate. Case settled on appeal to Fourth Circuit;
- (d) Concerned Citizens vs. S. S. Coastal Council, Supreme Court, 310 S.C. 267, 423 S.E.2d 134 (1992) Obtained right of property owners along Ashley River to challenge administrative process for granting a commercial marina permit in violation of statutory process;
- (e) Christy v. Christy Court of Appeals and Supreme Court. 354 S.C. 203, 580 S.E.2d 444 (2003) Reversed trial court which adopted counsel's representations that lower court intended to rule in his favor but failed to sign an Order prior to the onset of disability. This case resulted in revision to Rule 63 of the *SC Rules of Civil Procedure*.

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

- (a) State v. Sparkman, 287 S.C. 489, 339 S.E.2d 865 (1986) (case raised criminal and civil issues. The civil issue was the right to obtain documents by subpoena);
- (b) Christy v. Christy, 354 S.C. 203, 580 S.E.2d 444 (2003);
- (c) Concerned Citizens v. S. C. Coastal Council, 310 S.C. 267, 423 S.E.2d 134 (1992);
- (d) Douan v. Charleston County, 357 S.C. 601, 594 S.E.2d 251 (2003);
- (e) S. C. Property and Casualty v. Yensen, 345 S.C. 512, 548 S.E.2d 880 (Ct. App. 2010);
- (f) Scooters of Charleton v. City of Charleton, Fourth Circuit Court of Appeals, unpublished opinion).

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

- (a) State v. Sparkman, 287 S.C. 489, 339 S.E.2d 865 (1986);
- (b) State v. Carroll, (unpublished opinion).

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

I ran for Charleston County School Board in the 1980's or 90's. I lost to Geoff Waggoner.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen's Committee on Judicial Qualification found Mr. Goldstein to be "Well qualified" in the evaluative categories: ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee found him to be "Qualified" for constitutional qualifications, physical health, and mental stability. With respect to the experience criteria, the Committee found Mr. Goldstein "Qualified with reservations," noting that the Committee has concerns over the candidate's lack of experience in the handling of criminal matters due to the fact that the candidate's legal practice has been devoted to civil matters.

Mr. Goldstein is married to Brenda Nolde Goldstein. He has four children.

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

- (a) SC Bar 1982;
- (b) Charleston County Bar Association 1982.

Mr. Goldstein reported he is not a member of any civic, charitable, educational, social, or fraternal organization.

Mr. Goldstein further reported:

I have broad experience. I come from a humble background, which I hope would prevent me from ever taking my position for granted or using the position to be unfair or unjust.

(11) Commission Members' Comments:

The Commission commented on Mr. Goldstein's broad legal experience in civil matters and noted his impassioned presentation at the Public Hearing.

(12) Conclusion:

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

**The Honorable Deadra L. Jefferson
Circuit Court, Ninth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Jefferson was born in 1963. She is 49 years old and a resident of Charleston, SC. Judge Jefferson 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 1989.

(2) Ethical Fitness:

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

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) National Judicial College Handling Capital Cases	6/10-15/2006;
(b) Annual Criminal Law Update	1/26/2007;
(c) Annual Civil Law Update	1/26/2007;
(d) National Conference on Racial and Ethnic Fairness in the Courts	5/2-5/5/2007;
(e) Annual Circuit Court Judges Conference	5/16/2007;
(f) SCTLTA Annual Conference	8/2-8/3/2007;
(g) Annual Judicial Conference	8/22/07;
(h) Annual Civil Law Update	1/25/08;
(i) Annual Criminal Law Update	1/25/2008;
(j) National Conference on Racial and Ethnic Fairness in the Courts	4/26-5/2/08;
(k) ABA/NLADA Equal Justice Conference	5/8-10/2008;
(l) Annual Circuit Court Judges Conference	5/14/2008;
(m) Annual Judicial Conference	8/20-22/2008;
(n) Court Solutions/Self Represented Litigants	9/8-10/2008;
(o) SC Defense Trial Lawyers Association	11/13-11/14/08;
(p) Annual Civil Law Update	1/23/2009;
(q) Annual Criminal Law Update	1/23/2009;
(r) Annual Circuit Court Judges Conferences	5/6/2009;
(s) JMSC/Judicial Ethics Workshop	7/31/2009;
(t) Annual Judicial Conference	8/19/2009;
(u) Civil Law Update	1/22/2010;
(v) Criminal Law Update	1/22/2010;
(w) Charleston Lawyer's Club CLE	2/24/2010;
(x) Annual SC Circuit Court Judges Conference	5/5/2010;
(y) Annual Judicial Conference	8/18/2010;
(z) Criminal Law Update	1/21/2011;
(aa) Civil Law Update	1/21/2011;
(bb) National Conference on Racial and Ethnic Fairness	4/27/11;
(cc) Annual SC Circuit Court Judges Conference	5/4/11;
(dd) Annual Judicial Conference	8/17/11;
(ee) Criminal Update	1/20/12;
(ff) Civil Update	1/20/12;
(gg) Annual SC Circuit Court Judges Conference	5/2/12;
(hh) National Conference on Racial and Ethnic Fairness	5/9/12.

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

- (a) Business Law Instructor, Trident Technical College Paralegal Program, 1993-94 School Term;
- (b) "Rules, Rules, Rules," SC Practice and Procedures Update, Presenter on the issue of Family Court Rules, SC Bar, March 20, 1998;
- (c) Speaker/Panel Participant Wiley A. Branton Symposium, National Bar Association, October 24, 1998;
- (d) "Current Issues in Attorney's Fees," Presenter, SC Bar Association, November 6, 1998;

- (e) Recent Developments in Family Law, “Six by Six” CLE Seminar, Presenter, Charleston County Bar Association, December 10, 1998;
- (f) “Adjudication Hearings,” Presenter and Contributor to Family Court Judges Juvenile Workbook, SC Association of Family Court Judges, May 20, 1999;
- (g) “Tips from the Bench”, Adoption, Presenter, SC Bar Association, February 25, 2000;
- (h) “The Role of the Judge and Guardian ad Litem in Abuse and Neglect Proceedings” Judges Panel, SC Guardian ad Litem Conference, April 14, 2000;
- (i) “Women, Leadership and the Law”, Brown Bag Lunch Panel Participant, SC Women Lawyers Association and College of Charleston Women’s Studies Program, September 22, 2000;
- (j) Family Law Update and Tips from the Bench, Presenter, Charleston Lawyers Club, May 2, 2001;
- (k) “The Use of Psychological Evaluations in Juvenile Proceedings”, Panel, Children’s Law Center, May 18, 2001;
- (l) Judges Panel, 3rd Annual Children’s Law Conference, May, 2001;
- (m) December 13, 2002, Hot Tips III, “Appeals and Motions”;
- (n) April 11, 2003, Women Lawyers in the New Millennium, “Ethics Issues from Various Judicial Perspectives”;
- (o) November 15-19-2004, National Judicial College, Advanced Evidence, Group Discussion Leader;
- (p) June 20, 2003, SCDTAA Trial Academy Judge;
- (q) December 2004, 2004 Local Government Attorneys’ Institute, Administered Oath;
- (r) January 2005 9th Annual Probate Court Seminar, Administered Oath;
- (s) September, 2005, SCBLA, Judicial Selection in SC, Judicial Panel;
- (t) September 26, 2005, SC Solicitors’ Association Conference, Criminal Law Update, “Recent Court Decisions”;
- (u) October 20, 2005, Charleston School of Law Professionalism Series, “Civility and Ethics”;
- (v) November 4, 2005, SC Defense Trial Lawyers Ethics and Civility **In Trial unable to make the presentation;
- (w) February 15, 2006, Charleston School of Law Ethics & Professionalism presentation;
- (x) May 1, 2006, Law Day, Panel Presentation Judicial Selection in SC Charleston School of Law;
- (y) 6/10/2006, National Judicial College, Handling Capital Cases, Group Discussion Leader;
- (z) September 29, 2006, SCBLA, “Civil Practice”;
- (aa) November 16, 2006, Young Lawyers Division, New Admittees Reception, Presentation;
- (bb) May 24, 2007, Young Lawyers Division, “Tips for Young Lawyers in Circuit Court;”
- (cc) March 1, 2008, “We Shape the World” Charleston School of Law, Minority Law Day;
- (dd) March 8, 2008, Women of Wisdom Expo 2008 “Daring to Embrace New Beginnings” Bible Way Church, Columbia, SC;
- (ee) March 10, 2008, National Association for Court Management, Mid-Year Conference;
- (ff) June 11, 2008 Pro-Bono Legal Service Summer Intern Class, In-Court Seminar;
- (gg) June 12, 2008 “Governors' School of SC” Summer Class;
- (hh) July 29, 2008, Magistrate School Seminar;
- (ii) August 21, 2008, Annual Judicial Conference, SC Access to Justice Commission, Panelist;
- (jj) December 9, 2008, Young Lawyers Association Luncheon;
- (kk) March 19, 2009, Charleston School of Law Professionalism Series Lecture;
- (ll) July 31, 2009, CLE “Limitations on Questioning Judges under the Judicial Cannons”;

- (mm) February 24, 2010, Charleston Lawyer’s Club CLE “Advice from the Bench. Likes and Dislikes in Motion Practice, Briefs and Oral Argument”;
- (nn) February 26, 2010, Stono Park Elementary Career Day;
- (oo) March 10, 2010, Junior Girls Day Out Community Project;
- (pp) July 22, 2010, Metanoia Freedom School “Read-A-Loud,” Chicora Elementary;
- (qq) August 17, 2010 Merit Selection Panel for Magistrate Judges;
- (rr) November 19, 2010, SC Legal Services Statewide Conference, Panelist;
- (ss) April 29, 2011, SEABOTA Annual Conference CLE; Panelist;
- (tt) June 20, 2011, SC Supreme Court Institute, Panelist;
- (uu) July 22, 2011, CSOL Seminar “What Works for Me in Practice,” “Practical tips from the Bench”;
- (vv) April 24, 2012, Charleston Lion Club Luncheon Speaker;
- (ww) July 20, 2012 CSOL Seminar “What Works for Me in Practice”; “Practical tips from the Bench.”

Judge Jefferson reported that she has published the following:

I have provided written seminar materials for the courses listed above and these materials have been published by the S.C. bar as a part of their published seminar materials. I have not published any books or articles.

(4) Character:

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

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

(5) Reputation:

Judge Jefferson reported that she is listed in Martindale-Hubbell but has not been rated.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Jefferson was admitted to the SC Bar in 1989.

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

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

- (b) McFarland and Associates, Attorney, October 1990-March 1996. Trial practice focusing on the following areas: Domestic Relations, Civil Litigation (all types), Probate Law, Real Estate Law and Criminal Law;
- (c) Resident Family Court Judge of the Ninth Judicial Circuit, elected to serve February 14, 1996-June 2001;
- (d) Resident Circuit Court Judge of the Ninth Judicial Circuit, elected to serve May 31, 2001-present.

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

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

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

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

- (a) Beachfront Entertainment, Inc., et al. v. Town of Sullivan's Island, 379 SC 602,666 SE2d 921 (2008);
- (b) Evening Post Publishing Company, et al. v. City of North Charleston, 357 S.C. 59, 591 S.E.2d 39 (Ct. App. 2003), 363 S.C. 452, 611 S.E.2d 496 (2005);
- (c) State v. Washington, 367 S.C. 76, 623 S.E.2d 836 (Ct. App. 2006);
- (d) Owner's Insurance v. Clayton, et al., 364 S.C. 555, 614 S.E.2d 611 (2005);
- (e) Home Port Rentals, Inc. v. Moore, 369 S.C. 493, 632 S.E.2d 862 (2006);
- (f) State v. Stephen C. Stanko, 99-GS-22-918. 376 SC 571,658 SE2d94 (2008).

Judge Jefferson further reported the following regarding unsuccessful candidacies:

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

I ran for the seat to be vacated by Justice James E. Moore in or about August 2007-January 2008. I went through the screening process successfully and was found qualified to hold judicial office but not nominated.

I ran for the seat to be vacated by Justice John H. Waller in or about April 2009. I went through the screening process successfully and was found qualified to hold judicial office and nominated.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Low Country Citizens Committee found Judge Jefferson “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found her “Well qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

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

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

- (a) SC Bar Association;
- (b) Charleston County Bar Association;
- (c) SC Circuit Court Judges Association; Secretary, August 17, 2011-present
- (d) SC Women Lawyers Association;
- (e) SC Black Lawyers Association.

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

- (a) The Life Center Cathedral, Charleston, SC
Trustee Ministry, 2001-present;
Co-Founder, Director and Consultant for Young Women’s Ministry “YWCE”, 1999-present;
- (b) Charleston Chapter of the Links, Inc., Co-Chair Services to Youth 2000-01; Corresponding Secretary 2004-06; Chair Bylaws Committee 2006-07; Vice President 2007-09; President 2009-present;
- (c) Former member Junior League of Charleston, former Strategic Planning Committee, Community Project Development Committee, Advisory Planning Committee, and President’s Ad Hoc Committee on Diversity; 1993-2003;
- (d) Delta Sigma Theta Sorority, Inc., 1982-present;
- (e) The Post and Courier Feature Article August 6, 2001;
- (f) The Post and Courier “High Profile” Article May 7, 2005;
- (g) “The Heritage List, 9 Dazzling Women of Spirit and Humility” Celebrate Your Heritage Magazine, Spring 2005;
- (h) NAACP Lifetime Achievement Award 2003;
- (i) Greater Charleston YWCA Lifetime Achievement Award 2004;
- (j) Advisory Board Charleston School of Law 2002-present;
- (k) Converse College Board of Trustees 2002-present, Committee on Trustees, Enrollment Committee and Student Affairs; Enrollment and Marketing; Academic Affairs Committee;
- (l) Converse College Board of Visitors 2001-02;
- (m) April 24, 2003 Founder’s Day Speaker Converse College;
- (n) Governor’s Juvenile Justice Advisory Committee 2000-11;
- (o) SC Commission on Alternative Dispute Resolution 2002-06, User Education Sub-Committee;
- (p) Co-Chair 9th Circuit Courthouse Security Commission 2006;
- (q) Associate Acting Justice SC Supreme Court for the terms December 1, 2005 and June 10, 2004;
- (r) Associate Acting Judge SC Court of Appeals for the term June 19-13, 2003 during this term I sat En Banc with the Court, authored 2 opinions and participated on 7 other panels/opinions;

- (s) Designated by Hon. Chief Justice Toal as state liaison to the National Consortium on Racial and Ethnic Fairness in the Courts 2003-present;
- (t) Designated as Chief Judge for Administrative Purposes for the 9th Circuit as follows: General Sessions July 1, 2002-January 5, 2003; Common Pleas January 6, 2003-January 3, 2004; General Sessions January 4, 2004-July 3, 2004; Common Pleas January 1, 2006-December 30, 2006; General Sessions, Jan. 1-July 31, 2008. Common Pleas January 1, 2009-December 31, 2009; General Sessions, January 1, 2011-December 30, 2011; and Common Pleas, January 1, 2012-present.
- (u) Assigned exclusive jurisdiction of the following cases by the Supreme Court: April 29, 2003 (03-GS-47-4) Statewide Grand Jury, State v. Bunker, et al.; December 2, 2003 (01-CP-18-0074A) Boyd v. Nationwide; June 28, 2004 (03-GS-38-2411-2413) State v. Levi Bing, Jr.; October 3, 2004 (2002-CP-15-471 and 494) Carter v. Steedley, et al.; May 6, 2005 (05-GS-22-0918) State v. Stephen C. Stanko; October 3, 2005 (1996-GS-32-3341) State v. Jeffrey L. Jones; March 7, 2006 (04-CP-18-1951) Price v. Jones Ford, Inc.; October 5, 2007 State v. Broughton; (2006-GS-082164,2165,2182,2183,2184 & 2185); September 20, 2010 (2004-CP-37-834) Rhoades, et al. v. Kenyon, et al.
- (v) September 6, 2005, Nominated for the inaugural class of the Lowcountry Diversity Leadership Academy developed by the American Institute for Managing Diversity and the Richard W. Riley Institute of Government, Politics and Public Leadership at Furman (had to decline due to the demands of the Court schedule);
- (w) September 21, 2006, Nominated for the Lowcountry Diversity Leadership Academy (had to decline due to the demands of the Court Schedule).
- (x) July 2006, Invited by the National Judicial College to be a group discussion leader for the General Jurisdiction Course (had to decline due to the demands of the Court schedule, however, I have been asked to participate when the schedule will allow my participation);
- (y) Supreme Court Access to Justice Commission 2007-present;
- (z) SC Liberty Fellow-Class of 2009. 2007-09;
- (aa) League of Women Voters of the Charleston Area Women of Distinction Award- august 26, 2010;
- (bb) Bon Secour St. Francis Hospital Board Member. July 1, 2008-Sept. 20, 2011;
- (cc) (Supreme Court) Docket Management Task Force, Common Pleas Reform Subcommittee, Rule 40/Status Conference Subcommittee, February 17, 2011-present;
- (dd) Co-Chair, County (Courthouse) Security Committee, 9th Circuit March 28, 2012;
- (ee) Editorial Board, Marital Litigation in SC, Third Edition, 2001;
- (ff) Editorial Board, The Law of Automobile Insurance in SC, Sixth Edition, 2009;
- (gg) Vice President of SC Circuit Judges Association, August 2019-present.

Judge Jefferson further reported:

I served as law clerk to the Hon. Richard E. Fields of the Circuit Court of the Ninth Judicial Circuit. During my time with him I had the unique opportunity to observe and participate in dozens of trials and hearings and observe a “master jurist.” He taught me the importance of “people skills.” I learned the role of judge is central to the lawyers and the litigants’ perception that the system afforded them a fair trial/hearing. In addition, my legal research and writing skills were refined during this process. These skills have been further refined during my time on the bench. I count myself fortunate to have found my vocation in life and attempt to walk worthy of that vocation. It is a rare privilege to have been allowed to serve the citizens of SC as a Family Court Judge and Circuit Court Judge for the past 16 years. The last 16 years have been enjoyable, rewarding and intellectually challenging. I have learned much about the law and human nature. I was taught that the position of a judge should be a continual growth process. I believe that I have continuously grown in my judicial perspective. I still have the same enjoyment for my work as

the day I began 16 years ago. The Circuit Court has one of the largest caseloads within the judicial system with over 5,000 filings per judge. I believe that I have been a productive member of the Court. My continued service on the Circuit Court will create the opportunity for continued intellectual growth while allowing my continued contribution to the court system and the welfare of this state.

(11) Commission Members' Comments:

The Commission commented on Judge Jefferson's great intellect as she made the highest score on the Commission's Practice and Procedure test for the Circuit Court candidates as well as her dedicated service as Chief Administrative Judge in the 9th Circuit from 2008-2009 and 2011-2012.

(12) Conclusion:

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

**The Honorable Rivers Lawton McIntosh
Circuit Court, Tenth Judicial Circuit, Seat 1**

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 McIntosh, 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 McIntosh meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge McIntosh was born in 1960. He is 52 years old and a resident of Williamston, SC. Judge McIntosh 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 1986.

(2) Ethical Fitness:

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

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

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

Judge McIntosh reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Workers CompHearing	5/8/07;
(b) Auto Torts XXX	11/30/07;
(c) Ethics Tutorial	10/30/08;
(d) Auto Torts XXXI	12/05/08;
(e) 2009 Orientation School for New Judges	07/08/09;
(f) 2009 Annual Judicial Conference	08/19/09;
(g) SC Bar Sporting Clays CLE – Ethics with the Judges	10/22/09;
(h) Civil Law Update	01/22/10;
(i) Criminal Law Update	01/22/10;
(j) SC Circuit Court Judges Association	05/05/10;
(k) SCAJ 2010 Annual Convention	08/05/10;
(l) 2010 Judicial Conference	08/18/10;
(m) SC Bar Sporting Clays CLE: Ethics with the Judges	10/28/10;
(n) Criminal Law Update	01/21/11;
(o) Trial & Appellate Advocacy Update	01/21/11;
(p) Sporting Clays CLE: Ethics with the Judges	04/14/11;
(q) SC Circuit Court Judges Conference	05/04/11;
(r) 2011 SCAJ Annual Convention	08/04/11;
(s) 2011 Annual Judicial Conference	08/17/11;
(t) National Judicial College – General Jurisdiction	10/15/11;
(u) SC Defense Trial Attorneys Assn Annual Mtg	11/03/11;
(v) Criminal Law Update	1/20/12;
(w) Trial & Appellate Advocacy Update	1/20/12;
(x) SC Bar Sporting Clays CLE: Ethics with the Judges	4/12/12;
(y) 2012 SC Circuit Court Judge Conference	5/2/12.

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

- (a) I will speak at the SC Association for Justice August, 2012 meeting: "Canine Search and Seizure";
- (b) CLE Training for Summary Court Judges (May, 2012) "What Does a Circuit Court Judge Look for in a Return Filed on an Appeal?" and "Ethics";
- (c) SC Bar Sporting Clays Seminars – "Ethics with the Judges" (October, 2009, October, 2010, April, 2011 & April, 2012)(Panelist);
- (d) NBI CLE (February, 2012) "What Criminal Judges Want You to Know" (Panelist).

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

(4) Character:

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

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

- (5) Reputation:
Judge McIntosh reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.
- (6) Physical Health:
Judge McIntosh appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge McIntosh appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge McIntosh was admitted to the SC Bar in 1986.

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

- (a) After taking my bar examination, I was a law clerk for McIntosh and Sherard (Now McIntosh, Sherard, Sullivan and Brousseau) in Anderson, SC until I was admitted to practice on November 14, 1986.
- (b) Shortly after being admitted to practice, I served as an interim law clerk for the Honorable Luke N. Brown, Jr., Circuit Court Judge, Fourteenth (14th) Judicial Circuit. I clerked until May, 1987 and completed my clerkship upon Judge Brown's originally selected law clerk passing the bar examination.
- (c) Subsequent to my clerkship, I was hired as an associate by McIntosh and Sherard in May of 1987. I continuously worked as either an associate or partner with McIntosh, Sherard and Sullivan from May of 1987 through May, 2009, when I was elected to serve the remainder of the unexpired term of the Honorable J. C. Nicholson, Jr.
- (d) (May of 1987 through approximately 1990) – The general character of my practice included primarily handling civil and domestic cases. The civil cases I assisted with or handled ranged from representing individuals and businesses as plaintiffs or defendants in business and real estate related litigation. I also represented or assisted with representing plaintiffs in personal injury cases. My domestic practice primarily included representing both wives and husbands as either plaintiffs or defendants. A small percentage of my practice involved representing criminal defendants with charges such as grand larceny, criminal sexual conduct (1st), simple possession, DUI and traffic offenses. Although I represented criminal defendants in Circuit Court on guilty pleas, I did not try any criminal cases above the magistrate's court level. I also occasionally closed loans.
- (e) (1990–2000) I discontinued representing criminal defendants and performing loan closings. My civil and domestic practice continued as described above. I also started representing claimants in workers' compensation cases. Approximately thirty (30%) percent of my practice was devoted to domestic cases; approximately forty (40%) percent of my practice was devoted to personal injury and workers' compensation; and approximately thirty (30%) percent was devoted to representing individuals and businesses in business and real estate related litigation. In this category, I represented both plaintiffs and defendants.
- (f) (2000–06) While the focus of my practice remained the same, the percentage of my practice devoted to each area changed. In March, 2003, our firm hired an associate to assist me with litigation. Our associate focused primarily on domestic cases, enabling

me to stop handling domestic cases in 2006 (with the exception of Court-appointed cases). During that period, the number of personal injury cases I handled declined to approximately twenty (20%) percent of my practice, which, together with representing workers' compensation claimants, constituted approximately thirty (30%) percent of my practice. I also began handling probate matters, mostly litigation, which constituted approximately five (5%) percent of my practice. The remainder of my practice continued to focus on representing individuals and businesses as plaintiffs or defendants in real estate and business litigation, as well as my Court-appointed cases. I also defended the County of Anderson in two (2) cases.

- (g) (2006–09) Approximately thirty (30%) percent of my practice involved representing plaintiffs and claimants in personal injury and workers' compensation cases. Approximately five (5%) percent involved handling probate matters, mostly litigation. The remainder of my practice continued to involve representing individuals and businesses as plaintiffs or defendants in real estate and business-related litigation as well as my Court-appointed cases.
- (h) (May, 2009 to Present) Judge of the Circuit Court, Tenth (10th) Judicial Circuit, Seat #1.

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

2009–Present: Judge of the Circuit Court Tenth Judicial Circuit – Seat #1. Elected May, 2009.

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

- (a) Ferguson Fire & Fabrication, Inc. v. Preferred Fire Protection, LLC, et al, 397 S.C. 379, 725 S.E.2d 495 (Ct.App.'12);
- (b) Stevens Aviation, Inc. v. Dyna Corp International, LLC, 394 S.C.300, 715 S.E.2d, 655 (Ct. App.'11);
- (c) Leroy Montgomery v. City of Columbia, 2009-CP-40-5283;
- (d) Morris Communications Company, LLC, d/b/a v. City of Greenville, (Ct. App. 2011-UP-384);
- (e) Carolinas Recycling Group and Employers' Insurance Co. of Wausau v. S.C. Second Injury Fund, 2012 W.L. 2125820.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge McIntosh to be "Well qualified" for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found him to be "Qualified" for constitutional qualifications, physical health, and mental stability.

Judge McIntosh is married to Jessie Ruth Wilson. He has one stepchild.

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

- (a) SC Bar;
- (b) Anderson Inns of Court;
- (c) American Bar Association;
- (d) SC Circuit Court Judges Association.

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

- (a) Western SC Torch Club - (Treasurer);
- (b) Anderson YMCA;
- (c) *Alzheimers Association State Board – SC State Chapter (State Board Member) *[Resigned 2009];
- (d) *National Rifle Association *[Resigned 2009];
- (e) *Anderson Board of Assessment Appeals *[Resigned 2009];
- (f) *Debutante Club of Anderson, Inc. *[Resigned 2009];
- (g) *The Chiquola Cub of Anderson (member) *[Club no longer exists].

Judge McIntosh further reported:

I was born and raised in Anderson County. My father was an attorney and my mother a homemaker. My parents instilled fiscal conservatism and a strong work ethic in my siblings and me. My parents taught us to treat people with respect and dignity regardless of their origin, color or station in life.

During high school and college, I was involved with organized sports which required me to budget my time and to be physically disciplined. I have tried to continue these traits and to incorporate them in my career. I am married to an orthopedic surgeon. We built our home on her family farm. The family has lived on and operated the farm for over one hundred years. My wife and I have strong values and a traditional view of the value of hard work.

(11) Conclusion:

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

J. René Josey
Circuit Court, At-Large, Seat 14

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Josey was born in 1960. He is 52 years old and a resident of Florence, SC. Mr. Josey 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 Mr. Josey.

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

Mr. Josey 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) TPGL 274765IH Uni-State Lawyers: Multistate &	03/03/2007;
(b) SC Bar 273478 6th Annual Federal Practice	08/23/2007;
(c) FCBA 274644 Almost Annual Ethics CLE	12/14/2007;
(d) FBA 284818 2008 Federal Bar Association	09/11/2008;
(e) USDCOC 284051 Electronic Update	10/15/2008;
(f) FCBA 285435 Ethics Update	12/19/2008;
(g) TPGL 292238IH Competing Today-Raising the Bar	03/20/2009;
(h) TPGL 292239IH Developing a Business Practice	03/21/2009;
(i) SC Bar 295407 A Look Back: Lessons	11/20/2009;
(j) FCBA 296311 Hot Tips in Ethics by Jill Rothstein	12/10/2009;
(k) TPGL 212470IH Turner Padgett Firm Retreat	03/20/2010;
(l) USCSL 215475 CLE for Class of 1985 Reunion	09/25/2010;
(m) ABA 08826 Govt. Perspective of Federal Civil False Claims Act and Qui Tam Enforcement	12/16/2010;
(n) Florence County Bar 217009 Lunch & Learn: Report on the Task Force on Professional Potential	12/10/2010;
(o) S.C. Bar 11-04 It's All A Game	2/18/2011;
(p) ABA 122916ADT Ethics Essentials for Successful Online Legal Marketing	3/19/2012;
(q) SCFBA 122973 Appellate Advocacy CLE	3/22/2012;
(r) TPGL 125364IH Magna Legal Services Jury Persuasion: How Jurors Form Decisions	6/5/2012.

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

- (a) I am scheduled to participate in a mentoring talk for small groups at the University of SC for new law students on August 21, 2012.
- (b) I am also scheduled to speak to bankers and other industry clients on September 14, 2012 (together with other attorneys from my firm and accountants from the firm of Webster Rogers) on how to investigate and defend against fraud.
- (c) On May 25, 2012, I spoke to the SC Chapter of the Association of In-House Counsel. My talk was centered on the defending against whistleblower suits and investigations.
- (d) On 9/27/07, I spoke to a Sentencing Guidelines training course sponsored by the United States Probation Office for private attorneys defending the accused in the federal system. I have spoken at such events on many occasions.
- (e) In August 2007, I was the moderator for the S.C. Bar and Federal Bar Association's annual seminar on federal practice.

- (f) Earlier in the summer of 2007, I spoke to law students at both the Florence federal courthouse and the Perry federal courthouse on federal practice and the mission of the Federal Bar Association.
- (g) As United States Attorney, I was regularly asked to speak at the Annual Criminal Law Update held during the SC Bar's Charleston convention (1/26/01, 1/21/00). I also have taught at the SC Trial Lawyer's Convention (August 2000) and the SC Solicitor's Conference. I helped organize and teach an Ethics CLE at Clemson's Homecoming in 1999 (10/2/99) at the Strom Thurmond Center ("Touchdown Ethics from Tigers on Both Sides of the Field").
- (h) In addition, I was a regular speaker at Narcotics training classes for law enforcement, Safe Schools training for teachers and law enforcement, and other training sponsored by the Law Enforcement Coordinating Committee (LECC) of the United States Department of Justice. I was a speaker at DEA conferences, FBI retreats, and the SC Criminal Justice Academy.
- (i) After joining the firm of Turner, Padgett, Graham & Laney in March of 2001, I was involved with the Attorney Development program for new associates – directing the program through 2006. This initiative is somewhat broader than mere continuing legal education but involves development of all the skills newer lawyers need to acquire to become successful and productive practitioners. This includes time and personnel management training, team-building, and mentoring.
- (j) I have also spoken on Ethics at the Florence County Bar Association's Annual Ethics CLE (10/26/01), and the Federal Bar Association's CLE in conjunction with the SC Bar (9/6/02).

Mr. Josey reported that he has published the following:

While I was in law school at the University of SC, I published the following two articles in the SC Law Review:

- (a) An Analysis of *Silkwood v. Kerr-McGee Corp.* -- Are Punitive Damages and Exclusive Federal Regulation Consistent? 36 S.C.L. Rev. 689 (1985).
- (b) Annual Survey of SC Law (Labor and Employment Section), 36 S.C.L. Rev. 179 (1984).
Employment Discrimination and Title VII: Appropriate Conceptual Frameworks for Different Claims.
- (c) Publications
Fetal Vulnerability Plan: Disparate Treatment Absent Intent.
Title VII and The Sexually Offensive Work Environment: A Warranty of Workability.
Wildcat Strikes and Local Union Liability.
The United States Attorney's office published a quarterly newsletter primarily for law enforcement agencies and I contributed articles to that publication.

(4) Character:

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

The Commission also noted that Mr. Josey 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. Josey reported that his rating by a legal rating organization, Martindale-Hubbell, is AV.

Mr. Josey reported that his rating by a legal rating organization, Best Lawyers in America, is Best Lawyer, Appellate Law, each year since 2007.

Mr. Josey reported that his rating by a legal rating organization, SC Super Lawyers, is Business Litigation, 2008; Criminal Defense, 2011-12.

Mr. Josey reported that his rating by a legal rating organization, Best Lawyers in America, is White Collar Crimes & General Criminal Law, each year since 2008.

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

From May 1996 through February 2001, I served as the United States Attorney for the District of SC. I was appointed by the President and unanimously confirmed by the United States Senate. Because this was a federal office, I filed federal ethics reports; as I recall, these were all filed in a timely manner and no penalties imposed.

In March of 2001, I was appointed by Florence City Council to serve as a commissioner on the Florence Civic Center Commission – the public body with oversight responsibility for the regional auditorium/arena located in Florence. Our commissioners did not serve as the chief administrative officer of this facility; like many such public buildings, this function is filled by an independent contractor. See S.C. Code § 8-13-1110(B)(6)(requiring such chief administrative officer to file Economic Interest Report with State Ethics Commission).

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Josey was admitted to the SC Bar in 1985.

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

From August 1985 through August 1987, I was a law clerk to the Honorable C. Weston Houck, United States District Court Judge for the District of SC. Following my clerkship, my wife and I chose to remain in our new home of Florence (we are both previously from Clemson where I fathers both taught at the University). I joined the firm of Rogers & McBratney as an associate.

I worked as an associate with the firm from August of 1987 through March of 1991. I became a partner in the firm in April of 1991 and the firm name was changed to Rogers, McBratney, & Josey. I remained with this firm through December of 1993 when I left to start my own solo practice. Throughout my years of practice with these attorneys, I was engaged in the general practice of law with an emphasis on litigation – both civil and criminal. I also practiced in the Family Court.

I was in the solo practice of law at 401 W. Cheves Street, Florence, SC, from 1 January 1994 to 17 May 1996. The nature of my practice was very much as it had been before – general litigation matters of many varieties. In addition, I began handling appeals in association with other firms. I enjoyed appellate research and particularly writing.

Florence County was one of the initial pilot counties for a mandatory ADR program and I received the necessary training early in the program's development. I served on the initial

Florence County list of mediators who could be appointed. I conducted many mediation sessions in the 1994-1996 period.

While my practice had always had a federal criminal defense component, it reached a peak when I was in solo practice. My office location was very close to the federal courthouse and I was a frequent choice of the United States Magistrate for appointments since it facilitated timely hearings – particularly before the Federal Public Defender opened a full-time office in Florence.

In February 1996, I was recommended by United States Senator Ernest F. Hollings to be the United States Attorney for SC. Following the vetting process, I was formally nominated by the President.

Pending confirmation by the United States Senate, I was appointed by the United States Attorney General and United States District Court as an interim United States Attorney on 17 May 1996 and I closed my private practice. On the motion of Senator Strom Thurmond, my nomination was forwarded out of the Judiciary committee in weeks and I was unanimously confirmed by the United States Senate just before their Memorial Day recess.

My work as United States Attorney was again focused on diverse litigation – both civil and criminal, and both as civil plaintiff and civil defendant. While much of my time and effort was spent leading and managing the office effort as a whole across the district, I intentionally sought opportunities to participate directly in grand jury and courtroom work -- both to enhance my leadership with the office and to personally learn from many skilled Assistant United States Attorneys. As United States Attorney, I also personally participated with Assistant United States Attorneys in several important mediation sessions. During my service as United States Attorney, the Assistants in the office honored me with an inaugural “Trial Dog” Award for my active participation with them in the trenches of the courtroom.

During my federal service I also spent considerable time working on communication and coordination with local law enforcement and local prosecutors whom I grew to respect very much. With the growth of electronic communication, I enjoyed reflective writings to my staff on a regular basis.

At the conclusion of my term as United States Attorney, I resigned to aid the transition for the new administration (24 February 2001). I chose to join the law firm of Turner, Padget, Graham & Laney working primarily from its Florence office. I began my work with the firm in March of 2001.

While I work on the business and commercial litigation team, my practice has again become quite diverse including both criminal and civil matters. The civil matters have included both tort actions and contract actions. I have worked for both plaintiffs and defendants. I have worked on both state criminal matters in several circuits and federal criminal matters. I have renewed my certification as a mediator and served in that capacity on several matters. I serve on both state and federal certified lists of available mediators. I often handle appeals for other members of the firm.

In the past five years I have handled a wide range criminal matters including, but not limited to, tax evasion, child abuse and neglect, possession of child pornography, the Pollution Control Act, drug PWID, obtaining drugs under false pretenses, Medicare and Medicaid fraud, mortgage fraud, felon in possession of firearms, assault and battery high and aggravated and with intent to kill, lottery fraud, government procurement fraud. In the past five years, I have handled civil litigation including, but not limited to, commercial lease disputes, environmental claims, banking law matters, probate law matters, slander claims, products liability claims, trademark claims, and employment law matters.

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

- (a) Federal: Probably an average of once a month, more for filings;
- (b) State: Probably an average of twice a month, more for filings.

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

- (a) Civil: 65%;
- (b) Criminal: 30%;
- (c) Domestic: 5%.

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

- (a) Jury: 65% My practice is divided between jury and non-jury matters as indicated -- although most jury matters end without trial;
- (b) Non-jury: 35%.

Mr. Josey provided that he most often served about equally in each role (sole counsel, chief counsel, or associate counsel) over the past five years.

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

- (a) Evans v. Country Squire Mobile Homes (Appellate No. 89-719)
This involved a breach of warranty in the sale of a mobile home.
I represented the purchasers of the mobile home. The case was significant because the jury apparently awarded damages under the Uniform Commercial Code for the intangible elements of emotional distress and mental anguish. The matter was appealed to the SC Court of Appeals and the verdict was affirmed. It also was significant because I believe it was my first solo trial in Circuit Court and I believe it was Judge Kinnon's final trial in Circuit Court before his retirement.
- (b) United States v. Theodore McFarlin (Case No. 4:97-736)
This case is significant because it represented the first successful prosecution of this former Sheriff of Williamsburg County; to me, his conviction symbolized a purification of a corrupt segment or link in the criminal justice chain and thereby helped restore public confidence in the system. I tried this case as United States Attorney with Assistant United States Attorney Scarlett A. Wilson (now Assistant Solicitor). McFarlin was convicted of all counts including drug conspiracy and perjury. McFarlin was ably defended by I.S. Levy Johnson, Esq.
- (c) Goodson Construction v. United States of America (Case No. 4:02-4184), 2006 U.S. Dist. LEXIS 91342, 64 ERC (BNA) 2112.
This was an environmental clean-up action brought by my private client against the federal government for property that had once been used as an Army bombing range in Horry County. The Army had certified the land was "dedudded" or clean after its use; it was not. The matter was settled after the first half of a bifurcated trial before The Honorable Bryan Harwell. The case was settled for \$6.2 million dollars payable toward clean-up costs.
- (d) United States v. James Coury Holmes and Marcus Mandel Ellis (6:00-107)
This was a multiple armed bank robbery trial in Greenville before United States District Judge Henry Herlong. I tried it with Assistant United States Attorney Jeanne Howard. This case is significant to me primarily because it represents the most fun I have ever had in trial.
The defendants had committed a string of unsolved car thefts followed by masked armed robberies with assault rifles. The victims were most appreciative and cooperative. Local law enforcement had done a good job of finally cracking the case.

The FBI had secured a great deal of circumstantial evidence as well as provided several excellent expert witnesses (dye stain chemist and photogrammetry analyst).

The trial went well (50 witnesses in 3 days) and resulted in convictions. Appeals were successfully handled by Ms. Howard.

(e) United States v. Bill Prince and Don Prince

I participated with two other prosecutors in this trial against the Prince brothers for their conspiracy to hire a hit man to assassinate the key trial witness in an earlier criminal matter against brother Bill Prince. The proof against Bill Prince was largely circumstantial and dependent upon the introduction of the entire historical context of Bill Prince's earlier conviction. It was my first trial as a prosecutor (June 1996). The defendants were ably defended by Jack Swerling, Esq. and the late Jack Lawson, Esq.

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

(a) Trayco, Inc. vs. United States (Case No. 4:89-361), 967 F.2d 97 (4th Cir. 1992), 994 F.2d 832 (Fed. Cir. 1993)(after transfer from the Fourth Circuit).

This was an importer's action in United States District Court to recover a customs penalty assessed on an inaccurate factual basis. This case is significant because it apparently represents the first time an importer has successfully invoked the jurisdiction of a District Court to obtain judicial review of a customs penalty. I represented the importer, Trayco, Inc.

This matter was tried before the Honorable C. Weston Houck, United States District Judge, and subsequently heard by both the United States Court of Appeals for the Fourth Circuit (published opinion) and the United States Court of Appeals for the Federal Circuit (published opinion).

(b) Shores v. Pennsylvania Mutual Insurance Company (Case No. 90-CP-21-1597), 315 S.C. 347, 433 S.E.2d 913 (1993).

This case involved the interpretation of SC's mandatory automobile insurance law. It is significant because it represents the first time that an appellate court of this state held that the mandatory minimum liability insurance could not be defeated by the failure of an at-fault motorist to give notice to the insurance carrier. I represented Linda Shores as the personal representative of her brother's estate.

This matter was tried in the Florence County Court of Common Pleas before the Honorable C. Victor Rawl, Circuit Judge. The matter was subsequently heard by both the SC Court of Appeals and the state Supreme Court.

(c) Wachovia Securities vs. Brand, 2010 U.S. Dist. LEXIS 88505

(D.S.C., Aug. 26, 2010), aff'd, 671 F.3d 472; 2012 U.S. App. LEXIS 3047; 33 I.E.R. Cas. (BNA) 679 (4th Cir. 2012).

This was an employer's action against former employees (stock brokers) for alleged theft of trade secrets, etc. I served as co-counsel on the case. Although I did not argue the matter in the Court of Appeals, I did contribute to the brief and helped present the case in the court below and at arbitration. The case resulted in a judgment requiring the employer to pay the employees over \$1.3 million in attorney's fees and interest for pursuit of unwarranted claims.

(d) Drew v. United States, 217 F.3d 193 (4th Cir. 2000), vacated en banc and district court affirmed, 231 F. 3d 927 (2000).

I did not write the brief in this matter, but I presented the oral arguments for the United States both before the initial three judge panel of the Fourth Circuit Court of Appeals and subsequently before the entire Court sitting en banc. This has been my only opportunity to present an en banc argument to the court.

The issue involved the ability of a tort claimant to alter their initial theory of the case after having exhausted administrative remedies with a different theory of the case; the District Court's dismissal of the altered claim for lack of exhaustion was reversed by the panel, 2-1, and then affirmed by the Court en banc, 5-5 (ties defer to the trial court).

The closeness of the decision also corresponds to the closeness of the issue itself which made it somewhat difficult to advocate; essentially, the question was: how much claim alteration is too much?

- (e) Gay v. Ariail (Case No. 06-CP-23-5958), 381 S.C. 341, 673 S.E.2d 418 (2009).
The case obtained declaratory judgment action interpreting the Youthful Offender Act in an expungement setting; it successfully challenged an Attorney General's Opinion misinterpreting these statutory provisions. The brief, like my briefs in Shores and Trayco, addresses statutory interpretation and application. The legislature subsequently amended the statute to effectively reverse the case.
- (f) Other reported civil appeals include: Fountain v. First Reliance Bank, 2012 S.C. LEXIS 135, Opinion No. 27141(Supreme Court July 11, 2012)(recent successful defense of defamation claim) and David v. McLeod Regional Medical Center, 367 S.C. 242; 626 S.E.2d 1(2006).

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

By definition, my best criminal work – for which I have been repeatedly recognized by my peers – involves the resolution of charges and/or investigations in such a manner that there are no appeals (sometimes no charges at all). Nevertheless, here are some criminal matters which did reach the appellate stage. Also notably, most clients who retain my services are satisfied with the resolution and do not appeal. Thus, most of these matters are older and involve indigent appointments in federal court.

- (a) United States v. Henry Monroe Rayford, a/k/a Junebug (District Case No. 4:92-216, Appellate No. 93-5423)
This was a federal criminal prosecution involving a conspiracy to possess drugs with an attempt to distribute as well as allegations of money laundering. The case is significant because the money laundering conviction was reversed (unpublished opinion of the United States Court of Appeals for the Fourth Circuit, February 7, 1995) based upon the trial court's erroneous omission of evidence. I represented the defendant Rayford (there were multiple defendants with differing appellate issues, but one composite brief was submitted).
- (b) United States v. Benjamin Harden, et.al. (Appeal Record No. 97-4791)
This was an unsuccessful appeal from the trial court's dismissal of the indictment for violation of the Speedy Trial Act. As United States Attorney, I began personal work on this matter following the trial court's dismissal. I prepared the brief with assistance from Assistant United States Attorney Scarlett A. Wilson (now Solicitor) (she signed the final brief) and I argued the matter before the Fourth Circuit Court of Appeals.
- (c) State v. Michael White (Case No. 20-GS-10-0604)
This was a felony DUI matter. It is the only criminal appeal that I recall handling in the State system. I was not trial counsel and the matter arises more in the form of a post-conviction jurisdictional challenge. Because of the unusual procedural position of the matter (post-conviction motion for sentence reconsideration), my appellate brief was never filed in this matter; nevertheless, it was prepared in draft form and has been presented to the Assistant Solicitor.
Interestingly, while the Brief is entirely my composition, some of the preliminary research was done by Mr. White in prison and I followed up on his insightful work. As a result of this briefing and negotiations, a new plea agreement was reached, involving the

victim, and a reduced sentence imposed. Mr. White is now a success story following his incarceration (employed, continuing his education).

(d) United States of America v. Danny Myers (No. 4:90-430, Appellate No. 91-5562)

I represented the defendant, Danny Myers, pursuant to an appointment under the Criminal Justice Act. The defendant was charged with conspiracy to possess with intent to distribute illegal drugs, possession with intent to distribute illegal drugs, and a firearm violation. After tendering a plea to the firearm count, the defendant stood for trial on the narcotics charges.

The case is significant because it represents the first trial of mine in which the defendant was prosecuted with “historical” evidence only. The matter was subsequently appealed to the United States Court of Appeals for the Fourth Circuit, where the conviction was affirmed (unpublished opinion). The defendant's petition for certiorari to the United States Supreme Court was denied.

(e) United States v. Rigney (Appeal No. 89-5617)

This was a drug conspiracy case and my first criminal trial. I was appointed to represent the defendant William O. Rigney who was a decorated Navy Veteran with no criminal record. There was limited direct physical evidence of his involvement but significant circumstantial evidence and direct testimony of co-conspirators. One of these witnesses made reference to the polygraph during her examination and this became the issue of the subsequent appeal. This was also my first criminal appeal.

Mr. Josey further reported the following regarding unsuccessful candidacies:

I unsuccessfully ran for Florence County Council in 1994.

In the Fall of 2002, I was a candidate for Circuit Court Judge, At-Large Seat #9, and was found qualified but not nominated by the Judicial Merit Screening Committee.

In the Fall of 2006, I was a candidate for the Court of Appeals, Seat #4, and was found qualified but not nominated by the Judicial Merit Screening Committee.

In the Fall of 2007, I was a candidate for the Court of Appeals, Seat #6, and was found qualified but not nominated by the Judicial Merit Screening Committee.

In the Spring of 2007, I was a candidate for the Court of Appeals, Seat #7, and was found qualified and nominated by the Judicial Merit Screening Committee. After initial rounds of voting revealed the commitments to other candidates, I withdrew from the race.

In the Spring of 2008, I was a candidate for the Court of Appeals, Seat #9, and was found qualified and nominated by the Judicial Merit Screening Committee. When discussions revealed the commitments to other candidates, I withdrew from the race.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizen’s Committee found Mr. Josey 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. They stated in summary, “Mr. Josey has a diverse legal background which well qualifies him to serve as a Circuit Court judge.”

Mr. Josey is married to Martha Willis Josey. He has two children.

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

- (a) Federal Bar Association, SC Chapter
President, September 2006-07
President Elect 9/05-9/06
Treasurer 9/04-9/05
Board of Directors Member 2001-08;
- (b) Florence Bar Association
President 2007
President-Elect 2006
Secretary 2005
Treasurer 2004
Treasurer 1989-90;
- (c) SC Bar Association;
- (d) National Association of Former United States Attorneys;
- (e) Local Rules Advisory Committee of the U.S. District Court, District of SC, 2009-present.

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

- (a) 2010 Winner, Compleat Lawyer Award, USC School of Law;
- (b) Commissioner, Florence Civic Center, 2001-08; appointed March 2001, elected Chairperson, July 2002;
- (c) Director, Montessori School of Florence, 2001-May 2007; elected Vice-Chair, 2002, assumed Chair 2005;
- (d) Central United Methodist Church, Stewardship Committee 2002, Administrative Board 2003-07, and 2012, Finance Committee 2010-present, Chair 2012, State Conference Delegate 2005-07, Chair;
- (e) Team Manager, Florence Fire Boys Soccer Team 2002-03, Treasurer 2011-12;
- (f) Charleston School of Law, Advisory Board, 2009-present.

Mr. Josey further reported:

It has been said, “much of what we are is the sum of our life experiences. God has blessed me with a wealth of experiences that will make me an effective judge. I appreciate the opportunity to describe some of those experiences and try to give the Commission insight into my abilities to serve the State as an effective judge.

Childhood Experiences

I enjoyed a loving and supportive childhood. As the child of two educators who sacrificed to put me through college and graduate school, I was determined to work hard in school and make their sacrifices meaningful. My parents also provided me with value-shaping experiences. A mother treating African-American students with dignity in a dilapidated and segregated school taught me that all persons should be treated with respect. A father willing to work nights to return to graduate school taught me the value of hard work and the importance of following a vocational call.

Spiritual Experiences

Growing up, I had a special relationship with my grandparents – particularly my paternal grandmother with whom I shared a birthday. I grew up observing this grandmother’s abiding faith and dutiful study of scripture (some 40 years as the leader of the Women’s Missionary Union at a rural Baptist Church). These observations, among others, promoted my life-long relationship with the church and personal Christian faith. I joyfully participate in many activities of Central United Methodist Church.

My faith has led me to value every life and look for the good in each person -- even while seeking to hold them accountable for the consequences of their personal choices (particularly as a prosecutor). My faith has also led me to value our world and its limited resources of which we must serve as stewards.

Adult Family Experiences

Most fortunately, I have had the experience of a wife's support for 22 years -- a wife who shares my core values. My wife offers her strengths as a compliment to my weaknesses in our partnership.

I had the experience of being with my mother as she died a premature death from breast cancer. This experience brought home the fragileness of life and the need to seize opportunities to share ourselves with those we love.

As a parent, I have experienced the joy that only hope in a new generation can bring. I have also seen the obsessive tendencies that parents sometimes show (in youth sports or educational settings), and risk passing on to their children. I also have felt the thrill of my boys' successes, but I try never to let winning be more important than simply watching my sons give their best, show improvement, and enjoy themselves.

Professional Experiences

As a manager of a statewide law office, I had the experience of trying to build teams and set goals. On a very few occasions, I had to counsel, discipline, or terminate an employee. Management experiences taught me the value of regular communication and straight talk. I saw the effectiveness in praising others and subordinating self. In this role, I had the opportunity to meet the late Stephen Covey and became more committed to developing principle-centered leadership.

Lastly, my professional work experiences have provided me with sustained opportunities to practice law and view litigation from almost every angle. Initially, my two-year clerkship in the federal trial court gave me the opportunity to observe and assess numerous litigators with a judicial mentor.

As a practitioner, I have prosecuted those accused of crimes -- both violent and non-violent. I have defended persons accused of crimes -- violent and non-violent, remorseful and not remorseful, from isolated mistakes to repeat offenders. On the civil side, I have represented the innocent and not so innocent spouse in Family Court. I have served as an investigative guardian for a young boy bitterly sought by two parents who loved him. I have steered new parents through the joyful process of adoption. I have represented those injured, those harassed, those terminated, and those addicted. I have also represented business interests -- sometimes protecting those inequitably targeted simply as deep pockets and sometimes mitigating for those genuinely at fault. As a mediator, I have helped bring adverse parties together to end the continued risk and cost of litigation.

Conclusion

How will all these experiences make me an effective judge? Because I represented people at their best and possibly at their worst, I can appreciate their respective positions; but, *more importantly*, I can appreciate the need for our legal system to make sense of those respective positions in a way that advances the concept of justice and serves the citizenry as a whole.

My extensive litigation experiences have given me insight into how the Courts have accomplished this task in the past -- both successfully and on occasion unsuccessfully. My personal experiences and family support give me the stable and balanced perspective needed to serve in a sometimes isolated role. My previous management experiences will help me be an effective team player on a Court that functions in panels with a need to seek consensus.

Above all, my life experiences have contributed to the development of my values and character -- values and character that will make me an effective jurist.

- (11) Commission Members' Comments:
The Commission commented that Mr. Josey possesses an excellent range of legal experience that would serve him well as a Circuit Court judge and has a superb reputation in the legal community.
- (12) Conclusion:
The Commission found Mr. Josey qualified and nominated him for election to the Circuit Court.

**R. Keith Kelly
Circuit Court, At-Large, Seat 14**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Kelly meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Kelly was born in 1958. He is 54 years old and a resident of Woodruff, SC. Mr. Kelly 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 1988.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Kelly.

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

Mr. Kelly 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.

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

Mr. Kelly 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	09/26/11;
(b) Legislative Service Credit	03/01/10;
(c) Public Defender Conference	09/27/10;
(d) Hot Tips	09/18/09;

(e)	Solicitor's Association	09/28/09;
(f)	Defending DUI	11/13/09;
(g)	Essential Mitigation Tools	03/28/08;
(h)	New World DUI	03/28/08;
(i)	Hot Tips	09/19/08;
(j)	Public Defender Conference	09/28/08;
(k)	Hot Tips	09/21/07;
(l)	Title Insurance	11/02/07;
(m)	DUI on Trial	11/09/07.

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

- (a) I have made presentations to members of the bar at the annual Solicitor's Conference while serving as a member of the SC House Judiciary Committee.
- (b) I have made presentations to members of the bar at the annual Public Defender's Conference while serving as a member of the SC House Judiciary Committee.
- (c) I have made presentations to members of the bar at the annual Public Defender's Conference while serving as a member of the SC Sentencing Oversight Committee.
- (d) I have spoken to school students on career days about law in general and described our court system, both state and federal.
- (e) I taught a class to law enforcement officers on prosecuting DUI cases.

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

(4) Character:

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

The Commission also noted that Mr. Kelly 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. Kelly reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

Mr. Kelly reported the following military service:

16 May 1981 to 16 May 1984, US Army active duty, Honorable Discharge. 17 May 1984 to 29 Aug 1994, US Army Reserve, Honorable Discharge. Captain; no longer serving.

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

2006-10, SC House of Representatives, Representative District 35, elected. All reports were timely filed, no penalty.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

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

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

- (a) Brooks Law Associates, Spartanburg, SC 1988-99; General practice of law including criminal, civil and family law.
- (b) R. Keith Kelly Law Firm, Spartanburg, SC 1999-2001; General practice of law including criminal, civil and family law.
- (c) Lister, Flynn & Kelly, PA, Spartanburg, SC since 2001; General practice of law including criminal, civil and family law.

Mr. Kelly further reported regarding his experience with the Circuit Court practice areas:

I routinely practice in the trial courts of this state, including circuit court. I have been on four death penalty cases and tried one death penalty case to a jury as second chair to the public defender. I was on another death penalty case tried to a jury but I played a lesser role. Two other death penalty cases resulted in pleas to life without parole. I have tried to a jury at least two felony DUI cases, death involved. I have tried to a jury murder cases, and I currently have two murder cases pending. Additionally, I have tried hundreds of lesser criminal cases across the state, including those cases before magistrate and municipal courts. As to civil matters, I have tried cases in the circuit court, Family Court, probate court, municipal and magistrate court. Approximately 40% of my law practice is in Family Court and Family Court is governed by the rules of civil procedure where not specifically noted otherwise. And, I routinely represent both plaintiffs and defendants in Family Court.

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

- (a) Federal: None;
- (b) State: Weekly, 20 to 25 times per month.

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

- (a) Civil: 20%;
- (b) Criminal: 40%;
- (c) Domestic: 40%.

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

- (a) Jury: 40%;
- (b) Non-jury: 60%.

Mr. Kelly provided that he most often served as sole counsel except in death penalty cases. He was associated by other lawyers to assist in trial approximately 10%.

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

- (a) State v. Moore: death penalty case;
- (b) State v. Samples: death penalty case;
- (c) State v. Connor: death penalty case;
- (d) State v. Brown: death penalty case;
- (e) US v. Troy Rolle: interstate drug trafficking case.

Mr. Kelly reported that has not personally handled any civil appeals.

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

- (a) State v. Porter Johnson, 396 SC 424, 721 SE2d 786 (SC App., 2012);
- (b) State v. Connor, appeal from Magistrate Court to Circuit Court, Greenville Cty.

Mr. Kelly further reported the following regarding unsuccessful candidacies:

- 2010 SC House of Representatives, District 35. I lost in the primary to a challenger.
- 1995 Family Court Judgeship. I withdrew from consideration.
- 1998 Family Court Judgeship. I withdrew from consideration.
- 2010 US Magistrate Judge. I was not selected.

(9) Judicial Temperament:

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

(10) Miscellaneous:

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

Mr. Kelly is married to Cynthia Cindy Gail Jackson. He has three children.

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

- (a) SC Bar Association;
- (b) SC Association of Criminal Defense Lawyers;
- (c) Spartanburg County Bar Association.

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

- (a) Emma Gray Memorial United Methodist Church;
- (b) Woodruff Rotary Club, past president 2011-12, president 2012-13;
- (c) Spartanburg Pilot's Association, board member;
- (d) SC House Republican Caucus.

Mr. Kelly further reported:

I respectfully submit that my work ethic is one of my strong suits. I worked to pay my way through college and law school. I repaid all student loans timely, and I applied myself to the practice of law and representing my clients with the same work ethic. I will apply myself and this same work ethic while serving our state as a circuit court judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Kelly is a well-qualified, experienced candidate who possesses a great attitude and an even temperament.

(12) Conclusion:

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

Clifford Scott
Circuit Court, At-Large, Seat 14

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 58 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 also admitted to the Georgia Bar in 1993, but resigned in 2001 because he decided not to practice in Georgia.

(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 made \$326.90 in campaign expenditures for copies and postage to send an introductory letter and a resume to members of the General Assembly.

Mr. Scott 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.

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

Mr. Scott 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	09/26/2005;
(b) SC Black Lawyers Assn Retreat	09/28/2006;
(c) Lawyers Computers and Cable News	11/03/2006;
(d) Show me the Money: Military Family Support	01/10/2007;
(e) Law Office Technology	01/24/2008;
(f) Civil Law Update	01/25/2008;
(g) Day in Discovery	01/25/2008 & 01/26/2008;
(h) Breakfast Ethics Seminar	01/27/2008;
(i) Select Issues in SC Procurement	06/04/2008;
(j) SC Black Lawyers Annual Summit & Retreat	10/30/2008;
(k) Ethics Judicial Family Seminar	12/05/2008;

(l)	Noncitizens in the Family Court Proceedings	02/28/2009;
(m)	Veterans Disability Benefits	03/24/2009;
(n)	SC Black Lawyers Annual Retreat	10/01/2009;
(o)	SC Black Lawyers Retreat	10/01/2010;
(p)	Staying Out Of Trouble	02/26/2011;
(q)	Intellectual Property and the General Practitioner	02/27/2011;
(r)	Digital Law Office	02/27/2011;
(s)	The Virtual Office	02/27/2011;
(t)	SC Association of Justice Convention	08/ 04-06/2011;
(u)	SC Black Lawyers Association Annual Retreat	10/14-10/15/2011;
(v)	Capital Litigation for Prosecutors: Basic Issues	05/21-05/25/2012.

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 a troubled financial status. Mr. Scott has handled his financial affairs responsibly.

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 he is not rated by any legal rating organization.

Mr. Scott reported the following military service:

- (a) 19 September 1973 -- 2 February 1974; United States Air Force; E-2; Honorably Discharged;
- (b) 10 January 1982 -- 30 June 1987; United States Army; 0-3; Honorably Discharged.

(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.

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

- (a) Member of the United States Army Judge Advocate General's (JAG) Corps, from January 1982 through May 1987, during which I served as:

Trial Defense Counsel, assigned to the 24th Infantry Division (now known as the 3rd 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.

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.

- (b) 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 was entrusted to handle, on my own, professional liability matters and serious criminal cases.

- (c) Legal Counsel with the SC 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.

- (d) Associate General Counsel, USC, from Sep. 1989- Jan.1994.

In this position, I provided representation to University of SC 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.

- (e) Private Practice of Law Since January 31, 1994. Since reentering private practice in 1994,

I have 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; represent clients in federal administrative matters, including EEOC, Merit Systems Protection Board, DOD administrative matters and social security cases.

From May 1996 through December 1998, I was a member of a partnership known as Gibbes, Scott and Redmond (the main office of which was in Florence). I operated primarily out of the Columbia Office.

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.

In addition to maintaining a private practice, since the spring of 2006, I have served as a special contract employee of the USC, Office of General Counsel. 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, EEO complaints, and litigation.

Additionally, since March 1, 2012, I have served as a part-time assistant solicitor in the Lee County Office of the Solicitor for the Third Judicial Circuit.

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

(a) Federal:

I filed two actions in federal court during the past five years:

One was a federal tort claim action, which settled at mediation, and no court appearance was required.

The other action was a petition to quash a subpoena issued by the Department of Defense Office of the Inspector General. The Court ruled on the motion based upon the pleadings and memoranda filed with the court. No court appearance was required.

I appeared in Federal Court in the fall of 2010 in a criminal matter before a federal Magistrate. The matter involved a citation issued to an immigrant working on Fort Jackson without a work permit.

(b) State:

General Sessions: Approximately 6 (including trial; guilty pleas, bond hearings).

The foregoing response for General Sessions Court was provided to the Judicial Merit Selection Commission in August 2011. As I indicated earlier in this document, since March 1, 2012, I have served as an Assistant Solicitor on a part-time basis, in the Third Judicial Circuit. I represented the state in a total of approximately 15 guilty plea proceedings in Lee County during the terms of General Sessions Court since March 1, 2012: the week of March 19, 2012; the week of June 11, 2012, the week of June 18, 2012, and participated in one trial during the week of August 6, 2012.

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

- (a) civil: 50%. Since March 2012 10%;
- (b) criminal: 5%. Since March 2012 50%;
- (c) domestic: 5%. Since March 2012 0%;
- (d) other: 40% Administrative; VA, Military, wills/probate; business counseling; agency representation.

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

- (a) jury:

Of the five Common Pleas jury trial cases in which I have been involved during the last five years, I tried one of those cases. The other 4 cases were settled during or after the discovery period.

- (b) non-jury:
During the last five years, I tried three non jury Common Pleas cases.

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

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

- (a) United States vs. Charles Ragins, 840 F.2d 1184 (4th Cir. 1988)
This case was an appeal from the Federal District Court of SC 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.
- (b) 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, 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.
- (c) 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.
- (d) State vs. Lynch ; tried in Lee County in mid 2000s. The case was significant, because it involved two defendants who were charged with starting a riot and taking hostages at the Lee County Correctional Institution. The case received prominent media coverage throughout the state at the time of the prison riot.
- (e) Easaw vs. Dept. of the Army; tried in 2009, before an EEOC administrative law judge and involved allegations of race discrimination in hiring of a motor vehicle operator at Fort Jackson. I consider the case to be significant, because, as of that time, as I understand it, this was one of few cases of this type in which an EEOC administrative judge ruled against Fort Jackson.

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

- (a) The last time I handled a civil case in the SC Court of Appeals was in the Late 1980s, and I do not recall the name of the case.
- (b) Sara Davis v. University of SC; (Employee Grievance Matter) Appealed from Budget and Control Board to Administrative Law Court) Docket Number: 2008-ALJ-30-0389-AP. I represented the Respondent, University of SC.
- (c) Singleton v. Bland; 2007-CP-40-3944; appeal from Magistrate Court to Court of Common Pleas.
- (d) Sara Leonard v. Standard Corporation; 2005-CP-28-113; Appeal from Workers' Compensation Commission to Court of Common Pleas.

- (e) Mary F. Young v. SC Budget and Control Board Employee Insurance Program; 2004-CP-40-4291; Appeal to Court of Common Pleas.

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

- (a) United States vs. Ragins, 840 F.2d 1184 (4th Cir. 1988);
(b) State vs. Moody. This was an appeal I handled in the SC Supreme Court in 1987 or 1988.

Mr. Scott further reported the following regarding unsuccessful candidacies:

In 2011, I applied for Fifth Judicial Circuit Court Seat Number Three. I was nominated as one of the candidates to be considered by the SC General Assembly. I withdrew my application approximately one week before the election for that seat was held.

(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 "Well qualified" for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found him to be "Qualified" for constitutional qualifications, physical health, and mental stability. The Committee stated in summary, "The Committee was honored to see Mr. Scott again and we enjoyed our time with him. He is one of the most well rounded candidates we interviewed. He has the experience, temperament, and maturity to be a most outstanding judge He is most eminently qualified to serve on the Circuit Court, and we believe he would serve in a most exemplary manner."

A complaint was filed against Mr. Scott by Dr. Marie-Therese H. Assa'ad-Faltas. After receiving Dr. Faltas' complaint, the Commission discussed the complaint and they found no merit in the complaint as to the candidate's character, competency, or ethics.

Mr. Scott is married to Malvina G. Scott. He has two children.

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

- (a) SC Bar;
(b) For several years, beginning in approximately 1998, I served on the SC Bar Foundation Board;
(c) I was also a member of the Introduction Subcommittee of the SC Bar's Task Force on Diversity and Inclusiveness during part of the above time period.;
(d) Former member of The SC Bar's House of Delegates;
(e) During the mid 1990s, I was vice president and president of the SC Black Lawyers Association, and I currently serve as assistant treasurer of that organization.

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

Pee Dee Area Veterans Advisory Council (former member).

Mr. Scott further reported:

The statement set forth below is, for the most part, identical to the statement I provided when I applied for a judicial position in 2011. I have included the statement again, because it remains an accurate expression of my sentiments.

I come from a humble background. In fact, I am not ashamed to say that 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 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 SC 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 experiences, 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.

I have read the letters of recommendation which have been provided in my behalf. I am truly humbled by those letters.

When I was a very young adult, perhaps not more than 19 or 20 years old, my great aunt (the sister of my maternal grandmother) told me that I was “one in a hundred”. She obviously saw something in me that caused her to believe that I had the potential to do great things in life. The extent to which I have done anything great, I leave for others to decide.

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 that Mr. Scott’s varied legal background would equip him well for service on the Circuit Court bench and noted his good presentation at the Public Hearing.

(12) Conclusion:

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

Jerome P. Askins, III
Circuit Court, At-Large, Seat 15

Commission’s Findings: QUALIFIED AND NOMINATED

(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 60 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 made \$93.25 in campaign expenditures for mailing letters of introduction.

Mr. Askins 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.

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

Mr. Askins described his past 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 st Annual Criminal Trial Practice in SC	02/24/2012.

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

I have served as moderator for these two CLE seminars sponsored by the Williamsburg County Bar Association:

- (a) Ethical Issues in Appointed Cases 03/06/2003;
- (b) Recent Significant Ethical Issues 05/05/2004.

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 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, 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 in 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 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 to defend 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 indigent criminal defendants and placed on the list for civil 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 US District Court, US Bankruptcy Court, Family Court, Common Pleas, Probate Court, and Magistrate's Court. More recently, I have not handled matters in the US 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. 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 Commons Pleas Court recently, but I have had numerous non-jury matters. I am presently co-counsel in a complex case which will be tried before a jury following completion of extensive discovery.

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 35 years would be invaluable 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 past 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 past five years as follows:

- (a) civil: 50%;
- (b) criminal: less than 1%;
- (c) domestic: less than 5%;
- (d) other: 45%.

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

- (a) jury: 0%;
- (b) non-jury: 100%.

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

The following is Mr. Askins' 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 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 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. Sole counsel at trial, co-counsel on appeal
- (c) Anderson Brothers Bank v. EBT Property Holding Company, Inc., et. al. Pending – SC Court of Appeals - Sole counsel at trial, co-counsel on appeal.

Mr. Askins reported that he not personally handled any criminal appeals.

Mr. Askins further reported the following regarding an unsuccessful candidacy:
Unsuccessful candidate for mayor of Johnsonville, SC, on November 3, 1998. (I lost by 4 votes.)

(9) Judicial Temperament:

The Commission believes that Mr. Askins' temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee found Mr. Askins "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. The Committee stated in summary that "Mr. Askins is a compassionate [and] dedicated person who sincerely wants to serve his fellow man. He has an extensive legal background and we believe he would be excellent in dealing with all types of individuals who might appear before him."

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) SC Bar Association;
- (b) Williamsburg County Bar Association, President 2003 and 2004;
- (c) Florence County Bar Association;
- (d) Previously, SC Trial Lawyers Association;
- (e) Appointed to SC Bench-Bar Committee by then SC 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.

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 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-five 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 of 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' honesty and his great story telling about his diverse legal experience would serve him well as a Circuit Court jurist.

(12) Conclusion:

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

**The Honorable Marvin H. Dukes, III
Circuit Court, At-Large, Seat 15**

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Dukes was born in 1961. He is 51 years old and a resident of Beaufort, SC. Judge Dukes 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 1987.

(2) Ethical Fitness:

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

Judge Dukes 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 Dukes reported that he has spent \$72.00 on postage for announcement letters.

Judge Dukes reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2011 Annual Judicial Conference	8/17/2011;
(b) Master-in-Equity Bench/Bar	10/14/2011;
(c) 2010 Annual Judicial Conference	8/18/2010;
(d) Master-in-Equity Bench/Bar	10/08/2010;
(e) Make up CLE for MIE Bench/Bar	12/29/2010;
(f) 2009 Annual Judicial Conference	08/19/2009;
(g) Master-in-Equity Bench/Bar	10/09/2009;
(h) 2008 Judicial Conference	08/20/2008;
(i) Master-in-Equity Bench Bar	10/10/2008;
(j) 6 th Annual Civil Law update	01/25/2008;
(k) 2007 Annual Judicial Conference	08/22/2007;
(l) Master-in-Equity Bench/Bar	10/12/2007.

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

- (a) I have taught domestic litigation and other subjects at the Technical College of the Lowcountry;
- (b) I have spoken to visiting student groups about the judiciary and the branches of government;
- (c) I have participated in the Judicial Observation and Experience program, which is a law school mentoring program.

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

(4) Character:

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

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

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

I was an appointed member of the Beaufort County Planning Commission from 1995-99. I was an elected member of Beaufort County Council from 1999-2002. During my tenure on council I served as Vice-Chairman of the Council (1999-2002) and was Chairman of the Planning and School District Liaison committees. I also served as a member of a number of other committees including the finance committee. In 2005, I served as the appointed Chairman of the City of Beaufort Waterway Commission. I believe that I timely filed all reports.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Dukes was admitted to the SC Bar in 1987.

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

Upon graduation and admission to the bar in 1987, I was employed by the firm of Dowling, Sanders, Dukes, Williams and Svalina in Beaufort, SC. This firm changed in name and character a number of times over the years, finally dissolving in about the year 2000 (The name at that time was Dukes, Williams and Infinger), after which the remaining partners opened individual P.A's and LLCs. In my twenty years of practice prior to becoming Master, I worked in a primarily civil and domestic general practice with some criminal and contract work. In my early years of practice, I handled all of the criminal appointments for all of the attorneys in our small firm. Later, I transitioned into a primarily civil and domestic practice. During my career, I have handled a wide variety of cases, many with complex issues. My career experience includes virtually all aspects of litigation from mediation through the appellate level.

I became Master-in-Equity for Beaufort County in June of 2007.

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

I have served as Full-time Master-in-Equity for Beaufort County since June of 2007. During my time as Master, I have also served, pursuant to Supreme Court Order, as a Special Circuit Court Judge. In addition to the broad experience that I have gained through my service as Master, my appointment as Special Circuit Judge has allowed me to hear countless jury-trial motions, non-jury cases, Magistrate's criminal appeals and other matters. Historically, the Beaufort County Master-in-Equity has functioned as an in-house non-jury circuit judge for those matters permitted. In my 5 years of service I have continued that tradition.

In a typical month, I will hear dozens of contested motions from both the jury and non-jury docket, contested non-jury matters, magistrates and probate appeals, and traditional equity cases. As the commission is aware, the primary difference in a jury and non-jury trial is that the non-jury judge has an additional duty as finder of fact.

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

- (a) Federal: none;
- (b) State: two to three days a week.

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

- (a) Civil: 20%;
- (b) Criminal: 5%;
- (c) Domestic: 70%;
- (d) Other: 5%.

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

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

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

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

- (a) Taylor, Cotton & Ridley, Inc. v. Okatie Hotel Group, LLC, 372 S.C. 89, 641 S.E.2d 459 (S.C. App. 2007)
This was a very complex case involving a substantial mechanics lien, with several novel issues of set-off and cross-claim involving liquidated damages claims, materials shortages, interest disputes and a mold issue. The case originated in the year 2000, but due to the extensive testimony, the number of motions and finally the appeal, did not finally conclude until after the Appellate Court's ruling cited above. I was sole trial counsel. I assisted in the appeal.
- (b) KJL v. LER, et al. (99-DR-07- 750) This was an very unusual Family Court case in which I was hired by the State of Ohio department of Insurance to preserve a multi-million dollar claim of the department in the disputed marital holdings of the Family Court litigants. The case involved a mix of Family Court and civil issues including Statute of Elizabeth claims.
- (c) TMR v PMR (04-DR-07- 659) This was a divorce case in which the parties had been employed in the entertainment industry. It had a number of interesting valuation issues.
- (d) JO v WBO (2005-DR-07-699) This was a physician divorce case involving health issues which allegedly rendered the supporting spouse unable to assist in ongoing support.
- (e) PAH v. LEH (94-DR-07-0211) This was a complex equitable division case involving comingling of non-marital assets and property in the US virgin Islands. Ultimately it was successfully appealed (327 S.C. 360, 489 S.E.2d 212.)

The following is Judge Dukes's account of the four civil appeals he has personally handled:

- (a) Miller v. Miller 92-DR-07-2005;
- (b) Warner Advertising v. The Cabral Company 92-CP-07-1520;
- (c) Upchurch Timber v. SouthEast Timberlands 92-CP-07-272;
- (d) SC Federal Savings Bank v. Atlantic Land Title, et al 91-CP-07-853; (314 S.C. 292, 442 S.E. (2d) 630).

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

Judge Dukes reported that he has held the following judicial office:
I have served as Beaufort County Master-in-Equity from June 2007 to present.

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

- (a) Estate of Tenney v. SC Dept. of Health and Environmental Control, 393 S.C. 100, 712 S.E.2d 395 (S.C. 2011);
- (b) Hilton Head Automotive, LLC v. SC Dept. of Transp., 394 S.C. 27, 714 S.E.2d 308 (S.C. 2011);
- (c) Beaufort County School Dist. v. United Nat. Ins. Co., 392 S.C. 506, 709 S.E.2d 85 (S.C.App. 2011);
- (d) Wachovia Bank, N.A. v. Coffey, 389 S.C. 68, 698 S.E.2d 244 (S.C.App. 2010);
- (e) King v. James, 388 S.C. 16, 694 S.E.2d 35 (S.C.App. 2010).

Judge Dukes further reported the following regarding unsuccessful candidacies:
In 1997, I was an unsuccessful candidate for the 14th Circuit Family Court bench.
In 2002, I was defeated in a primary race for SC House seat 124.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizens Committee found Judge Dukes "Qualified" with respect to constitutional qualifications, physical health, mental stability, and experience. They found him "Well qualified" in the areas of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee stated with respect to the experience criteria, "The Committee has concerns over Judge Dukes' lack of experience in the handling of criminal matters and lack of jury trial experience in criminal matters."

Judge Dukes is married to Laura Campbell Dukes. He has one child.

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

- (a) Beaufort County Bar Association;
- (b) SC Bar Association;
- (c) American Bar Association.

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

- (a) Beaufort Yacht and Sailing Club;
- (b) Jean Ribaut Society (debutante society).

Judge Dukes further reported:

I am the oldest of three brothers. Our parents emphasized the value of hard work, fairness, honesty and the golden rule. I practiced law for twenty years with the philosophy that following the core values that our parents taught to us can never be wrong. In my legal career, I did my best to solve problems and to seek fair and just outcomes of disputes.

I have run a successful small law firm and I know the burden and the satisfaction of small business ownership, including making payroll and regulatory compliance. I have developed and

redeveloped properties and understand and appreciate the difficulties and rewards of such endeavors.

I have served in public office as a County Council vice-chairman, a position that included a number of commissions and boards on almost every government related subject.

I have sued and been sued and understand personally the value of a fair and just judicial system.

As Master-in-Equity I have done my best to live by the core values that have served me well in the past. I believe that due process is a combination of those values.

Because I believe that a settlement between litigants is always better than a ruling from a 3rd party, I have always encouraged mediation wherever possible.

During my service as Master, I have seen the fallout from the greatest foreclosure crisis this nation has experienced. Many of the decisions that I have made have been difficult, but they have not been made without careful consideration, due process and the exhaustion of all efforts to avoid forfeiture. In every case, I do my best to ensure that litigants and lawyers alike are treated with respect and fairness.

I believe that our entire judicial system rests on the people's understanding and confidence that win or lose; they were given a fair chance. As a Master-in-Equity it has been my goal to always guarantee that fair chance.

Further, as Master, I have served in the role of president of the Master's association and have been instrumental in the modification of Court rules regarding foreclosures.

Finally, my greatest achievement and enjoyment has been that of a husband and father. I work every day to pass on to my daughter the core values that have served me so well.

I am proud of my accomplishments and I believe that I have much to offer to Circuit Court Bench.

(11) Commission Members' Comments:

The Commission commented that Judge Dukes has very ably served as a Master-in-Equity since 2007 and noted his experience as a Special Circuit Court judge, which would assist him as a Circuit Court jurist.

(12) Conclusion:

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

**The Honorable Maité Murphy
Circuit Court, At-Large, Seat 15**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Murphy was born in 1969. She is 43 years old and a resident of North Charleston, SC. Judge Murphy 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.

(2) Ethical Fitness:

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

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Criminal Law Update	01/26/07;
(b) SC Civil Procedure Update	02/16/07;
(c) Sidebar Live	02/22/08;
(d) Criminal Law Update	01/25/08;
(e) Alternative Dispute Resolution	01/22/09;
(f) 7th Annual Civil Law Update	01/23/09;
(g) The Practice of Mediation; I'm a Construction Lawyer	01/23/09;
(h) Environmental Permits? No, Thanks	01/23/09;
(i) Growing Green: The Direction of SC Environmental Law	01/23/09;
(j) Real Estate Practice	01/24/09;
(k) Breakfast Ethics Seminar	01/25/09;
(l) Annual Chief Magistrate Meeting	06/23/09;
(m) Magistrates Orientation Program	07/20- 07/31/09;
(n) Mandatory Magistrates School	10/30/10;
(o) Mandatory Magistrates School	11/05/10;
(p) Annual Legislative Seminar	03/09/11;
(q) 2011 Annual Judicial Conference	08/17/11;
(r) Masters-in-Equity 2011	10/14/11;
(s) SC Bar Convention	01/19-01/20/12;
(t) MIE Association Meeting	03/09/12;

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

- (a) I taught business law courses at Midlands Technical College in Columbia in 1996 and 1997.

- (b) I taught the Ethical Issues portion of the Children's Law Center CLE in Orangeburg entitled Training for Attorneys Appointed in Abuse and Neglect Cases on April 30, 2010.
- (c) I taught Courtroom Procedure Training at the Dorchester County Sheriff's Department in January-May, 2010.
- (d) I taught Courtroom Case Presentation to the SC Litter Control Association on February 24, 2011.
- (e) I was a presenter during the March 2012 Orientation School for Magistrates and Municipal Judges.

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

(4) Character:

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

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

(5) Reputation:

Judge Murphy reported that she is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Murphy was admitted to the SC Bar in 1995.

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

I began practicing law in Columbia as a partner with the law firm of Holler, Dennis, Corbett & Garner. I began with said practice in January of 1996 and my practice was a general practice. My practice at that time was primarily focused on civil litigation in the Courts of Common Pleas and General Sessions. I also handled domestic matters in Family Court and cases in Magistrate and Municipal Courts. My husband and I then moved from Richland County to Dorchester County in March of 1998 and I was employed as an associate for Richard Wern in North Charleston where I handled civil litigation matters in State and Federal Court until I obtained a position at the First Circuit Solicitor's Office in October of 1998.

During my tenure at the Solicitor's office I rose to the rank of Chief Deputy Solicitor for the First Judicial Circuit. I was second in command to the Solicitor for the entire circuit which is comprised of Calhoun, Dorchester and Orangeburg Counties. I operated under a grant dedicated to prosecuting crimes of violence against women. I was in charge of prosecuting all violent crimes against women and children. I successfully tried cases of murder, kidnapping, arson, armed robbery, burglary, criminal sexual conduct (all degrees), lewd act upon a child, unlawful conduct towards a child, felony child abuse, sexual exploitation of minors, assault and battery

with intent to kill, assault and battery of a high and aggravated nature, drug and alcohol offenses and criminal domestic violence. I also assisted Solicitor Walter Bailey with the trials of four death penalty cases.

I left the Solicitor's Office in 2005 to join the practice of Quattlebaum & Murphy, L.L.P. as a partner. The firm as of January 2009 is the Murphy Law Firm, L.L.C. The firm is a general practice and during my time there I specialized in criminal and civil litigation matters in all courts and also handled domestic litigation. On April 30, 2009 I was confirmed by the Senate as a Magistrate Court Judge for Dorchester County. Chief Justice Jean Hoefer Toal appointed me as Associate Chief Magistrate for Dorchester County on June 17, 2009. I served in that capacity until I was appointed as Chief Magistrate by Chief Justice Toal on July 1, 2010. I served as Chief Magistrate part-time and continued my general practice until I was appointed as Master-in-Equity for Dorchester County in May of 2011.

I began my term as Master-in-Equity on June 1, 2011. As Master-in-Equity I hear cases referred to me by the Circuit Court. I preside over matters that deal with real property disputes, business cases, injunctions, default cases with unliquidated damages, and supplementary proceedings. The real property cases include mortgage foreclosures, quiet title actions, partitions, boundary disputes and mechanic's liens. On December 22, 2011, Chief Justice Toal also appointed me as a Special Circuit Court Judge.

As a Special Circuit Court Judge I dispose of motions and pretrial proceedings, perform administrative duties necessary to prepare cases for trial or other disposition, including the sounding the trial roster and docket. I am able to try non-jury matters in Common Pleas and General Sessions Court. I hear appeals from Magistrate, Municipal and Probate Courts and approve or disapprove settlements of minor's interest and all other people with an incapacity, and wrongful death and survivor actions settlements. In criminal matters, I am able to accept Grand Jury returns; to preside over guilty pleas, bond hearings and probation revocations; to hear and dispose of any or all motions and pretrial proceedings and nonjury trials; and to issue search warrants.

Judge Murphy further reported regarding her experience with the Circuit Court practice area:

My experience in the Court of General Sessions is extensive as described in question number fourteen (14). I have successfully tried many criminal cases involving complex evidentiary issues. I have handled these matters from the beginning stages of having a bond set through trial. My experience as Chief Deputy Solicitor also gave me valuable experience in managing a docket which I believe is very important experience for a Circuit Court Judge to have considering the high volume of cases currently pending that need to be disposed of in an efficient and fair manner. My service as a Magistrate and as a Special Circuit Court Judge has further extended my experience in all aspects of being able to effectively preside over criminal matters.

My time spent in private practice allowed me to gain valuable experience in also handling effectively civil matters for both plaintiffs and defendants. The types of civil cases that I have had the opportunity to work on have involved personal injury cases for plaintiffs, contract conflicts and the representation of parties involved in the dissolutions of partnerships and corporate entities. My responsibilities as Master-in-Equity and Special Circuit Court Judge as outlined in question number fourteen (14) illustrate my ability to handle complex matters that come before the Circuit Court. I feel that my career to date has prepared me well to serve in such a capacity.

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

- (a) Federal: 2%;
- (b) State: 98%;
- (c) Other: 0%.

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

- (a) Civil: 40%;
- (b) Criminal: 40%;
- (c) Domestic: 20%;

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

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

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

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

- (a) One of my most significant litigated matters that I personally handled was the murder case of State v. Robinson in Dorchester County. This was a significant trial for several reasons. It was a significant accomplishment to obtain a just verdict of guilty due to the fact that the case was based purely on circumstantial evidence. The victim in the case was a young mother who was brutally murdered with a tire iron tool in her home. Her body was then taken to a neighboring county and dumped in the woods and her home was set on fire. I worked closely with law enforcement to piece together the evidence necessary to try the murder case. Although the murder weapon was never found, we were able to establish that the tire iron tool from the victim's car was missing. Through manufacturing records of the car companies I was able to obtain a tire iron tool from the car manufacturer which would have been like the one missing from the victim's car. I was then able to match the skull fracture patterns to the missing tire iron tool shape through expert forensic testimony. I was able to establish the estimated time of death through expert testimony from analyzed larvae and the related growth stages of the larvae from the body at the autopsy. This testimony assisted in placing the defendant at the time and place of the murder. I worked with SLED arson and blood spatter experts to establish the manner in which she was murdered in the home and how the home was then set on fire in an attempt to destroy the evidence of the murder. There were many evidentiary and procedural issues in this trial which had to be handled effectively to ensure that the victim's killer was properly brought to justice.
- (b) Another significant trial that I handled was felony child abuse trial involving a five year old developmentally delayed victim. The child was sent by helicopter to the Medical University of SC in an unresponsive state with a significant bruise on his chest and another bruise on the side of his head behind his ear. The defendant was the child's father and he had called an ambulance and stated that the child had fallen in the bath tub. The child barely survived the brutal attack and upon receiving the case it was obvious that it would be a difficult case to get to a jury due to the fact that the child was only five years old, non-communicative and unable to testify as to the cause of his injuries. Further, his mother was not cooperative and protective of the defendant. I prosecuted her as well for failing to protect her child. I began preparing for this case by obtaining a complete medical history of the child and discovered by review of numerous scattered medical records that the child had been blinded in his right eye as an infant, and had suffered two broken femurs before the attack in question. I was able to obtain experts to review the previous injuries to establish a pattern of abuse and neglect by the defendants.

It was determined that the eye injury was to a reasonable degree of medical certainty caused by violent shaking of the child as an infant and the two femoral breaks were not accidental in nature but were caused as a result of physical abuse due to the pattern of the breaks in question. Both parents of the child in question were convicted and the child was taken in by a relative and began to thrive and grow once being placed outside of an abusive environment.

- (c) I successfully prosecuted another significant felony child abuse trial in which a three year old child's hand was submerged in scalding hot water as punishment for sucking his thumb. The child received third degree burns as a result of his injuries and was left in pain in his home without medical treatment until the following day when he was discovered by his aunt who then took him to the hospital. Unfortunately, by the time he was taken for medical treatment the severity of the burns had caused his fingers to become webbed together. The child's hand was at risk of having to be amputated but was saved. He had to undergo and will continue to have to undergo numerous surgeries throughout his life as a result of the burns inflicted on him. Due to his age and horrific justifiable fear of the defendant I had to prosecute the case without the testimony of the child and had to rely on the only other witness that placed the defendant in the bathroom with the victim. My corroborating witness was only seven years of age but was competent to testify and I was able to obtain and introduce at trial sufficient other medical and physical evidence which proved that the defendant was the one that inflicted the injuries on the child.
- (d) I personally handled the trial of State v. Inman which resulted in a life sentence for the defendant in question. The defendant in this case was charged with kidnapping three young children at gunpoint and holding them hostage in his trailer. He locked two of the male victims in one room while he proceeded to sexually assault the young female in the living room of his home. The defendant had a prior record which included a violent, most serious offense and therefore I served him with notice to seek a life sentence at the trial of his case. I was able to successfully try the case with all three children being competent to testify as well as being able to successfully present the testimony of law enforcement and other forensic experts to prove his guilt beyond a reasonable doubt.
- (e) I tried a case that led to a 60 year sentence for a defendant that was convicted of sexually assaulting his own teenage daughter at knife point and he was also convicted of attempting to intimidate the potential witnesses that were subpoenaed to testify at the trial of his case in the trial of State v. Brown. This was a significant case as not only did I have to prove the criminal sexual conduct had occurred, but I also had to deal with witnesses that had been physically threatened and did not want to testify for fear of their safety. Procedurally, the rape case was difficult in that the assault was not immediately reported, thereby not giving us the opportunity of having physical forensic evidence to link the defendant to the crime. As is the case with many trials of criminal sexual conduct it is necessary to know how appropriate expert testimony is presented to explain the lack of forensic evidence and one must also be able to understand procedurally how to present appropriate psychological testimony which can corroborate symptoms consistent with trauma caused by sexual and or physical abuse.

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

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

I currently serve as Dorchester County Master-in-Equity. I began serving my term on June 1, 2011. I was appointed by the Governor with the advice and consent of the General Assembly on May 19, 2011. As Master-in-Equity I hear cases referred to me by the Circuit

Court. I preside over matters that deal with real property disputes, business cases, injunctions, default cases with unliquidated damages, and supplementary proceedings. The real property cases include mortgage foreclosures, quiet title actions, partitions, boundary disputes and mechanic's liens. I conduct public judicial auctions of real property pursuant to mortgage foreclosure actions. I further execute and deliver Master's Deeds conveying title to real property to successful bidders at the public auctions. If appropriate, I also execute and deliver Master's Deeds to parties to suits that establish their legal interests in real property. My jurisdiction is limited to Dorchester County as Master-in-Equity.

On December 22, 2011, Chief Justice Jean Hoefler Toal also appointed me as a Special Circuit Court Judge. As a Special Circuit Court I dispose of motions and pretrial proceedings, perform administrative duties necessary to prepare cases for trial or other disposition, including the sounding the trial roster and docket. I am able to try non-jury matters in Common Pleas and General Sessions Court. I hear appeals from Magistrate, Municipal and Probate Courts and approve or disapprove settlements of minor's interest and all other people with an incapacity, and wrongful death and survivor actions settlements. In criminal matters, I am able to accept Grand Jury returns; to preside over guilty pleas, bond hearings and probation revocations; to hear and dispose of any or all motions and pretrial proceedings and nonjury trials; and to issue search warrants. I work closely with our resident Circuit Court Judge and our Chief Administrative Judge to carry out these duties in an effort to assist the County in effectively managing the pending dockets. This jurisdiction is also limited to Dorchester County to assist with the docket.

I previously served as Chief Magistrate for Dorchester County. I was appointed as a Magistrate by the Governor, with the advice and consent of the Senate. My appointment was confirmed on April 30, 2009. As a Magistrate Court Judge I had jurisdiction to hear civil actions within the County where the amount in controversy did not exceed \$7,500.00. This included actions for breach of contract, damages for injury to rights pertaining to the person or personal or real property as well as all landlord and tenant matters, and actions to recover the possession of personal property whose stated value does not exceed \$7,500.00. I had limited jurisdiction over mechanics' liens, agricultural liens, repair or storage liens and animal owner's liens.

I also had jurisdiction in the county to handle criminal and traffic offenses which are subject to a fine or forfeiture not exceeding five hundred dollars or imprisonment not to exceed thirty days or both. I also heard cases transferred from General Sessions Court where the penalty did not exceed one year imprisonment or a fine of \$5,000.00, or both. These cases were transferred to the Magistrates Court upon petition from the Solicitor and with the consent of the defendant. I was also responsible for setting bail, conducting preliminary hearings and issuing arrest and search warrants.

As Chief Magistrate I worked hard to ensure that both of our Magistrate's Courts within the county operated effectively. We established procedures to ensure compliance with Orders issued by the Chief Justice and the rules set forth by the Office of Court Administration.

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

As Master-in-Equity, and as Special Circuit Court Judge, I have issued several significant orders. None of these orders have been reported and there has not been an appellate review. However, they have dealt with the following issues:

- (a) I presided over a highly contested partition action that included nine family members and an out of wedlock child. The parties disputed how to divide two tracts of land they inherited from their parents and whether or not the out of wedlock child should be included in said distribution. I felt that this was a significant decision in that it directly affected many families. There were numerous witnesses, attorneys, and experts involved in the litigation. Of course, litigation between family members can be very emotional for the participants, and I felt that I presided over the trial in an effective manner so that

although some may not have been happy with the outcome, each felt as if they had their day in court and it was handled in a fair and efficient manner for them and the order allowed for closure to their family's disputes.

- (b) I presided over an appeal which dealt with the town of Summerville having condemned a highly visible commercial property. The property owners had gone before the Construction and Code Board of Adjustments and Appeals Board to appeal the town's demolition notice. The town's Condemnation Order was upheld and the matter was then referred to me to hear and issue an Order. I upheld the matter as I found that the town had correctly interpreted the pertinent sections of the International Property Maintenance Code which was incorporated into a town ordinance section. This was a significant order due to the size of the property, the costs of demolition, the property's location and great potential safety hazard to the residents of the town of Summerville.
- (c) Sitting as a Special Circuit Court Judge I issued an Order Granting a Defendant's Motion for Partial Summary Judgment. The Plaintiff in said action attempted to proceed in an action to collect damages claimed on a fixed price contract for home repairs on a private residence. I issued the Order on the grounds that the Plaintiff was barred from enforcing its mechanic's lien as it was prohibited by Dorchester County Code and due to illegality and contravention of public policy. This was due to the Plaintiff having conducted the underlying renovations without a County builder's license as was required by ordinance; that the renovations were conducted without obtaining the required electrical permit, plumbing permit or mechanical permit as it had agreed to do in the contract. Further, the Plaintiff knowingly made material false statements in its application for a building permit to the County.
- (d) I issued an Order of Foreclosure in a highly litigated commercial property case that dealt with the sale of a self-storage business. This matter was significant in that the litigation up until the final hearing included not only complex discovery matters, but also the appointment of a receiver for the business. The Order appointing the receiver had to be very detailed in outlining the duties and responsibilities of each of the parties.
- (e) As a special Circuit Court Judge I issued an Order approving the settlement of a wrongful death action of a young man who was tragically killed in an automobile accident. The accident was caused by defective used tires that had been sold to the young man contrary to applicable industry standards. It was important to review the expert evidence submitted as well as to consider the impact to the plaintiff's family and whether or not the settlement was fair and in the parties' best interests.

I did not include any reference to orders from my service as a Magistrate as Magistrate courts are not courts of record. Therefore, the proceedings are summary in nature and orders and opinions are not reported or published.

Judge Murphy reported the following regarding her employment while serving as a judge: I was previously a partner in the Murphy Law Firm which is located in Dorchester County. This employment, while serving as a judge, was during all of my tenure as a Magistrate as I held that position part-time. This was from April of 2009 until my appointment as Master in Equity in 2011. During the month of June 2011 I began work as Master-in-Equity on a part-time basis and wound down my private practice. As of July 1, 2011 I have worked as a full-time Judge and I have not had any other employment. I practiced law with my husband, Christopher J. Murphy and our firm had four support staff employees upon my departure. I was responsible for handling a variety of litigation cases in Common Pleas, General Sessions, Family and Federal Courts

Judge Murphy further reported the following regarding unsuccessful candidacies:

I was a candidate for Circuit Court Judge of the First Judicial Circuit in 2008. I was found qualified to serve, but was not nominated to the office. I was a candidate for Circuit Court Judge, At Large Seat 8 position in 2009. I was found qualified to serve and nominated by the JMSC but was not elected to the position by the Legislature. I was a candidate for Circuit Court, At Large Seat 9 position in 2010. I was found qualified to serve, but was not nominated to be elected.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen's Committee found Judge Murphy to be "Well qualified" in the evaluative criteria of ethical fitness, experience professional and academic ability, character, reputation, and judicial temperament. The Committee found Judge Murphy "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability.

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

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

- (a) SC Bar Association – 1995-present;
- (b) SC Women's Bar Association – 1995-present;
- (c) Dorchester County Bar Association
Past President- 2006- May 2010
Vice- President 2005
Treasurer 2003-04;
- (d) Member of the Richland County Bar-1996-98;
- (e) SC Summary Court Judges Association- 2009-11; and,
- (f) Master-in-Equity Association-2011-present.

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

- (a) YMCA- Board of Directors- January, 2006 to December, 2011. I served on the Executive and Finance Committees and was the former Chair of Programs Committee;
- (b) Summerville Rotary Club- 2005 to present. Paul Harris Fellow, Programs Chair 2007-09;
- (c) Summerville Meals on Wheels- Board of Directors 2007-08;
- (d) Summerville Republican Women's Club- Past President and Vice-President. Resigned during my past candidacy for the Circuit Court and upon being appointed Magistrate Court Judge;
- (e) Dorchester Children's Center Development Committee;
- (f) Summerville Journal Scene "Women to Watch" 2011 Award.

Judge Murphy further reported:

I would propose that my past experiences have well prepared me to serve as a Circuit Court Judge. I have had the unique opportunity throughout my career to serve on all sides of the bench. From that, I have had the opportunity to learn from other, attorneys, judges, litigants and victims of crimes or circumstances. I continually strive to be, and will continue to strive to be the kind of judge that is above all fair, well- versed in the law, and one that treats all witnesses, jurors, litigants and their counsel respectfully.

- (11) Commission Members' Comments:
The Commission commented that Judge Murphy has broad legal experience as a Magistrate, Master-in-Equity, and Special Circuit Court judge that will prepare and serve her well for the Circuit Court bench.
- (12) Conclusion:
The Commission found Judge Murphy qualified and nominated her for election to the Circuit Court.

Deborah B. Barbier
Circuit Court, At-Large, Seat 16

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Ms. Barbier meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Barbier was born in 1969. She is 43 years old and a resident of Columbia, SC. Ms. Barbier 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 1994.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Barbier.

Ms. Barbier 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. Barbier reported that she has made \$255.06 in campaign expenditures for envelopes, paper, and postage.

Ms. Barbier 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.

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

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

<u>Conference/CLE Name:</u>	<u>Date:</u>
(a) Criminal Asset Recovery Summit	5/15/2007;
(b) Asset Forfeiture Training	9/21/2007;

(c)	Annual District Training	12/21/2007;
(d)	Legal Issues for USAO Managers	1/23/2008;
(e)	Professional Responsibility Issues in Plea Negotiations	2/20/2008;
(f)	United States Attorney's Office Training	9/10/2008;
(g)	Professionalism Training	12/12/2008;
(h)	Federal Sentencing Guidelines	10/15/2009;
(i)	Investigating and Prosecuting	10/28/2009;
(j)	Annual Training/Legal Updates	12/11/2009;
(k)	Bridge the Gap (speaker)	3/8/2010;
(l)	LECC Federal Discovery	9/13/2010;
(m)	Financial Fraud Coordinators Conference	10/13/2010;
(n)	Annual Attorney Legal Updates	12/8/2010;
(o)	Mandatory Department Discovery Training	3/21/2011;
(p)	The Legal Professional and Abuse Issues	5/19/2011;
(q)	Cigarette Traffic and Diversion Seminar	6/14/2011;
(r)	2011 Annual Attorney Legal Updates	9/7/2011;
(s)	Symposium on Prosecutorial Ethics and Duties	3/15/2012;
(t)	Appellate Advocacy CLE	3/22/2012;
(u)	Federal Criminal Advocacy	5/4/2012.

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

Over my career, I have lectured and taught on a wide variety of subject matter in the areas of white collar crime, healthcare fraud, defense contracting fraud, drug diversion, mail and wire fraud, seizures, money laundering, and asset forfeiture. I have also spoken on criminal process, civil procedure, expert witness examination, cross examination techniques, ethics, and professionalism.

Over my career, I have presented and lectured to the following organizations:

- (a) Federal Public Defender's Office - CJA Training;
- (b) SC Bar Association - Bridge the Gap;
- (c) National Advocacy Center;
- (d) Drug Enforcement Administration Training;
- (e) Secret Service Annual Training;
- (f) Internal Revenue Service - Criminal Investigative Division Annual Training;
- (g) Criminal Justice Academy - Highway Interdiction Training;
- (h) National Association of Fraud Examiners Annual Conference;
- (i) Health Care Compliance Association;
- (j) SC Medical Association;
- (k) Women's Law Association;
- (l) Southern Regional Nursing Home Abuse and Neglect Prevention Conference;
- (m) Pro Bono Neighborhood Clinics;
- (n) Lorman Educational Services North Carolina Health Law Update;
- (o) Association of Regional Healthcare Internal Auditors;
- (p) SC Association of Nurse Anesthetists;
- (q) SC Hospital Financial Management Association;
- (r) US Department of Agriculture - Rural and Economic Development;
- (s) SC Carrier Advisory Committee.

Ms. Barbier reported that she has published the following:

- (a) SC Damages, Terry E. Richardson and Daniel S. Haltiwanger

(S.C. Bar CLE 2004) Authored chapter on Qui Tam Damages;

- (b) I have written numerous articles for the Law Enforcement Coordinating Committee's newsletters.

(4) Character:

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

The Commission also noted that Ms. Barbier 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. Barbier reported that her rating by a legal rating organization, Martindale-Hubbell, is AV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

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

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

After graduation from the USC School of Law in 1994, I served as a law clerk for the Honorable Joseph A. Wilson, II, Circuit Court Judge for the Fifth Judicial Circuit, for one year. In 1995, I served as a law clerk for the Honorable Joseph F. Anderson, Jr., United States District Court Judge, for one year.

In 1996, I was appointed by United States Attorney General Janet Reno as an Assistant United States Attorney. From 1996 until 2001, I started and led the U.S. Attorney's Office Affirmative Civil Enforcement ("ACE") Division. In this role, I prosecuted multimillion dollar False Claims Act cases against hospitals, physicians, defense contractors, durable medical equipment suppliers, dentists, and pharmacies. I also brought cases under the recordkeeping provisions of the Controlled Substances Act.

In 2001, I began criminally prosecuting violent crimes, drug trafficking, and white collar crime. In 2003, I was chosen by the United States Attorney to lead the Asset Forfeiture Unit. In this role, I was involved in the seizure and forfeiture of millions of dollars of assets from drug traffickers and white collar criminals.

In 2007, I was asked to lead the White Collar Crime Section for the District of SC. I prosecuted hundreds of white collar criminals and also supervised all of the white collar crime federal prosecutions in the Columbia, Charleston, Florence and Greenville offices.

In December 2011, I left the United States Attorney's Office and went into private practice. My practice focuses on federal and state criminal and civil defense, Qui Tams/False Claims Act actions, and business litigation. While in private practice, I have defended people accused of violent crimes, drug trafficking, mortgage fraud, health care fraud, mail and wire fraud, drug diversion, dui, sexual assaults, domestic violence, and bulk cash smuggling. My civil caseload is smaller but, currently consists of a case in which I represent two defendants, a

plaintiff's case in which my client intends to bring an action against two defendants, and two cases in which I represent petitioners in civil forfeiture matters.

Ms. Barbier further reported regarding her experience with the Circuit Court practice area:

In 1996, when I was hired to lead the Affirmative Civil Enforcement Division of the United States Attorney's office, I civilly prosecuted numerous individuals and entities under the False Claims Act and the Controlled Substances Act recovering millions of dollars in damages, penalties, and fines. The defendants in these cases were typically sophisticated business people, including doctors, dentists, pharmacists, universities, defense contractors, pharmacies, convenient store owners, and engineers. The cases were typically complex and document intensive.

In approximately 2000, I began working in the criminal division prosecuting violent criminals and drug traffickers. The violations typically included crimes such as felons in unlawful possession of firearms, the Hobbs Act, and drug trafficking with drug related offenses. In approximately 2002, I began prosecuting complex white collar crime cases. I was named the Health Care Fraud Coordinator and specialized in the criminal prosecution of healthcare professionals and drug diversion. The violations typically included health care fraud, mail fraud, wire fraud, recordkeeping violations, and money laundering. In 2003, I was named the Chief of the Asset Forfeiture Division. Leading this section, I was responsible for the forfeiture of millions of dollars in assets in drug cases and white collar crime cases. The cases involved drug trafficking, highway interdiction seizures, and white collar crimes. I led this division for approximately two and a half years until I moved back into the white collar unit in mid-2005.

In 2007, I became the Deputy Chief of the General Crimes Division wherein I was responsible for approximately 14 attorneys in the District of SC's white collar crime division. I also handled my own caseload which included a wide variety of crimes. I have prosecuted and/or supervised the prosecution of crimes involving bank fraud, insurance fraud, arson, mortgage fraud, securities fraud, tax fraud, consumer fraud, RICO / Racketeering, bank robbery, environmental crimes, public corruption, conspiracy, counterfeiting, money laundering, internet crimes, child pornography, bribery/extortion, customs violations, and perjury.

In private practice, my practice consists of a wide variety of criminal and civil cases. I have active criminal cases in municipal, magistrate, circuit and federal courts throughout the state. While in private practice, I have defended people accused of violent crimes, drug trafficking, mortgage fraud, health care fraud, mail and wire fraud, drug diversion, dui, sexual assaults, domestic violence, and bulk cash smuggling. My civil caseload is smaller but, currently consists of a case in which I represent two defendants, a plaintiff's case in which my client intends to bring an action against two defendants, and two cases in which I represent petitioners in civil forfeiture matters.

I believe that I have the experience necessary to be a circuit court judge. Although the majority of my trial experience has been in federal court, I believe that it has prepared me well to preside in a circuit court. My clerkship in circuit court allowed me to be in the courtroom a great deal and to see exactly what a circuit court judge does and deals with on a daily basis. Throughout my career, I have worked with state and local law enforcement and have interacted with solicitors and county public defenders. I have been on numerous statewide task forces that included people from various state agencies and state law enforcement. I have personally prosecuted many cases that were adopted from county solicitor's offices and I have supervised a great number of these cases. In private practice, I have defended criminal cases in state court at every level.

I am a great believer in constantly trying to improve my skills and increase my experience levels. I plan to continue in my CLE training on topics on which I do not have as much experience. Furthermore, I will read the advance sheets and keep abreast of all areas of the law.

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

- (a) Federal: average one time per week, sometimes more;
- (b) State: since January 2012 – 1-2 times per month in circuit court, city court and magistrate courts.

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

- (a) Civil: 30%;
- (b) Criminal: 70%.

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

- (a) Jury: approximately 10% - The majority of my cases have either involved guilty pleas or settlements;
- (b) Non-jury: 1%.

Ms. Barbier provided that she most often served as sole or chief counsel. In the jury trials that I have handled, I most often worked on a trial team wherein I served in a variety of roles which included chief counsel, second chair and third chair.

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

- (a) United States v. Shanita McKnight, et al, Criminal No. 4:07-CR-787;
United States v. George Simmons, et al, Criminal No. 4:06-CR-1227: These cases involved a public corruption initiative in Lake City, SC which resulted in the prosecution and conviction of multiple public officials including the Town Administrator, the Town Financial Director, and two police officers, as well as multiple high level drug dealers. I tried the case against Ms. McKnight and handled the cases of her co-defendant and several of the related cases, including the Town Administrator and Finance Director. She was convicted on all counts and sentenced to twenty years. These cases made a significant impact on the Lake City community and hopefully, helped to restore its citizens' confidence in government;
- (b) United States v. Edgar J. Melvin, et al, Criminal No. 3:10-CR-580: This was a public corruption, RICO prosecution against the former sheriff of Lee County, SC. This case went to trial. The defendant was convicted on more than 30 counts and was sentenced to 17 ½ years of imprisonment. It was a significant case because numerous dangerous, drug dealers were taken off the streets of Lee County and a corrupt public official was taken out of office;
- (c) United States v. Paul Moore, Criminal No. 3:09-CR-187: This case involved the prosecution of the Director of Finance at the SC Department of Social Services who conspired to steal more than \$5 million dollars from the State of SC. In addition, approximately, 227 people who were also involved in the scheme and were used to cash the stolen SC Treasury checks were prosecuted by me and ordered to make restitution to the state of SC. This was a significant case because it involved a large sum of money taken from the SC taxpayers and a large number of people were prosecuted;
- (d) United States v. Charlene Corley and C & D Distributors, et al , Criminal No. 3:07-CR-929: This case involved the prosecution of a defense contractor in Lexington, SC who bilked the Department of Defense for more than \$20 million dollars. The defendant received a lengthy jail sentence and millions of dollars in assets were returned to the United States Treasury after a massive effort to locate the proceeds of this crime was

undertaken. This case was significant because the Department of Defense completely changed its procedures for disbursing funds to contractors after the fraud was uncovered and the case received national attention;

- (e) United States v. ESICORP, Inc., et al., Civil Action No.1:00-CV-827- This case and its related cases involved the civil prosecution of multimillion dollar per diem fraud by defense contractors at the Savannah River Site. These cases were significant because it resulted in millions of dollars in recovery for the United States.

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

- (a) United States v. Endicott, Fourth Circuit Court of Appeals, June 24, 1999;
- (b) Hodges v. Thompson, Fourth Circuit Court of Appeals, 311 F.3d 316 (4thCir. 2002) (I worked on this case in conjunction with two lawyers at the Department of Justice and did not actually argue the appeal, but handled the case in the District Court and was on the appellate team assisting in writing the appellate brief);
- (c) United States v. Felix Herrera and Jorge Azahares, Fourth Circuit Court of Appeals, March 14, 2006.

The following is Ms. Barbier's account of five criminal appeals she has personally handled:

- (a) United States v. Charles Penland, Fourth Circuit Court of Appeals, 2007 WL2985299 (4th Cir. October 15, 2007). This is one of many opinions issued in this case. The most recent opinion was issued on February 2, 2012;
- (b) United States v. Nova Johnson, Fourth Circuit Court of Appeals, April 28, 2011;
- (c) United States v. Danny Roney, Fourth Circuit Court of Appeals, 2010 WL 2852675 (4th Circuit July 21, 2010);
- (d) United States v. Dramane Diombera, Fourth Circuit Court of Appeals, 2005 WL 3542411 (4th Cir. December 28, 2005);
- (e) United States v. Richard Robinson, Fourth Circuit Court of Appeals, 2006 WL 871126 (4th Cir. March 31, 2006).

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Ms. Barbier to be "Well qualified" for ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her "Qualified" for the constitutional qualifications, physical health, and mental stability. In summary, the Committee noted the following: "The committee was very, very impressed by Mrs. Barbier, and we enjoyed our interview with her. She was one of the most intelligent and well-rounded candidates we interviewed. She enjoys being in the court-room and is committed to public service. We feel that she is one of the most highly qualified candidates we interviewed, and we are certain she would be an outstanding Circuit Court Judge. We are certain she would serve the Circuit Court in a most exemplary manner."

Ms. Barbier is married to Ralph William Barbier, III. She has two children.

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

- (a) SC Bar;
- (b) Richland County Bar;

- (c) Federal Bar Association;
- (d) National Association of Assistant US Attorneys (1996-2010);
- (e) Fellows of the American Bar Foundation (2010).

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

- (a) Ronald McDonald House – Board member (2009- present);
- (b) Trinity Episcopal Church – (2001-present);
- (c) Middle School Mock Trial Team Co-Coach – Dent Middle School (2010- present);

Awards and Recognitions:

- (d) 1998 - United States Attorney’s office -Healthcare Fraud Award;
- (e) 1999 - Drug Enforcement Administration Appreciation Award;
- (f) 2000 - Workhorse Award - for “Outstanding Work Ethic and Contributions to the Overall Mission of the United States Attorney office”;
- (g) 2001 - Exceptional Service Award - United States Department of Energy;
- (h) 2002 - Civil Division Award;
- (i) 2003 - Exceptional Dedication Award - “Operation Fast Track” 2006 - Award for Leadership of Asset Forfeiture Unit;
- (j) 2006 - Team Player Award 2007 - Outstanding Contributions to the Asset Forfeiture Unit;
- (k) 2008 - United States Attorney’s Award;
- (l) 2008 - Award for Excellence - Presidents Council on Integrity and Efficiency;
- (m) 2010 - United States Department of Agriculture - OIG Award;
- (n) 2012 – Compleat Lawyer Award - USC Law School – silver medallion;

Law Enforcement Organizations and Leadership Roles:

- (o) Chairman of the SC Financial Fraud Task Force (2009-11);
- (p) Co-leader of public corruption task force (2005-11);
- (q) Criminal and Civil Health Care Fraud Coordinator (1998-2002);
- (r) Corporate Fraud Coordinator (2005-10);
- (s) Identity Theft Coordinator (2005–10);
- (t) Initiated and led Suspicious Activity Report (“SAR”) Team (2007-12);
- (u) Environmental Crimes Task Force (2010);
- (v) Violent Crime Task Force (2001-03);
- (w) SC Working Group on Nursing Home Abuse & Neglect (former Chairperson) (1999-2001);
- (x) SC Health Care Fraud Task Force (1997-2011);
- (y) SC Procurement Fraud Task Force;

Community Service: The following are organizations and programs for which I have volunteered:

- (a) Law School for Non-Lawyers;
- (b) Children’s Garden Committee;
- (c) Youth in Government Mock Trial Judge;
- (d) Project Safe Neighborhoods;
- (e) Project Sentry;
- (f) Safe Schools;
- (g) Trinity Episcopal Church Youth Group;
- (h) Youth Corps.

Ms. Barbier further reported:

I am very grateful for the opportunity to seek Circuit Court, At Large, Seat 16. Throughout my career, I have seen the tremendous impact judges make upon our society. They

have the ability to affect the lives of all who come before them and even those who are not before them. It is important to remember that each individual coming to court probably considers it one of the most important days of their lives. Being a judge is an extremely powerful position which must be undertaken by people with humility, integrity and character.

My professional background and experience has been outlined in detail in this application. However, some of the most important information to have about me and anyone seeking this office is my personal background and what leads me to seek this judgeship. Public service has been a very important part of my entire life. My father served two tours in Vietnam as an Army Ranger and after coming home from the war, he had a decorated career as a Special Agent in the Federal Bureau of Investigation. My brothers were military pilots who have also proudly served this country, sometimes during war. I was raised to believe that performing public service is a high calling. It comes with sacrifices and it is not always glamorous, but it can be extremely rewarding when it is done with diligence and honor.

I have strived my entire career to not only be a leader, but to lead by example. In my professional and personal lives, I believe in treating all people with respect, dignity, patience, compassion, and professionalism. I believe in not asking others to do something that I wouldn't be willing to do myself. I believe that these are important character traits, particularly for a judge. A judge must be an effective leader who has earned the respect of his or her peers.

I do not take for granted the fact that it is a privilege to practice law in this state. I have an enormous amount of respect for our profession and for the lawyers in the SC Bar. I believe that our legal system, while it is not perfect, is the best in the world. I would be humbled and privileged to serve as a Circuit Court judge and I would strive each day to maintain the excellent reputation our state judiciary enjoys in this nation.

(11) Commission Members' Comments:

The Commission commented that Ms. Barbier is a well-respected former Assistant US Attorney and noted her criminal prosecution experience.

(12) Conclusion:

The Commission found Ms. Barbier qualified and nominated her for election to the Circuit Court.

**Daniel Dewitt Hall
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Hall was born in 1954. He is 58-years old and a resident of York, SC. Mr. Hall 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 1988. He has been a licensed attorney in NC since 1988.

(2) Ethical Fitness:

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

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

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

Mr. Hall 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2011 SC Public Defender's Conference	Sept. 26-28, 2011;
(b) 2010 Annual Solicitor's Association Conference	Sept. 27-29, 2010;
(c) 2009 Annual Solicitor's Association Conference	Sept. 27-30, 2009;
(d) 2008 Annual Solicitor's Association Conference	Sept. 28-30, 2008;
(e) Evidence for Prosecutors – Tucson, Arizona	November 4-8, 2007;
(f) 2007 Annual Solicitor's Association Conference	Sept. 23-26, 2007.

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

Mr. Hall reported that he published the following book:

(Clergy Confidentiality: A Time to Speak and a Time to Be Silent), by Lynn Buzzard and Dan Hall, 1988 Christian Management Association.

(4) Character:

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

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

(5) Reputation:

Mr. Hall reported that he is not aware of any rating by a legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:
Mr. Hall appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:
Mr. Hall was admitted to the SC Bar in 1988.

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

- (a) Sixteenth Judicial Circuit Solicitor's Office Assistant Solicitor, 1988-90;
- (b) Sole Practitioner 1991-99 - General practice with focus on personal injury, worker's compensation and criminal defense;
- (c) Sixteenth Judicial Circuit Solicitor's Office Assistant Solicitor, 1999- June 2011;
- (d) Sixteenth Judicial Circuit Public Defender's Office Assistant Public Defender, June 2011-present.

Mr. Hall further reported regarding his experience with the Circuit Court practice areas:
I am currently an Assistant Public Defender and represent indigent defendants in General Sessions court. I was an Assistant Solicitor from 1999 to 2011. I have prosecuted and defended most every type of General Sessions criminal cases. I have no experience in civil matters in the past five years. I was in private practice from 1991-99 and had a limited experience in the court of common pleas. My practice included criminal defense, personal injury, probate and some limited litigation in common pleas. I took and passed the North Carolina and SC Bar exams during the same week in 1988. I believe that I have the intellectual ability to quickly develop the necessary skills to preside in common pleas court.

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

- (a) Federal: 0%;
- (b) State: 100%.

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

- (a) Civil: 0%;
- (b) Criminal: 100%;
- (c) Domestic: 0%.

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

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

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

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

- (a) State v. Willie Colvin 2011 GS 46 3777
Represented defendant charged with Criminal Sexual Conduct First Degree, Kidnapping, Use of Weapon During Violent Crime. This was a three day trial in which defendant was convicted of lesser offenses of Assault and Battery First Degree and Criminal Domestic Violence.
- (b) State v. Russell Holley 2002 GS 46 0698
Murder trial in which boyfriend stabbed girlfriend to death in a rage of domestic violence. Defendant was sentence to life without parole.
- (c) State v. Aaron Williams 2003 GS 46 2745

Burglary First Degree trial in which a seventy year old widow's home was invaded while she was alone. Victim was physically attacked. Defendant was sentenced to a thirty year prison sentence.

- (d) State v. Edward Miller 2003 GS 46 0557
Defendant was charged with murder. The case was tried billed by the grand jury. In preparing for trial and investigating this case evidence was discovered absolving this defendant of the murder. The defendant had been wrongfully charged. I dismissed this case.
- (e) State v. Penny Sue Price 1994 GS 46 2784
I defended at trial an indigent, mentally handicapped defendant charged with threatening public housing officials. The defendant was found not guilty at trial.

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

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

Municipal Judge - City of York, SC - appointed by York City Council. January, 1993 – May, 1999. Signed criminal warrants, set bonds and held preliminary hearings for General Sessions criminal matters occurring in the city limits. Presided over plea court, bench trials and jury trials for criminal or traffic charges in the City of York in which the statutory penalty was no greater than 30 days in jail or the fine was not more than \$200.

Mr. Hall further reported the following regarding unsuccessful candidacies:

- (a) Republican Primary candidate for Solicitor, Sixteenth Judicial Circuit, June 1996;
- (b) Candidate for Judge, Sixteenth Judicial Circuit Family Court, 1998, withdrew;
- (c) Candidate for Judge, Circuit Court At-Large, Seat 9, March 2006;
Qualified but not nominated;
- (d) Candidate for Judge, Circuit Court At-Large, Seat 6, January 2009;
Qualified and nominated, withdrew prior to February election;
- (e) Candidate for Judge, Circuit Court At-Large, Seat 8, January 2010;
Qualified but not nominated;
- (f) Candidate for Judge, Circuit Court At-Large, Seat 9, January 2011
Qualified and nominated, withdrew prior to February election.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee found Mr. Hall "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.

Mr. Hall is married to Cathleen McCreight Hall. He has four children.

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

- (a) York County Bar Association Treasurer, 1992;
- (b) SC Bar Association;
- (c) NC Bar.

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

- (a) Filbert Presbyterian Church Clerk of Session;
- (b) York County Beekeepers Association;
- (c) National Cutting Horse Association.

Mr. Hall further reported:

Having grown up in a rural environment learning farm work and land surveying from my father, I continued to do farm work, textile mill work and land surveying through high school and college. Prior to attending law school, I managed a cattle operation, worked in a meat processing business and operated a local credit reporting and collection business. In these years, I married my wife of now thirty-one years and we had three small children. Having read and seen the need for attorneys with integrity to fill the ranks of our justice system, I then made the decision to attend law school. I began law school as a thirty year old father to three small children and my wife and I had our fourth child during the law school years. I took and passed the SC and North Carolina bar exams in July, 1988.

Since my time as a lawyer, my family has now grown to four married children, their spouses and seven grandchildren. I have deeply enjoyed my work as a public servant as a private attorney, municipal judge and an assistant solicitor in the Sixteenth Judicial Circuit Solicitor's office.

My life experiences give me a deep understanding and appreciation for people from all walks of life. I have been privileged to work with men and women from a broad variety of social and economic backgrounds. The courtrooms of this state belong to such people, and circuit court judges serve those as well the professionals that conduct the business of the courts. I believe I am prepared and have the ability to serve as a circuit court judge with both common sense and experienced knowledge of the law.

My commitment to justice and serving the common man has well suited me to be a circuit court judge. I would be honored to serve.

(11) Commission Members' Comments:

The Commission commented that Mr. Hall is a tremendous candidate for the Circuit Court and that he is known as a fair and good lawyer and also relates well to people.

(12) Conclusion:

The Commission found Mr. Hall qualified and nominated him for election to the circuit court.

**The Honorable Donald B. Hocker
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Hocker was born in 1952. He is 60 years old and a resident of Laurens, SC. Judge Hocker 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.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Hocker.

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

Judge Hocker reported that he has made \$65.00 in campaign expenditures for postage and stationary.

Judge Hocker reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Association of Probate Judges	02/19/02;
(b) SC Probate Bench/Bar	09/13/02;
(c) Annual Judicial Conference	09/22/02;
(d) SC Association of Probate Judges	03/25/03;
(e) SC Association of Probate Judges	05/16/03;
(f) FN-Real Estate	02/07/03;
(g) SC Probate Bench/Bar	09/12/03;
(h) Annual Judicial Conference	09/21/03;
(i) SC Association of Probate Judges	02/04/04;
(j) Judicial Oath of Office	10/11/04;
(k) SC Probate Bench/Bar	09/17/04;
(l) Annual Judicial Conference	10/10/04;
(m) Lawyer's Oath of Office	09/24/04;
(n) SC Association of Probate Judges	02/28/05;
(o) LandAmerica-Title Insurance	09/14/05;
(p) SC Probate Bench/Bar	09/16/05;
(q) Annual Judicial Conference	09/21/05;
(r) SC Association of Probate Judges	02/06/06;
(s) LandAmerica-Title Insurance	08/23/06;
(t) SC Probate Bench/Bar	09/15/06;
(u) Annual Judicial Conference	10/04/06;
(v) SC Probate Bench/Bar	09/14/07;
(w) SC Association of Probate Judges	02/13/07;
(x) Annual Judicial Conference	09/09/07;

(y)	SC Probate Bench/Bar	09/14/07;
(z)	SC Association of Probate Judges	02/05/08;
(aa)	SC Association of Probate Judges	09/12/08;
(bb)	SC Association of Probate Judges	02/24/09;
(cc)	SC Association of Probate Judges	09/11/09;
(dd)	SC Association of Probate Judges	10/18/09;
(ee)	SC Association of Probate Judges	05/07/10;
(ff)	SC Bar	09/10/10;
(gg)	SC Association of Probate Judges	02/05/10;
(hh)	SC Association of Probate Judges	05/20/11;
(ii)	SC Bar	09/09/11;
(jj)	SC Association of Probate Judges	10/10/11;
(kk)	SC Bar	02/01/12;
(ll)	SC Association of Probate Judges	02/15/12;
(mm)	SC Bar: Family Court Mediation Training	03/22-26/12.

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

- (a) 1999-Jury Trials in Probate Court;
- (b) 2000-Basic Evidence in Probate Court;
- (c) 2001-Order Writing;
- (d) 2002-Contempt Issues in Probate Court;
- (e) 2003-Will Construction Cases;
- (f) 2006-Awarding Attorney's Fees in Probate Court;
- (g) 2007-Reopening the Record, Contempt Revisited, Pro Se Litigants, Brown v. Coe;
- (h) 2009-Probate Court Bench Bar (September 2009);
- (i) 2011-Probate Bench Staff (May 2011).

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

(4) Character:

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

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

(5) Reputation:

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

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

Since I am appointed by the elected Probate Judge, I have been required to file an Annual Report with the State Ethics Commission and I have always been timely without penalty. (Two years ago, Associate Judges were informed filings were not required).

- (6) Physical Health:
Judge Hocker appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Hocker appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Hocker was admitted to the SC Bar in 1981.

He gave the following account of his legal experience since graduation from law school:
May 15, 1981-current: I have been a sole practitioner in Laurens, SC. I have had a general practice with significant experience in Circuit Court-both criminal and civil. I have also been the Associate Probate Judge for Laurens County since March of 1984 which will be discussed later.

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

Criminal:

I would incorporate by reference my response to Question 19 (c) and (d) concerning two significant cases in General Sessions that I have handled. I have represented criminal clients in General Sessions (and even Magistrate's Court) my entire practice. I typically will receive 8-12 court appointments a year and approximately at least this same number of privately-paid cases annually. I have represented clients charged with a variety of offenses, i.e. murder, felony DUI, possession and distribution of drugs. The vast majority of criminal cases result in a guilty plea but I have experience throughout my 31 1/2 years in trying cases before a jury.

Civil:

I would incorporate by reference my response to Question 19 (a), (b), and (e) concerning three significant cases in Common Pleas that I have handled. I have extensive experience dealing with a wide variety of cases, both jury and non-jury. The two most recent cases that I have tried in Court were (1) a breach of contract/fraud case dealing with a sale of an antique automobile. I represented the Defendant. The case was tried before a jury with a verdict in favor of the Defendant. (2) A deed-set-aside case. I represented the Plaintiff. The case was tried non-jury with a verdict in favor of the Plaintiff. My practice has been more Plaintiff-oriented but I do represent Defendants. A sampling of what I currently have pending in my Common Pleas practice is as follows: A quiet title action representing the Plaintiff; Representing the Defendants in a fourteen causes of action land dispute case. I also represent The Palmetto Bank and The City of Laurens Commission of Public Works, which provides additional cases in the civil area.

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

- (a) federal: None;
(b) state: Average of five times a week.

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

- (a) civil: 25%;
(b) criminal: 25%;
(c) domestic: 40%;
(d) Probate Court-Judge: 10%.

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

- (a) jury: 5%;
- (b) non-jury: 95%.

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

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

- (a) Charles Gray and Corey Gray vs. Georgia Pacific Corp., 97-CP-30-110, 111, 112.
I represented the Plaintiffs. This case involved a horrible vehicle accident with these two brothers. They both sustained severe 2nd and 3rd degree burns over most of their bodies. Suit was filed and a settlement was reached in 1997. This case is significant for several reasons. One, novel computer technology was used by the Plaintiff in the mediation process. Secondly, it is significant because the Plaintiffs were and are a living example of a true will to live and remain productive citizens, which they are today. Thirdly, significant discovery took place.
- (b) Glen Meadows, LLC, et. al. vs. The Palmetto Bank, et. al., 03-CP-23-4541.
I represented the Defendant Palmetto Bank. This case involved a suit by the Plaintiff-employer against three Banks. The Plaintiff had an employee who stole \$145,000.00 over several years by making out and endorsing numerous checks written on accounts with the Defendants. These checks were made payable to the Bank and each time a deposit was made to The Palmetto Bank. Extensive discovery took place. The case was significant because the law was very competitive between the UCC code and the requirements and duty of care placed upon a customer in contrast to the basic principals governing a banking institution's duty of care.
- (c) State of SC vs. Allenna Ward, 07-GS-30-359, 362, 364, 365, 369.
This criminal case dealt with a teacher charged with criminal sexual misconduct with five underage students. There was a tremendous amount of publicity nationwide. I was one of the two lawyers representing this Defendant. The case was significant for several reasons. One, the vast majority of teachers charged in this state and other states were only involved with one student and this case had five. Secondly, it was significant simply because of the media attention it had from the day of the arrest to the sentencing.
- (d) State of SC v. Comest S. Allen, 99-GS-30-661.
I represented the Defendant who had been charged with armed robbery. He had been in jail/prison the majority of his life. He was accused of going into a Subway restaurant in Clinton, SC at midnight (closing time) and robbing the store. The robbery was on surveillance video. The Defendant was very accustomed to the legal system so he continuously filed motions, briefs, objections, etc. contrary to my advice. This case was significant for several reasons. First, he required me to file a Motion with the Court to allow a "re-enactment" of the crime wherein he would be allowed to wear what the "person" was wearing and would act out exactly as the person on the video in an attempt to offer the comparison of the videos as not being him. To the shock of everyone, the Court granted the Motion. The "re-enactment" was done but never an issue. This is due to the fact the only real evidence that the State had (and it was not the video) was the identification by the store clerk. However, under legal principles, we were successful in getting the photo identification line-up and the resulting testimony/in-court identification suppressed. The trial Judge agreed with our defense that the identification was clearly tainted hereby justifying a suppression of the clerk's testimony. Consequently, a motion for directed verdict was made and granted.
- (e) Ernest Sullivan vs. John Walk, et. al., 06-CP-30-890.
A lady died and left a significant life insurance policy naming, not her husband-the Plaintiff, but an uncle-the Defendant. This lady died of cancer and made the beneficiary change from

the husband to the uncle in the latter stages of her illness. I represented the Defendant uncle. He claimed that she made the change to him because she trusted him to insure that her three children (not all by the husband) would be taken care of. The significant issue in the case was whether or not she had the mental capacity to effectuate the change of beneficiary. Significant also was the fact that we had to recreate the last months of this cancer-stricken lady's life on the issue of competency. The case was resolved with the Plaintiff receiving nothing and the Defendant receiving the entire policy proceeds (he agreed to put a portion of the money in trust for the children). Also, it should be noted that a companion Interpleader action was filed by the Insurance Carrier.

The following is Judge Hocker's account of five civil appeals he has personally handled:

- (a) Shorb v. Shorb 372 S.C. 623 (Ct. App 2007)
I was the trial lawyer but associated another lawyer for the appeal. I was not shown as counsel but was copied with all correspondence from the Court of Appeals and I assisted counsel with the appeal. The case was novel on the issue of equitable division of Walmart stock options in a divorce. I represented the Wife who was awarded 55% of the Husband's stock options along with a monetary award concerning these options. The Wife prevailed on the amount of stock options awarded her by the trial court.
- (b) SC Department of Social Services vs. Defendants (Court of Appeals 2000-unpublished opinion)
I represented the father of a teenage daughter who accused him of sexual abuse. The significance of this case was the Court's defining "sexual abuse" to the facts of the case. We were successful in obtaining a reversal and remand in the case.
- (c) Hellams v. Harnist 284 S.C. 256 (1985)
I represented the Defendants in this deed reformation case. I was successful in getting the Court to reverse the trial court's reformation of the subject deed. The case sets out good law with respect to deeds, mutual mistakes in deeds, and property descriptions. (Note: I had only been out of law school four years when the appeal was decided).
- (d) Bobby Tucker vs. Debra Wasson 90-759
This case was appealed by the mother in a visitation case. I represented the father. The issue being whether the father's previously ordered supervised visitation should be changed. The Lower Court ruled in favor of the father. The Court of Appeals affirmed. The case was significant for several reasons. During the time the case was tried, issues of visitation being supervised or unsupervised were fairly uncommon. Too, the Guardian ad Litem played a role in this case possibly somewhat differently than a Guardian ad Litem today.
- (e) Flinn v. Crittenden, 287 S.C. 427 (1985)
I represented the Plaintiff in a nursing home liability suit against the Defendant nursing home. The Lower Court granted summary judgment in the Defendant's favor. The appellate court affirmed the ruling finding no liability. Justice Goolsby gave a strong dissent which is significant because it sets out a good review of nursing home liability.

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

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

I have been the Associate Probate Judge for Laurens County since March of 1984, (28 1/2 years) and appointed by the elected Probate Judge. Probate Courts in SC have jurisdiction over Estates, Mental Commitments, Conservatorships and Guardianships. During my tenure on the bench, I have presided over numerous cases not only in Laurens County but across the State. I have had the honor and privilege of being appointed by the Supreme Court to preside over many cases in other counties for a variety of reasons. I have had the opportunity to preside over jury trials as well as non-jury cases

during my tenure. Even though non-jury cases are the most prevalent in Probate Court, I would like to give some of the following examples of jury trials I have presided over (non-exclusive list). (Note: Probate jury trials are identical to Circuit Court jury trials in all respects. A jury trial in Probate Court is conducted either in conjunction with a term of Common Pleas Court in Circuit Court or a special Probate jury term is authorized by the Supreme Court. In either situation, a Circuit Court jury pool is utilized).

Examples:

- (a) Barnett Estate-Anderson County:
Six day jury trial with five lawyers and numerous lay and expert witnesses. Since this was the only case for that week of Circuit Court, I did all the initial jury pool qualification before the jury pool was voir dire for the particular case.
- (b) Owings Estate-Laurens County:
Four day jury trial with five lawyers and numerous lay and expert witnesses. The same is true in this case concerning jury pool qualification.
- (c) Lester Estate-Newberry County:
Two day jury trial in September 2008. A special term of court was scheduled with a Circuit Court jury pool summoned and used. As in the above cases, I presided over all aspects of the trial including jury qualification, jury voir dire, pre-trial and post-trial matters.
- (d) Grice Estate-Greenville County:
Four-day jury trial in October 2009 concerning a Will contest.

The point being to the above summary of jury trial Judicial experiences is that I exercised the same role as that of a Circuit Court Judge and did everything that is required of a Circuit Court Judge presiding over a civil jury trial. It should also be noted that the Probate Court handles a wide variety of civil issues. The rules of evidence are the same in Probate Court as in Circuit Court. The Probate Court follows the SC Rules of Civil Procedure.

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

- (a) Melvin Weathers v. Robert P. Bolt as Administrator of the Estate of Virginia B. Morris, 293 S.C. 486.
The Primary issue in this case was whether the Plaintiff had a common-law marriage with the decedent thus allowing him to inherit from the Estate. I ruled against the Plaintiff and my Order was appealed to Circuit Court and then to the Court of Appeals. Both appellate Courts affirmed my ruling.
- (b) Department of Health and Human Services vs. Moses L. Miller, Personal Representative of the Estate of Genobia Washington, 2005-UP-154
There were several issues in this case: 1. Jurisdiction of a DHHS claim; 2. The distinction between a Medicaid lien for nursing home services and a Medicaid lien for medical services provided as a result of an accident; 3. The right of the Court to sua sponte reopen the record. Both the Circuit Court and Court of Appeals affirmed my ruling.
- (c) In the Matter of Mildred Williams, 97-ES-30-035
An emergency action was filed by a banking institution seeking a Protective Order and seeking a declaration as to the competency of Ms. Williams with respect to a very substantial investment account held by the bank. Several hearings were held in the case. At one time eight lawyers were involved. Ms. Williams also filed an extraordinary Writ of Prohibition in the SC Supreme Court (case number unknown) objecting to my jurisdiction over the case. This Writ action was ultimately dismissed. The merits of the case before my court were ultimately dismissed after the competency issue was resolved.
- (d) In the Matter of Merrilee O. DeVinney, 01-GC-100/104

This case involved a very significant and somewhat novel issue related to the effect, if any, of a trust on a spouse's claim to an elective share in the Estate. My Order was appealed to the Court of Appeals.

(e) In the Matter of the Estate of Bobby Gene Barnett, 03-ES-04-174

This case is ongoing which involves a large Estate and a substantial controversy among the family members along with a companion case involving two bonding companies which had bonds in place when a prior Personal Representative was in office. There have been 15-20 separate hearings along with a six day jury trial on the issue of the validity of the Last Will and Testament.

Judge Hocker reported the following regarding his employment while serving as a judge: Practicing attorney representing clients such as the City of Laurens Commission of Public Works and The Palmetto Bank.

Judge Hocker further reported the following regarding unsuccessful candidacies:

I was found qualified but not nominated as a candidate for the Eighth Circuit Seat No. 2 in the fall of 2008.

I was found qualified and nominated as a candidate for the Eighth Circuit Seat No. 1 in the fall of 2009 and went to a close floor vote in February 2010.

I was found qualified but not nominated as a candidate for At-Large Circuit Court Seat 9 in November 2010.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizen's Committee on Judicial Qualification found Judge Hocker to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. He was found "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. Furthermore, five Committee members found him "Well qualified" and two found him to be "Qualified" overall.

Judge Hocker is married to Susan Gayle Lindler Hocker. He has two children.

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

- (a) Laurens County Bar Association;
- (b) SC Bar Association;
- (c) SC trial Lawyers Association;
- (d) SC Association of Probate Judges;
- (e) Certified Circuit Court Mediator/Arbitrator (ADR);
- (f) Certified Family Court Mediator (ADR).

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

I am active in my church which is First United Methodist Church in Laurens. I serve as Chairman of the Church Council and I teach an adult Sunday school class. I have been active with the Boy Scouts serving as Troop Committee Chairman. I belong to the Kappa Alpha Order Court of Honor which is

an elite organization of men across the State who are Kappa Alpha alumni. Several years ago, I received the SC Pro Bono Service Award. Finally, I was voted “Best Attorney” in 2009 and 2012 by the subscribers to the Clinton Chronicle.

Judge Hocker further reported:

I believe I am qualified for the position of Circuit Court Judge for the following reasons:

- (a) I have 31 1/2 years experience practicing in Circuit Court both in Common Pleas-civil and General Sessions-criminal. I have tried cases jury and non-jury. I believe that I have more than sufficient legal experience to qualify me for this position.
- (b) I have 28 1/2 years on the Judicial Bench as the Associate Probate Judge for Laurens County. I have tried cases jury and non-jury. I have presided over cases across this State. I believe that I have more than sufficient judicial experience to qualify me for this position.
- (c) I have never had any founded grievances or ethical complaints filed against me in the 31 1/2 years I have been a practicing attorney.
- (d) I have never had any founded grievances or ethical complaints filed against me in the 28 1/2 years I have been a Judge.
- (e) I am a Christian and active in my Church and community to the extent that my part-time judicial position allows.
- (f) I have a stable and loving marriage of 36 years with two wonderful children who are both adopted.
- (g) I believe that I have the right judicial temperament and sense of fairness and compassion that will allow me to be a good Circuit Court Judge.
- (h) That I meet the nine criteria used by the Commission in determining that I am qualified:
 1. I meet the Constitutional qualifications;
 2. I am ethically fit;
 3. I have the necessary academic and professional abilities;
 4. I have the required character;
 5. I have a positive reputation;
 6. I have excellent physical health;
 7. I have no mental health problems;
 8. I have the necessary legal and judicial experience;
 9. I have the necessary judicial temperament.

Finally, I am humbled in having the opportunity to apply for this position. I believe that the above factors that I have listed have influenced me in being the type of Judge I have been and the type of Judge that I will continue to be whether (and hopefully) in the Circuit Court arena or continue in the Probate Court arena.

(11) Commission Members’ Comments:

The Commission commented that Judge Hocker is a highly regarded Associate Probate Judge which would translate into very able service on the Circuit Court bench.

(12) Conclusion:

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

FAMILY COURT QUALIFIED AND NOMINATED

The Honorable Ann Gué Jones
Family Court, First Judicial Circuit, Seat 1

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 Jones, 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 Jones meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Jones was born in 1965. She is 47 years old and a resident of Orangeburg, SC. Judge Jones 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 1990.

(2) Ethical Fitness:

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

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

Judge Jones reported that she has made \$22.50 in campaign expenditures for postage, copies, and court documents.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Bar Annual Convention – Family Law Section	01/26/07;
(b) Family Court Judges' Conference	04/25/07;

(c)	SC Court Administration Annual Judicial Conference	08/22/07;
(d)	SC Bar Family Court Bench/Bar CLE	12/07/07;
(e)	SC Bar Annual Convention – Family Law Section	01/25/08;
(f)	Family Court Judges’ Conference	04/23/08;
(g)	SC Court Administration Annual Judicial Conference	08/20/08;
(h)	SC Bar Family Court Bench/Bar CLE	12/05/08;
(i)	SC Bar Annual Convention – Family Law Section	01/23/09;
(j)	Family Court Judges’ Conference	04/22/09;
(k)	SC Association of Justice Annual Convention-Family Law	08/06/09;
(l)	SC Court Administration Annual Judicial Conference	08/19/09;
(m)	SC Bar Family Court Bench/Bar CLE	12/04/09;
(n)	SC Bar Annual Convention – Family Law Update	01/22/10;
(o)	Family Court Judges’ Conference	04/22/10;
(p)	SC Association of Justice Annual Convention-Family Law	08/05/10;
(q)	SC Court Administration Annual Judicial Conference	08/18/10;
(r)	Children’s Law Office Mini Summit on Justice for Children	12/02/10;
(s)	SC Bar Family Court Bench/Bar CLE	12/03/10;
(t)	SC Bar Annual Convention – Family Law Section	01/21/11;
(u)	Family Court Judges’ Conference	06/01/11;
(v)	SC Court Administration –Orientation for New Family Judges	06/08/11;
(w)	SC Association of Justice Annual Convention-Family Law	08/04/11;
(x)	SC Court Administration Annual Judicial Conference	08/17/11;
(y)	SC Bar Family Court Bench/Bar CLE	12/02/11;
(z)	Family Court Judges’ Conference	04/18/12;
(aa)	SC Court Administration-Orientation for New Family Judges	06/01/12.

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

- (a) I lectured at the SC Bar Family Law Bench/Bar CLE on December 3, 2010 on the topic, “Judicial Pet Peeves on Order Drafting”;
- (b) I lectured at the SC Bar Family Law Bench/Bar CLE on December 2, 2011, on the topic, “Motions for Reconsideration Under Rule 59(e)”;
- (c) I spoke at Orientation School for New Family Court Judges on June 8, 2011, on the topic of custody;
- (d) I spoke at Orientation School for New Family Court Judges on June 1, 2012, on the topics of custody, contempt and evidence.

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

(4) Character:

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

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

- (5) Reputation:
Judge Jones reported that she was rated by a legal rating organization, Martindale-Hubbell. She stated that she could not remember her last rating.
- (6) Physical Health:
Judge Jones appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Jones appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Jones was admitted to the SC Bar in 1990.

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

- (a) Staff Attorney. SC Supreme Court, Columbia, SC, August 1990-June 1991. Responsibilities included researching and preparing memorandum opinions for the Court in the areas of criminal law, domestic law, civil law and appellate practice.
- (b) Partner. Bryant, Fanning & Shuler, Orangeburg, SC, July 1991-June 2001. Primary responsibilities included handling all domestic and family court cases for the firm including divorce, separate maintenance actions, custody and visitation, child support cases, adoptions, DSS appointed cases and all other types of cases heard in family court. I also served as a Guardian ad Litem in numerous private custody cases. Other responsibilities included handling personal injury cases, some insurance defense, conducting title searches and real estate closings, preparing wills, probating estates and writing appellate briefs. During the course of my partnership with Bryant, Fanning & Shuler, my practice evolved such that in the last five years I was there 90% of my work was in the area of domestic and family law.
- (c) Family Court Judge, First Judicial Circuit, Seat 1, July 2001-present.

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

Family Court, First Judicial Circuit, Seat 1, July 2001-present; elected by the General Assembly in February 2001.

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

- (a) Ryan Campbell Dennis v. Holly Camille Yates, 05-DR-40-4139 reversed by Court of Appeals as Doe v. Roe, 379 S.C. 291, 665 S.E.2d 182 (Ct.App.2008) Court of Appeals reversed by Supreme Court in opinion which stated Family Court ruled correctly at 386 S.C. 624, 690 S.E.2d 573 (S.C.2010);
- (b) Sven Kroener and Ingeborg Kroener v. Baby Boy Fulton, 06-DR-18-1398 affirmed in unpublished opinion from Court of Appeals as S.K. and I.K. v. Baby Boy F., 2009-UP-300;
- (c) Carol A. Outlaw v. Michael E. Outlaw, 2006-DR-38-1202 Divorce Decree;
- (d) George Wyman Oxner v. Johnnie Mimms Oxner, 2008-DR-38-653/1998-DR-38-1707 affirmed in unpublished opinion from Court of Appeals, 2011-UP-097;
- (e) Michele E. Pelletier v. Mark G. Pelletier, 09-DR-40-0386 Final Decree of Divorce.
- (9) Judicial Temperament:
The Commission believes that Judge Jones's temperament has been and would continue to be excellent.

(10) Miscellaneous:

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

Judge Jones is married to Carl Arthur Jones. She has three children.

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

- (a) Orangeburg County Bar Association;
- (b) SC Bar Association;
- (c) SC Women Lawyers Association;
- (d) SC Conference of Family Court Judges – I am currently serving as Secretary/Treasurer of this conference. As an officer of this conference, I sit on the Family Court Judges’ Advisory Committee and have been a presenter/speaker at the Orientation School for New Judges for the past two years.

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

- (a) First Baptist Church, Orangeburg, SC - member and have served on the following committees: Deacon Board (one year as Secretary), Pastor Search Committee (Secretary), Constitution Committee, Denominational Affairs Committee;
- (b) Junior Service League of Orangeburg – Sustaining Member.

Judge Jones further reported:

I have been a part of the juvenile drug court program in Orangeburg County for the last seven years, serving as the Judge for the program. This program is a collaboration between the solicitor’s office, the Department of Juvenile Justice, the McCord Adolescent Treatment Facility and my office. I worked with these agencies seven years ago to develop this program and continue to work with them to refine our program. Our juvenile drug court program was started and continues to operate because the key players involved volunteer their time for this worthy program; our program in Orangeburg is not funded by grants. It has been gratifying for me to work with juveniles who are able to turn their lives around, become motivated to succeed and successfully complete the juvenile drug court program. It has been amazing to witness the responses of juvenile participants in this program when they are rewarded for their successes.

(11) Conclusion:

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

**The Honorable A. Dale Moore Gable
Family Court, Second 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 Gable, 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 Gable meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Gable was born in 1955. She is 57 years old and a resident of Barnwell, SC. Judge Gable 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 1980.

(2) Ethical Fitness:

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
SC Bar Annual Meeting Family Law Seminar	January 26, 2007;
Family Court Judges' Conference	April 25, 2007;
SCCA Orientation School for Family Court	July 11, 2007;
SCCA Annual Judicial Conference	August 22, 2007;
SCSA Annual Conference	September 23, 2007;
SC Bar Family Law Bench\Bar Seminar	December 7, 2007;
Family Court Judges' Conference	April 23, 2008;
SCCA Orientation School for Family Court	June 4, 2008;
SCCA Judicial Conference	August 20, 2008;
SC Bar Annual Meeting Family Law Seminar	January 9, 2009;
Family Court Judges' Conference	April 22, 2009;
SCCA Orientation School for Family Court	June 3, 2009;
SCAJ Family Law Seminar	August 6, 2009;
SCCA Judicial Conference	August 19, 2009;
FCJA Family Court Judges' Conference	April 22, 2010;
SCCA Orientation School for Family Court	June 2, 2010;

SCAJ Family Law Seminar	August 5, 2010;
SCCA Judicial Conference	August 18, 2010;
CLO Mini summit on Justice for Children	December 2, 2010;
Family Court Bench/Bar Family Law Seminar	December 3, 2010;
SC Bar Annual Meeting Family Law Seminar	January 21, 2011;
Family Court Judges' Conference	June 1, 2011;
SCCA Orientation School for Family Court	June 8, 2011;
SCAJ Family Law Seminar	August 4, 2011;
SCCA Judicial Conference	August 17, 2011;
SC Bar Bench/Bar Family Law Seminar	December 2, 2011;
SC Bar Annual Meeting Family Law Seminar	January 20, 2012;
Family Court Judges' Conference.	April 2012.

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

I have participated in the Family Court New Judges Orientation School each year since 2001. My topic each year is "Clerks' Rules, Rules to Show Cause and Contempt proceedings.

As a Probate Judge, I participated in several panel type CLE sessions at Probate Seminars.

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

(4) Character:

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

The Commission also noted that Judge Gable 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 Gable reported that she is not aware of her legal rating by Martindale-Hubbell, as she has not practice law since October 1988.

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

I served as the Probate Judge for Barnwell County for thirteen (13) years (October 1988 until July 2001). The Probate Judge is an elected position. I was initially appointed by the Governor to fill and un-expired term and was elected in 1990, re-elected in 1994 and 1998. I filed every Ethics report required by the Ethics Commission, both as a candidate and as a Judge. I have never been sanctioned or subjected to any penalty by the Ethics Commission.

(6) Physical Health:

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

(7) Mental Stability:

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

- (8) Experience:
Judge Gable was admitted to the SC Bar in 1980.

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

- (a) 1980-83 Staff Attorney, SC Supreme Court. As a staff attorney, I worked under the direction of the Justices on the Court and under the direct supervision of Clyde N. Davis, Chief Staff Attorney.
As a staff attorney, I reviewed briefs, wrote memorandums of law concerning cases on appeal, researched law and drafted appellate rules;
- (b) 1983-84 Staff Attorney SC Attorney General's Office, Criminal Appeals Division. As a Staff Attorney with the Attorney General's Office I was responsible for the research and preparation of appellate briefs for criminal cases. At that time all appeals were directly to the Supreme Court of SC;
- (c) 1984-88 Associate Bedingfield and Williams, Barnwell, SC.
The law firm was primarily a plaintiff's practice, but also handled criminal matters. My practice was concentrated in Family Law, Probate proceedings, Real Estate and Social Security. I represented many clients and practiced law in a small firm, in a rural county for four (4) years;
- (d) 1988-2001 Probate Judge, Barnwell County. I was responsible for the direct supervision of my office, including estate administration, judicial commitments and the issuance of marriage licenses. I was also responsible for the preparation of a yearly budget and worked with County Council on budgetary matters concerning my staff and my office. As a Probate Court Judge in a small, rural county, these responsibilities often included meeting with the families of deceased persons. I would explain my ethical limitations, but I would also explain the procedure of probating an estate. I presided over hearings relating to an individual's competency, the validity of a will, the valuation of property and the qualifications of persons who desired to be appointed as a Personal Representative of an estate.
The position of Probate Judge is the only popularly elected judgeship in SC. In 1988, I was appointed by the governor to fill an unexpired term of the prior Probate Judge. I successfully ran for election and re-election in 1990, 1994, and 1998;
- (e) July 2001 until present. Family Court Judge, Second Judicial Circuit, Seat 2.
As a Family Court Judge, I have handled all matters of Family Court cases including, divorces, equitable distribution, custody, adoptions, juveniles and abuse and neglect matter. I have also served as Chief Administrative Judge of the Second Judicial Circuit for several years.

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

Probate Judge. I was the Probate Judge for Barnwell County for thirteen years (1988-01). The Probate Judge is the only popularly elected judge in SC. Probate Court has jurisdiction over all matters relating to decedents and the administration of estates. It also has jurisdiction over the commitment of mentally ill and chemically dependent persons and incapacitated adults. The Probate Court also appoints conservators for minors and incapacitated adults as well as guardians for incapacitated adults.

Family Court, Second Judicial Circuit Seat 2. I was elected in 2001 and have continued to hold this seat. Family Court is a statutorily created court vested with exclusive jurisdiction over all matters involving and related to divorce, equitable distribution, adoptions, custody, child support, juvenile offenders and abused and neglected children and vulnerable adults.

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

Probate Court:

- (a) In the Matter of Imogen Beaver Daniels 99 ES 06 00 153;
- (b) In the Matter of Vera B Sanders 96 ES 06 000 83;
- (c) In the Matter of Karl D. Caughman 94 ES 06 000 56;
- (d) In the Matter of Henry Austin Taylor, 99 ES 06 000 58;
- (e) Janice Taylor v. Nettise Mae Jones, 99 ES 06 000 58.

These orders were all done while I was a Probate Judge. They involved issues of capacity to make a will, undue influence, matters of paternity to determine heirs-at-law, and matters of the appointment of the appropriate Personal Representative.

Family Court:

- (a) Ex Parte X (name redacted): In Re SCDSS v. Mother and Father, Memorandum Opinion 2012-MO-002, filed March 7, 2012. Motion of Pamela Wells, et. al., In Re: SCDSS v. Mother and Father; 10 DR 02 1895. This was a motion to intervene filed by grandparents to intervene and ask for custody of grandchildren who had been taken into care by DSS. Ms. Wells was placed on the Central Registry of Child Abuse and Neglect in 1994. I declined the grandparents Motion to Intervene and seek custody. They appealed and my ruling was upheld in the memorandum opinion. This is a confidential matter. I have not redacted the names of the defendants in the order. These names should not be made public;
- (b) Formby v. Formby, as Personal Representative of the estate of Formby, 2000 DR 05 000 76. This was an equitable division case. The factor that made it most interesting was that the husband died after the Summons and Complaint was filed vesting the Family Court with jurisdiction. The case continued in Family Court and the Formbys' marital property was divided;
- (c) Tammy Moore, Intervening Party, v. Ashlyn Massey, Plaintiff and David Hine and Mary Henderson, Defendants, 11 DR 32 2453. This was a Motion to Intervene filed by a maternal grandmother who was a resident of Tennessee. The Family Court of Lexington County had previously issued an order granting an aunt, a Lexington County resident, custody of the minor child. This case involved the UCCJEA and a determination of the child's true residence. I allowed the grandmother to intervene and ruled that SC was not the home state of the minor child;
- (d) X vs X (names redacted). 2010 DR 02 1708. This was a termination of parental rights and adoption case. The mother had consented to terminate her parental rights and consented to the adoption of the child by the step-mother. The maternal grandparents had been allowed to intervene to seek custody. After the mother executed the consent and relinquishment for the termination of her parental rights and adoption in favor of biological father and step-mother, the maternal grandparents sought visitation rights. I ruled that the termination of the mother's parental rights effectively terminated any visitation rights the grandparents may have had. Termination of Parental Rights cases and adoptions are confidential matters. I have not redacted the names in the order and request that these names not be made public;
- (e) Linda Browder, Plaintiff, v. Cecil Browder, Jr. Defendant, 2003 DR 32 2472. This was an alimony case. The procedural history of this case was long and complicated and involved an appeal to the Court of Appeals. The Court of Appeals reversed the original trial judge and remanded for an award of alimony. The original trial judge recused himself and I heard the case on remand. Ms. Browder appeared pro se at the remand hearing. I ruled that Ms. Browder had failed to provide the Court with any financial or other evidence that could allow the Court to award her alimony. Any award of alimony would have been purely speculative based on the lack of financial evidence. This case presents the typical dilemma faced by the trial judge when a self-represented litigant appears in court. Ms. Browder did

not know nor understand the rules of evidence or procedure nor did she understand that I, as the Judge, could not give her assistance in proving or presenting her case.

Judge Gale reported the following regarding holding public office:

I served as the Probate Judge for Barnwell County for thirteen (13) years (October 1988 until July 2001). The Probate Judge is an elected position. I was initially appointed by the Governor to fill and un-expired term and was elected in 1990, re-elected in 1994 and 1998. I filed every Ethics report required by the Ethics Commission, both as a candidate and as a Judge. I have never been sanctioned or subjected to any penalty by the Ethics Commission.

Judge Gable further reported the following regarding an unsuccessful candidacy:

In 1986 I ran unsuccessfully for Barnwell County Council. I lost in the primary run-off election by less than 1% of the total vote. There was a mandatory recount after the election that confirmed the vote total.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Judge Gable to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. They found her "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. In summary, the Committee stated, "Judge Gable is truly an asset to our State and our judiciary. The Committee has the utmost appreciation for her honorable service to the state as both a Probate Judge and a Family Court Judge. We are grateful we have public servants like her, and we feel that she is most eminently qualified to continue her outstanding service as a Family Court Judge. We are certain she would continue to serve in a sterling manner."

Judge Gable is married to Timothy R. Gable. She has two children.

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

- (a) SC Association of Family Court Judges;
- (b) Family Court and Ancillary Courts Association;
- (c) National Council of Juvenile and Family Court Judges;
- (d) SC Bar;
- (e) Barnwell County Bar Association;
- (f) SC Women Lawyers.

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

Seven Pines Baptist Church, Church Clerk, Sunday School teacher and hostess.

Judge Gable further reported:

I have been dedicated to my position as a Family Court Judge of the Second Judicial Circuit. I make every effort to treat every person in my courtroom whether attorney, litigant, witness or courthouse employee, with patience, dignity and respect. I have a strong work ethic. I maintain myself, personally and professionally, as a moral and ethical person and judge.

- (11) Conclusion:
The Commission found Judge Gable qualified and nominated her for re-election to the Family Court.

**The Honorable Angela Renee Taylor
Family Court, Third 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, 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 Taylor meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Taylor was born in 1958. She is 54 years old and a resident of Sumter, SC. Judge Taylor 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 1984.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Taylor.

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

Judge Taylor reported that she has not made any campaign expenditures "at this time except for postage to mail documents back to the Judicial Merit Selection Commission."

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) General Jurisdiction Course	04/29-05/10/12;
(b) Family Court Judge's Conference	04/18-04/20/12;
(c) Practical Needs of the Family Law Practitioner	01/20/12;
(d) 2011 SC Family Law	12/02/11;
(e) 2011 Annual Judicial Conference	08/17/11;
(f) Family Court Judge's Conference	06/01/11;
(g) Family Law Section	01/21/11;
(h) 2010 SC Family Court	12/03/10;
(i) Mini Summit on Justice for Children	12/02/10;
(j) What Family Court Judges Want You to Know	11/12/10;
(k) Introduction to Court Annexed ADR	10/29/10;
(l) 2010 Judicial Conference	08/18/10;
(m) 2010 Orientation for New Judges	06/02/10;
(n) Family Court Judicial Conference	04/22/10;
(o) Orientation School for New Family Court	06/03/09;
(p) 2009 Annual Judicial Conference	08/19/09;
(q) Commission and Attorney to Assist Seminar	10/21/08;
(r) Solicitors Association Conference	09/28/08;
(s) Prosecuting Cases in Family Court	08/20/08;
(t) Family Court/Bench Bar	12/07/07.

Judge Taylor reported that she has taught the following law-related course:
In 1986 or 1987 I taught a family law class at Central Carolina Technical College.

Judge Taylor also reported that:

- (a) Before I became a judge I gave several presentations on will preparation at local churches;
- (b) In 1986 or 1987 I taught a family law class at Central Carolina Technical College;
- (c) In 2010 I was one of the panel members at the What Family Court Judges Want You to Know;
- (d) On June 2, 2010, I was presenter at the Orientation School for New Judges.

Judge Taylor reported that she has published the following:
Domestic Violence Handbook, (1986) contributing author.

(4) Character:

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

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

(5) Reputation:

Judge Taylor reported that she is not rated by any legal rating organization.

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

I was an Assistant Solicitor from 1985 until 2009. I was appointed by the Solicitor. I was not required to file a report with the State Ethics Commission as an Assistant Solicitor.

- (6) Physical Health:
Judge Taylor appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Taylor appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Taylor was admitted to the SC Bar in 1984.

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

Prior to my election to the Family Court Bench in 2009, I have never held a judicial office.

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

- (a) Adam C. v. Margaret B. Unpublished Opinion No. 2012-UP-269 (Court of Appeals)
 - (b) Chappell F. and Huss F. v. John B. Unpublished Opinion No. 2011-UP-046 (Court of Appeals)
 - (c) SC Department of Social Services v. Tasha M., Jerome M., Roosevelt M., John Doe #1, John Doe #2 Unpublished Opinion No. 2012-UP-473 (Court of Appeals)
 - (d) Leroy B. v. Fatiema B. and Andre N. Unpublished Opinion No. 2012-UP-225. (Court of Appeals). The Supreme Court affirmed the decision of the Court of Appeals in this case.
 - (e) Anthony H. v. Matthew G. and April B. Opinion Number 4955 (Court of Appeals). The Court of Appeals vacated an Order I issued terminating the parental rights of the biological father because it determined the Court in SC did not have jurisdiction pursuant to the UCCJEA to hear the case. Subsequent to the issuance of the opinion by the Court of Appeals, in a new matter involving the same parties and the same issues, the State of Georgia has determined that it will relinquish jurisdiction.”
- (9) Judicial Temperament:
The Commission believes that Judge Taylor’s temperament has been and would continue to be excellent.
 - (10) Miscellaneous:
The Pee Dee Citizens Committee found Judge Taylor “Well qualified” for five of the nine evaluative criteria: ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee also found her “Qualified” for constitutional qualifications, physical health, and mental stability. In summary, the Committee stated that “[c]ommunity and legal feedback on Judge Taylor was positive.”

Judge Taylor is not married. She has no children.

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

- (a) The Sumter County Bar Association;
- (b) The SC Association of Family Court Judges;
- (c) The SC Bar Association.

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

- (a) Mount Pisgah African Methodist Episcopal Church, Steward Board;
- (b) Attorney to Assist the Office of Disciplinary Counsel;
- (c) 1987 - Tribute to Women in Industry;
- (d) 1997 - Complete Lawyer Award;
- (e) 2001 - The American Society on the Abuse of Children Legal Award;
- (f) 2001 - James T. McCain Humanitarian Award;
- (g) 2012 key note speaker for the Martin Luther King, Jr. Dream Walk.

Judge Taylor further reported:

I have over twenty years of experience in the practice of family law. I have worked in several different areas of family law to include child abuse prosecution, juvenile prosecution, and private practice. I have also been employed by legal aide in the State of Florida and the State of SC. I believe my experience with legal services has given me a unique understanding of the needs of poor people and self-represented litigants as it relates to the judicial system. Additionally, I have served as a Guardian ad Litem in private custody cases and adoption cases. As a Family Court judge, I have endeavored to be fair to all parties who appear before me, I have tried to give all litigants an opportunity to be heard when they appear before me. I have made an effort to conduct all proceedings in a professional manner so as to encourage respect for the judicial system.

(11) Conclusion:

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

**The Honorable Gordon B. Jenkinson
Family Court, Third Judicial Circuit, Seat 3**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Jenkinson was born in 1948. He is 64 years old and a resident of Kingstree, SC. Judge Jenkinson 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 Judge Jenkinson.

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

Judge Jenkinson reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) FCJA Annual Judicial Conference	04/25/07;
(b) SCAA Orientation School for FC	07/11/07;
(c) SCAA Annual Judicial Conference	08/22/07;
(d) SC Bar Family Court Bench/Bar	12/07/07;
(e) SC Bar Family Law Section	01/25/08;
(f) FCJA Family Court Judges Conference	04/23/08;
(g) SCCA Orientation School	06/04/08;
(h) SCAA Judicial Conference	08/20/08;
(i) National Judicial College	04/19/09;
(j) FCJA Family Court Judges Conference	04/22/09;
(k) SCAJ Annual Conference	08/06/09;
(l) SCAA Annual Judicial Conference	08/19/09;
(m) SC Bar SC Family	12/04/09;
(n) SC Bar Family Law Update	01/22/10;
(o) FCJA Family Court Judges Conference	04/22/10;
(p) SCAJ Annual Convention	08/05/10;
(q) SCCA Judicial Conference	08/18/10;
(r) CLO Mini Summit	12/02/10;
(s) SC Bar SC Family Court	12/03/10;
(t) SC Bar Family Law	01/21/11;
(u) FCJA Family Court Judges Conference	06/01/11;
(v) SCAJ Annual Conference	08/04/11;
(w) SCCA Judicial Conference	08/17/11;
(x) SC Bar SC Family	12/02/11;
(y) SC Bar Family Law	01/2012.

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

- (a) I lectured at the 2008 Public Defender's Conference on representing juveniles in Family Court;
- (b) I taught business law and government courses c.1975-77 at the Williamsburg Technical College, Kingstree, SC.

Judge Jenkinson reported that he has published the following:

- (a) My novel Live Oaks was published by Nimrod House of Richmond, Virginia in 1996;

- (b) The History Press of Charleston, SC, published my book A History of the Homes and People of Williamsburgh District in 2007;
- (c) R. L. Bryan published my book St. Alban's Episcopal Church: A Short History of a Small Mission also in 2007;
- (d) Pelican Publishing Company of Gretna, Louisiana, published my novel River Road in October 2011.

I have not written any articles or books in the legal field.

(4) Character:

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

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

Judge Jenkinson reported the following military service:

I served in the US Army on active duty from July-October 1974, as an Ordinance Officer. I was honorably discharged from the Reserves as a Captain about 1978.

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

I was elected by the State Legislature in 1993 to serve on the SC Coastal Council for a four year term. I did not seek re-election.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Jenkinson was admitted to the SC Bar in 1974.

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

I began practicing in the firm of Jenkinson and Jenkinson in November 1974 with my father, W. E. Jenkinson, Jr. and my brother, W. E. Jenkinson, III. Initially I handled cases typically assigned to new associates such as minor wreck cases and family court files. I also handled a number of criminal cases by appointment since Williamsburg County had no public defender. In 1981, M. Duane Shuler and I were appointed co-public defenders for Williamsburg County, and at that time the majority of my caseload consisted of criminal cases. Mr. Shuler and I worked together in this capacity until 1988, when he was appointed assistant solicitor for the Third Judicial Circuit. I was the sole public defender for the next three years. During the eleven years that I was in this position, I tried hundreds of cases and handled five death penalty cases to

conclusion. I was also charged with the responsibility of handling all court appointed juvenile cases in Family Court. In 1991, I resigned from my public defender's office to devote more time to my growing practice. My father passed away in 1991, and my brother and I took in two associates, Ernest Jarrett and Jennifer Kellahan in the mid 1990's, who are now partners. I began handling complex civil and family court cases and my brother began handling all criminal matters. In the later part of the 1990's, as our junior partners gained more experience, we began to concentrate more in our areas of expertise. On March 1, 2002 I left this firm to establish my own law firm known as the Jenkinson Law Firm. My practice is concentrated in the family law field.

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

In February, 2007 I was elected to seat 3 on the Family Court for the Third Judicial Circuit and I have served continuously since then. I was elected to this position by the state Legislature in February 2007.

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

- (a) Daisy Wallace Simpson vs. William Robert Simpson Sr., Individually and as shareholder/member of Simpson Farms, L.L.C. and William R. Simpson, Jr., as a shareholder/member of Simpson Farms, L.L.C. Case No.'s: 2003-DR-14-128 and 2003-DR-14-128;
- (b) Patricia Ferguson-Majors vs. Ned B. Major Case No: 2006-DR-10-3118;
- (c) SCDSS vs. Timothy Christmas and Amie Miles Christmas, Jason Miles, Lonnie Weaver, Sr. and Diane Weaver Case No.'s: 2009-DR-14-275, 2007-14-345, 2007-DR-14-444 and 2010-DR-14-152;
- (d) SCDSS vs. Abraham Pollock and Julie (Charlamayne) Ward Case No: 2005-DR-18-1462;
- (e) William Robert Simpson Jr. vs. Becky H. Simpson, nka Becky H. Ingle Case No. 's: 2011-DR-14-123.

Copies of these cases are enclosed and none were reported.

Judge Jenkinson further reported the following regarding an unsuccessful candidacy:

I ran for a Family Court seat in the Third Judicial Circuit and was defeated by the Honorable George McFaddin in February 2002.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Pee Dee Citizen's Committee on Judicial Qualification found Judge Jenkinson to be "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. He was found to be "Qualified" for the constitutional qualifications, mental stability, and physical health. In summary, the Committee stated that Judge Jenkinson is a "very personable and well-liked judge."

There were two affidavits filed in opposition to Judge Jenkinson's candidacy, one by Mr. William Simpson and one by Mr. William Simpson, Jr. Both affidavits contained substantially similar allegations concerning Judge Jenkinson. Included, were allegations concerning Judge Jenkinson's ability to adequately hear during trial and an allegation that he spent time on the bench writing a fiction novel which he published shortly after the conclusion of the Simpson's matter before him. The Commission heard the testimony of the complainants and Judge Jenkinson at the Public Hearing. The Commission recognized that Judge Jenkinson's hearing is

not ideal. However, The Commission also believes that he takes all reasonable steps to assure that his hearing is not an impediment to his presiding over the courtroom. The Commission found no merit with regard to the allegations related to the publication of Judge Jenkinson's book.

An additional allegation stems from Judge Jenkinson's handling of a complicated divorce matter involving both Simpsons. The matter was first decided by Judge Turbeville who left the bench prior to the matter being remanded and assigned to Judge Jenkinson. Judge Jenkinson altered the original order to, in his opinion, effectuate the intent of Judge Turbeville's original order. The Simpsons disagreed with Judge Jenkinson's authority to do so. The matter is currently on appeal to the SC Court of Appeals.

The Commission found the Simpsons wanted a re-litigation of their divorce matters before the Commission and that particular allegation did not relate to Judge Jenkinson's fitness for office or character and as such, lacked any merit. The Commission does not take a position on whether Judge Jenkinson acted correctly as to the legal issues presented during the matter. Such a determination is outside of the scope of the Commission's purpose.

On the whole, the Commission found that the complaints brought by the Simpsons against Judge Jenkinson lacked merit and credibility and were simply an attempt to re-litigate a decision that the Simpsons did not agree with and, perhaps, to seek retribution against a Judge who ruled against them.

Judge Jenkinson is married to Margaret Kelley Jenkinson. He has two children.

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

- (a) Williamsburg County Bar Association: President 1999-2001;
- (b) SC Bar Association Member of Resolution of Fee Disputes Panel for the Third Judicial Circuit 1998-2007;
- (c) SC Trial Lawyers Association.

Judge Jenkinson provided the following regarding membership in civic, charitable, educational, social, or fraternal organizations:

None; I resigned all boards and commissions upon election to the Family Court bench.

Judge Jenkinson further reported:

I feel that my 33 years and extensive practice in the Family Court as well as my 5 years on the Family Court Bench makes me well qualified to serve as a Family Court judge.

(11) Conclusion:

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

**The Honorable Michelle Manigault Hurley
Family Court, Fifth Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Hurley was born in 1969. She is 43 years old and a resident of Columbia, SC. Judge Hurley 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 2001.

(2) Ethical Fitness:

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

Judge Hurley 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 Hurley reported that she has made \$63.15 in campaign expenditures for postage, business cards, and a name badge.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Stalking	02/22/12;
(b) Child Protection Services Boot Camp	01/20/12;
(c) SCDSS Seminar for SCDSS	12/09/11;
(d) 2011 Children's Law Conference	11/04/11;
(e) Homeless Experience Legal Protection Project Training	10/27/11;
(f) Summary Court Orientation School	07/18/11;
(g) SCDSS-OGC CLE Seminar	12/10/10;
(h) Mini Summit on Justice for Children	12/02/10;
(i) 2010 Children's Law Conference	11/05/10;
(j) Child Support Enforcement Division CLE	10/29/10;
(k) Hot Tips from the Coolest Domestic Law Practitioners	10/01/10;
(l) Basic Training for Juvenile Public Defenders	04/20/10;
(m) 2009 Children's Law Center Conference	11/06/09;
(n) Reunion CLE	05/15/09;
(o) Children's Issues in Family Court	03/20/09;
(p) Center for Child & Family Studies CLE Seminar	12/12/08;
(q) Annual Free CLE Ethics Seminar	11/07/08;
(r) 2008 Children's Law Center Conference	10/30/08;
(s) Disproportionate Minority Contact	09/12/08;
(t) 2007 Children's Law Center Conference	10/18/07;

- | | | |
|-----|-----------------------------------|-----------|
| (u) | Child Protection Cases | 09/14/07; |
| (v) | Children's Issues in Family Court | 03/23/07. |

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

CLE programs:

- (a) Lunch and Learn (Nelson Mullins), May 16, 2012.
I lectured on handling DSS Appointments: registering the appointment; meeting with the client; information to gather from the client; discovery requests; avoiding foster care through relative/non-relative placements; time frames for hearings; the purpose of each hearing and the applicable standards of proof;
- (b) Homeless Experience Legal Protection Project Training, October 27, 2011;
I lectured on representing the Homeless in Child Protection Cases;
- (c) Training for New Attorneys Subject to Appointment in Abuse and Neglect Cases, May 13, 2011, and August 6, 2011;
I presented this lecture for the trainings in the 9th and 5th Circuits. This course was aimed at preparing new attorneys for the inevitable DSS appointment. I explained the child protection process and the accompanying laws, and provided helpful navigation tips;
- (d) Immigration Issues and Educational Needs of Children in Foster Care, May 23, 2011, June 22, 2011, July 8, 2011, and July 15, 2011.
I lectured on the Fostering Connections to Success and Increasing Adoptions Act of 2008. Particularly the importance of foster children to have as few foster home moves as possible; the importance of school stability and the negative impact multiple homes and schools have on a foster child's success in education, relationships, and mental and physical health. Also spoke on the role of caseworkers, guardians ad litem, and foster parents in advocating for the educational and health care needs of foster children; the law in SC as it relates to school enrollment requirements for children; and the roles of DSS and schools in ensuring that foster children remain in their schools of origin, and their roles and duties, under the Fostering Connections Act, when foster children must change schools.
- (e) DSS Upstate/Court Improvement CLE, 2010.
Presented on best practices in child protection hearings;
- (f) Representing Parents in Child Maltreatment Cases, November 2010.
Spoke on issues that confront parents in child abuse and neglect cases and what the appointed attorney needs to know and do to be able to provide adequate representation;
- (g) SCDSS Child Support Enforcement, June 4, 2010.
Spoke on child support issues in abuse and neglect cases;
- (h) Basic Training for Juvenile Public Defenders, April 2010.
Lectured on home assessments vs. home studies; children being placed into emergency protective custody at disposition hearings; coordinating cases and services when both DSS and DJJ are involved with a family;
- (i) Lunch and Learn, Handling DSS Appointments (Nelson Mullins), June 2009.
I gave a similar lecture as item "a";
- (j) Training for Child Support Enforcement Division, November 2009.
If I remember correctly, DSS Child Support Attorneys wanted to know more about the duties of DSS county attorneys;
- (k) Representing Volunteer Guardians ad Litem, March 14, 2008.
Spoke on the role of the attorney and the GAL in child abuse and neglect and Termination of Parental Rights cases;
- (l) Training for Attorneys Appointed in DSS Cases, July 27, 2007.
Presented on how to handle DSS appointments;

- (m) Complex Issues in Family Law, March 2006.
Lectured on the grounds for Termination of Parental Rights.

I have taught the following law related courses;

- (a) Trial Advocacy Training for DSS Case Workers and Attorneys, 2005-12.

I taught a three-day lecture and mock trial course for newly hired DSS employees. The course entailed a day and a half of lecture and a day and a half of testifying. This course was held on average once per month, except in 2009, when it was held three times per month. I lectured on the Family Court system; the Children's Code; Family Court Rules; evidence; standards of proof; purpose of each court hearing; court preparation and appearance; effective testifying; permanent plans; and the grounds for termination of parental rights.

During the mock trial portion of the course, a retired Family Court judge presided over the hearings. Using fictional case files, the participants testified in probable cause, merits, permanency planning and termination of parental rights hearings. Newly hired attorneys played the role of the DSS attorney. Both the attorneys and caseworkers were videotaped and were provided constructive feedback on their performance;

- (b) Advanced Legal Training for Caseworkers, 2006-12.

This was an 8-hour course for DSS caseworkers. In 2006 and 2007, I traveled to each of the sixteen circuits to teach this course. From 2008-12, I taught this course four to five times per year in the four regions of the state. This course was designed to help caseworkers gain a better understanding and appreciation of the procedural and legal requirements of their jobs by connecting the SC Children's Code, the 14th Amendment, and federal laws to the DSS policy and procedure manual.

This training covered administrative hearings; developing and using case theories; the Indian Child Welfare Act (ICWA); the Adoption and Safe Families Act (ASFA); The Fostering Connections to Success and Increasing Adoptions Act; Title IV-E requirements and the meaning of Reasonable Efforts; making decisions in the best interests of children; child custody and guardianship; avoiding foster care through alternative placements; diligent searches; the Responsible Father Registry; relinquishments for adoption; and termination of parental rights;

- (c) Multi-Ethnic Placement Act (MEPA), 2010-12.

This training was a result of the SC Department of Social Services being placed under a federal Corrective Action Plan, to correct the discriminatory practices of the agency in the placement of children in foster and adoptive homes. The practices in effect delayed positive permanence and caused children to languish in foster care longer than necessary.

The Multi-Ethnic Placement Act is a federal law enacted in 1994 and amended by President Clinton in 1996. The Act prohibits the delay or denial of the placement of a child in a foster home or prospective adoptive home based on the race, color or national origin (RCNO) of the child, foster parent or adoptive parent. MEPA applies to all public child welfare placing agencies and all private child-placing agencies that receive any federal funding either directly or indirectly. This training was held twice per year in each of the 16 circuits. I became a MEPA trainer in 2010;

- (d) Guest Lecturer, Child Advocacy Studies, USC Upstate, 2011.

I lectured to undergraduate students on the mandated reporting laws of SC;

- (e) Guest Lecturer on Family Court Proceedings, USC School of Social Work, 2010;

I lectured to graduate students on the laws pertaining to child protection. I discussed each phase of a case and the different avenues a case can take from the moment a report is made of suspected child abuse and neglect. Topics included: the investigation of the

allegations; treatment cases vs. removal of children from the home; placement plans; the purpose of each court hearing; reunification, alternative placements, and termination of parental rights and adoption;

- (f) Guest Lecturer, the CPS Intake Process, Summer Institute for School Guidance Counselors, 2008, 2009, 2010, 2011.
Lectured to guidance counselors about when and where to report suspected child abuse and neglect; the intake process and response time when a report is made; the information the reporter will need to provide to DSS and/or law enforcement; and their rights and duties as mandated reporters;
- (g) Guest Lecturer, Children and the Courts, USC School of Law, 2007, 2008, 2009, 2010, 2011.
Lectured to law students about “a day in the life of a child welfare attorney”;
- (h) Legal Training for Foster Care Licensing, Adoptions, and Out-of-Home Abuse and Neglect Unit (OHAN), 2007.
Provided legal training for DSS staff involved in licensing foster and adoptive homes, the unit charged with investigation institutional abuse, and administrative hearing officers.

Judge Hurley reported that she has published the following:

I wrote or co-authored the following manuals and publications. With the exception of items c and f, each can be found at <http://childlaw.sc.edu>

- (a) Use of Expert Witnesses, 2010;
- (b) Guide to Title IV-E Requirements (for Family Court judges), 2010;
- (c) Termination of Parental Rights Evidence Checklist, 2010. (This guide was provided to Family Court judges and DSS attorneys);
- (d) Information for Clergy as Mandated Reporters, 2010;
- (e) Information for Healthcare Workers as Mandated Reporters, 2010;
- (f) Advanced Legal Training for Caseworkers (Manual), 2005. Revised 2007, 2009 & 2010. (Provided to course participants).

(4) Character:

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

The Commission also noted that Judge Hurley 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 Hurley reported that she is not rated by any legal rating organization. She explained, “nearly my entire legal career I have worked for an agency or institution of the State of SC.”

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Hurley was admitted to the SC Bar in 2001.

She gave the following account of her legal experience since graduation from law school: From November 2001-January 2002, I worked for the Finney Law Firm. I had previously worked for the firm as a law clerk, and was offered a position after I was sworn-in to the bar. I handled mostly juvenile and probate matters;

In January 2002, I could not pass-up the opportunity to clerk, so I left the Finney Law Firm for a position as a judicial law clerk for the Honorable Alison Renee Lee, SC Circuit Court, At-Large, Seat 11. I clerked for Judge Lee from January 2002-September 2003. As a law clerk, I managed the judge's docket; reviewed files and briefed the judge on the issues; accompanied the judge to the various circuits to hear criminal and civil cases; sat with the judge and assisted her during hearings; prepared civil and criminal charges for the jury; performed research and drafted numerous orders;

From September 2003-October 2005, I worked for the Richland County Department of Social Services. I had an average caseload of approximately 250 cases, involving vulnerable adults, and abused and neglected children. I represented the agency in probable cause, merits, judicial review, permanency planning, and termination of parental rights hearings;

From October 2005-April 2012, I was employed by the Children's Law Center/USC School of Law as a resource attorney and legal trainer. As a trainer, I provided numerous courses on varied topics, including but not limited to: trial advocacy; rules of evidence, effective testifying; effective writing; best practices; case theory; the Indian Child Welfare Act; the Fostering Connections to Success and Increasing Adoptions Act of 2008; the Multi-Ethnic Placement Act; best interests; child custody and guardianship; the Interstate Compact on the Placement of Children (ICPC); *Reasonable Efforts*; permanency planning; concurrent plans; devising meaningful treatment/placement plans; administrative hearings; alternative placements; kinship foster care; and making proper case determinations/findings;

As a resource attorney, I offered legal guidance to child advocacy professionals and members of the legal community, who contacted the Children's Law Center; I authored, co-authored, updated and/or edited numerous manuals and publications; provided research and drafted legal memos for Family Court judges; and presented at CLEs;

Over the years, I also had the opportunity to speak at the SC Foster Parent Association's (FPA) annual convention, and at many county FPA monthly meetings. I usually spoke on the rights of foster parents; what happens when foster parents are accused of abuse and neglect; advocating for foster children; and independent living services for foster children. I have also been a guest speaker at guardian ad litem trainings for law students;

In July 2011, Columbia City Council appointed me to Municipal Court. I serve as an Associate Substitute Judge. As a substitute judge, I hold court an average of two to five days per month. With exceptions, Municipal Court has jurisdiction over criminal offenses that are subject to fines of not more than \$500.00 and/or imprisonment of not more than 30 days. Municipal Court judges hold criminal; criminal domestic violence; traffic; quality of life; and bond court;

In April 2012, I left the Children's Law Center to become the Assistant Director of the SCDSS Office of Individual & Provider Rights/Administrative Hearings. I serve as the legal advisor for the department and as supervisor of four administrative hearing officers. This office hears appeals from various federal and state social services programs including, but not limited to: foster care licensing revocations and denials; adoption application denials; adoption supplemental benefits; adoption investigator certifications; foster child removals from foster homes; Out-of-Home-Abuse and Neglect (OHAN) investigations of foster parents and institutions, resulting in indications of abuse and neglect and placement on the Central Registry of Child Abuse and Neglect; group home and daycare licensing; Family Independence (FI) program; Supplemental Nutrition Assistance Program (SNAP); and the ABC Child Care Program. This

office also handles civil rights, and Health Insurance Portability and Accountability Act (HIPAA) issues. Appeals from this office are either heard in Family Court or the Administrative Law Court.

Judge Hurley further reported regarding her experience with the Family Court practice area:

I have not practiced in the area of divorce or equitable division of property; however, I am familiar with divorce laws, and keep-up with divorce issues through reading weekly Advance Sheets. If I am elected to Family Court, I will prepare myself as much as possible by studying relevant publications, and attending as many pertinent CLEs as possible. Also, I would seek guidance from other judges if a particularly complicated issue comes before me.

I have not represented anyone in an adoption action; however, I have a working knowledge of adoption laws contained in SC Code of Laws Annotated Section 63, Chapter 9. I have trained DSS staff on adoption laws; consents and relinquishments for adoption; confidentiality issues; notice and service requirements; the Responsible Father Registry; the Multi-Ethnic Placement Act; and on issues concerning adoption applications.”

As a DSS county attorney, I handled a multitude of abuse and neglect cases dealing with child placement, custody, guardianship, and termination of parental rights and adoption. I have handled cases ranging from excessive corporal punishment to torture, to death of children. In my current position, I deal with issues of abuse and neglect of children in foster homes, daycares and group homes.

At the Finney Law Firm, the very first case I handled on my own was a juvenile case. As a DSS attorney, I handled cases where a family had children in foster care and a child in the Department of Juvenile Justice (DJJ) or Reception and Evaluation, and services had to be coordinated for the child in DJJ. I also handled cases where the alleged perpetrators were juveniles, and cases where there were companion criminal cases and the alleged juvenile perpetrators were subjected to waiver hearings. In my position at the Children’s Law Center I worked closely with juvenile justice attorneys/trainers and was able to gain a lot of insight on laws and procedure, as well as issues confronting children confined to DJJ. As a Municipal Court judge, juveniles regularly appear before me in bond court and traffic court.

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

- (a) Federal: 0%;
- (b) State: 0%.

*Please note that for the past seven years I was employed as a resource attorney/legal trainer, which did not allow me to represent clients. Prior to that, 100% of my court appearances were in state court. I appeared in Family Court 3 to 5 days per week.

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

- (a) Civil: 0%;
- (b) Criminal: 2% * (See note);
- (c) Domestic: 98% *(See note);
- (d) Other: 0%.

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

- (a) Jury: 0%;
- (b) Non-jury: 100% *(See note).

Judge Hurley provided that she most often served as sole counsel.

The following is Judge Hurley's account of her five most significant litigated matters:

- (a) SCDSS v. Taylor. This case is significant to me because it was an "AHA" moment, where I realized that some children were unnecessarily placed in foster care and/or remained in foster care for longer periods than necessary because incarcerated parents and their families were being ignored by child welfare agencies. This case involved a family of four siblings who had been in foster care for over a year, when the case was assigned to me to file a Termination of Parental Rights (TPR) action. The youngest child's father was incarcerated at Broad River Correctional Facility. The father was served with the summons and complaint but failed to file an Answer. Although he was technically in default, I scheduled a pre-hearing conference to allow the father the opportunity to ask for an attorney to be appointed to represent him; and to ascertain if he intended to contest the TPR, or if he was willing to execute a relinquishment.

The father was very young, and had already served one year of a two-year sentence. I asked if he had read the TPR Complaint and explained why we were there that day. He immediately began crying and indicated he was confused as he thought DSS would "give" his daughter back to him upon his release. I explained to him that that was not the case, and then asked him about his family members and why none of them had come forward to care for his daughter. He answered that he did not know that that was an option. He did not know that his child could leave foster care for relative custody or guardianship. I asked if he had spoken with the caseworker. He had seen her at hearings but had never met her in person and had never been provided with any information about foster care, nor had a placement/treatment plan been devised for him. He indicated that his mother could care for his daughter. I honestly did not believe his story, but I gave him my card and told him to have his mother call me.

The pre-hearing was on a Friday afternoon. By the time I arrived at work the next Monday, a message was waiting for me from his mother. After convincing the caseworker and supervisor, DSS performed a home study on the grandmother, which turned out to be favorable. This child went to live with her biological family after spending more than the first year of her life in foster care.

I went forward on the TPR trial on the other three children.

After this encounter, I researched the percentage of incarcerated parents and their families who were contacted when their children were in foster care. What I found at the time, was that in most cases it was the father who was incarcerated. I can't remember that exact percentages now, but the numbers showed that agencies almost always contacted the maternal family, but in only a very small percentage, like 7%, were the relatives of the incarcerated parent contacted for possible placement of the children.

In trainings, I used the facts of this case as a teaching tool to explain best practices and the meaning of reasonable efforts, and best interests of the child.

- (b) State v. WilliaJudge (I think this is the correct name of the case) This case is significant to me because it was the first case I handled as an attorney. Several juvenile boys lived in a neighborhood that backed-up to a farm equipment company. The company did not have a fence around it and had large motorized farm equipment in the yard. The only buffer between the neighborhood and the company was a small boundary of trees. All of the trucks and tractors had the keys in the ignition. The children came upon the tractors and, as curious boys would do, started them up and drove them around. They destroyed a silo and damaged garage doors.

As this was my first solo court appearance ever, I was more nervous than my young client or his parents. I remember my hands shaking uncontrollably when the judge came on the bench, and my knees shaking when I stood up. But, somehow I was able to make my argument that not having a fence around the premises, and leaving the keys in a boy's "dream toy" constituted an attractive nuisance and had these young children been injured, it would have been a different story and the owner would have been held liable. My client received a very short probation period and was ordered to pay restitution.;

- (c) DSS v. _____. This case involved a young mother who had three children in the custody of DSS. At the merits hearing, custody of two of the children was granted to their respective godmothers. The third child remained in foster care. Shortly thereafter, the mother gave birth to a fourth child, but this child was born with drugs in his system and died three days later. The mother was convicted of the child's death and was incarcerated.

I filed a TPR complaint for the daughter who remained in foster care. One of the grounds alleged in the TPR complaint was failure to support. The mother's attorney answered the complaint and denied the allegation based on the fact the mother was incarcerated and could not support her child. To back his claim, the attorney sighted the then recent case of DSS v. Wilson. At trial, I called the mother as an adverse witness and inquired whether she had a Cooper Trust Fund Account (canteen account) while she was incarcerated. Through a series of questions, it was revealed that she did have an account, that her mother, father and brother had regularly deposited money into the account, and that over a period of nine months, her relatives had deposited almost \$700.00 into her account. She never asked any of these relatives to pay her child support obligation for her daughter in foster care. Among the other grounds alleged, the court granted the termination on the basis that the mother failed to support her child;

- (d) DSS v. _____. This case is significant because it was the only TPR case that I had where the court granted the termination when the guardian ad litem did not recommend that termination of parental rights was in the child's best interest.

The case involved a very young child in foster care. The child's parents were drug addicts and the family was living in and out of motels. The child was placed into emergency protective custody. The child's paternal grandmother came forward seeking to care for the child but she was only willing to do so as a licensed foster parent, so she could receive assistance for caring for him. The grandmother became licensed and the child was placed in her care. However, the grandmother later violated the licensing agreement and as a result, DSS revoked her license and removed the child from her home. At that point, it was explained to the grandmother that she could seek custody of the child, but she declined. She did not want to care for the child unless she could be a foster parent and receive financial assistance from DSS. However, she continued to maintain a relationship with the child through regular visits, when she brought her son to visit his child.

Before the TPR hearing, the mother relinquished her parental rights to the child. On the day of the trial to terminate the father's rights, the guardian ad litem and the father's attorney spoke with the grandmother, who was present for the trial, and she agreed to care for the child. We met with the trial judge about the grandmother's position, and over my fervent objections, the judge continued the case and ordered DSS to complete a new home study on the grandmother.

Two days later, the grandmother changed her mind and no longer wanted the child. I rescheduled the trial. At trial, the guardian ad litem testified that he did not believe it was in the child's best interest to terminate the father's parental rights, because the child had a relationship with his father and grandmother, and there was not yet an

adoptive resource for the child. The guardian ad litem recommended reunification. However, the court sided with DSS and granted the termination;

- (e) DSS v. _____. This case is significant, because of the time and effort that was required to perfect service on the defendants. The mother had five children, all of whom entered foster care when the youngest child was born addicted. The mother had been quite transient and her children were born all over the country. The baby was born in Richland County; two were born in OH, but different counties on different sides of the state; one was born in TX; and one was born in AZ. About a year after giving birth to the youngest child, the mother reportedly left SC for KY and provided DSS with a KY address.

It was believed that all of the children had different fathers. DSS had no information on the fathers for the children born in SC and OH. I knew the identities of the TX and AZ fathers. To perfect service, I had to publish in two separate newspapers in OH, and The State newspaper for the child born in Richland County. The TX father was incarcerated, and I arranged for personal service with the constable serving the county where the facility was located. The constable confirmed the father was incarcerated in his county. By the time the paper work and payment was delivered to the constable, the father had been moved to another facility in another county. I contacted that county's constable and was finally able to serve this father. Through a diligent search, I located the AZ father and had him personally served. He immediately called me and vehemently denied that he knew the mother or that he was the child's father. He claimed that the father of the child must be someone else with the same name and birth date because he was married, and during the time the child would have been conceived, he was in the military and stationed overseas. To be safe, I published in an AZ newspaper.

I arranged for the sheriff to serve the mother in KY. The sheriff called me from the address to say it was vacant. I then published against the mother in a KY newspaper.

After service on all parties, I set the hearing date. About a week before the hearing, a caseworker informed me that the mother had just shown-up at Palmetto Health Richland, and had given birth to another child also born addicted. The infant was placed in foster care. When the mother left the hospital, she left her boyfriend's mother's address and number in Charleston, in case the hospital needed to contact her.

I called the Charleston number and spoke with a woman who said she had not seen her son in years and knew nothing about a girlfriend or a baby. I told her that because the mother left this address, I would have to send a process server to her house. As expected, she refused service. I then served the mother by publication in the Post and Courier.

After literally months and months of trying to get the defendants served, I was finally able to go forward with the TPR hearing on the five original children. I immediately filed a separate TPR action for the infant and in less than four months the infant was free for adoption.”

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

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

In July 2011, I was appointed by Columbia City Council to serve as a Substitute Associate Municipal Court Judge. In this position, I hold court an average of two to five times per month. With exception, municipal judges have jurisdiction over criminal matters where the fine and/or penalty does not exceed \$500.00 and/or 30 days imprisonment. Municipal judges preside over traffic court, criminal court, quality of life court, criminal domestic violence court,

and bond court. Municipal judges cannot set bonds on offenses that are punishable by life sentences or death.

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

- (a) 2005-12, Children's Law Center/USC School of Law, Resource Attorney/Trainer. Supervisor: Tom Leclair, Senior Resource Attorney;
- (b) 2012-Present, DSS Office of Individual & Provider Rights, Assistant Director. Supervisor: L. Lynn McLendon, Director.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Hurley to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found her "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The committee stated that it "was honored to interview Ms. Hurley, and we enjoyed our time with her. She has the experience, temperament and dedication to be a most outstanding Family Court Judge. She was one of the overall best candidates we interviewed and we expect great things from her in the future. We believe she is most eminently qualified to serve on the Family Court, and we are confident she would serve in a most exemplary manner."

A complaint was filed against Judge Hurley by Dr. Marie-Therese H. Assa'ad-Faltas. The complainant acknowledged that she had no personal knowledge of Judge Hurley. Finding no merit to the complaint as to the candidate's character, competency, or ethics, the Judicial Merit Selection Commission dismissed the complaint.

Judge Hurley is married to George Craig Johnson. She has two children.

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

- (a) SC Bar Association;
- (b) SC Summary Court Judge's Association;
- (c) Children's Law Committee, SC Bar Association;
- (d) Judicial Qualifications Committee, SC Bar Association (2006-June 2011);
- (e) Children's Advocacy Law Society (student advisor, USC School of Law);
- (f) Preneed Funeral Contracts Advisory Board, SC Department of Consumer Affairs.

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

- (a) The Moles, co-chair, Resolutions/Recommendations;
- (b) Jack & Jill of America, Inc.;
- (c) Delta Sigma Theta Sorority, Inc.;
- (d) Thomas Cooper Society, Board Member;
- (e) PTO.

Judge Hurley further reported:

I grew up in a family that instilled the importance of hard work, and service to the community. My mother is a retired Richland School District One Social Worker and my father is a businessman. Both of their professions serve families at their lowest moments. My parents have always treated others, no matter the person, with patience, understanding, dignity and respect. What I learned from witnessing my parents interact with others has been engrained in me. I have encountered people from all walks of life, and what I have found is that everyone has a story worth telling, and everyone deserves to be respected. I believe I have taken these qualities with me to Municipal Court, where I have been able to strike a balance between being courteous and respectful, yet fair and decisive in my rulings. I believe that these qualities will serve me well in Family Court.

(11) Commission Members' Comments:

The Commission commented on Judge Hurley's intelligence and wide range of experiences and training in family law, as well as the fact that she is well respected in the legal community.

(12) Conclusion:

The Commission found Judge Hurley qualified and nominated her for election to the Family Court.

Daniel D. Kienker
Family Court, Fifth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Kienker was born in 1949. He is 63 years old and a resident of Blythewood, SC. Mr. Kienker 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 2000.

(2) Ethical Fitness:

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

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

Mr. Kienker 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Attorney CLE	09/28/2007;
(b) Basic Principles and Dangerous Trends	11/30/2007;
(c) Attorney CLE	12/05/2007;
(d) Family Court CLE	10/02/2008;
(e) Ethics CLE	12/10/2008;
(f) Hot Tips for Family Law Practitioners	09/18/2009;
(g) Initial certification course for VA Law	11/05/2009;
(h) Family Law Course	12/04/2009;
(i) Family Law from A-Z	02/17/2011;
(j) Federal Sentencing Guidelines	09/19/2011;
(k) Representing Veterans	09/29/2011;
(l) 2011 Family Law Intensive	10/06/2011;
(m) Effective Marketing Strategies	11/09/2011;
(n) Everything you needed to know about Ethics	01/13/2012.

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

- (a) I have volunteered on several occasions to speak during "career day" at local middle schools about the practice of law in our society;
- (b) I have volunteered on several occasions to serve as a Judge during Middle and High School Moot Court competitions.

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

(4) Character:

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

The Commission also noted that Mr. Kienker 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. Kienker reported that he is not rated by any legal rating organization.

Mr. Kienker reported the following military service:

October 6, 1971 to July 1, 1997, United States Air Force, Full Colonel, regular commission, retired, Honorable

- (6) Physical Health:
Mr. Kienker appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Kienker appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Kienker was admitted to the SC Bar in 2000.

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

- (a) July 2000-January 2001, Law Clerk to Judge James C. Williams, Jr.;
- (b) January 2001-May 2003, Assistant Solicitor, 5th Circuit Solicitor's Office;
- (c) May 2003-January 2004, Associate Attorney, Lourie Law Firm, Family law and Personal Injury Law;
- (d) January 2004-April 2004, Assistant Solicitor, Fifth Circuit Solicitor's Office;
- (e) April 2004-July 2004, Associate Attorney, Jacobson, Conway, Pincus, and Long, Family Law and Bankruptcy law;
- (f) September 2004-May 2006, Assistant Solicitor, 16th Circuit Solicitor's Office;
- (g) May 2006-February 2011-Associate Attorney, Williams, Hendrix, Steigner, and Brink, P.A., Family Law;
- (h) March 2011-Present, the Law Office of Daniel D. Kienker, LLC, Family Law, Criminal Defense, and Veterans Benefit Law.

Mr. Kienker further reported regarding his experience with the Family Court practice area:

I have practiced in all of the above mentioned areas to include a successful out-of-state Adoption.

My former case files for these cases are stored with the law firm of Williams, Hendrix, Steigner, and Brink, P.A. in Lexington, SC, as I did not take them with me when I opened my own practice in March 2011. Consequently, it is difficult to remember specific facts or specific cases.

During my tenure with Williams, Hendrix, Steigner, and Brink, I prosecuted and prevailed in several cases involving "Rules to Show Cause" as to why an opposing party should not be held in contempt for failing to abide by a Court Order.

Most of my cases involved not only Divorce, but included all of the attendant issues that are part of a divorce such as Child Custody, Child support, Alimony, Attorney fees, and Property Division. Most cases settle before being brought to trial, and I have a great deal of experience working with opposing counsel and parties settling cases to everyone's satisfaction. Those cases that did not settle were mediated by Court Order with all but one that I recall having to go to trial.

I have frequently been appointed by the Court to represent Defendant parent(s) in SC Department of Social Services cases. I have much experience working with Guardians, Counselors, and DSS representatives crafting Treatment Plans that have seen the successful reunification of parents with their children.

An Assistant Solicitor for the 16th Circuit's Office in Union County, SC, I was not only responsible for managing and prosecuting cases involving adult offenders, but Juvenile offenders as well. Once a month I appeared before the Family Court Judge with Juveniles, their parent(s) and attorney with recommendations to the Court for best ways to re-direct negative juvenile behavior.

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

- (a) federal: None
- (b) state: As a Family Law practitioner I have been before several Family Courts in SC, often several times a week. My appearances before the Court include Motions for Temporary Relief, Final Relief, Rule to Show Cause, a trial on the Merits, Adoptions both in state and out-of state, as well as serving as appointed counsel in DSS cases.

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

- (a) civil: I have handled two civil cases during the past five years;
- (b) criminal: 5%;
- (c) domestic: 90%;
- (d) other: 5% Representing Veterans before the VA in obtaining Service Connected Disability Benefits.

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

- (a) jury: 0%*;
- (b) non-jury: In my family law practice all cases are of course, before a Judge only, and all but one of those cases I handled settled.

*Please note that prior becoming a family law practitioner I served as an Assistant Solicitor and conducted numerous trials before a jury. As an assistant solicitor, most, but not all of the cases I prosecuted and that went to trial were with co-counsel. I believe that in about half of those trials, I served as chief counsel and half a co-counsel.

Mr. Kienker provided that he most often served as chief counsel and half as co-counsel

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

Most of those cases I either prosecuted in General Sessions or represented in Family Court were routine and did not involve breaking new "legal ground" nor were they cases of "first impression." There was one case however, that was personally significant to me as well as gratifying. The case involved an incestuous rape by an uncle of his niece. I was the lead prosecutor in this case and was successful in convincing the jury to find the Defendant guilty. Because the Defendant had a prior "most serious" conviction, he was sentence to Life without Parole. The case involved a tremendous amount of DNA evidence from victim, Defendant, and fetus, and consequently "Chain of Custody" was a significant issue at trial. It was my first case involving DNA and Chain of custody and during State's case in chief; I failed to tie up one of several pieces of the chain of custody. The Trial Judge allowed me the opportunity to re-address this issue at trial, the case went to the jury, and the Defendant was found guilty. On Appeal, the conviction was upheld, but I was chastised in the Opinion for failing to properly do a more thorough job in addressing the chain of custody. As unpleasant as it was to be chastised (not by name) in an Appellant Court Opinion, I knew that this was my first significant case as an Assistant Solicitor where I was lead prosecutor, and my first ever case involving DNA and chain of custody. I was out there in the "arena" fighting the good fight for this victim and I made an honest mistake. This case gave me the opportunity to become an "expert" in chain of custody matters at trial, and I have never made a chain of custody mistake since. This case is listed as SC Court of Appeals Case, The State, Respondent v. Aaron Mathis, Appellant, Opinion no. 3806, Heard May 12, 2004.

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

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Mr. Kienker to be "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee found Mr. Kienker "Qualified" in the evaluative criteria of experience, constitutional qualifications, physical health, and mental stability. In summary, the Committee stated that it "enjoyed our time with Mr. Kienker. He is a retired colonel and honorably served our country for 25 years in the Air Force. He is mature and sincere, and he possesses a great amount of common sense. We are certain he would make excellent judge and find him well qualified to serve on the Family Court."

Mr. Kienker is married to Jane-Betha Turner Kienker. He has three children.

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

SC Bar

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

- (a) Past Deacon, Spring Valley Presbyterian Church;
- (b) Past Vice President of the Long Creek Homeowner's Association;
- (c) Member of Columbia Community Concert band.

Mr. Kienker further reported:

I believe that my prior military career has served me well in law school, as a practicing attorney, and will serve me well if elected to serve as a Family Court Judge.

Underpinning the military culture in our country are the virtues of integrity above all else, acceptance of personal responsibility, and mission accomplishment. As to integrity, my parents taught me the importance of being truthful and honest as a child, and these virtues were reinforced through the Honor Code of the military school I attended as well as twenty-six years of military service as a professional officer. A person has nothing if he or she has no honor.

As to accepting personal responsibility, a military officer does not make excuses for failure, or mistakes, and does not attempt to shift blame on others either up or down the chain of command. As a Commander, any mistakes I made or shortcomings in accomplishing my assigned mission were address to higher headquarters as mine alone. Accomplishments were credited to the troops. There is no room for whiners and excuses. You learn and move on. That is how I will comport myself as a Judge.

As to "mission accomplishment" you complete whatever assigned mission or task given, period. No matter how long it takes, how arduous the process, you stay focused and on task until the task at hand is done. This philosophy served me well in law school. I was by no means the smartest person in my law school class, but there was probably no one that worked harder than me. Finishing law school and passing the Bar the first time around was my "mission," and it got done. As an attorney I handle my cases the same way, and will do the same as a Family Court Judge.

(11) Commission Members' Comments:

The Commission commented on Mr. Kienker's public service, first in the military, as a law clerk of a Circuit Court judge, and as an assistant solicitor, as well as noted his practice in the family law area.

(12) Conclusion:

The Commission found Mr. Kienker qualified and nominated for election to the Family Court.

**Robert Marshall Paul Masella
Family Court, Fifth Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Masella was born in 1960. He is 52 years old and a resident of Columbia, SC. Mr. Masella 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. He was also admitted to the Georgia Bar in 1995.

(2) Ethical Fitness:

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

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

Mr. Masella 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SCAJ Annual Convention	8/1/12-8/3/12;
(b) SC Bar Convention	1/19/12;
(c) Time Mastery for Lawyers	9/22/11;

(d)	SCAJ Annual Convention	08/04/11- 08/05/11;
(e)	Ethical Dilemmas & their impact on Attorneys' mental health	2/22/11;
(f)	Professionalism at the Movies	2/22/10;
(g)	CLE for Class Reunions	11/05/10;
(h)	Law & Democracy	10/21/10;
(i)	Sentencing Guidelines Seminar	10/4/10;
(j)	Stewards of Children Training	03/26/10;
(k)	19 th Annual Criminal Practice in S.C.	02/26/10;
(l)	SC Conference on Lawyer & Judicial Conduct	10/22/09;
(m)	Fundamentals of Worker's Compensation	06/10/09;
(n)	Commission and Attorney to Assist Sup. Ct.	10/21/08;
(o)	Superior Direct & Cross-Examination	04/04/08;
(p)	Family Court Bench/Bar	12/07/07.

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

- (a) I lectured at the SC Bar's 2002 Criminal Law Hot Tips and spoke to representation of indigent clients and associated procedural issues;
- (b) I moderated and lectured at the SC Bar's 2005 Year in Review CLE.

Mr. Masella reported that he has published the following:

The Reorganization of SC Environmental Agencies. Temporary Operating Procedures For the Administrative Law Division. SC Environmental Law Journal, USC School of Law (1995).

(4) Character:

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

The Commission also noted that Mr. Masella 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. Masella reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Masella was admitted to the SC Bar in 1995.

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

Prior to graduation from USC, during my final semester of Law School, I sat for and passed the Georgia State Bar examination. During August of 1995, after sitting for the SC Bar examination I began my work as law clerk for the Honorable Kaye G. Hearn who had recently been elected to the

SC Court of Appeals. I worked with Judge Hearn helping her with the full breadth of cases decided by our Appellate Courts including all criminal matters other than murder and death cases and all civil matters not reserved for our Supreme Court's jurisdiction. I continued with Judge Hearn until August of 1996.

After completing my clerkship with Judge Hearn I joined Solicitor Geise as one of his assistants in the Richland County Solicitor's Office, as an assistant solicitor I began working exclusively with Drug Crime prosecution. I prosecuted and tried numerous cases including trafficking, distribution and possession of controlled substances. After working with the Drug Team for over a year I began to prosecute violent crimes. I handled all types of violent crimes from pre-arrest through trial in matters including armed robbery, domestic violence, burglary, sexual assault, assault of high and aggravated nature, assault with intent to kill and arson. I also tried non-violent cases to include shoplifting, driving under the influence and check fraud.

During November 1998, I opened the Masella Law Firm, P.A. Initially I handled criminal defense matters and began accepting appointments to represent individuals who filed post-conviction relief actions. As my practice expanded we began to represent individuals who were injured in automobile accidents, workers compensation and other civil disputes. I have defended and prosecuted matters in common pleas court. After one of the firm's associates left the firm, I began to handle the family law case load. Our family law cases became a large part of our practice. After hiring young associates I started to teach them how to handle the common pleas matters as well as the criminal cases in the general sessions court. We have in the last five years prosecuted for and defended individuals and corporations in common pleas court. Many of the issues we handled have included contract disputes, automobile accidents, claim and delivery actions and probate actions involving family disputes over assets.

Finally, I was appointed by the City of Columbia City Council to sit as one of their municipal court judges until August 2004.

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

- (a) federal: 20%;
- (b) state: 80%.

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

- (a) civil: 20%;
- (b) criminal: 25%;
- (c) domestic: 50%;
- (d) other: 5%.

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

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

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

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

- (a) Jenkins v. Jenkins, I represented Mrs. Jenkins who was physical abused by Mr. Jenkins for many years prior to her coming to me for assistance. Mr. Jenkins refused to acknowledge numerous orders from the Family Court and was sentenced to terms of imprisonment for his willful failure to comply with these orders. The parties eventually divorced and Mr. Jenkins was released, by agreement, from his imprisonment, even

though he had not purged his contempt. After his release he appealed the court's divorce decree. After the appeal was decided by our Court of Appeals in 2007-UP-342, Mr. Jenkins came after me and destroyed my office. He was eventually convicted of Stalking, Burglary Second and Arson and was given a twenty-year sentence.

- (b) State v. John Doe This was a defense of a Criminal Domestic Violence High and Aggravated Nature charge. My client was accused of strangling his wife with an electrical cord and threatening her with a butcher knife. This case was tried before a jury in Richland County before the Honorable William P. Keesley. After various applications of the rules of evidence, which the court ruled in our favor, cross-examination of the state's witnesses and application of the Criminal Domestic High and Aggravated Nature statute, about which I argued the relevant and necessary elements, the jury acquitted my client after the state rested and no defense case was presented. (I have identified my client as John Doe to protect my client's identity as all records of his arrest have presumably been expunged).
- (c) Mr. L. v. Mrs. L. This divorce case involved multiple unconventional matters which seriously impacted my client and the parties' children. My client, Mrs. L, a native Central American, married Mr. L while she was pregnant with their second child. My client was moved to SC with two of her daughters from prior relationships, prior to giving birth to their second child. After giving birth to their second child the South Carolinian was arrested for Criminal Domestic Violence as he allegedly attempted to forcibly remove my client from the marital home. The divorce followed. The issues raised were the validity of the marriage based on Mr. L's prior marriage which was not dissolved prior to the parties marriage (bigamy); support for a party who is unable to support herself or her family as she is unable to speak English; divorce grounds based on Physical Cruelty and Adultery; equitable division of marital property; and custody of the parties children. After two years of pendente lite hearings, contempt proceedings, and psychological evaluations and intervention of Mr. L's family matters for his mental condition and how he was affecting the value of the family business, the parties reconciled. It is my understanding the parties have since resumed litigation.
- (d) Mrs. W v. Mr. W. This matter included an action for divorce, property division, custody and support. Mrs. W. filed an action for separate maintenance and support even though the parties were still residing together. At the temporary hearing the court ordered my client to move from the residence as well as other relief. We petitioned the Supreme Court for and Extraordinary Writ of Certiorari to rule on the jurisdictional issue of whether the Family Court had authority to make such a ruling while the parties continued to cohabitate in the marital home. Our petition was denied. (this matter was later resolved by our Supreme Court in Theisen v. Theisen 394 S.C. 434 (2011)). My client was eventually able to prove Mrs. W 's adultery, was granted custody of the parties children, and did not have to continue providing Mrs. W. support as required by the Court's temporary order.
- (e) United States of America v. John Doe This was a matter before the Honorable Matthew J. Perry. The Government brought an action against our client for illegal use of another's social security number in an attempt to obtain a SC driver's license. At the close of the Government's case we moved for a directed verdict which was granted as the government did not present sufficient evidence to show my client's use of another's social security number. (I have identified my client as John Doe to protect my client's identity as all records of his arrest have presumably been expunged).

The following is Mr. Masella's account of the civil appeal he has personally handled: Boulware v. State, Decided December 21, 2009, by the SC Supreme Court, Unpublished Memorandum Opinion No. 2009-MO-067.

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

- (a) United States of America v. Nigel Rayshad Parker
Decided June 19, 2007, United States Court of Appeals for the Fourth Circuit, Unpublished Opinion No. 06-4857;
- (b) Timothy Sean Kelly v. City of Forest Acres
Decided May 7, 2012, Circuit Court Richland County, Case number 09-CP-40-2337.

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

City of Columbia Municipal Court, August 2000-August 2004.

City Council appointment. Municipal courts have jurisdiction over cases arising under ordinances of the municipality, and over all offenses which are subject to a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both, and which occur within the municipality. In addition, S.C. Code Ann. § 22-3-545 provides that municipal courts may hear cases transferred from general sessions, the penalty for which does not exceed one year imprisonment or a fine of \$5,000, or both, upon petition by the solicitor and agreement by the defendant. The powers and duties of a municipal judge are the same as those of a magistrate, with regard to criminal matters; however, municipal courts have no civil jurisdiction.

Mr. Masella provided the following regarding the list of the most significant orders or opinions: I am not aware that any case which I presided over or any order I issued was appealed; therefore there would be no reported opinions regarding my decisions.

Mr. Masella reported the following regarding his employment while serving as a judge: Masella Law Firm, P.A. August 2000-August 2004.

Mr. Masella further reported the following regarding unsuccessful candidacies:

- (a) Applied for Circuit Court, At-Large Seat #9, however I withdrew my candidacy prior to completing the screening process;
- (b) Applied for position with Columbia Municipal Court in 2004 and 2011;
- (c) Applied for Circuit Court, 5th Judicial Circuit, Seat #3. Screened in November 2011 and was found qualified but I was not nominated.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midland's Citizens Committee found Mr. Masella "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. The Committee stated in summary, "The committee was honored to interview Mr. Masella again. He is an inspiration to our committee, and we are impressed by his courage, dedication, common sense and commitment to service. He has had profound experiences in and out of the courtroom that would allow him to be an outstanding Family Court Judge. We believe he is eminently qualified to serve on the Family Court and we believe he would serve in an exemplary manner."

Mr. Masella is married to Mia Jackson Masella. He has two children.

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

- (a) Attorney to Assist Disciplinary Counsel, appointed by Supreme Court during 2002-10;
- (b) SC Bar Association
Member and Chairperson for the SC Bar CLE Publications Subcommittee. (2000-04);
Chairperson for the SC Bar CLE Programs Committee. (2004-06);
- (c) Georgia Bar Association;
- (d) SC Association for Justice.

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

- (a) St. Joseph's Catholic School, School Board member (2004-07), School Board President 2005-07;
- (b) United States Tennis Association, Wheel Chair Tennis Committee 1995 to 2011. Committee Chair November 2006 through November 2009.

Mr. Masella further reported:

When people ask why I want to become a Family Court judge, I usually explain that the bench is a logical progression for my career path. I also note the inspiration of my mentor, Justice Kaye G. Hearn. These responses, while true, are incomplete. My real professional motivations are very personal. I have always disliked sharing them because some of my life experiences provoke pity in others. But the truth is, the challenges I have faced in life have shaped me into the husband, father, attorney, and citizen I am today: and I'm proud to be that person. The people closest to me, however, have urged me to share my past, explaining that this body deserves to hear a full accounting of my reasons for seeking a seat on the Family Court bench. So, it is for that reason and that reason alone that I choose to divulge my very personal story. I ask that as you read it, you focus less on the tragedy and more on the capacity we each have to persevere through difficult times. I strongly believe that my experiences will help me to be a judge who can relate to the very personal challenges the parties before me face. I will offer a brief narrative of my experiences, and I will be prepared to address any additional questions or concerns during the screening process.

I became involved with the Family Court system on the day I was born. My birth mother gave me up for adoption, and my parents were able to adopt me. My father was a surgeon, and my mother was a registered nurse. Prior to my arrival, they had endured a stillborn birth, followed by the birth of my brother, who was born with severe cerebral palsy. Throughout his life, he was confined to a wheelchair, unable to talk or care for himself. We lived in Brooklyn, NY, until I turned 8, when we moved to a more rural area on Staten Island. The care of my brother took a heavy toll on my mother, and she suffered from severe bouts of depression. I think she blamed herself for his condition. In 1975, she placed him in her car and drove off the Staten Island ferry. I am sure she believed she was putting them both out of their misery. The subsequent years were very difficult on my father and me. My grandmother moved in to try to help, but at her age, we were a burden.

In 1976, when I was 15, I was enrolled in Valley Forge Military Academy in Wayne, Pennsylvania. Valley Forge is a boarding school, and I was allowed to come home for holidays and summers. I developed into a good soccer player, and I was told that I might be a college prospect. During the winter of 1978, I was taken to a faculty member's house and informed that my father had also taken his life. Although I was no longer required by a parent to stay, I decided to remain at Valley Forge and finish what I started, even though it was the more challenging path to take. I graduated the following year. My father's estate was subsequently held up by numerous lawsuits, and the vast majority went to satisfy those claims. It was a difficult process, and I

decided to accept a soccer scholarship offered by Winthrop University. This thankfully brought me to SC. Initially, my college experience went very well. In the fall of 1982, I was named to the collegiate All-America soccer team. The following spring, however, I was involved in an automobile accident. My back was broken, and I was paralyzed from the chest down. I also had two punctured lungs and numerous cracked ribs.

I underwent numerous surgeries and completed rehab in time for the following school year. However, I had no family, and I had to learn to live independently in a wheelchair. I went from being the invincible athlete on campus to a young man in a wheelchair who struggled opening doors and strained to reach books in the library. The transition was difficult, and I ended up dropping most of my classes. However, I took a full load the following semester. I stayed involved with the soccer team as a coach and graduated in December of 1985. Following graduation, I worked as a photographer and then as a salesman. I enjoyed some success. I won a trip to Cancun for my sales and eventually became the #5 freshman salesperson in the country for the Pitney Bowes copier sales division. During this time, I decided that I was ready to take on the challenge of law school and in 1992 I was accepted by USC Law.

Law school was a very enriching experience. I was elected student body president, joined a journal, and served as a research assistant to Professors Roy Stuckey and Alan Medlin. I passed both the Georgia and SC bar exams. During my third year, I met Kaye Hearn, who was running for the Court of Appeals. She generously offered me a clerkship. Barney Giese also was kind enough to offer me a job as a solicitor, and he allowed me to clerk for a year before starting. I had the honor of being Justice Hearn's first law clerk. She started teaching me how to become a judge during that year, and she has continued that education ever since. I could fill pages with comments about the wonderful impact Justice Hearn has had on my life, and how she has been my greatest mentor.

After my clerkship, I prosecuted drug crimes and felonies, as well as DUIs and other lesser crimes, for the Richland County Solicitor's Office. I opened my own firm in 1998. Initially, I focused on criminal cases. However, my work in Family Court gradually began to dominate my practice, and now family law is my main area of focus. Family law cases are always interesting and emotional. Over the years, I have encountered opposing parties who have wanted to kill me, and one even burned down our office. We have persevered. My law firm now employs seven people, and I believe my success is largely due to my life experiences, which have infused me with understanding, compassion, and determination. I have made mistakes, no doubt, but much of what I have encountered in life has come without the parental advice I so hungered for – a desire many children in the Family Court system also experience. As Maya Angelou so perfectly describes, "I did then what I knew how to do. Now that I know better, I do better."

Unquestionably, I have learned from my life experiences and have become strong and determined. I understand what it means to feel frustrated. I firmly believe that a Family Court judge must have these qualities. They are essential to the proper administration of justice and fairness in Family Court.

As noted, I do not offer these personal details to elicit sympathy because my experiences have strengthened me. I am very blessed with a wonderful wife, two amazing daughters, and an enriching career. Rather, I offer these details to illustrate that, in a very personal way, I know that I am prepared to serve as a SC Family Court judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Masella made a heartfelt presentation at the Public Hearing regarding why he was qualified to serve on the Family Court bench as well as noted his diverse Family Court practice.

(12) Conclusion:

The Commission found Mr. Masella qualified and nominated him for election to the Family Court.

**The Honorable Dana A. Morris
Family 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 Morris, 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 Morris meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Morris was born in 1957. He is 55 years old and a resident of Camden, SC. Judge Morris 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 Morris.

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

Judge Morris reported he has not:

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

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

Judge Morris 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 Judges Conference	04/23/08;
(b) 2008 Orientation School for New Judges	06/04/08;
(c) 2008 Judicial Conference	08/20/08;
(d) 2008 SC Family Court Bench/Bar	12/05/08;

(e)	SC Annual Judges Convention	08/06/09;
(f)	2009 Annual Judicial Conference	08/19/09;
(g)	General Jurisdiction Course – Reno, Nevada	10/04/09;
(h)	2009 SC Family Law	12/04/09;
(i)	Family Law Update	01/22/10;
(j)	2010 Judicial Conference	08/18/10;
(k)	What Family Court Judges Want You to Know	11/12/10;
(l)	Mini Summit on Justice for Children	12/02/10;
(m)	2010 SC Family Court	12/03/10;
(n)	Family Court Judges' Conference	06/01/11;
(o)	2011 Annual Judicial Conference	08/17/11;
(p)	2011 SC Family Law	12/02/11;
(q)	Family Law Section	01/20/12;
(r)	Family Court Judges Conference	04/18/12.

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

- (a) Everything Family Court Judges Want You to Know, November 2010, (Panel Discussion);
- (b) Family Court Bench Bar CLE, How to Handle Temporary Hearings, December 2010.

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

(4) Character:

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

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

Judge Morris reported that he has held the following public office:
Kershaw County School Board – 2000 to 2008; elected position.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Morris was admitted to the SC Bar in 1983.

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

General Practice with Savage, Royall & Sheheen – from 1983 to 2008. Approximately one-half was litigation in Family Court and Common Pleas. The other half was as a general practice which included representing Kershaw County Medical Center as its General Counsel.

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

Family Court, Fifth Judicial Circuit, Seat 3, March 2008 to Present. Elected. Our jurisdiction is set forth in S.C. Code Ann. § 63-3-530 (1976, as amended) and we generally hear divorces, custody, child support, adoptions, neglect/abuse cases and juvenile criminal matters.

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

- (a) Sara B. Bowers v. Keith Bowers, 2008-DR-28-091 – This was a multiday trial involving issues of division of property, transmutation of property, special equity in non-marital property, alimony, and attorney’s fees.
- (b) Christopher O. Clement v. Maureen E. Vicaria, 2007-DR-40-2991 – This was a multiday trial involving the issues of custody, relocation of one of the parties, visitation, child support and attorney’s fees.
- (c) The State v. A Juvenile, Under the Age of Seventeen, 2009-JR-28-086 – This was a trial involving a juvenile who shot and killed his younger brother with a firearm.
- (d) Barbara K. Wymer v. Robert T. Ballentine, III, 2007-DR-28-014 – This was a multiday case involving the issues of custody, visitation, child support and attorney’s fees. There were also issues relating to child abuse by scalding the child and evidentiary issues involving S.C. Code Ann. § 19-1-180.
- (e) Department of Social Services v. A. G. and J. R., 2007-DR-28-0537 – This was a week long neglect abuse case and custody matter which concerned an infant mistakenly given Methadone by one of the parents. There were several experts testifying about drug testing methodology and the interpretation of test results.

There have also been the following published/unpublished opinions for decisions which I did not consider particularly significant as compared to the above cases.

- (1) In the Interests of Taylor K, Unpublished opinion No. 2012-UP-116 – Affirmed – Filed February 29, 2012;
- (2) SC Department of Social Services v. Sonya G., Terry G. and Olivia B., Unpublished opinion No. 2012-UP-072 – Affirmed – Filed February 8, 2012;
- (3) Cheryl Ann Burch v. Thomas Andrew Burch, Opinion No. 27060 – filed October 31, 2011. Affirmed in part, reversed in part. I was not the merits hearing trial judge. I heard a Rule to Show Cause that was tried after the merits hearing but included in the appeal.

Judge Morris further reported the following regarding an unsuccessful candidacy:

I ran for Master-in-Equity in 1999. Senator Donald Holland appointed another candidate.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Morris to be “Well qualified” for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found him to be “Qualified” for constitutional qualifications, physical health, and mental stability. In summary the Committee stated, “The

Committee was honored to interview Judge Morris. He is an asset to our state, we are grateful for his service on the Family Court, we are most confident that he is eminently qualified to continue to serve on the Family Court, and we are certain he will serve in an outstanding manner.”

Judge Morris is divorced. He has two children.

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

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

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

- (a) Kershaw County School Board – 2000-08, Chairman – 2002-07;
- (b) Habitat of Kershaw County – Board Member.

Judge Morris further reported:

During my service on the School Board and as Chairman, the District began a laptop initiative to place a computer in the hands of all high school students, a \$102 million dollar renovation and new construction project for facilities on eight (8) sites and implementation of bench marks to assess and improve student achievement.

Prior to the School Board Service, I served as Chairman of the Santee Lynches Council on Governments; Chairman, Youth Council for the Fifth Judicial Circuit; President of the Kershaw County Chamber of Commerce; President of the Kershaw County United Way; and, President of the Camden Jaycees.

I served as the Managing Partner of my law firm from 2000 to 2008 which had seven partners and eleven to twelve support staff. I was the first certified Family Court Mediator in Kershaw County.

I have no physical problems in performing the duties as I am a cyclist and ride approximately 5000 to 6000 miles per year.

I have always viewed this position as an opportunity to serve the lawyers and litigants. A long time ago my grandfather told me to treat everyone you encounter with dignity and respect.

Judges serve a unique role in society. Generally, individuals have great respect for the institution and will defer to a judge’s views. I listen and demonstrate empathy to a litigant’s situation, but I will point to a better path when appropriate. This is particularly true with juveniles, but also with couples locked in custody battles. You try to help them see the consequences of their actions without being judgmental.

After having been a trial lawyer for 25 years, I recognize the challenges trial lawyers face. I have always tried to demonstrate that I work hard, I am prepared and I will make decisions quickly and fairly. I always try to explain my decision so they can understand my analysis of the case. I think this is particularly helpful to young lawyers and self-represented litigants. At all times I try to model a calm, attentive and even tempered demeanor. I never liked it when I thought judges were heavy handed and impatient. I always enjoyed trying cases in front of judges who had been experienced trial lawyers. They would give ample room to try your case but there was never any doubt who was in charge. I have tried to follow the example of these types of judges.

As a trial lawyer, I was always concerned about how long litigation could take which caused stress and expense to the litigants. From July 2010 until December 2011 I served as the Chief Administrative Judge for the Fifth Judicial Circuit. During my tenure, one of my goals was to reduce the number of outstanding cases and speed up the process. The total number of active

cases was reduced from 5,442 to 3,514. All of the pending cases more than two years old were disposed of and there were less than seventy (70) 2009 cases remaining when I finished my term. The circuit was able to meet the Chief Justice's bench mark in that we disposed of 80% of our cases in a year or less. We were one of four of the sixteen circuits which was able to consistently meet this objective. The Fifth Circuit continues to meet this bench mark at this time. Most importantly though, lawyers and litigants could get timely trial dates if their matters were ready to proceed.

- (11) Conclusion:
The Commission found Judge Morris qualified and nominated him for re-election to the Family Court.

**The Honorable Brian M. Gibbons
Family Court, Sixth Judicial Circuit, Seat 1**

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 Gibbons, 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 Gibbons meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Gibbons was born in 1966. He is 46 years old and a resident of Chester, SC. Judge Gibbons 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 1992.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Gibbons.

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Annual Judicial Conference for past 6 years	August of each year;
(b) SC Conference of FC Judges past 6 years	April of each year;
(c) SC Bar Convention Seminar	January of each year;
(d) Family Court Bench/Bar Seminar	December of each year.

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

- (a) I have presented at the 2010 SC Bar Program "Bridge the Gap" for new lawyers as part of a panel dealing with Family Court;
- (b) National Business Institute – "What Family Court Judges want you to know";
- (c) SC Rules of Family Court 2/08, 2/10;
- (d) SC Bar - Rules, Rules, Rules Seminar;
- (e) I have also presented and moderated at the Family Court Bench/Bar seminars broadcast statewide in December of 2010 and 2011;
- (f) SCAJ Convention – Participated in a panel discussion on Family Court matters in 2009.

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

(4) Character:

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

The Commission also noted that Judge Gibbons 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 Gibbons reported that his rating by a legal rating organization, Martindale-Hubbell before he was elected to the bench was BV.

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

All appointed Town/City attorney positions from 1994 through May 2005. These were appointed positions.

(6) Physical Health:

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

(7) Mental Stability:

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

- (8) Experience:
Judge Gibbons was admitted to the SC Bar in 1992.

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

- (a) Associate – Hamilton, Hamilton & Delleney, PA - August 1992 - December 1993;
- (b) Partner - Hamilton, Delleney & Gibbons, PA – 1994 - May 25, 2005;
- (c) City Attorney – Chester – 1994 - 2000;
- (d) Town Attorney – Great Fall, 1997 - May 2005;
- (e) Town Attorney – Fort Lawn – 1998 - January 2005.

I have been involved in a general practice law firm since coming to Chester out of Law School. I have primarily practiced in the areas of Family Law, Criminal, and Personal Injury for the last twelve years. I have practiced in Bankruptcy Court and have represent clients in civil litigation in Common Pleas and Magistrate Courts – both plaintiff and defense. I have represented the Municipalities of Chester, Great Falls, and Fort Lawn in various litigations; I was elected to the Family Court on May 25, 2005.

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

- (a) Pittman v. Pittman (07-DR-46-967) SC Court of Appeals Opinion 4858;
- (b) Pappas v. Pappas (08-DR-46-2324);
- (c) Doe v. Lingerfelt, Creel, and Baby Girl B (11-DR-11-11);
- (d) Purser v. Owens (05-DR-29-496) SC Ct. App Opinion 4898;
- (e) Miles v. Miles (06-DR-24-439) SC Sup. Ct. Opinion 26980.

- (9) Judicial Temperament:

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

- (10) Miscellaneous:

The Piedmont Citizens Committee reported that Judge Gibbons is “Qualified” in the evaluative criteria of constitutional qualifications, physical health and mental stability. The Committee unanimously found Judge Gibbons to be “Well qualified” in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament.

Judge Gibbons is married to Lorena Crouch Gibbons. He has three children.

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

- (a) SC Bar- Sixth Circuit Representative – Young Lawyers Division;
- (b) SC Trial Lawyers Association – Board of Governors, Sixth Circuit Representative;
- (c) Chester County Bar – Sec/Treas;
- (d) Municipal Attorneys Association;
- (e) SC Conference of Family Court Judges;
- (f) National Conference of Juvenile and Family Court Judges.

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

- (a) Chester Rotary Club/Past President, Paul Harris Fellow;
- (b) Chester YMCA Board/Past President;

- (c) Chester/Fairfield Citadel Club – Past President, Sec/Treas;
- (d) Blackstock Bluegrass Inc. – Past President;
- (e) The Citadel Alumni Association;
- (f) Richard Winn Academy – Board member;
- (g) Palmetto Boys State Staff;
- (h) Board of Deacons, Chester ARP Church – Past Chairman.

Judge Gibbons further reported:

I have always been very involved in my church and community. I coach all of my children in their various sports. I have been actively involved with American Legion Palmetto Boys State for the past almost 30 years.

(11) Conclusion:

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

**The Honorable Phillip Kendall Sinclair
Family Court, Seventh Judicial Circuit, Seat 1**

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 Sinclair, 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 Sinclair meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Sinclair was born in 1953. He is 59 years old and a resident of Spartanburg, SC. Judge Sinclair 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 Sinclair.

Judge Sinclair 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 Sinclair reported that he has made \$150 in campaign expenditures for his former legal assistant to type his application and other necessary forms.

Judge Sinclair reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Children’s Issues in Family	3/23/07;
(b) Defending Abuse and Neglect	9/21/07;
(c) Tips from the Bench IV	2/15/08;
(d) Hot Tips from the Coolest Domestic Lawyers	9/19/08;
(e) Drafting Effective Wills and Trust	10/27/08;
(f) Hot Tips from the Coolest Domestic Lawyers	9/18/09;
(g) 2009 SC Family Court Bench/Bar	1/23/10;
(h) Family Court Judges Conference	4/22/10;
(i) 2010 Orientation School for New Family Court Judges	6/2-4/10;
(j) Judicial Conference	8/18/10;
(k) Mini Summit on Justice for Children	12/2/10;
(l) SC Family Court	12/3/10;
(m) SC Bar Family Law Section	1/21/11;
(n) What Family Court Judges Want You to Know (Panelist)	2/18/11;
(o) Family Court Judges’ Conference	6/1/11;
(p) Annual Judicial Conference	8/17/11;
(q) SC Family Court	12/2/11;
(r) SC Bar Family Law Section	1/20/12.

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

- (a) Rutledge Business College-Taught Income taxation in early 1980’s;
- (b) Provided Legislative updates in Family Law to SC Trial Lawyers on two occasions;
- (c) Provided Legislative updates to SC Family Court Judges; Conference on two or three occasions;
- (d) “What Family Court Judges Want You to Know” – served as a panelist.

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

(4) Character:

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

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

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

Served in the SC House of Representatives, District 35, from 2001 to 2008. All Ethics Reports were timely filed, with the exception of the last report due which was due on December 31, 2006. The failure to file was an oversight on my part. Though I had left elective office, I still had a small amount of money in a campaign account. I paid a \$100 fine and filed the report on February 2, 2007.

- (6) Physical Health:
Judge Sinclair appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Sinclair appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Sinclair was admitted to the SC Bar in 1978.

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

- (a) 1978-79 – Served as a law clerk of SC Circuit Judge Paul M. Moore. Assisted Judge Moore with legal research, preparation of orders, etc.
- (b) 1979-82 – Assistant Solicitor for the 7th Judicial Circuit. Prosecuted criminal cases primarily in General Sessions Court. Also handled preliminary hearings and occasionally handled juvenile prosecutions. During this period of time, I prosecuted or assisted in the prosecution of virtually every type of criminal case from driving under the influence to capital murder cases.
- (c) 1982-84 – Thompson and Sinclair. Joined Fletcher D. Thompson, an established practitioner, in his law practice. I initially handled primarily criminal defense, but gradually developed a general practice including Civil Court, Probate and Family Court.
- (d) 1984-95 – Thompson, Sinclair and Anderson. Mr. Thompson and I were joined in practice by David F. Anderson. My practice continued to grow and expand. During this period of time my practice became directed more toward Family Court. Though I continued to handle criminal, civil and probate work, my practice grew to more than 50% in Family Court. During the early years, Mr. Thompson and I represented a Spartanburg automobile dealership and handled several cases in Federal Court on behalf of the dealership. Mr. Thompson also began to develop an extensive adoption practice and I assisted him in this area of practice. In 1989, we were joined in practice by James Fletcher Thompson.
- (e) 1995-98 – Thompson and Sinclair. David Anderson withdrew from our practice and continued to practice as a sole practitioner in the same location. My practice continued to grow in the area of Family Court.
- (f) 1999-2006 – Phillip K. Sinclair, LLC. I continued to practice in all Courts, but primarily in Family Court. By the late 1990's, my practice had become approximately 2/3 Family Court and the balance in civil and criminal Court with an occasional trial in Probate Court. I also served during this time in the SC House of Representatives. While serving in the House, I had an associate, Angela J. Moss, who assisted me on days when the House was in session.

- (g) 2006-10 – Sinclair and Collins, LLC. I was joined in practice by David M. Collins, Jr. Both David and I practice heavily in Family Court, though we both did work in other areas such as criminal law, probate and occasionally in Civil Court.
- (h) 2010 – present – Serving as Family Court Judge for Seventh Judicial Circuit, Seat 1.

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

Elected Family Court Judge, Seventh Judicial Circuit July 2010 to present.

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

- (a) State of SC In the Matter of: Eric Hunter Lankford DOB: 9-24-96; 2011-JU-42-031, 032, 033, 034 and 071
This case was a juvenile transfer case tried before me in January, 2012. In this case a fourteen year old was charged with the murder of his father, grandmother and great aunt. The case involved a great deal of testimony and evidence concerning the criminal acts, the juvenile's history and his psychiatric condition. I was asked to apply eight factors set forth in Kent v. United States, 383 U.S. 561 (1966), the applicable state case law and the statutory law set forth in §63-19-1210 of the SC Code to determine whether the cases should be transferred to General Sessions Court. The case is currently pending in General Sessions Court.
- (b) Stewart v. Stewart, 2009-DR-42-3378
This case was tried before me on July 1, 2011. A partial agreement had been reached between the parties and was approved. I was asked to decide several issues, including the grounds for divorce and the issue of alimony. The Plaintiff proved adultery, but the Defendant raised the defense of condemnation. The case is currently on appeal.
- (c) SCDSS v. Cooksey, Hood, et al, 2011-DR-11-004
This case was tried before me in August, 2011. This was a merits hearing in a DSS child abuse and neglect case. The mother's boyfriend was alleged to have sexually abused the mother's three year old daughter. The child's great-grandmother had been allowed to intervene and the child had been placed with her. The case involved a §19-1-180 motion to allow into evidence the out of Court statements of the child which were made to the forensic evaluator and the great-grandmother. I found that the boyfriend sexually abused the child, the mother placed the child in threat of harm, and continued placement with the great-grandmother. The case is believed to be on appeal.
- (d) McClure v. Waters, 2010-DR-42-1351
This case was tried before me on August 25, 2011. The primary issue was that of rehabilitative alimony. It involved a fairly short term marriage, but wife had been diagnosed with Lupus after the separation of the parties. However, she had not been determined to be disabled. She was also the owner of a small restaurant. I found that this was not an appropriate case for rehabilitative alimony. To my knowledge, the decision was not appealed.
- (e) Hill v. Hill, 2009-DR-42-3034
This was a divorce case involving a long term marriage. The most difficult issues were those of equitable division and alimony. The case was complicated by several factors. For instance, a property owned by the parties in Greenwood County was heavily discounted by an appraiser because of a problem with mold. Also, the wife owned a company that produced little income. The husband had lost his long time employment because of misconduct which also lead to the breakdown of the marriage. The case was tried very well by capable attorneys. To my knowledge, the Order was not appealed.

(9) Judicial Temperament:
The Commission believes that Judge Sinclair’s temperament has been and would continue to be excellent.

(10) Miscellaneous:
The Upstate Citizen’s Committee on Judicial Qualification found Judge Sinclair to be “Well qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found Judge Sinclair “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge Sinclair is married to Vicki Reynolds Butler Sinclair. He has three children.

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

- (a) SC Bar Association, 1978 to present. Fee Dispute Resolution Committee for Spartanburg County (1986 to 2010);
- (b) Spartanburg County Bar Association, 1978 to present. Family Court Committee Member, 1999 to 2010;
- (c) American Bar Association, 1979 to 2010;
- (d) SC Conference of Family Court Judges, 2010 to present.

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

- (a) Croft Fire Department Commission – 2008-10;
- (b) Children Come First – 2009 to 2010;
- (c) Spartanburg County SAFE Homes Rape Crisis Coalition Board Member – 2008-10;
- (d) Cedar Spring Baptist Church – 1980 to present. Deacon, former chairman, adult Sunday School teacher, stewardship chairman, pastor search committee (chairman).

Judge Sinclair further reported:

I have been blessed to have a wide variety of legal experience and life experiences which have benefited me in serving as Family Court Judge. I have served as an assistant solicitor, in private law practice, and as a state representative. I also have been fortunate to serve as a member of boards and in civic groups. I also have a supportive family. All of these have been helpful in my service on the Family Court.

(11) Conclusion:
The Commission found Judge Sinclair qualified and nominated him for re-election to the Family Court.

**The Honorable James F. Fraley, Jr.
Family Court, Seventh 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 Fraley, 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 Fraley meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Fraley was born in 1951. He is 61 years old and a resident of Enoree, SC. Judge Fraley 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 1977.

(2) Ethical Fitness:

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

Judge Fraley 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 Fraley reported that he has made \$200.00 in campaign expenditures for typing services.

Judge Fraley reported he has not:

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

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

Judge Fraley 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 Family Court Judges	5/31/12;
(b) Family Court Judges Conference	4/18/12 to 4/20/12;
(c) SC Bar Family Law Section	1/20/12;
(d) SC Bar Family Law Seminar	12/2/11;
(e) Annual Judicial Conference	8/17/11;
(f) SCAJ Seminar	8/4/11;
(g) Orientation School for New Family Court Judges	6/8/11;
(h) Family Court Judges Conference	6/1/11;
(i) SC Bar Family Law Section	1/21/11;
(j) SC Bar Family Law Seminar	12/3/10;
(k) Mini Summit on Justice for Children	12/2/10;
(l) Annual Judicial Conference	8/18/10;
(m) SCAJ Seminar	8/3/10;
(n) Orientation School for New Family Court Judges	6/2/10;
(o) Family Court Judges Conference	4/22/10;
(p) Family Law Update	1/22/10;

(q)	SC Bar Family Law Seminar	12/4/09;
(r)	Annual Judicial Conference	8/19/09;
(s)	SCAJ Seminar	8/6/09;
(t)	Orientation School for New Family Court Judges	6/3/09;
(u)	Family Court Judges Conference	4/22/09;
(v)	SC Bar Family Law Seminar	12/5/08;
(w)	Annual Judicial Conference	8/20/08;
(x)	Orientation School for New Family Court Judges	6/4/08;
(y)	Family Court Judges Conference	4/23/08;
(z)	SC Bar Family Law Section	1/25/08;
(aa)	SC Bar Family Law Seminar	12/7/07;
(bb)	Annual Judicial Conference	8/22/07;
(cc)	SCTLA Seminar	8/2/07;
(dd)	Orientation School for New Family Court Judges	7/11/07;
(ee)	Family Court Judges Conference	4/25/07.

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

- (a) I have lectured at the New Judges School for new judges on the topic of adoptions each year since about 2006;
- (b) I have lectured at the “Domestic Violence Seminar” in Spartanburg for the approximate years of 2006, 2007, and 2008;
- (c) I was a speaker at the “Mini Summit” on Justice for Children in 2006;
- (d) I served on a panel of 3 Family Court Judges to answer questions involving substantive and procedural issues in Family Court at the SC Trial Lawyers Convention (2006);
- (e) I organized and moderated a seminar for the SC Court Administration for Chief Administrative Judges in Family Court in 2004;
- (f) I lectured at a CLE approved seminar on the topic, “The Family Court Financial Declaration” (early 1990’s);
- (g) Prior to coming on the bench, I taught a business law course at Rutledge College in Spartanburg, SC.

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

(4) Character:

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

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

(6) Physical Health:

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

(7) Mental Stability:
Judge Fraley appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:
Judge Fraley was admitted to the SC Bar in 1977.

He gave the following account of his legal experience since graduation from law school:
I began practicing law in a general practice with Michael W. Skeen in November 1977 and we formed a partnership (Skeen and Fraley) shortly thereafter. In 1979, Paul Townsend McChesney, who had been serving as law clerk to then SC Supreme Court Justice, C. Bruce Littlejohn, joined our firm. Shortly after Mr. Skeen's departure, Paul Townsend McChesney's father, the Honorable Paul S. McChesney, Jr. retired as judge of the Family Court of the Seventh Judicial Circuit to join our firm (Fraley, McChesney and McChesney). This firm engaged in general practice through most of its history, with most of my practice devoted to family law. From time to time several other attorneys were associated with the firm on different occasions. In May of 1998, I was elected to the Family Court bench.

Judge Fraley reported that he has held the following judicial office:
I was elected by the General Assembly to the Family Court in May 1998 and have served since January 1999. Family Court has jurisdiction our most family matters and juvenile delinquency.

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

- (a) William James Biggins v. Karen Lee Burdette, f/k/a Karen Burdette Biggins, 312 SC 241, 708 SE2d 237 (Ct. App, 2011);
- (b) Stella K. Black vs. Harold Whitney Black – unpublished opinion no. 2010-UP-196, heard September 1, 2009 – filed March 8, 2010;
- (c) Jane and John Doe v. Richard Roe; Mary M; John Rose (whose true identity is unknown); and Baby Boy Jay, a minor under the age of seven (7) years, 369 SC 351, 631 SE2d 317 (Ct. App. 2006);
- (d) Diane Q. Brown v. George C. Brown 362 SC 85, 606 S.E.2d 785 (Ct. App. 2004);
- (e) Tom Drake Kisling v. Donna Joan Allison 343 SC 674, 541S.E.2d 273 (Ct. App. 2001).

Judge Fraley further reported the following regarding an unsuccessful candidacy:
In the spring 1995, I was a candidate for judicial office (Family Court, Seventh Circuit, Seat # 1.) I withdrew before the election.

(9) Judicial Temperament:
The Commission believes that Judge Fraley's temperament has been and would continue to be excellent.

(10) Miscellaneous:
The Upstate Citizen's Committee on Judicial Qualification found Judge Fraley 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.

Judge Fraley is married to Margaret Karen Davis Fraley. He has one child.

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

- (a) SC Bar (1977-present);
- (b) SC Conference of Family Court Judges – 1999-present (Secretary – Treasurer 2007-08, Vice President 2008-09, and President 2009-10);
- (c) SC Conference of Family Court Judges Advisory Committee (2007-10).

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

Covenant Presbyterian Church – Elder, Christian Education Chair.

Judge Fraley further reported:

I feel I am respected by the Spartanburg Bar and by members of the Covenant Presbyterian Church where I have been elected to numerous positions. My family is most important to me. Most of my spare time is spent with my wife and our daughter.

(11) Conclusion:

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

**The Honorable Joseph Wilson McGowan, III
Family Court, Eighth Judicial Circuit, Seat 1**

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 McGowan, 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 McGowan meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge McGowan was born in 1952. He is 60 years old and a resident of Laurens, SC. Judge McGowan 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 1979.

(2) Ethical Fitness:

The Commission did not reveal any evidence of unethical conduct by Judge McGowan.

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

Judge McGowan reported he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Annual Judicial Conference	08/22/07;
(b) Annual Judicial Conference	08/20/08;
(c) Annual Judicial Conference	08/19/09;
(d) Annual Judicial Conference	08/18/10;
(e) Annual Judicial Conference	08/17/11;
(f) SC Bar Convention, Family Law Section	01/25/08;
(g) SC Bar Convention, Family Law Section	01/09;
(h) SC Bar Convention, Family Law Section	01/22/10;
(i) SC Bar Convention, Family Law Section	01/21/11;
(j) SC Bar Convention, Family Law Section	01/20/12;
(k) Family Court Judges' Conference	04/23/08;
(l) Family Court Judges' Conference	04/22/09;
(m) Family Court Judges' Conference	04/22/10;
(n) Family Court Judges' Conference	06/01/11;
(o) Family Court Judges' Conference	04/12;
(p) Family Court Bench/Bar Seminar	12/07/07;
(q) Family Court Bench/Bar Seminar	12/05/08;
(r) Family Court Bench/Bar Seminar	12/04/09;
(s) Family Court Bench/Bar Seminar	12/03/10;
(t) Family Court Bench/Bar Seminar	12/02/11;
(u) Family Court Judges Orientation School	06/04/08;
(v) Family Court Judges Orientation School	06/03/09;
(w) Family Court Judges Orientation School	06/02/10;
(x) Family Court Judges Orientation School	06/08/11;
(y) Family Court Judges Orientation School	05/30/12.

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

- (a) I have lectured at the 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012 Orientation School for New Family Court Judges School on the "running of a court" which includes judicial temperament, time management, judicial recusals, docket control, taking control of the courtroom, accounting for matters under advisement and other areas.
- (b) I participated in a panel discussion at the Family Court Bench/Bar Seminar in December, 2011. The subject was the settlement of cases during hard economic times.
- (c) This July 13, I will lecture defense attorneys in Greenwood, SC on "Judging Juvenile Justice".
- (d) In 2005 and 2006, I lectured at the Solicitor's Conference regarding Juvenile Justice.

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

(4) Character:

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

The Commission also noted that Judge McGowan 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 McGowan reported that he is not rated by any legal rating organization.

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

Commissioner of Public Works, December 1994 until May 1996. I was appointed to fill the unexpired term of Marshall W. Abercrombie, who died November 23, 1994. All necessary reports were timely filed for the period of service.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge McGowan was admitted to the SC Bar in 1979.

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

From January 1979 until February 1994 I had a general practice (family law, real estate, personal injury and criminal law). Until his death on November 23, 1994, I practiced with Marshall W. Abercrombie in the firm of Abercrombie and McGowan. Thereafter I practiced as a sole practitioner until my election to the family court bench February 10, 1999. I have continuously served as a family court judge since this date.

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

Family Court, Eighth Judicial Circuit, Seat 1 (Elected February, 1999, 2001 and 2007 with current term to expire June 30, 2013)

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

- (a) Brown v. Brown, 11-UP-367-This was a contested divorce between an 87 year old husband and an 80 year old wife who were married in 1982. The crucial issue in this case was whether a farm of significant value and purchased in 1947 by husband had been transmuted into marital property. My decision that it had not been transmuted was upheld by the Court of Appeals.
- (b) The State v. Diego Reyes Campos, 08-UP-566-Here after hearing all the evidence and testimony and weighing all the factors in Kent v. United States, 383 US 541 (1966), I decided that it was appropriate for a 14 year old charged with murder to be tried as an adult in the Court of General Sessions. These cases are quite rare and very emotional.

This case received much media attention both during and after the trial, including mention in USA Today. On appeal the decision was affirmed.

- (c) Posnick v. Posnick, 03-UP 479-Here my decision holding husband in civil contempt, requiring him to pay certain sums to purge the contempt, requiring him to pay to wife the value of a week's use of a condominium, and requiring him to pay certain attorney's fees was affirmed by the Court of Appeals.
- (d) SCDSS v. Culbreath, 00-UP-751-Here my decision denying a motion for a continuance and granting termination of parental rights was upheld on appeal.
- (e) DiBenedetto v. DiBenedetto, 99-DR-24-659-This divorce action involved the possible incompetence of a party and how the same affected each party's ability to pursue a divorce. It also involved the assertion of the privilege against self-incrimination, the adverse inference derived therefrom and its application per Griffith v. Griffith, 332 SC 630, 506 SE2d 526 (Ct. App. 1998), to bar one from seeking relief.

(9) Judicial Temperament:

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

(10) Miscellaneous:

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

Judge McGowan is married to Eleanor Harvey (Suzie) McGowan. He has two children.

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

SC Bar Association.

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

Kappa Alpha Order, Graves Province Court of Honor.

(11) Conclusion:

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

Bradley W. Knott
Family Court, Eighth Judicial Circuit, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Knott was born in 1965. He is 47 years old and a resident of Greenwood, SC. Mr. Knott 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 1991.

(2) Ethical Fitness:

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

Mr. Knott 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. Knott reported that he has made \$222.67 in campaign expenditures for envelopes, postage, address labels, candidacy business cards, and magnetic name badges.

Mr. Knott 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.

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

Mr. Knott 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 Mediation Training Program	03/03/11 – 03/07/11;
(b) Masters in Trial-Winning Your Trial Through Trial Witnesses	02/04/11--12/13/00;
(c) 2010 Hot Tips from the Coolest Domestic Practitioners	10/01/10;
(d) 2009 SC Family Court Bench/Bar	02/02/10;
(e) 2009 Hot Tips from the Coolest Domestic Practitioners	09/18/09;
(f) Masters in Cross-Examination	02/06/09;
(g) Children's Issues in Family Court	01/09/09;
(h) Hot Tips from the Coolest Domestic Practitioners	09/19/08;
(i) Professionalism Issues Ahead	02/29/08;
(j) Defending Abuse and Neglect Cases	02/23/08;
(k) Hot Tips from the Coolest Domestic Practitioners	09/21/07;
(l) Ethical Considerations & Pitfalls for the Family Court Lawyer	02/04/07;
(m) Hot Tips from the Coolest Domestic Practitioners	09/22/06;
(n) Children's Issues in Family Court	03/17/06.

*Note: Due to the substantial credits earned through the five (5) day Family Court mediation training, I have not been required to obtain additional credits to date in 2012.

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

- (a) I have served as an adjunct faculty member at Piedmont Technical College Teaching courses in American Government and Introduction to Political Science;

- (b) I have been a regular lecturer on family law topics at the Bar's annual "Law School for Non-Lawyers."

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

(4) Character:

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

The Commission also noted that Mr. Knott 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. Knott reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Knott was admitted to the SC Bar in 1991.

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

- (a) September 1991: I was hired as an associate at Callison, Dorn, Thomason, Garrett & McCravy, P.A. My hiring was approximately one month after taking the SC Bar Exam. The firm had a general practice at that time and was primarily Plaintiff oriented. My interest has always been in family law so I began immediately building a Family Court practice although I also assisted the other partners on larger civil cases and had my own personal injury case workload. I also served as co-counsel on several federal court cases in my initial years with the firm. During this period my practice was 65% Family Court and 35% civil litigation.
- (b) June 1995: I was named a partner in the firm and the firm name changed to Callison, Dorn, Thomason & Knott, P.A. By this time I was handling all of the firm's Family Court caseload. I also served a stint as Town Attorney of the Town of Ware Shoals and continued to handle a small number of civil litigation cases; primarily serving as defense counsel on cases for the Insurance Reserve Fund. During this period my practice was 75% Family Court and 25% civil litigation and municipal law.
- (c) August 2000: One of the firm's other partners resumed the position of Town Attorney for the Town of Ware Shoals and I was named County Attorney for Saluda County. I served in that position until December of 2007. During this period I estimate the amount of my practice devoted to family law work continue to grow to 80% Family Court and 20% civil litigation and municipal law.
- (d) March 2011: I went through the training and became certified as a Family court Mediator. Now that I have added mediation to my family law work I estimate that my family law matters now make up 90% of my practice.

Mr. Knott further reported regarding his experience with the Family Court practice area:

Divorce and Equitable Division of Property:

As I am nearing 21 years in practice and the substantial majority of my practice is in the Family Court arena; I have handled hundreds of divorce cases. My case history ranges from the brief marriage with very little property or debt to divide to marriages of in excess of thirty (30) years with substantial assets in both real property and personal property requiring division. I have handled cases involving all grounds for divorce recognized under SC law. I have been involved in numerous cases which required the retaining of experts to value family businesses, retirements and/or other marital assets. I have had several cases which involved complex issues of special equity and transmutation as well. I have also handled cases involving common law marriage and cases wherein I successfully argued that my client was entitled to an annulment.

Child Custody:

I have been involved in every facet of child custody cases both as a Family Court litigator, Guardian ad Litem and a mediator. I have had numerous cases wherein I have retained counselors, psychologists and psychiatrists. In my capacity as a Court appointed Guardian ad Litem I have had cases wherein I traveled to Florida, New York and California as part of my investigation.

Adoption:

Not including those cases wherein I served in the capacity of Guardian ad Litem, I estimate that I have handled approximately one hundred (100) adoption cases through my years of practice. My adoption experience includes step-parent adoptions; adoptions wherein a minor child was placed through the Department of Social Services; adoption in which an adoption agency such as Bethany Christian Services was involved; and, private adoptions in which a relative or unrelated acquaintance of the natural parents or their families was seeking to adopt a child. My cases have involved situation in which biological parents voluntarily relinquished their parental rights as well as cases in which one or both biological parents contested the adoption and we sought successfully to have their parental rights judicially terminated. Most recently, I have become involved in my first case dealing with a surrogacy arrangement here in SC.

Abuse and Neglect:

I have been involved in abuse and neglect cases on several fronts. At different periods in my practice I have served as attorney for the Guardian ad Litem in such cases, many of which were contested. I have also been privately retained and Court appointed to represent Defendants in cases brought by DSS. Most recently, I had the opportunity to represent Oconee County DSS in a civil action wherein a natural parent alleged negligence against the Department in a prior abuse and neglect investigation. That case allowed me to view the process and procedures from the Department's side of the issues.

Juvenile Justice:

I have only limited experience in this area related to a handful of privately retained cases wherein I defended juveniles charged. I have had occasion to serve in DJJ cases in which the Court appointed me to serve as a juvenile's Guardian ad Litem.

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

- (a) Federal: 0%;
- (b) State: 100%.

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

- (a) Civil: 10%;
- (b) Criminal: 0%;

- (c) Domestic: 90%;
- (d) Other: 0%.

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

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

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

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

- (a) Patricia H. Schmidt v Harold W. Schmidt, M.D., 90-DR-24-738.

This was a divorce case wherein I represented a local neurosurgeon. It was significant in that it was a high profile case for our area with known parties and substantial assets involved. It was also early in my career and I was taking over as the third attorney for Dr. Schmidt. Approximately eight (8) years elapsed between the original filing and the final Decree being issued. When I was retained the case was over six (6) years old. Harvey Golden represented the Wife and had been successful in obtaining a Temporary Order requiring my client to pay alimony in the amount of \$8,000.00 per month.

We tried the case for two (2) days in January of 1998. I was successful in having alimony reduced to \$4,000.00 per month. The case also required a CPA to value my client's medical practice. We were successful in proving that Dr. Schmidt's practice was not worth near the value placed upon it by the Plaintiff due to my client's substantial accounts receivable and the addition during the pendency of the action of a new younger neurosurgeon in town that was more familiar with cutting age surgical techniques. Most importantly, I was able to force a final resolution to a case the Plaintiff had been milking for eight (8) years and achieve closure for my client.

- (b) SC Department of Social Services v. Caroline Canty and Barron Canty, Sr., 01-Dr-24-581.

This was an abuse and neglect case. I was privately retained to represent Barron Canty, a member of the United States Air Force who was alleged to have sexually abused his eight (8) year old daughter. Mr. Canty's ex-wife, Caroline, was making the allegation and DSS was seeking a finding of sexual abuse against Mr. Canty and placement of Mr. Canty's name on the Central Registry for Child Abuse and Neglect. Such a finding could have effectively ended his military career.

This was a noteworthy case not only for what was at stake for my client but also for the fact that the minor child did testify in Court against my client. As an added twist, Mr. Canty's ex-wife had a master's degree in agency counseling and was well schooled in DSS procedures as well as those methods employed in forensic interviews and counseling of children who are alleged victims of sexual abuse. We called Ms. Canty in our case and we were successful in discrediting her testimony. We were also able to show that during the parties' divorce case in Charleston, SC, Ms. Canty had made several attempts to curtail my client's contact with his children without any evidence to support her allegations. It was also uncontested in our trial that on two earlier occasions the same minor child had exhibited evidence of having been sexually molested. On both prior occasions, my client had sought to pursue the alleged perpetrator and Ms. Canty refused to cooperate.

The Court denied the Department's request for a finding and my client's reputation was preserved. Justice was truly done in this case. The last time I spoke to my

client in 2008 he had risen to the rank of Lieutenant Colonel in the Air Force and maintained an excellent relationship with both of his children.

- (c) John P. McClain v. H. Caroline Porter, 02-DR-24-411.

This was a custody case culminating in a bitterly contested two (2) day trial. This case was significant because it originated from the parties' Court approved divorce agreement wherein the parties shared custody of the two minor children on a week to week basis (seven days on seven days off). While much more common now; at the time it was originally approved, pure shared custody in our jurisdiction was quite unique. Subsequent to the divorce, my client, Mrs. Porter, remarried and sought to move from Greenwood to Chapin, SC, with the minor children thus rendering week to week custody impossible. As a result, Mr. McClain filed this action seeking primary custody. Mr. McClain filed the action as an emergency prior to school resuming and was successful in having the Court grant him temporary custody and allowing him to enroll the children in Greenwood County Schools.

Through the course of the litigation in addition to a Guardian ad Litem; the Court appointed a psychologist for the children as well. There were allegations made against my client that she suffered from depression and had inappropriately discussed the case with the children. Also at issue was the validity of the reasons for my client's move to the Chapin area.

We were able to convince the Court that there was sufficient evidence that the shared custody arrangement was ultimately going to have to be changed anyway. The Guardian and counselor also reluctantly conceded that there was substantial concern as to how the children would react if not afforded the opportunity to live with their mother. The Court ruled in favor of my client granting her primary custody thereby reversing the terms of the Temporary Order that had been in place for several months.

- (d) Jane and John Doe v. John Roe and Baby Girl _____, a minor under the age of seven (7) years, 10-DR-04-423.

This was an adoption case. It is a significant case to me because it was the first time I was brought in as attorney for a prospective adoptive couple long before the child in question was born. My clients were involved with the biological mother throughout her pregnancy; however, they were simply introduced to her by another friend and had no family connection or other relationship with her. This case was nerve-wracking throughout in that we were all acutely aware that at any time the biological mother could change her mind; chose another family or have her own family desire to get involved. Likewise, the biological father, whose whereabouts were unknown, and/or his family could come back into the picture.

We had to spend a tremendous amount of time to make sure all of the "players" were on board. This included securing the services of an independent attorney who would be ready to go to the hospital on very short notice to secure the biological mother's relinquishment of parental rights as soon after the birth as possible. We were also dealing with a small county hospital that had never dealt with this situation before in terms of what access and accommodations would be made for my clients and arranging the details of how the child would be allowed to leave the hospital premises.

This case culminated in a truly emotional final hearing for everyone present knowing everything that had occurred to pull off what was a great resolution for my clients and especially one lucky baby girl.

- (e) Gary Davis v. Oconee County Department of Social Services, 09-CP-37-881.

This was a Common Pleas case in which I represented Oconee County DSS. This case involved the removal by DSS of four (4) children from the home of the original Plaintiffs, Betty Davis and Gary Davis. At the time of the DSS investigation Mr. Davis

was still married to his first wife and was going through a hotly contested divorce. He subsequently married Betty Davis prior to his lawsuit being filed.

The allegation was first made that Mr. Davis' three year old daughter had been sexually abused by her natural mother's boyfriend. Shortly thereafter, another allegation was made that the perpetrator was Betty Davis' son who was living in the home with Betty and Gary Davis. DSS commenced an investigation and all parties' signed a treatment plan wherein all of the children were removed from the home and placed with relatives. Ultimately, it was determined that there was no indicated case for sexual abuse against the Plaintiffs or Betty Davis' son and the children were returned to Mr. Davis approximately ten (10) months later. Mr. and Mrs. Davis then filed this case against the Department alleging the children were improperly removed and that they suffered damages as a result. The Plaintiffs alleged negligence and intentional infliction of emotional distress.

We conducted intensive discovery and I then filed for summary judgment. I was successful in dismissing the Outrage cause of action and also was able to get Mrs. Betty Davis dismissed as a party to the action. The case proceeded to trial with Gary Davis as the lone Plaintiff along with one cause of action for negligence. The Plaintiff's attorney refused to talk settlement throughout the course of the litigation. After drawing a jury and my forcing a chamber's conference, the case then settled for a small sum prior to opening statements.

This case was just recently resolved and is noteworthy to me on several fronts. First it represents one of my rare forays into civil litigation during the past few years. The experience reminded me how much I appreciated the more controlled Family Court docket versus the civil case that may or may not be called to trial at a term of Court. Second, it was extremely beneficial for me to handle a case representing DSS when my prior experience has been almost exclusively representing individuals against the Department. I gained a better understanding and appreciation for the job DSS has to do and the almost impossible nature of that job in that their employees are subject to hindsight criticism no matter what they do. Finally, while I did not think the case should have survived summary judgment at all; once it did, we were forced to deal with the danger of how the public views the Department. The truth is many people see DSS as intruding into a family's private life which is further complicated by the Department's stated goal of keeping families together or at least reuniting them after an event requiring investigation has occurred.

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

- (a) Tracy D. Bookman v. Shakespeare Company and Norman Rutherford, 442 S.E. 2d 183, 314 S.C. 146 (S.C. App. 1994). Decided January 31, 1994; Cert. denied July 14, 1994. I am listed as co-counsel for the Appellant in the reported case along with John R. McCravy, III who was a partner in my firm at the time. Mr. McCravy was listed primarily because I was a young associate throughout the litigation and subsequent appeal in this case. I handled all motion hearings and prepared all briefs throughout the case.
- (b) Katie Green Buist v. Michael Scott Buist, No. 4982. Court of Appeals of SC. Decided June 6, 2012. The attorneys of record for the appeal in this case were Scarlet Bell Moore and C. Rauch Wise. I reference this case because I was the Court appointed Guardian ad Litem at the Family Court level and remained involved in the case with Mrs. Moore and Mr. Wise throughout the appellate process. Neither of them were involved as the attorneys for the parties during the Family Court litigation. Among other issues, Mr. Buist appealed the Court decision granting primary placement of the minor child with

Ms. Buist as well as the visitation schedule set by the Family Court. Those decisions by the Family Court judge were based, at least in part, on my investigation and my Guardian ad Litem Report. While the case was reversed and remanded in part; those issues regarding custody and visitation were affirmed.

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

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizen's Committee on Judicial Qualification found Mr. Knott to be "Well qualified" for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found him to be qualified for constitutional qualifications, physical health, and mental stability. The committee also noted that Mr. Knott was slightly better qualified than the other three candidates who are seeking nomination for this position.

Mr. Knott is married to Vicki Howard Knott. He does not have any children.

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

- (a) Greenwood County Bar Association;
- (b) SC Bar Association. In the 1990's I served as a council member on the Torts and Insurance Practices Section and subsequently served as Chairperson of the Section. I also served as the Eighth Circuit Representative of the Young Lawyer's Division of the Bar. I am currently a member of the Family Law Section;
- (c) I have previously been a member of the SC Trial Lawyers' Association, the American Trial Lawyers' Association, and the American Bar Association.

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

I have previously served on the Cambridge Academy Board of Trustees, the Greenwood Area Chamber of Commerce Board of Directors as the Legal Representative to the Board, and two separate terms on the Greenwood Country Club Board of Directors. None of these appointments has been in the last five (5) years.

Mr. Knott further reported:

I grew up in Greensboro, NC. I have one older brother who was born with severe cerebral palsy. His special needs were one of the main reasons my family moved from a much smaller town in order to take advantage of the greater resources that would be available to him in a large city. There are no attorneys on either side of my family other than myself. I believe my family upbringing and the additional responsibilities I took on as a child and teenager had a great deal to do with me choosing the legal profession as a career and will serve to enhance my effectiveness on the Family Court bench.

Even though I was the younger sibling I often felt more like the third adult in our family growing up than I did the second child. From an early age my parents included me in decisions that would affect me and our family as a whole. I was led to believe I had a voice in those decisions and I was always given the opportunity to make my case. As a result, I have always maintained a very practical and logical approach to decision making in all facets of my life. The

question has always been how a decision will impact all of those involved and what will the potential consequences of a decision be. I have utilized that philosophy with my Family Court clients and I will use that same philosophy on the bench when it come to how decisions in a case will affect not just one or both parents but the children and the family unit as a whole.

Secondly, I recall throughout my childhood appreciating routine and normalcy. I never wanted to be treated differently by friends or strangers because of my family dynamic. I have always kept this memory in mind when I serve in a case as a Guardian ad Litem. I believe children crave discipline and structure. In truth, I do not believe children want special treatment in either a good or bad way. They simply want to fit in with everyone else and have some sense of security in knowing day to day what will be happening and what will be expected of them. I believe my life experiences will be an asset in my role as a judge by helping families provide that structure to their children just as it has helped me advise and counsel clients in my practice.

Most recently, my work as a Family Court mediator has confirmed in me my desire to serve in a judicial role. I have a desire to play a role in helping families resolve their issues at what for many of them will be the most emotionally trying time of their lives. I also welcome the opportunity to be a mentor and sounding board for our Family Court bar. Through my years of practice I have greatly appreciated those judges who have maintained an open door policy and have been proactive in trying to help us get cases resolved. I want to carry on that tradition and be that kind of judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Knott's extensive background in his 20-plus years of family law practice and his personal understanding of those less fortunate will make him a valuable asset on the Family Court bench.

(12) Conclusion:

The Commission found Mr. Knott qualified and nominated him for election to the Family Court.

**Joseph Collins Smithdeal
Family Court, Eighth Judicial Circuit, Seat 3**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Smithdeal was born in 1967. He is 45 years old and a resident of Greenwood, SC. Mr. Smithdeal 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 1992.

(2) Ethical Fitness:

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

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

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

Mr. Smithdeal 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) E-Discovery After 12/01/06	04/29/07;
(b) SCTL A Annual Convention	08/02/07;
(c) ASCCA Annual Conference	11/01/07;
(d) Title Ins. Claims & Underwriting	11/06/07;
(e) Fundamentals of Elder Law	11/27/07;
(f) Auto Torts XXXI	12/05/08;
(g) IWA Spring Seminar	05/08/09;
(h) SCACDL Blues, Bar-B-Q	07/10/09;
(i) SCAJ Annual Convention	08/06/09;
(j) SCACDL Blues, Bar-B-Q	07/09/10;
(k) ITIC 2010 Investors Title	09/17/10;
(l) Sup. Ct. Lawyers Mentoring 2 nd Pilot Program	12/15/10;
(m) SCACDL Blues, Bar-B-Q	07/08/11;
(n) SCAJ Annual Convention	08/05/11;
(o) SCACDL Blues, Bar-B-Q	07/13/12;
(p) SCAJ Annual Convention	08/03/12.

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

SC Bar – Law School for Non-Lawyers, Workers' Compensation, Torts, Family Law – Bar sponsored volunteer program that helps the general public understand various types and aspects of law.

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

(4) Character:

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

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

- (5) Reputation:
Mr. Smithdeal reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.
- (6) Physical Health:
Mr. Smithdeal appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Smithdeal appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Smithdeal was admitted to the SC Bar in 1992.

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

- (a) Judson Ayers & Associates, P.C. 1992-95, Family Court, general civil litigation, Workers Compensation, real estate, and employment law;
- (b) Ayers & Smithdeal, P.C. 1995-1997, Family Court, general civil litigation, Workers Compensation but fewer real estate closings; and
- (c) Ayers, Smithdeal & Bettis, P.C. 1997-present, practice areas substantially the same but fewer divorces. I represented the Department of Social Services in neglect and abuse cases for several years and also began representing more juvenile justice cases since my wife left her position as Family Court prosecutor.

Mr. Smithdeal further reported regarding his experience with the Family Court practice area:

Divorce and equitable division of property

Over my career I have handled hundreds of cases involving divorce and division of property. I have represented clients from other states and other nations as well as non-English speaking clients. The divorces ran the gamut from uncontested one-year separations to hotly contested habitual drug and/or alcohol abuse cases. Often, a fault based ground for divorce would morph into a one-year separation “no fault” divorce once the property issues were worked out. Sometimes, however, the property, no matter how small, was the issue that would prevent a case from settling. Occasionally, the sole interest was revenge and property division was the client’s means to that end. I would always try to redirect a hurt or upset client’s anger toward a rational solution which would achieve the best results with the lowest costs.

Child Custody

One of the most heart wrenching and at times frustrating parts of handling Family Court cases is the child custody process. Although most custody battles are worked out prior to actual trial, I have had to go to Court many times in pursuit of custody for one parent or the other. I have succeeded in gaining custody for fathers, mothers and even grandparents in different cases. I once represented a mother who I had originally helped get custody, equitable division and a divorce on the grounds of adultery. The father remarried and his new wife was wealthy and had the ability to hire an expensive out of town attorney. The father filed suit requesting a change in custody based upon a material change in circumstances. Against a backdrop of evidence presented by the father including: spiked collars found in the child’s room (the boy was 12); an arrest of the mother for computer hacking into the father’s internet account; an affair by the mother with a married man who was observed by a private detective at the mother’s house while the child was present; a house in a run-down part of town; and more, I was successful in retaining custody for the mother. The reality of the situation, though, was that the mother was the proper person to have custody because the father: 1) had not proved a material change in the circumstances; and 2) the overriding concern for the child’s best interests were served by custody

remaining with the mother who truly loved, struggled to support and cared for her son. The father's motivations were less than noble as it became apparent that he was motivated by revenge against his former wife. The case took over a year to win and the client was not able to pay me. Justice and the child's best interests prevailed.

Adoption

When a person or couple comes to me requesting assistance with an adoption, I get a smile on my face because it means some child is getting an intact family. I have represented parents in infant adoptions, teenage adoptions and even in cases where the termination of parental rights was contested. Our statutes provide for a person's parental rights to be terminated based on certain threshold factors. I have advised people seeking TPR and adoption to wait for a better time and have also advised to file immediately. I have also represented clients who were adopting special needs children. Overall, this is one of the greatest parts of practicing Family Law.

Abuse and Neglect

Where adoption is generally happy, abuse and neglect cases are overwhelmingly sad. Until 2011, I represented the Department of Social Services for several years handling cases in which the regular attorney had a conflict of interests. During my time with the Department, I learned what difficult jobs the case workers have and that they are dedicated public servants working for the love of children. I saw cases of crack babies and terribly molested children. One mother had several children born addicted to crack and each one was taken into protective custody and eventually given into the custody of relatives or new adoptive parents. The mother was so addicted that at the last TPR hearing, she was pregnant and had tested positive again.

Juvenile Justice

For the first ten years of my practice, I handled no juvenile justice cases due to the fact that my wife, Libby, was the juvenile prosecutor for the Eighth Circuit. For the last several years though I have had experience with juvenile cases. This is another difficult and often sad part of Family Court because many of these children have nobody at home to lead them in the right direction or even ask, "Where are you going?" when they walk out the door. I take great interest in children as they are the future of our nation and they deserve to have someone who cares for them. One young fellow with a drug problem was charged with Assault and Battery 1st Degree. He was originally charged as an adult but I was successful in having the case remanded to Family Court and the charges reduced to misdemeanors with a probationary sentence. Since that time, I have followed up with him with phone calls to check on him. I have a strong belief that children will rise to the expectations of the people that care about them.

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

- (a) Federal: No federal court appearances in the past five years;
- (b) State: Multiple times per year.

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

- (a) Civil: 50%;
- (b) Criminal: 10%;
- (c) Domestic: 10%;
- (d) Other: 30%.

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

- (a) Jury: 5%; most criminal and civil matters settle before trial;

- (b) Non-jury: 95% including civil and criminal cases that settle before trial, Family Court, Workers Compensation, Probate Court, Social Security hearings.

Mr. Smithdeal provided that he most often served as sole counsel or if the matter was referred to [him] by another lawyer, chief counsel.

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

- (a) Fisher, as Per. Rep. v. Fielder, MD; Baarcke, DMD; and Wallace Thomson Hospital

My first medical malpractice trial involved a 28 year old, poor, uninsured man who died from an improperly treated abscessed tooth. The infection spread to his lower jaw and throat and he suffocated to death while in the hospital. He was unemployed and lived with his parents. He had no children. The defendants were a highly visible and popular family physician who had delivered and/or treated a large portion of the population of the small county for forty years, a popular dentist and the County's sole hospital. The physician had been sued for malpractice in two prior cases. One jury hung 11-1 in the defendant's favor and the other was a hung jury after the judge granted a mistrial acting as the 13th Juror. The trial courts in each of the two prior cases changed the venue due to the inability to find an impartial jury.

I moved for a change of venue pre-trial based upon the events in the previous trials, the popularity of the three defendants and the *ex parte* communications between the decedent's treating physicians and the defendant's attorneys. I submitted dozens of affidavits from ordinary citizens of the county, newspaper articles extolling the good deeds of the defendants and memorandum of law supporting my motion. The motion was denied.

One of the defense experts, who was another local physician, in his deposition and again during trial, testified that he had never heard of a particular medical term which was crucial to my theory of the case. Fortunately, during the discovery phase, I had located a woman whose home was in a very remote section of the county and who had suffered the same condition as the decedent and was also treated by this expert. I traveled to the woman's home, listened to her story and obtained a medical authorization for her records. I also subpoenaed this woman to trial. During the cross examination of this expert, he stuck with his feigned ignorance of my "outlandish theory". I then presented him with his former patient and his own records showing clearly that this expert was not only aware of the medical condition and terminology, but that he was willing to lie to the jury to protect his local buddy.

The trial lasted a week and the jury returned a verdict on Saturday afternoon. The issue was whether the defendants had deviated from the accepted standard of care in their respective professions and if so, whether those deviations were a direct cause of the young man's death. The courtroom was full of local physicians who were there to lend moral and visible support to the defendants. The defense attorneys were much older and vastly more experienced than me. Despite the odds, the dead man's parents prevailed in true David v. Goliath fashion and the verdict was for the plaintiffs.

- (b) Ukadike v. SC Department of Corrections

My client had a PhD, two bachelor degrees and an associate's degree. He taught continuing education courses to the employees of the Department of Corrections. He had an exemplary record of annual evaluations. He had been working in the same job with the Department for over ten years. He had been passed over for promotion numerous times. He was even passed over for a job previously held by inmates. His problem? He was black and from Nigeria. He also spoke with an accent.

On behalf of my client, I filed suit in U.S. District Court for violation of Title VII of the 1964 Civil Rights Act. The case was of particular concern for my client because he was still employed by the Department at the time of the litigation and the main perpetrator of the illegal discrimination according to my client was the warden himself. He was therefore in a very precarious position.

Discovery was extensive with the plaintiff's deposition alone lasting three days. Both sides named numerous witnesses and the documentary evidence was voluminous. The case was put together with a mixture of direct and circumstantial evidence some of which was excluded by the trial judge. Mediation was attempted but the parties were apart by many thousands of dollars.

The trial lasted three days. There were approximately twenty witnesses called to testify. Some of the plaintiff's witnesses were current or former employees of the Department and were examined pursuant to Rule 611 SCRE. The testimony and evidence proved that my client had been the subject of ridicule and humiliation at the hands of his supervisors in the Department. They had told him to "go back to Africa" and had mimicked the way he spoke to inmates and other employees. They had passed him over for junior, white employees with only high school diplomas. In the end the plaintiff prevailed and he broke down in tears in release of the tension and stress he had been through over the years. This was the first and only time the Department of Corrections had been sued and lost on a nation of origin claim. My client was able to go back to work with his head held high. He ultimately left SCDC several years later and is now an administrative hearing officer within the Department of Corrections in New Mexico.

(c) State v. Bixby

I was appointed on the notorious State v Rita Bixby case several years ago. The Solicitor filed notice that the State intended to seek the death penalty. I therefore requested death penalty certified co-counsel to assist. I was the second or third attorney appointed to represent Rita Bixby as each of the previous attorneys claimed some sort of conflict. I took the case and fought for my client because I have taken an oath to protect and preserve the Constitution. I take that oath very seriously. I knew that the case would take a tremendous amount of time and that I may lose some friends in the law enforcement community as the victims in the case were a Sheriff's Deputy and a State Constable – both of whom were widely respected and loved in Abbeville County.

The most pressing issue in the case was the death penalty. Without precedent in SC or in any other State, the question was whether a person charged as an accessory before the fact to murder was subject to the death penalty. Co-counsel and I filed motion to dismiss and took the position that pursuant to the Death Penalty Statute, the answer was "no." The trial court agreed with the defense and the State took a direct appeal to the SC Supreme Court. The Court affirmed the trial court (Toal dissent) and our client was no longer facing the death penalty if convicted.

My co-counsel and I filed and argued many other pre-trial motions including: reasonable bail; speedy trial (not granted but deadline given to State to bring case to trial); change of venue (granted with consent of State); exclusion of confessions or other inculpatory statements (several granted over objection); motions to compel discovery; various ex parte motions for costs and fees; and a motion to dismiss for insufficiency of the indictment. All motions were researched and argued by us.

The trial was tried during the Fall of 2007 amidst a great deal of publicity. There were numerous witnesses called by the State including: fingerprint; firearms; crime scene; pathology; DNA and computer experts. There were also lay witnesses and police officers who were examined. Dozens of exhibits were entered into evidence and/or

marked for identification. My co-counsel and I divided the trial equally between us. One of the more interesting issues that arose during the trial was the admissibility of statements made by a co-defendant that tended to incriminate our client. This is one of the issues that went up on appeal at the conclusion of the case. The client was convicted and was sentenced to life in prison. She died in prison while her appeal was pending.

(d) North Carolina Mutual Insurance Company v. Gant

Effie Gant had purchased a whole life insurance policy on her daughter's life through the plaintiff corporation. The daughter passed away at an early age during the contestability period and the insurance company sued Ms. Gant requesting a declaratory judgment that the policy was void because she had defrauded the company by failing to inform the company that the daughter had diabetes among other conditions. Ms. Gant came to our office with the lawsuit and we started investigating the allegations. We discovered that the application for insurance was actually completed and forged by the insurance agent. A counter claim was filed for breach of contract, breach of contract accompanied by a fraudulent act, and fraud. The insurance company defaulted and after giving it ample time to remedy the problem, an entry of default was granted and the case was set for a damages hearing.

The jury verdict was and continues to be one of the largest in Greenwood County history. Issues in the case included: Rule 55 SCRPC set aside of entry of default; admissibility of the plaintiff's net worth; election of remedies; post-trial motions for new trial absolute and remittur; and then the appeal. The case was ultimately settled while appeal was pending.

(e) Rainey et al v. SC Department of Transportation

This was the case that nobody wanted. A young girl and her friends were traveling back to the Governor's School in Greenville after having visited a Lander University art exhibit. They were driving on Highway 25 North at Ware Shoals, SC when they ran head on into a south bound car driven by a Greenwood lady and her friends returning home from a shopping trip in Greenville. Three people were killed and the rest were seriously injured. The young girl was charged with failure to yield and manslaughter after she ran through a "Y" configured intersection into oncoming traffic. The young girl and her family went to several attorneys before finding one who would take her case.

The case took many months to investigate pre-suit. My partners and I went to the intersection and surveyed it carefully. We determined that the intersection was dangerous as Highway 25 which was two lanes coming from Greenwood split with one lane crossing Highway 25 South like a "Y" and going into Ware Shoals and the second lane continuing north toward Greenville. A person who happened to be in the left lane was forced to exit across Highway 25 South toward Ware Shoals.

The yield sign facing traffic going into Ware Shoals resembled an on-ramp yield sign except the traffic being yielded to was oncoming instead of going in the same direction as is the situation with an on-ramp. There were no signs to indicate in which direction to expect traffic. There were no signs informing a driver that the left lane would take her off of Highway 25. The young girl, having never driven in the area was in the left hand lane. The road veered off to the left and she spotted the yield sign. The oncoming lane was at such an acute angle that instinctively she looked over her left shoulder for traffic with which she may have been merging. She saw no cars coming and continued for an instant when she ran head on into the other car which was topping the hill coming south. The results were catastrophic.

Because of the severity of the collision and injuries, the young girl was charged criminally in Family Court. My firm and I knew, however, that this child was not at

fault. We started digging. Through our research and investigation we were able to determine that there had been numerous wrecks and even fatalities at the same intersection in the years preceding this wreck. Without exception, the persons charged in these prior wrecks were heading north and were forced into Ware Shoals by the split in the highway and failed to yield. Even more interesting was the fact that the prior “at fault” drivers were all from out of town and unfamiliar with the intersection.

As a result of the work we had done, we were asked to act as lead counsel for all the people in both cars except one. We proceeded with discovery involving dozens of depositions of out of state witnesses, local witnesses, physicians and experts of various types. The individual cases were consolidated and prepared for trial. Pre-trial motions were extensive. A special two week term was set in Greenwood County as we had over fifty witnesses subpoenaed and prepared to testify. The cases settled for well in excess of the statutory caps on the day the trial was scheduled to begin. The young girl was vindicated and shortly afterwards the highway was reconfigured with simple remedial measures. To my knowledge, there has not been another accident in that location since. That means more than any verdict.

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

- (a) Schenk v. National Health Care, 322 S.C. 316, 471 S.E.2d 736, (S.C. App. 1996);
- (b) Vaughn v. Salem Carriers and Virginia Surety Co., 205-UP-603 (2005);
- (c) Young v SC Department of Corrections, 333 S.C. 714, 511 S.E.2d 413, (S.C. App. 1999).

Mr. Smithdeal reported regarding personally handling criminal appeals, “I have only assisted with two criminal appeals, was not lead counsel on the appeals, and did not argue either of them.”

Mr. Smithdeal further reported the following regarding unsuccessful candidacies:

In January 2009, I ran for the seat left vacant by the death of Jim Johnson of the Eighth Circuit. I was one of three candidates nominated by the Judicial Merit Screening Commission. Prior to the vote of the Legislature, I withdrew my name from consideration and Eugene “Bubba” Griffith was elected.

Again in 2010, I ran for the Circuit Court after the death of Wyatt Saunders. Again, I was nominated by the Judicial Merit Screening Commission and then withdrew prior to the vote of the Legislature which resulted in the election of Frank Addy to the Circuit Court.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizen’s Committee on Judicial Qualification found Mr. Smithdeal to be “Well qualified” for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found him to be qualified for constitutional qualifications, physical health, and mental stability.

Mr. Smithdeal is married to Elizabeth Clark Smithdeal. He has five children.

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

- (a) SC Bar Association;
- (b) SC Association for Justice;
- (c) SC Injured Workers’ Advocates;

- (d) SC Association of Criminal Defense Lawyers;
- (e) American Association for Justice;
- (f) Greenwood County Bar Association.

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

- (a) Citadel Alumni Association – Life Member;
- (b) Greenwood Chamber of Commerce, General Counsel, 2006-present;
- (c) Hospice Care of the Piedmont, Board of Directors;
- (d) Boy Scout Troop 220 – Greenwood, S.C., Treasurer, 2005-present;
- (e) Greenwood Abbeville Little League, Vice President, 2007-08;
- (f) Our Lady of Lourdes Catholic Church, Sunday school teacher;
- (g) Knights of Columbus Council 7129- fraternal/charitable organization;
- (h) Greenwood Parks and Recreation, baseball coach;
- (i) Long Cane Hunt Club;
- (j) Church softball team;
- (k) Healthy Learners, Advisory Board, 2006-10.

Mr. Smithdeal further reported:

I have a child in college and a child in kindergarten and three children in between. I take my children to school in the mornings and arrive at work every day at approximately 7:30 a.m. I take an hour for lunch and work until approximately 6:30 p.m. I work until 5 p.m. on Fridays and several hours most Saturdays. My professional and personal reputation is my most valuable asset and I will always strive to uphold the integrity of our profession.

(11) Commission Members' Comments:

The Commission commented that Mr. Smithdeal's good demeanor and substantial civil practice with some criminal experience, as well as his ability to listen to both sides would assist him well on the Family Court bench.

(12) Conclusion:

The Commission found Mr. Smithdeal qualified and nominated him for election to the Family Court.

Tommy L. Stanford
Family Court, Eighth Judicial Circuit, Seat 3

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Stanford was born in 1957. He is 55-years old and a resident of Greenwood, SC. Mr. Stanford 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 1986.

(2) Ethical Fitness:

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

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

Mr. Stanford 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Attorney ECF	01/11/06;
(b) Children Issues in Family Court	03/17/06;
(c) Family Court Bench & Bar	12/01/06;
(d) Probate issues and Criminal Practice	02/23/07;
(e) Family Court, Bench & Bar	12/07/07;
(f) 2008 SC Family Court Bench/Bar	12/05/08;
(g) Ethics Judicial Panel Seminar III	12/06/08;
(h) Plaintiff's Personal Injury	12/11/08;
(i) Plaintiff's Personal Injury, Start to Finish	01/28/10;
(j) Best Interest of Children, 2011 GAL Training/Update	01/28/11;
(k) Master In Trial, Winning Your Trial Through Witnesses	02/04/11.

Mr. Stanford reported that he has taught the following law-related course:
I have lectured at a 1989 SC Bar Consumer Law Program.

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

(4) Character:

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

The Commission also noted that Mr. Stanford 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. Stanford stated that he does not have a rating by a legal rating organization.
- (6) Physical Health:
Mr. Stanford appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Stanford appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Stanford was admitted to the SC Bar in 1986.

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

- (a) Legal Services of Western Carolina, Family Law, Social Security, SSI, Consumer, Wills, Living Wills, and Power Of Attorney; 1983-93;
- (b) Stanford & Associates, PC; Family Law, Social Security Disability, Criminal, Real Estate, Consumer, Civil, Wills and Estates; 1993-Present.

Mr. Stanford further reported regarding his experience with the Family Court practice areas: I have done numerous of divorce cases, including contested and uncontested cases, on all of the statutory grounds. I have litigated the issues of equitable division of real and personal property, marital debts, marital assets, and alimony. I have litigated custody cases, served as Guardian Ad Litem, visitation and child support cases. I have done DSS and Private adoptions. I have experience in DSS abuse and neglect cases, termination of parental rights and juvenile justice including plea agreements, contracts and reception and evaluation. I have worked extensively in the field of family law.

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

- (a) Federal: 1%;
- (b) State: 99%.

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

- (a) Civil: 25%;
- (b) Criminal: 15%;
- (c) Domestic: 40%;
- (d) Other: 20%.

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

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

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

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

- (a) DSS v Grace Williams, et.al This case was significant because mother and father were accused of physical abuse based on various stages of past broken bones, brittle bone was an

issue, The GAL agreed that children should return to her. Most cases like this, GAL is not for the mother.

- (b) Brown v Brown A divorce, custody, division of property, and retirement. This case was important because of all the different issues that were involved, and unique from standpoint that mother tried to commit suicide, gave child suicide note.
- (c) Robert Hill v State of SC, PCR case in circuit court regarding whether PCR appellate attorney should have argued and brief malice issue. The malice issue was argued, few months later in another case and now Court accepted the argument, which made new case law.
- (d) SC DSS v Barbara Nation, et.al., case was significant because of the removal issues, children witnessing the sexual abuse of their mother, and one child stating she was rape. The facts and issues, as well as protecting the young children made make this case different.
- (e) Rouse v State of SC, case is significant because Petitioner case was dismissed for not timely filing PCR. I argue that because of mental issues, he did not have capacity to timely file, Judge on reconsideration said, submit evident of mental illness and being in mental hospital, Petitioner had stated to correctional officials that he would much rather kill himself; he did commit suicide.

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

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizens Committee reported that Mr. Stanford is "Qualified" for the evaluative criteria: constitutional qualifications, physical health, mental stability, and experience. The Committee found him "Well qualified" in the evaluative criteria: ethical fitness, professional and academic ability, character, reputation, and judicial temperament.

Mr. Stanford is married to Barbara D. Stanford. He has two children.

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

- (a) SC State Bar;
- (b) American Bar Association;
- (c) Greenwood County Bar; Secretary/Treasurer and President;
- (d) SC Black Lawyers.

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

- (a) Greenwood Christian School Board, Chairman of the Board;
- (b) Gwd-Ninety Six NAACP, 1st Vice President;
- (c) SC House of Representatives, Letter and Accommodation, 25 years as a Pastor;
- (d) Gwd. County Council, Edith Childs, Dist. 1, 25 years as a Pastor.

Mr. Stanford further reported:

I am a loyal dedicated hard worker. I treat people with respect. I believe in the Golden Rule, "Do unto others as you will have them, Do unto you". I come to the table as one who has a servant heart, servant personality and a servant's mentality. I enjoy working with people and I work with people from all walks of life. I have worked as a public servant all of my adult life. I have a respect, love

and dedication for the legal profession and the rule of law. I bring to the table more than 29 years of working in this state in the legal arena. I also bring over 30 years of working as a minister, pastor, community worker, and public servant. The totality of my experience, my ability to work with fellow attorneys, clerks, Judges, law enforcements and people affords me the opportunity to be a good Judge that is respected and give respect to all that come before me or in my present, when on or off the bench.

(11) Commission Members' Comments:

The Committee commented on Mr. Stanford's dedication to his community through his extensive work in legal services and his ministry.

(12) Conclusion:

The Commission found Mr. Stanford qualified and nominated him for election to the Family Court.

**Paul Warren Garfinkel
Family Court, Ninth Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Garfinkel was born in 1944. He is 68 years old and a resident of Charleston, SC. Judge Garfinkel 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 1970.

(2) Ethical Fitness:

The Commission received one complaint regarding Judge Garfinkel. The complainant, Elonda Fair O'Neill, alleged that Judge Garfinkel engaged in several counts of judicial misconduct while she served as counsel for the plaintiff, Kevin E. Burroughs, in a child custody case against Tracie A. Hale, a self-represented defendant. Mr. Burroughs filed this action in Family Court for the 9th Judicial Circuit in 2010 against Ms. Hale in order to obtain custody of two minor children born of the parties who were never married. Ms. O'Neill previously filed a similar complaint against Judge Garfinkel with the Commission on Judicial Conduct, and the Commission dismissed her complaint. Ms. O'Neill and Judge Garfinkel testified at the Public Hearing on November 27, 2012, before the Judicial Merit Selection Commission, regarding the allegations made by Ms. O'Neill.

With respect to the complaint she filed with the Judicial Merit Selection Commission, Ms. O'Neill alleged that at the second temporary hearing conducted on August 9, 2010, Judge Garfinkel showed favor to the self represented defendant because he allowed her to proceed outside of the procedural rules and excused her failure to file an affidavit without a showing of good cause as required by Rule 21(b) of the Family Court Rules. In response to Ms. O'Neill's first allegation, Judge Garfinkel testified that he allowed Ms. Hale to testify at the temporary hearing because he wanted to hear the mother's position regarding the welfare of her children, which he believed to be good cause as required by Rule 21(b), SCRFC. He also testified that dealing with pro se or self-represented litigants is a very tough balancing act for a judge. He specifically denied that he showed favoritism to the self-represented defendant.

Ms. O'Neill's second allegation contended that defendant engaged in impermissible ex parte communications with Judge Garfinkel based on the fact that the defendant contacted the court by e-mail on August 17 and 18, 2010. She testified that Judge Garfinkel then instructed the Guardian ad Litem (GAL) to set up a conference call/hearing between the parties, during which, while he reprimanded the defendant for e-mailing him directly, he also addressed issues brought to light by those e-mails. Ms. O'Neill further contended that in Judge Garfinkel's March 1, 2011 Order (page 4, first paragraph), he indicated that the defendant was informed that she would give sworn testimony, and instructions were given as to how that was to be arranged. Ms. O'Neill testified that this was an additional ex parte communication between the court and defendant and she was unaware that defendant was to testify until the conference call/hearing began, and her client was not afforded the opportunity to be present. In response, Judge Garfinkel testified that a judge cannot prevent anyone from sending e-mails to the court and that he took every precaution to ensure that Ms. O'Neill received and read the e-mails before he did. He denied that he read the e-mails when he initially received them from the self-represented defendant. With respect to the conference call/hearing, he testified that he initially admonished the defendant about her ex parte communications with the court. He testified that he also dealt with the defendant's concern raised in her e-mails, that is, the transfer of the children in time to start school, which he felt was in the best interests of the children. Judge Garfinkel further testified that he had form orders prepared in advance so he could rule from the bench and have some settlement for the children.

Ms. O'Neill's third allegation was that Judge Garfinkel engaged in impermissible ex parte communications with the GAL, Elizabeth Stringer. Specifically, she testified that Judge Garfinkel and the GAL had a conversation that went beyond what was permissible including the guardian sharing with the judge that she thought that Ms. O'Neill was somewhat rude and less than professional in her conversational tone when she contacted Ms. O'Neill about the e-mails. In response, Judge Garfinkel testified that a GAL is not a party in the true sense of an adversarial party citing Shainwald v. Shainwald, 302 S.C. 453, 458 (1990), but functions as a representative of the court to assist the court in making its determination of custody by advocating for the best interest of the children and providing the court with an objective view citing Patel v. Patel, 347 S.C. 281, 287 (2001). Regarding the conference call/hearing, Judge Garfinkel testified that the GAL, the neutral party representing the children, was the logical person to set up the conference call.

Ms. O'Neill's last allegation involved the court's order granting her September 13, 2010 Motion for Recusal. She alleged that she filed her motion for recusal as the court was engaged in ex parte communications, the court took the bench with previously drafted orders, and the court converted a procedural conference into an adversarial hearing without notice. With respect to the Court's March 1, 2011 Order granting her motion, Ms. O'Neill contended that in one paragraph in Judge Garfinkel's Order, it appeared that he was not recusing himself, and then in a later paragraph he subsequently recused himself for "an additional, very personal reason." As a result, Ms. O'Neill alleged that she interpreted Judge Garfinkel's explanation of recusal for "a very personal reason" as evidence that he "harbors an impermissible animus" against her, as well as "animus" against her client based upon the fact that he is African American. She noted that the self-represented defendant is Caucasian. She explained that after she learned that Judge Garfinkel's very personal reasons for recusal was that a dear friend of her husband's was a caregiver for Judge Garfinkel's mother, and this fact was noted in Judge Garfinkel's April 6, 2011 Order. As to the last allegation, Judge Garfinkel denied that he is biased and explained that he recused himself because his mother's caregiver was a life-long friend of Ms. O'Neill's husband and often made comments to him about it. He testified that when he was considering recusing himself in this matter, he consulted Cam Lewis, chairman of the Advisory Committee on Standards of Judicial Conduct, which handles issues if a judge has an ethical question, about recusing himself. He testified that Mr. Lewis advised him he should recuse himself and not to

explain his personal reasons for recusal in the order so as not to put his mother's health in the public record.

The Reverend Joseph A. Darby, who provided a letter of recommendation on behalf of Judge Garfinkel for his re-election application, also testified. He testified that he has known Judge Garfinkel for over ten years as a friend and a community advocate. He testified that he has never found him to be prejudiced against someone of a different culture, race, or gender. Rev. Darby explained that in his past work as a juvenile probation counselor, he has found Judge Garfinkel to have the traits of being tough as nails and imminently fair as well as he is an asset to the community.

At the Public Hearing before the Judicial Merit Selection Commission, Ms. O'Neill also testified that the weekend prior to filing her complaint by the JMSC complaint deadline of noon, Tuesday, October 30, 2012, a third party, Family Court Judge Daniel E. Martin, Jr., arranged for Judge Garfinkel, Mr. O'Neill, and Ms. O'Neill to meet at the local Outback restaurant to talk. She testified that her impression of the meeting was to encourage her not to file her complaint against Judge Garfinkel with the Judicial Merit Selection Commission. She further testified that the purpose for the meeting was explained to her that Judge Garfinkel wanted to see what he could do to rectify the issues between them. She also testified that it was her understanding the meeting was Judge Garfinkel's idea. Regarding the purpose of the Outback meeting, Judge Garfinkel testified that Judge Martin, Jr., arranged the meeting at his own suggestion as he heard that the O'Neill's had some concerns with Judge Garfinkel, and Judge Garfinkel wanted to hear what those concerns were so they could resolve their differences. Judge Garfinkel denied that he specifically requested at the meeting that the O'Neills not file a complaint against him with the Judicial Merit Selection Commission. He also denied that he specifically requested Judge Martin to arrange the meeting with the O'Neills; noting that it was Judge Martin's idea for the meeting.

The GAL's affidavit was also offered as an exhibit at the public hearing.

After hearing the testimony and reviewing the exhibits offered, the Commission found that Ms. O'Neill's complaint was not disqualifying of Judge Garfinkel's candidacy for re-election.

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Early Neutral Evaluations	6/22/12;
(b) 2012 Orientation School for New Judges	5/31/12;
(c) National Judicial College-Innovative Leadership and	4/23/12;

	Management Skills For Current and Future Court Leaders	4/26/12;
(d)	Family Court Judges Annual Conference	4/1912- 4/20/12;
(e)	South Bar – Religion and the Rule of Law	1/21/12;
(f)	Petigru Inn of Court Meeting	1/11/12;
(g)	S C Bar – Family Court Bench Bar Seminar	12/2/11;
(h)	What Family Court Judges Want You To Know	10/28/11;
(i)	Petigru Inn of Court Meeting	10/12/11;
(j)	Petigru Inn of Court Meeting	9/12/11;
(k)	Training for New Attorneys	8/26/11;
(l)	2011 Annual Judicial Conference	8/17/11;
(m)	2011 SCAJ Annual Convention	8/4/11;
(n)	National Council of Juvenile and Family Court Judges	7/23/11;
(o)	Taking Children Out of the Fire	6/17/11;
(p)	2011 Orientation School for New Judges	6/8/11;
(q)	Family Court Judges Annual Conference	6/1/11;
(r)	Children’s Law Committee	1/22/11;
(s)	Family Law Section	1/21/11;
(t)	SC Bar Family Court Bench Bar Seminar	12/3/10;
(u)	Mini Summit on Justice for Children	12/2/10;
(v)	2010 Annual Judicial Conference	8/19/10;
(w)	National Council of Juvenile and Family Court Judges	7/18/10;
(x)	2010 Orientation School for New Judges	6/2/10;
(y)	Family Court Judges Annual Conference	4/22/10;
(z)	Something Old Something New	4/16/10;
(aa)	Family Law Update	1/22/10;
(bb)	SCDSS-OGC Seminar	12/11/09;
(cc)	SC Bar Family Court Bench Bar Seminar	12/4/09;
(dd)	2009 Annual Judicial Conference	8/19/09;
(ee)	SCAJ Annual Conference	8/6/09;
(ff)	National Council of Juvenile and Family Court Judges	7/12/09;
(gg)	Orientation School for New Judges	6/3/09;
(hh)	Family Court Judges Annual Conference	4/22/09;
(ii)	SC Bar Family Court Seminar	1/23/09
(jj)	2008 Annual Judicial Conference	8/20/08;
(kk)	Trial Skills Training	8/8/08;
(ll)	National Council of Juvenile and Family Court Judges	7/27/08;
(mm)	2008 Orientation School for New Judges	6/6/08;
(nn)	Family Court Judges Annual Conference	4/23/08;
(oo)	Family Law Section	1/25/08;
(pp)	Family Court Bench Bar Seminar	12/7/07;
(qq)	Charleston County Family Law CLE	11/16/07;
(rr)	Managing Challenging Family Law	9/24/07;
(ss)	2007 Annual Judicial Conference	8/22/07;
(tt)	National Council of Juvenile and Family Court Judges	7/22/07;
(uu)	Orientation School for New Judges	7/11/07.

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

- (a) In May 2002, I taught a course at the National Symposium on Custody and Visitation and led a panel discussion on the same topic;

- (b) In July 2002, I lectured at the annual conference of the National Council of Juvenile and Family Court Judges on ways fathers who are incarcerated because they have not paid child support can become reunited with their children;
- (c) In September 2002, I participated on various panel discussions at the SC Solicitor's Conference on various aspects of family law;
- (d) In Jul, 2003, I moderated a discussion group at the National Council of Juvenile and Family Court Judges Conference on children in crises;
- (e) In July 2005, I taught a course at a SC Continuing Legal Education seminar on judicial perspectives of a family dependency drug court;
- (f) In February, 2006, I lectured at the Charleston School of Law on pleading and motions in Family Court;
- (g) In July 2006, I along with a co-presenter, gave a lecture on successful resolution of highly contested custody cases at the annual conference of the National Council of Juvenile and Family Court Judges;
- (h) I have been an instructor at the school for New Family Court Judges every year since 2005;
- (i) July 2009, I was a participant in panel discussion at the National Council of Juvenile and Family Court Judges Annual Conference;
- (j) Presentation on Family Law at Women Lawyers Lowcountry Chapter, March 2010;
- (k) April 2010, I taught a course on Family Law to the Charleston County Bar;
- (l) In July 2011, I lectured new methods of handling contested custody cases;
- (m) In November 2011, I taught a course on What Family Court Judges Want You To Know to statewide participants;
- (n) In June 2012, I taught a course to the Charleston County Bar on Early Evaluation Techniques in Family Court.

Judge Garfinkel reported that he has published the following:

- (a) Marital Litigation in S.C., Roy T. Stuckey and F. Glenn Smith (S.C. Bar CLE 2003), Editorial Board;
- (b) Juvenile Delinquency Guidelines, National Council of Juvenile and Family Court Judges, 2005 Consultant and Advisor;
- (c) Marital Litigation in S.C., Roy T. Stuckey (S.C. Bar CLE 2010), Editorial Board;
- (d) Family Court Review, Journal of the Association of Family and Conciliation Courts, Vol 50, No 1, January, 2012, Contributing Author to Article.

(4) Character:

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

The Commission also noted that Judge Garfinkel 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 Garfinkel reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV (1995).

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

In October 1991, I was appointed to the State Occupational Safety and Health Administration Board and represented the First Congressional District until May, 1995. From 1992-94, I was State Board Chairman. I did not have to file a report with the State Ethics Commission and have never been subject to any penalty for same.

- (6) Physical Health:
Judge Garfinkel appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Garfinkel appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Garfinkel was admitted to the SC Bar in 1970.

He gave the following account of his legal experience since graduation from law school:
From 1970-89, I was a sole practitioner handling exclusively civil law with an emphasis on family law and real estate. From 1989-95, I was associated with 8 attorneys, each maintaining an individual practice. My emphasis was exclusively on family law. The group was known as Riesen Law Offices.

Judge Garfinkel reported that he has held the following judicial office:
Since July 1, 1995, I have served as Judge of the Family Court, Ninth Judicial Circuit, Seat #2. Family Court has exclusive jurisdiction over domestic (family) and juvenile matters.

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

- (a) Charleston County DSS vs Marccuci, et al.-396 SC218, 721S.E.2d 768 (2011);
- (b) In the Interest of Tracy B – 391 SC51, 704S.E.2d 71 (Ct. App, 2010);
- (c) Davis vs Davis – 372 SC64, 641S.E.2d 446 (Ct. App, 2006);
- (d) Charleston County DSS vs Jackson, et al. – 368 SC87, 627S.E.2d 765 (Ct. App, 2006);
- (e) SC DSS vs Johnson – 386 SC426, 688S.E.2d 588 (Ct. App, 2009).

Judge Garfinkel further reported the following regarding an unsuccessful candidacy:
I ran for Judge of Family Court, Ninth Judicial Circuit, Seat #1 from January – April 1993 and withdrew after being found “Qualified” by the Joint Legislative Screening Committee.

- (9) Judicial Temperament:
The Commission believes that Judge Garfinkel’s temperament has been and would continue to be excellent.
- (10) Miscellaneous:
The Low Country Citizens Committee found Judge Garfinkel “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 Garfinkel is married to Susan Ann (Naman) Garfinkel. He has three children.

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

- (a) Charleston County Bar;

- (b) SC Bar;
- (c) American Bar Association;
- (d) Phi Alpha Delta Law Fraternity;
- (e) SC Conference of Family Court Judges;
- (f) National Council of Juvenile and Family Court Judges (1995 – present including member of National Board of Trustees, 2003-09);
- (g) Charleston School of Law Advisory Committee 2010-present;
- (h) Petigru Inn of Court 2011-present.

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

- (a) Received Doctorate of Humane Letters (D.H.L.) from MUSC, May, 2005;
- (b) Brith Sholom Beth Israel Synagogue;
- (c) Union of Orthodox Jewish Congregations of America – Board of International Governors;
- (d) SC Children’s Justice Task Force, resigned 2011;
- (e) SC Bench-Bar Committee;
- (f) Advisory Committee to Chief Justice on Family Court;
- (g) See newspaper articles [State of Abuse: Courting help; Judges drive initiatives to get families help] and note from subject of July 18, 2010 story;
- (h) See attached ABA Family Law listserv [Comments shared from Judge Garfinkel prior to a custody trial] and comments from listserv.

Judge Garfinkel further reported:

Since assuming this high office in July of 1995, I have tried to listen to each matter presented both fairly and honestly. During my deliberative process I have always ruled on what I believed were the facts as presented by the parties and legal precedent regardless of the litigants or their respective attorneys. Race, religion, gender, political or social connections have never played any part in any decision I have ever given. If there was any reasons or even the appearance of any reason why I could not administer justice fairly and honestly, I would recuse myself from that matter.

It is my firm belief that if attorneys and litigants follow all applicable rules and procedures, including, but not limited to the Oath of Civility, then no one side can or should be able to claim any bias or prejudice. My reputation, or so I am repeatedly told, is that I am very, very strict when it comes to adherence to the Court rules, but I have also been told that this insistence on everyone following the prescribed rules allows for outcomes that, more often than not, reflect true justice.

Recently three attorneys have filed grievances against me. These have all been dismissed. On another occurrence I was given a letter of caution, but this as the cautionary letter states was definitely not a sanction. So as not to give any appearance of impropriety I have permanently recused myself from any matters regarding the complainants and in the case wherein I received the letter of caution, I also recused myself even though the complaint was made by a spectator in the courtroom, not a litigant or lawyer.

The cases I feel I have the greatest passion for are the ones that directly or indirectly involve children. That is why a partial list of some of the programs I either initiated or help to start include the following:

- (a) The first Father to Father Program (known as Project Restore) where non custodial parents take parenting classes become involved in their children’s lives and pay child support on a regular and consistent basis.
- (b) Recovery Court. This was an intensive drug court program for parents who children were in DSS foster care because the parents had a serious substance abuse problem. If the parent(s) could not overcome their problems, their parental rights were terminated and the children

- were placed in permanent, loving adoptive homes in months rather than the usual 4 year wait. For initiating this program I was awarded an honorary doctorate from MUSC in 2005;
- (c) I have helped train and recruit volunteer Guardians ad Litem for children who are the innocent victims of child abuse and neglect;
 - (d) A number of years ago the State Department of Juvenile Justice asked me to help initiate a volunteer program. The program would include volunteers to serve as auxiliary probation officers for at risk youths who were not determined to be so violent as to be subject to commitment to a juvenile facility, but would benefit from a one-on-one contact with a probation officer who would be involved in that juvenile's life a minimum of five to six times a week;
 - (e) With the help of the State Department of Vocational Rehabilitation and the Department of Labor Workforce, Charleston County Family Court helped non custodial parents either secure employment or collect disability payments so that their children could receive badly needed support. This was the only such program in the State and was successful in collecting hundreds of thousands of dollars in back due child support;
 - (f) I was privileged to have had the longest tenure of any judge on the State Children's Justice Task Force (1996-2011). The rules were waived numerous times to allow me to continue to serve until I had to resign due to time constraints;
 - (g) I have served on the Family Court Bench Bar Committee since 1996 and here, too, the rules had to be waived to allow me to serve continuously;
 - (h) Right now I am the longest serving member to the Chief Justice's Advisory Committee and have served longer than any other member in the Committee's history;
 - (i) It was my honor to serve on the National Board of the National Council of Juvenile and Family Court Judges from 2003-2009. No member can serve longer than 2 terms of 3 years each;
 - (j) A little over 18 months ago I had 10 local attorneys help me develop a program wherein contested custody cases are resolved in 90 days from temporary hearing, rather than 2-3 years it usually takes. This program is quickly gaining acceptance around the State and is saving litigants tens of thousands of dollars and their children many hours of anguish with certain psychological harm. It is known as the Fast Track Custody Program and I have enclosed information and an editorial from local newspapers about how the programs works and why it has been a success for litigants and attorneys;
 - (k) It has been my pleasure since its inception to participate with law students from the USC School of Law and the Charleston School of Law in a program known as the Judicial Observation Experience ((JOE Program) wherein a student works with a judge or law related program for a minimum of two weeks to get a chance to see how a court system works from the inside. It has been my experience that the students who participate in this program become better attorneys once they are actually in practice.

I do recognize I have my detractors in this system in which I am privileged to serve, but my detractors are primarily the ones who feel that if a ruling is given against them or their client, it is because of a personal bias or prejudice. If other judges could be or would be as candid with this committee as they have been with me, then I can say without any hesitation or reservation they would agree with my assessment of my detractors.

In conclusion, let me say the main source of my strength and perseverance is from a number of outside sources. My wife has, since the day of our marriage been a source of strength and support to me, both personally and professionally. The rest of my family, including 5 children and 13 grandchildren, have inspired me to do things I did not ever think I could accomplish, my parents who recently celebrated their 74th anniversary always insisted that

my brother who is a physician and I use the gifts and talents we were given and, religion has taught me to live my life according to the Judeo Christian ethics that has made this the greatest country in the history of the world. My life has also been blessed by having many wonderful and dear friends. I have been able to overcome past serious medical conditions with the help of dedicated doctors, friends, family members and the Divine. I am pleased to add these medical issues have all been favorably resolved.

(11) Commission Members' Comments:

Commission Chair Senator Larry Martin commented that it was a regrettable situation that the concerns Ms. O'Neill testified to and experienced in the Burroughs v. Hale case occurred. He further noted that after hearing the testimony and reviewing the exhibits, Ms. O'Neill had a legitimate concern about how Judge Garfinkel handled the case she was involved in as well as the perception Ms. O'Neill had of the purpose for the Outback meeting with Judge Garfinkel. He noted, however, that this complaint was not disqualifying of Judge Garfinkel's candidacy, as he otherwise enjoys a good reputation as a jurist on the bench.

Commission Member, Mr. Sellers commented that in his view there was nothing of merit in Ms. O'Neill's complaint that would disqualify Judge Garfinkel from nomination for re-election.

(12) Conclusion:

The Commission, with the exception of Commission Members John Freeman and Rep. David Mack, who recused themselves from Judge Garfinkel's screening, found Judge Garfinkel qualified and nominated him for re-election to the Family Court.

**The Honorable Wayne Morris Creech
Family Court, Ninth Judicial Circuit, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Creech was born in 1951. He is 61 years old and a resident of Pinopolis, SC. Judge Creech 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 Judge Creech.

Judge Creech 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 Creech reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Mini-Summit on Justice for Children	08/22/06;
(b) Annual Conference	08/23/06;
(c) Family Court Bench/Bar	12/01/06;
(d) SC Bar Family Law Section	01/26/07;
(e) Family Court Conference	04/25/07;
(f) Orientation School for Judges	07/11/07;
(g) Annual Conference	08/22/07;
(h) Family Court Conference	04/23/08;
(i) Orientation School for Judges	06/04/08;
(j) Annual Conference	08/20/08;
(k) Annual Conference	08/19/09;
(l) Family Court Conference	04/22/10;
(m) SCAJ Conference 2010	08/05/10;
(n) Annual Conference	08/18/10;
(o) Mini Summit on Justice for Children	12/02/10;
(p) Family Court Bench/Bar	12/03/10;
(q) SC Bar Family Law Section	01/21/11;
(r) Family Court Conference	06/01/11;
(s) Annual Conference	08/17/11;
(t) Family Court Bench/Bar	12/02/11;
(u) SC Bar Family Law Section	01/20/12;
(v) Family Court Conference	05/02/12.

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

- (a) I taught at the New Judge Orientation School from 2003 through 2009;
- (b) I have made numerous presentations to the SC Bar Family Law Section;
- (c) I have made numerous presentations at the SC Family Court Bench/Bar CLE meetings;
- (d) I have made numerous presentations at the SC Family Court Judges Association at the Spring Conferences;
- (e) I have spoken three times to Family Law Section at the Charleston School of Law about Family Law issues and the SC Family Court Bench Book project.

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

- (4) Character:
The Commission's investigation of Judge Creech did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Creech did not indicate any evidence of a troubled financial status. Judge Creech has handled his financial affairs responsibly.

The Commission also noted that Judge Creech 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 Creech reported that his rating by a legal rating organization, Martindale-Hubbell, prior to his election as a judge is BV.

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

Moncks Corner Town Attorney - Elected by Town Council - November 1981 - March 1987.

- (6) Physical Health:
Judge Creech appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:
Judge Creech appears to be mentally capable of performing the duties of the office he seeks.

- (8) Experience:
Judge Creech was admitted to the SC Bar in 1976.

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

- (a) Law office of N.H. West - Associate - August 1976 - July 1977 Real Estate/Family Law;
- (b) Dennis and Dennis - Associate - July 1977 - January 1978 Real Estate/Family Law/Criminal Law/General Civil Litigation;
- (c) Dennis, Dennis, and Watson - Associate - January 1978 - November 1981 Real Estate/Family Law/Criminal Law/Municipal Law/Civil Litigation;
- (d) Watson and Creech - Partner - November 1981 - July 1983 Real Estate/Family Law/Criminal Law/Municipal Law/Civil Litigation;
- (e) Watson, Creech, and Tiencken - July 1983 - January 1987 Real Estate/Family Law/Criminal Law/Municipal Law/Civil Litigation;
- (f) Watson, Creech, Tiencken, and West - January 1987 - March 1987 Real Estate/Family Law/Criminal Law/Municipal Law/Civil Litigation;
- (g) Wayne M. Creech - Sole Practitioner - March 1987 - September 30, 1988 Real Estate.

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

- (a) Elected by the SC General Assembly April 27, 1988, to fill the unexpired term of the Honorable Warren H. Jolly from October 1, 1988–June 30, 1989;
- (b) Re-elected May 3, 1989 for term from July 1, 1989–June 30, 1995;
- (c) Re-elected May 25, 1995, for term from July 1, 1995–June 30, 2001;
- (d) Re-elected February 7, 2001, for term from July 1, 2001–June 30, 2007;
- (e) Re-elected February 7, 2007, for term from July 1, 2007–June 30, 2013.

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

- (a) SCDSS v. the Father, the Mother and the Step-Father: Case # 88-Dr-10-0608

This was the most complex and lengthy trial of my 24 year career. It is a child abuse/Child Custody case that was transferred to SC from the state of Virginia because of adverse publicity that prevented a fair trial of the issues in Virginia. The case involved allegations of ritualistic child abuse and use of the child abuse protection “under-ground railroad”. The case gained national and international attention. The trial court order was written by me. The decision was appealed but the appeal was ultimately dismissed by the S.C. Supreme Court.

(b) State v. Annette Moody: Case # 92-JU-10-1738

This is the first S.C. case in which a legal custodian was found in criminal contempt of court for failing to supervise a juvenile released to the care of a custodian on “home detention”. The criminal contempt sanction imposed was affirmed by the S.C. Supreme Court without comment in an unpublished opinion.

(c) Sharps v. Sharps: 342 S.C. 71

In this case, Wife sought an increase in alimony after the emancipation of her children and cessation of child support. Husband claimed that emancipation of the children was a foreseeable future event at the time of the initial alimony award and could not be used as a changed circumstance justifying an increase in alimony. The SC Court of Appeals agreed with Husband and reversed my decision. The SC Supreme Court reversed the Court of Appeals, determined that though foreseeable, the impact of the emancipation of the children could not have been factored into the initial alimony calculation, and therefore the emancipation of the children could be used as changed circumstances for modification of the alimony initially awarded. The SC Supreme Court affirmed my decision.

(d) Latimer v. Farmer: 360 S.C. 375

In this child custody/relocation case, Father sought to move to Michigan with his children. Mother objected and sought custody or in the alternative denial of Father's right to move with the children. I granted Father's request for sole custody and allowed him to relocate to Michigan.

The S.C. Supreme Court upheld my decision and changed S.C. law to eliminate the longstanding “presumption against relocation”. This case also contains the first reported instance of computer assisted visitation via webcam.

(e) In the Interest of M.B.H., a Minor Under the Age of Seventeen:

In this case M.B.H. (juvenile) pled guilty to two counts of assault and battery of a high and aggravated nature (ABHAN). As part of the disposition of the offenses, the juvenile was required to register as a sex offender. The issue presented was whether there was “good cause” shown to require registry as a sex offender. The SC Supreme Court affirmed my decision to require registration and clarified the meaning of “good cause”. The court found that in this context “good cause” means “only that the judge consider the facts and circumstances of the case to make the determination of whether or not the evidence indicates a risk to reoffend sexually.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

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

Judge Creech is married to Annette Lewis Cook Creech. He has four children.

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

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

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

- (a) First Baptist Church of Moncks Corner Sunday School Teacher: First Baptist Co-ed C Sunday School, St. Johns Baptist Sunday School, and The Bridge Assisted Living Bible Study Class;
- (b) Freedom Church Community Group Leader: Two Rules Community Group;
- (c) Charleston Southern University Trustee 2008-2011.

Judge Creech further reported:

I have a wide range of legal problem solving experience. I was in general practice for 11 years prior to my election to the Family Court Bench. During that time, I served as Town Attorney and Prosecutor for the town of Moncks Corner. I was elected to the bench in 1988 and have held court in at least 28 of the 46 counties in SC and have served as Chief Administrative Judge for the Ninth Judicial Circuit and Berkeley County Family Court numerous times. I am the 2010 recipient of the Buchan, Brown, Jacobs Award presented by the SC Conference for Family Court Judges honoring integrity, professionalism, skill, compassion, spirit, optimism and courage.

(11) Conclusion:

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

**The Honorable Edgar H. Long, Jr.
Family Court, Tenth Judicial Circuit, Seat 1**

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 Long, 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 Long meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Long was born in 1954. He is 58 years old and a resident of Anderson, SC. Judge Long 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.

(2) Ethical Fitness:

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

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

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

Judge Long reported he has not:

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

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

Judge Long 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 Law Section	1/20/2012;
(b) 2011 SC Family	12/02/2011;
(c) National Judicial College, General Jurisdiction	10/16-27/2011;
(d) 2011 Annual Judicial Conference	8/17/2011;
(e) Family Court Judges Conference	6/1/2011;
(f) Family Law Section	1/21/2011;
(g) 2010 SC Family Court	12/3/2010;
(h) Mini Summit on Justice for Children	12/2/2010;
(i) 2010 Judicial Conference	8/18/2010;
(j) Family Court Judges Conference	4/22/2010;
(k) Legal Education Seminar	3/19/2010;
(l) Family Law Update	1/22/2010;
(m) 2009 SC Family	12/4/2009;
(n) 2009 Annual Judicial Conference	8/19/2009;
(o) 2008 Family Court Bench/Bar	2/26/2009;
(p) CLE Seminar	12/12/2008;
(q) "Year-End CLE" Greenville County Bar	2/8/2008;
(r) Family Court Bench/Bar	12/7/2007;
(s) Training for Attorneys Appointed	5/18/2007;
(t) Rules, Rules, Rules! SC Civil Procedure Update	2/16/2007;
(u) Hot Tips from the Coolest Family Law Practitioners	9/22/2006.

Judge Long reported that he has taught the following law-related course:

I have lectured at National Business Institute, Judicial Forum, "What Family Court Judges Want You to Know."

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

- (4) Character:
The Commission's investigation of Judge Long did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Long indicates that he has handled his financial affairs responsibly.
- The Commission also noted that Judge Long was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.
- (5) Reputation:
Judge Long reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.
- (6) Physical Health:
Judge Long appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Long appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Long was admitted to the SC Bar in 1981.

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

Legal Services Agency of Western Carolina (Staff Attorney) 1982-83. I was one of two staff attorneys in the Anderson office of Legal Services. My primary areas of practice were divorce and child custody.

Tenth Circuit Solicitor's Office (Assistant Solicitor) 1983-85. I was responsible for representing the state in prosecuting all juvenile cases in Anderson County, and also representing the Anderson County Department of Social Services in all court cases in which they were a party.

Chapman, King & Byrholdt (Attorney) 1985-93. I was an associate attorney at a small law firm that primarily did litigation. I was given primary responsibility for Family Court cases, and I handled all aspects of Family Court practice, including divorce, child custody, equitable distribution, adoption, abuse and neglect and juvenile justice cases.

Law Offices of Long & Smith (Partner) 1993-2003, See below.

Law Offices of Long, Smith & Burrell (Partner) 2003-06, See below

Law Offices of Edgar H. Long (Sole Practitioner) 2007-09. Since 1993, first as a partner in a firm, and then as a sole practitioner, I focused on domestic relations and family law. I emphasized child custody and divorce, including equitable distribution of property and all other issues that arise in the dissolution of marriage. I did a great deal of work as court appointed Guardian ad Litem in cases involving custody of children. For about eight years, I also worked as a contract attorney for the Department of Social Services, handling all types of cases involving DSS, including termination of parental rights, abuse and neglect of children, and vulnerable adult cases.

Family Court Judge, March of 2009-present.

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

Family Court Judge (current position), March 2009 to date, elected by legislature

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

- (a) DSS v. Shippy and Alexander, 2008-DR-42-3187, Date of Order: May 1, 2009 Appellate Citation- SCDSS v. Charlotte S. and Roy A., 012610 SCCA, 2010-UP-045
- (b) Miller v. Miller, 2007-DR-42-1751, Date of Order: May 28, 2009
- (c) King v. Beasley and Weaver, 2009-DR-04-1727, Date of Order: December 29, 2010
- (d) Brewster v. Brewster, 2008-DR-04-2335, Date of Order: June 29, 2011
- (e) DSS v. Childs, et al., 2011-DR-04-285 & 2011-DR-04-1125, Date of Order: May 16, 2012

(9) Judicial Temperament:

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

(10) Miscellaneous:

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

Judge Long is married to Amy Hunt Tripp Long. He has two children.

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

- (a) SC Bar Association, 1981 to date;
- (b) SC Trial Lawyers, 1985-96(?);
- (c) Anderson County Bar Association, 1981 to date.

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

- (a) GAMAC Board of Directors (completed term in 2008);
- (b) Anderson Housing Authority, Chair of Board of Directors (completed term in 2009).

Judge Long further reported:

After completion of my college career, I entered U.S.C. Grad School and earned a Master's degree in public administration. Although I never worked in the area of public administration, my education gave me a background to be better organized and to better utilize my time efficiently.

After receiving my law degree, my first job was with Legal Services. This allowed me to represent lower levels of society, and gave me an appreciation of the issues that face people in this position.

After leaving Legal Services, I shortly thereafter accepted a position as Assistant Solicitor for Family Court, handling not only Department of Social Services cases, but Department of Juvenile Justice cases as well. This allowed me to gain a wealth of court room experience, as well as substantive knowledge in those areas.

In 1986, I accepted a position with a law firm in Anderson. Although I handled a large variety of cases, my primary area of practice was in domestic relations. I also developed a large practice as a Guardian ad Litem in private custody cases, which I continued in my own law firm until my election as a Family Court Judge.

- 11) Conclusion:
The Commission found Judge Long qualified and nominated him for re-election to the Family Court.

The Honorable Tommy B. Edwards
Family Court, Tenth 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 Edwards, 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 Edwards meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Edwards was born in 1949. He is 63-years old and a resident of Anderson, SC. Judge Edwards 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 and in Montana since 1977.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Edwards.

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

Judge Edwards reported that he has made \$196.60 in campaign expenditures for Word processing of application materials (\$170), printing (\$10.60), and mailing (\$10).

Judge Edwards reported he has not:

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

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

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

COMPLETED IN 2006:

- (a) Family Law Section, 1/27/06;
- (b) Family Court Judges' Conference, 4/27/06;

- (c) Mini Summit on Justice for Children, 8/22/06;
- (d) 2006 Annual Judicial Conference, 8/23/06;
- (e) Family Court Bench/Bar, 12/1/06;

COMPLETED IN 2007:

- (f) Family Law Section, 1/26/07;
- (g) Family Court Judges' Conference, 4/25/07;
- (h) 2007 Annual Judicial Conference, 12/7/07;

COMPLETED IN 2008:

- (i) Family Law Section, 1/25/08;
- (j) 2008 Family Court Judges Conference, 4/23/08;
- (k) 2008 SC Family Court Bench/Bar, 12/5/08;

COMPLETED IN 2009:

- (l) Legal Education Seminar, 5/2/09;
- (m) Family Court Judges' Conference, 4/22/09;
- (n) 2009 Annual Judicial Conference, 8/19/09;
- (o) Prosecuting Cases in Family Court, 8/21/09;
- (p) 2009 SC Family, 12/4/09;

COMPLETED IN 2010:

- (q) Legal Education Seminar, 3/19/10;
- (r) Family Court Judges Conference, 4/22/10;
- (s) SCAJ 2010 Annual Convention 8/5/10;
- (t) 2010 Judicial Conference, 8/18/10;
- (u) Mini Summit on Justice for Children, 12/2/10;
- (v) 2010 SC Family Court, 12/3/10;

COMPLETED IN 2011:

- (w) Family Law Section, 1/21/11;
- (x) Ethics Seminar, 3/11/11;
- (y) Family Court Judges' Conference, 6/1/11;
- (z) 2011 Annual Judicial Conference, 8/17/11;
- (aa) 2011 SC Family Court JCLE, 12/2/11.

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

- (a) Taught courses in Juvenile Law and in Basic Criminal Procedure for Constables at TriCounty Technical College in mid 1980s;
- (b) Served on Bench/Bar panel at Family Law CLE in 1997;
- (c) Served on Judges' Panel, Department of Social Services Training Seminar, 1998;
- (d) Served on panel for JCLE, Family Court Judges Conference, 1999;
- (e) Presenter, Tenth Annual National Dropout Prevention Network Conference, Detroit, MI, 1998;
- (f) Guest lectured in Criminal Justice Division, Anderson University, Anderson, SC, 2005-11;
- (g) Presenter, Family Law Seminar, Greenville, SC, January 2011.

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

(4) Character:

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

The Commission also noted that Judge Edwards 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 Edwards reported that he did not have a rating by a legal rating organization since he left private practice in 1985.
- (6) Physical Health:
Judge Edwards appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Edwards appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Edwards was admitted to the SC Bar in 1976.

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

- (a) November 1976-September 1977;
Volunteers in Service to America (VISTA);
Attorney assigned to Montana Legal Services, Helena, Montana;
Practice involved consumer law and education and domestic relations.
- (b) October 1977-July 1979:
Associate with French and Graine, Ronan, Montana;
General practice.
- (c) July 1979-January 1982:
Assistant Attorney General, SC Attorney General's Office;
Assigned to and represented SC Wildlife and Marine Resources Department.
Practice involved administrative law, prosecution of wildlife and commercial fishing cases, civil litigation in State and Federal Court, appellate practice before Supreme Court of SC.
- (d) January 1982 to April 1985:
Associate, Larry C. Brandt, PA, Walhalla, SC;
General practice with emphasis on real estate, commercial collections, and civil litigation.
- (e) January 1982-April 1985:
Part-time Solicitor, Tenth Judicial Circuit, Oconee County;
Prosecution of criminal cases in General Session Court, prosecution of Juvenile matters in Family Court, representation of Department of Social Services in abuse and neglect cases in Family Court.
- (f) April 1985-87:
Assistant Solicitor, Tenth Judicial Circuit (Full Time);
Management of Oconee County Office of Solicitor as well as prosecution responsibilities as set forth in (e) above in Oconee and Anderson Counties.
- (g) 1987-91:
Deputy Solicitor, Tenth Judicial Circuit;
Same responsibilities as in (f) above plus supervision of attorney and support staff.
- (h) July 1991 to present:
Serving as Family Court Judge
Tenth Judicial Circuit, Seat No. 3.

The following is Judge Edwards' account of his five most significant orders or opinions:

- (a) Glover v. Meggett, Case No. 1994-DR-10-1241:
This was a case wherein I was called upon to decide the amount of child support to be paid by Defendant, an NFL star at the time with a multi-million dollar salary, to the mother of two of his children who received AFDC and lived in public housing. Since Defendant's income was far beyond the Child Support Guideline Tables, I attempted to structure an equitable support payment schedule which included adequate monthly payments accompanied by a contribution to an education trust fund established by the order. No appellate review was sought.
- (b) Rauch v. Rauch, Case No 1999-DR-07-1553:
This case was assigned to me by the Administrative Judge of the Fourteenth Judicial Circuit in January 2000. I immediately convened a pre-trial conference at which ten attorneys were present. After numerous temporary hearings, disposition of a myriad of pre-trial motions, and almost four weeks of trial, a Final Decree consisting of 64 pages was entered on April 16, 2002, followed by an Amended Final Decree on June 19, 2002. The case involved a high-profile couple with a multi-million dollar marital estate and four minor children. Each party had an array of witnesses which looked like the "Who's Who" listing for their home county. Fortunately, I was able to assist in the resolution of the child-related issues by Temporary Order in early 2000. The next two years were spent in discovery and litigation of the grounds for divorce and equitable division. There was no appellate review of their case. Plaintiff filed Notice of Intent to Appeal; however, the case was settled early in the appellate process.
- (c) Wilson v. McDonald, 393 S.C.419, 713 S.E. 2d 306 (Ct. App., 2011):
In this case, the Court of Appeals affirmed my decision that it was not in the best interest of the child to change her last name to hyphenated last name comprised of mother's and father's last name.
- (d) Moon v. McKee, Case No. 1994-DR-10-2221:
This case was a contest for custody between paternal and maternal grandparents necessitated by the fact that the child's father had murdered her mother and then committed suicide. This case was made particularly difficult because the terrific emotional wounds suffered by each family as a result of the murder-suicide were still open and festering at the time of trial. The case is illustrative of the passionate, gut-wrenching, life-altering issues which the Family Court is called upon to decide. No appellate review was sought.
- (e) McCann v. Doe, 377 S.C. 373, 660S.E.2d 500 (Sup.Ct. 2008):
The S.C. Supreme Court affirmed my decision that biological mother's Consent and Relinquishment for adoption was involuntary as a ground for withdrawal of consent and that withdrawal of consent was in child's best interest.

Judge Edwards reported that he has held the following judicial office:
Family Court judge, July 1, 1991, to present.

- (9) Judicial Temperament:
The Commission believes that Judge Edwards' temperament has been and would continue to be excellent.
- (10) Miscellaneous:
The Upstate Citizens Committee reported that Judge Edwards was "Qualified" for three evaluative criteria: 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 Edwards is married to Patricia Hite Ross. He has three children.

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

- (a) SC Bar;
- (b) Montana Bar;
- (c) Confederated Salish and Kootenai Tribal Court;
- (d) SC Conference of Family Court Judges.

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

- (a) Thallian Dance Club – membership expired within last 5 years; not renewed;
- (b) Trout Unlimited, Chattooga River Chapter, Clemson, S.C.

Judge Edwards further reported:

Having been born the son of a textile worker on Orr Mill Village in south Anderson in 1949, I grew up with an acute awareness of the skepticism with which people who count themselves among the unprivileged or underprivileged view our legal system. I determined at some point during my growing up that much of that skepticism originated with the expectation that being uneducated, unconnected, and “unrich” meant that the courthouse was not a place you wanted to go because “nobody was going to listen to you anyway.” Consequently, I have always been mindful as both a practicing attorney (primarily a prosecutor) as well as a judge that one of the most important things I can do is try to give those litigants with whom I come in contact the sense that they have been given the opportunity to be heard. Sometimes it takes a little longer to get through the case, but it has been my experience and it is my heart-felt belief that conveying that sense of being willing to listen and treating each litigant who comes into my courtroom with dignity are among the most important things that judges do.

The experience of having been divorced myself has, I’m sure, made me far more cognizant of the pain and the concern which litigants bring with them into the courtroom. It has made me keenly aware of what an important day those people’s “day in court” is to them.

I also believe that my early experiences as an athlete and a military officer have given me a sense of confidence which enables me to maintain a degree of calmness in what is sometimes the “heated environment” of the courtroom. This enables me, I think, to allow attorneys’ and litigants’ tempers to vent without my feeling that my authority is threatened which, invariably, takes the focus off the issues in the case.

Finally, the experience of being raised by parents who, though of modest means, placed great emphasis on the value of faith and who had great respect for education and honoring the Golden Rule, has, hopefully, shaped my development as a judge who seeks to treat people fairly and with respect.

(11) Conclusion:

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

**The Honorable Deborah Neese
Family Court, Eleventh Judicial Circuit, Seat 2**

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Neese was born in 1951. She is 61 years old and a resident of Saluda, SC. Judge Neese 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 1981.

(2) Ethical Fitness:

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

Judge Neese 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 Neese reported that she has made \$32.48 in campaign expenditures for postage, printing, computer paper, and a CPA for completion of her financial statement.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2007 Family Court Judges Conference	04/25/2007;
(b) Orientation School for Family Court Judges	07/11/2007;
(c) 2007 Annual Judicial Conference	08/22/2007;
(d) 2007 Family Court Bench/Bar CLE	12/07/2007;
(e) 2008 SC Bar Annual Meeting: Family Law	01/25/2008;
(f) 2008 Family Court Judges Conference	04/23/2008;
(g) 2008 Annual Judicial Conference	08/20/2008;
(h) LCBA – Straight Talk, Family Court Judiciary Panel	10/02/1008;
(i) 2008 Family Court Bench/Bar CLE	12/05/2008;
(j) 2009 SC Bar Annual Meeting: Family Law	01/23/2009;
(k) 2009 Family Court Judges Conference	04/22/2009;

(l)	2009 Annual Judicial Conference	08/19/2009;
(m)	2009 Family Court Bench/Bar CLE	12/04/2009;
(n)	2010 SC Bar Annual Meeting: Family Law	01/22/2010;
(o)	2010 Family Court Judges Conference	04/22/2010;
(p)	National Judicial College General Jurisdiction 2-week Course	05/15/2010;
(q)	2010 Annual Judicial Conference	08/18/2010;
(r)	Hot Tips from the Coolest Domestic Law Practitioners	10/01/2010;
(s)	Mini Summit on Justice for Children	12/02/2010;
(t)	2010 Family Court Bench/Bar CLE	12/03/2010;
(u)	2011 SC Bar Annual Meeting: Family Law	01/21/2011;
(v)	2011 SC Family Court Judges Conference	06/01/2011;
(w)	2011 Annual Judicial Conference	08/17/2011;
(x)	2011 Family Court Bench/Bar CLE	12/02/2011;
(y)	2012 SC Bar Annual Meeting: Family Law	01/20/2012;
(z)	LCBA–Family Court Judiciary Panel	04/16/2012;
(aa)	2012 Family Court Judges Conference	04/18/2012.

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

- (a) SC Bar Basic Skills CLE 1980's (presenter on appellate practice rules and procedures);
- (b) SC Bar CLE "20/20: An Optimal View of 2005" (presenter on family law issues);
- (c) Lexington County Bar CLE "Overview of Title IV-D Child Support Cases (presenter on the organization of the CSED, establishment and enforcement of child support orders, tools available for enforcement, incoming and outgoing cases under UIFSA);
- (d) SC State College, substituted as adjunct professor for eight weeks in 1990's in two classes of "Legal Environment of Business" (survey course for business students covering the types of legal issues that may arise in the court of operating a business and their implications as to both employees and clients);
- (e) Lexington County Bar CLE 2008 (participated in judges' panel on various topics and questions raised in the family law area);
- (f) Lexington County Bar CLE 2012 (moderated and participated in judges' panel on various topics and questions raised in the family law area and practice in the Eleventh Judicial Circuit);
- (g) Scheduled to speak to the Advanced Legal Profession class taught by Desa Ballard at USC School of Law in November 2012.

Judge Neese reported that she has published the following:

Sanders, Neese, & Nichols, Trial Handbook for SC Lawyers (Lawyers Coop. 1994).

(4) Character:

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

The Commission also noted that Judge Neese 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 Neese reported that she is not rated by any legal rating organization.
- (6) Physical Health:
Judge Neese appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Neese appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Neese was admitted to the SC Bar in 1981.

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

- (a) 1981-83: SC Supreme Court, Staff Attorney, Clyde N. Davis, Supervisor;
- (b) 1983-85: SC Court of Appeals, Law Clerk to Chief Judge Alexander M. Sanders, Jr.;
- (c) 1985-87: McKay & Guerard, of Columbia and Charleston, associate, civil litigation. The firm focused on corporate litigation, although I did handle a small number of personal injury and domestic cases. The practice was in both state and federal courts;
- (d) 1987-88: SC Court of Appeals, Law Clerk to Chief Judge Alexander M. Sanders, Jr. for three months while he was awaiting a new law clerk;
- (e) 1988-89: SC Attorney General's Office, Assistant Attorney General
I assisted lead attorneys in filing the claim on behalf of the State of SC against members of the asbestos industry for damages related to the presence of the product in state-owned buildings, including the need for abatement or containment;
- (f) 1989-89: SC State College, substitute adjunct professor for 8 weeks I taught two classes of "Legal Environment of Business" to undergraduate students;
- (g) 1990-92: SC Court of Appeals, Law Clerk to Chief Judge Alexander M. Sanders, Jr.;
- (h) 1993-95: Editor, *SC Lawyer Magazine*, gratis position;
- (i) 1996-2007: Child Support Enforcement Division, SCDSS, State Attorney. I represented the State of SC as assignee of child support enforcement rights of custodians in cases arising under Title IV-D of the Social Security Act. I was assigned to Lexington and Edgefield counties and, at various times, handled caseloads in Bamberg, Chester, Greenwood, Lancaster, McCormick, Manning, and York counties, with additional court dates in Aiken, Richland, Saluda, Spartanburg, and Union counties, as needed;
- (j) Feb. 2007: Elected Family Court Judge, Eleventh Judicial Circuit, Seat 2, with term beginning July 01, 2007.

The following is Judge Neese's account of her five most significant orders or opinions:

- (a) Bodkin v. Bodkin, 388 S.C. 203, 694 S.E.2d 230 (Ct. App. 2010) (affirmed on appeal; divorce, equitable division, alimony, attorney fees);
- (b) Folk v. Folk, In the Interest of minor child, Lexington County Case No. 2007-DR-32-1900X, appeal withdrawn and dismissed by Order of the Court of Appeals dated 01/12/2009 (in this adoption action brought by Plaintiff grandparents, the Supreme Court denied the supersedeas they sought; my order revoked mother's relinquishment due to duress and coercion);
- (c) Wannamaker v. Wannamaker, 395 S.C. 592, 719 S.E.2d 261 (Ct. App. 2011) (affirmed on the contested issue of valuation of state retirements and reversed in part on the issue of alimony as to retroactivity not raised in the Motion to Reconsider; trial involved divorce, equitable division, alimony, and attorney fees);

- (d) Moeller v. Moeller, 394 S.C. 365, 714 S.E.2d 898 (Ct. App. 2011) (reversed on appeal and petition for certiorari is pending; divorce, with custody the primary contested issue);
- (e) Teeter v. Teeter, Lexington County Case No. 2009-DR-32-0130 (Motion to Reconsider denied for the most part, appeal pending (divorce, equitable division, attorney fees, with the marital or non-marital nature of property and tracing of assets the primary contested issue).

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

I was elected to Family Court, Eleventh Judicial Circuit, Seat 2, in February 2007, for a term July 01, 2007–June 30, 2013. The jurisdiction for Family Court in SC is delineated in S.C. Code Ann. Section 63-3-520. It is generally exclusive and covers such child and family issues as marriage and divorce, separate support and maintenance, TPR and adoption, adoption of adults, changes to names and birth certificates, support of spouse and children, child custody and visitation, equitable division, alimony, contempt, neglect and abuse of adults and children, juvenile offenses, and other issues. Jurisdiction is concurrent with probate court as to paternity, common-law marriage, and interpretation of marital agreements.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Judge Neese to be “Well qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her “Qualified” for the constitutional qualifications, physical health, mental stability, In summary, the Committee noted the following: “Judge Neese is a wonderful asset to our State and our judiciary. We were honored to interview her and we were moved by her words and her experiences on the bench. We are grateful for her continued service on the Family Court and we believe she is most eminently qualified to continue to serve our State on the Family Court.”

Judge Neese is divorced. She does not have any children.

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

- (a) SC Bar Association;
- (b) Lexington County Bar Association;
- (c) Family Court Bench-Bar Committee.

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

- (a) The Episcopal Church of the Ridge; Grace Church of Ridge Spring; Trinity of Edgefield; and Our Saviour of Trenton;
- (b) The Ridge Heritage Association;
- (c) Ridge Spring Arts Center;
- (d) Saluda County Historical Society;
- (e) Edgefield County Historical Society;
- (f) Colonial Williamsburg Foundation;
- (g) S.C. ETV.

Judge Neese further reported:

The organizational skills that I developed through the years have assisted me in addressing the endless flow of orders, paperwork, and activity on cases, as well as the duties of Chief Administrative Judge which I have this calendar year. A good work ethic was instilled in me in my early years, and I have not abandoned it since my election in 2007. I usually arrive early to the courthouse, leave late, and work on many weeknights and portions of weekends in an attempt to stay current on paperwork and other obligations of the position. Whenever possible, I try to accommodate attorneys and litigants by adding hearings before my regular docket in order to keep our cases moving toward final resolution. I have maintained an intellectual curiosity about the multitude of issues that may come before a judge in any given term of court, and I continue to find the job challenging, stimulating, and rewarding.

(11) Conclusion:

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

**The Honorable Timothy Hick Pogue
Family Court, Twelfth Judicial Circuit, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Pogue meets the qualifications prescribed by law for judicial services as a Family Court judge.

Judge Pogue was born in 1951. He is 61 years old and a resident of Marion, SC. Judge Pogue 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 1977. He was also admitted to the Kentucky Bar in 1976.

(2) Ethical Fitness:

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

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

Judge Pogue reported he has not:

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

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

Judge Pogue 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 Judges Conference	4/18–20/12;
(b) SC Bar Annual Convention – Family Law Section	1/20/12;
(c) Horry County Family Court CLE	12/8/11;
(d) 2011 Family Court Bench/Bar Seminar	12/2/11;
(e) Clarence Darrow Search for Truth Seminar	10/21/11;
(f) 2011 Annual Judicial Conference	8/17–18/11;
(g) 2011 SCAJ Annual Convention	8/4/11;
(h) 2011 Family Court Judges Conference	6/1–3/11;
(i) SC Bar Annual Convention – Family Law Section	1/21/11;
(j) Horry County Family Court CLE	12/9/10;
(k) 2010 Family Court Bench/Bar Seminar	12/3/10;
(l) Mini Summit on Justice for Children	12/2/10;
(m) 2010 Annual Judicial Conference	8/18–19/10;
(n) 2010 SCAJ Annual Convention	8/5/10;
(o) 2010 Family Court Judges Conference	4/22 –/24/10;
(p) SC Bar Annual Convention – Family Law Section	1/22/10;
(q) Horry County Family Court CLE	12/10/09;
(r) 2009 Family Court Bench/Bar Seminar	12/4/09;
(s) General Jurisdiction Course / Reno, Nevada	10/4–23/09;
(t) 2009 Annual Judicial Conference	08/20–21/09;
(v) 2009 SCAJ Annual Convention	8/6/09;
(w) Competency and Pre-Adjudicatory Convention	4/20/09;
(x) Horry County Family Court CLE	12/17/08;
(y) 2008 Family Court Bench/Bar Seminar	12/5/08;
(z) 2008 Annual Judicial Conference	8/20/08;
(aa) 2008 Orientation School for New Family Court Judges	6/4/08;
(bb) 2008 Family Court Judges Conference	4/23/08;
(cc) 2007 SC Local Government Attorneys Conference	12/7/07;
(dd) 2007 SC Association of Counties Annual Conference	8/2/07.

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

- (a) I taught a business law class at Francis Marion University years ago;
- (b) I made a presentation “Motions for Reconsideration Under Rule 59(e)” with The Honorable Anne G. Jones at the 2011 Family Court Bench/Bar on December 2, 2011;
- (c) I made the same presentation by myself a week later at the 2011 Horry County Family Court CLE Seminar on December 8, 2011;
- (d) Participated as a panelist at the National Business Institute Judicial Forum entitled “What Family Court Judges Want You to Know” on May 11, 2012;
- (e) Participated as a judge at the 2011 Middle School Mock Trial Competition in Conway on November 5, 2011.

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

(4) Character:

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

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

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

Member of Marion School District # 1 Board of Trustees from July 1, 1991-June 30, 1996, and from July 1, 1997-June 30, 2003.

This was appointed by Marion County Board of Education. I timely filed all my State Ethics Commission Reports during this time period.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Pogue was admitted to the SC Bar in 1977.

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

- (a) Associate with Law Office of Derrick and Derrick from August 1976 until December 1978 – general practice of law including all areas of practice;
- (b) Partner with Law Office of Derrick and Pogue from December 1978-September 1985 – became a partner and still continued with general practice of law and also as a part-time public defender;
- (c) Law Office of Timothy H. Pogue – October 1, 1985-March 28, 2008. I was in the general practice of law and was also the contract attorney for Marion County DSS and County Attorney until my election to the bench.

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

Elected by General Assembly of SC as Family Court Judge, 12th Judicial Circuit, Seat 1. I began serving on March 28, 2008 – present.

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

- (a) SC Department of Social Services v. Tammi, A., Douglas, H., and John Doe, Unpublished Opinion No. 2011-UP-088 - Filed March 3, 2011. This case was a contested termination of parental rights action. The child had been neglected and was acting out sexually. It was an all day case with a lot of expert testimony. I terminated parental rights; decision was upheld by Court of Appeals in unpublished opinion;

- (b) SC Department of Social Services v. Ruth W. and Ronald L., Unpublished Opinion No. 2011-UP-134 – Filed April 5, 2011. This was a removal case based on a finding of sexual abuse against the stepfather. The stepfather was also charged criminally. The trial lasted 1.5 days. I made a finding of sexual abuse against the stepfather. My decision was upheld by the Court of Appeals in the opinion cited above.
- (c) Fannie Mason v. Jerry Mason, Unpublished Opinion No. 2001-UP-548 – Filed December 6, 2011. This case involved equitable division, alimony, and attorney fees. The parties had been married for almost thirty years. I did not divide the plaintiff’s retirement on the same percentage as the rest of the marital estate for a variety of factors I cited in my opinion. The Court of Appeals upheld my decision;
- (d) In the Interest of Kenneth Christian O’Neill 2009-JU-26-721, 722, and 723. Heard on February 5, 2010; my decision was filed February 26, 2010. This case involved a juvenile waiver matter. The minor defendant was 14 years 9 months old at the time of the alleged incident. He was charged with kidnapping, armed robbery, and assault and battery with intent to kill. His biological mother and her boyfriend were co-defendants. This waiver hearing lasted 1.5 days with a lot of expert testimony as to his competency and also whether he should be waived to General Sessions Court. After listening to all the testimony and reviewing the law set out by the US Supreme Court, I found that he should be waived to General Sessions Court and tried as an adult. He and the co-defendants subsequently plead guilty to some of these charges. This case was not appealed;
- (e) John and Jane Doe, Johnny and Janie Roe, and Johnathan and Janet Moe v. Mother and Father, Unpublished Opinion No. 2009-UP-397 – Filed July 29, 2009. This case was a termination of parental rights and adoption case involving an incarcerated father. The father was incarcerated for criminal sexual conduct with a minor in North Carolina. It arose from a DSS action in SC. I terminated the biological father’s parental rights on four grounds. I was reversed by the Court of Appeals. I heard this case two months after getting on the bench. I feel I have learned from this case and since it was a learning experience for me, I deemed it appropriate to list this case as a significant case in my development as a Family Court Judge.

(9) Judicial Temperament:

The Commission received one complaint regarding Judge Pogue. The complainant, Mr. James L. Guy II, a guardian *ad Litem* in DSS cases from Rembert, SC, stated that “[i]n presiding over a Family Court private case, Judge Pogue acted in an unprofessional way that was not becoming of an officer of the court.” Mr. Guy further stated that he was “not questioning [Judge Pogue’s] qualifications, only his behavior in the courtroom.” Mr. Guy testified at the Public Hearing that his allegations were based on his observance of a December 2010 case in which Judge Pogue presided over a private matter concerning visitation rights of a child who was in the custody of her aunt. The father, mother, and grandfather of the child, each self-represented, were involved in a dispute with the aunt over visitation.

Judge Pogue and Mr. Guy testified before the Commission. After hearing the testimony and portions of audio recordings from the December 2010 case, the Commission members found Mr. Guy’s complaint to be sincere and expressed appreciation to Mr. Guy for coming forward with his concerns, stating that his willingness to make an appearance showed the Judicial Merit Selection Commission system worked and hoped the information Mr. Guy provided would enable Judge Pogue to be a better judge. In conclusion, the Commission found that Judge Pogue’s actions during the case were not disqualifying for his re-election to the Family Court bench.

(10) Miscellaneous:

The Pee Dee Citizen's Committee found Judge Pogue to be "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found Judge Pogue "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. In summary, the Committee stated, he is "[f]air minded, intelligent and very likeable."

Judge Pogue is married to Deborah Altman Pogue. He has two children.

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

- (a) KY Bar Association;
- (b) SC Bar Association;
- (c) Marion County Bar Association – President 1996;
- (d) SC Association of Family Court Judges.

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

- (a) Marion Chamber of Commerce – Former President (1989), Board of Directors (1987-89) and Community Service Award Winner (2003);
- (b) Member of Marion Presbyterian Church – elder, deacon, Sunday School Superintendent, Sunday School teacher for thirty-five years.

Judge Pogue further reported:

I know of nothing that would negatively impact my candidacy. On the positive side, I worked very hard over the last thirty-six years for my family, former clients, church, community, education system, county, state, judicial system, the people of SC, and my God. I feel I have spent my personal, professional, and now judicial life giving back to the people, community, and state that are so special to me. I believe I have served and helped the people of Marion County and the State of SC as a lawyer, juvenile defender, DSS Attorney, County Attorney, and now as a Family Court Judge. I hope to be fortunate enough to do so for another six years.

(11) Conclusion:

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

**The Honorable A. Eugene "Gene" Morehead, III
Family Court, Twelfth 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 Morehead, 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 Morehead meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Morehead was born in 1946. He is 66-years old and a resident of Florence, SC. Judge Morehead 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.

(2) Ethical Fitness:

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

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

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

Judge Morehead reported he has not:

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

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

Judge Morehead 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 Family Court Judges	05/30/12;
(b) Annual Family Court Judges Conference	04/18/12;
(c) Children's Law Committee Seminar at SC Bar Convention	01/21/12;
(d) Family Law Seminar at SC Bar Convention	01/20/12;
(e) SC Family Court Bench/Bar Conference	12/02/11;
(f) Clarence Darrow's Search for Justice	10/21/11;
(f) Annual Judicial Conference	08/17/11;
(g) Family Law Seminar at SC Association For Justice Convention;	08/04/11;
(h) Orientation School for New Family Court Judges	06/08/11;
(i) Annual Family Court Judges Conference	06/01/11;
(j) Family Law Seminar at SC Bar Convention	01/21/11;
(k) SC Family Court Bench/Bar Conference	12/03/10;
(l) Mini-Summit on Justice for Children	12/02/10;
(m) Annual Judicial Conference	08/18/10;
(n) Family Law Seminar at SC Association For Justice Convention	08/05/10;
(o) Orientation School for New Family Court Judges	06/02/10;
(p) Annual Family Court Judges Conference	04/22/10;
(q) Problems with Child Welfare in SC, Seminar at SC Bar Convention	01/23/10;
(r) Family Law Seminar at SC Bar Convention	01/22/10;
(s) SC Family Court Bench/Bar Conference	12/04/09;
(t) Annual Judicial Conference	08/19/09;

(u)	Family Law Seminar at SC Association For Justice Convention	08/06/09;
(v)	Orientation School for New Family Court Judges	06/03/09;
(w)	Annual Family Court Judges Conference	04/22/09;
(x)	Family Law Seminar at SC Bar Convention	01/23/09;
(y)	Horry County Bar Association Family Court Seminar On Procedural and Substantive Law	12/17/08;
(z)	Annual Judicial Conference	08/20/08;
(aa)	Family Law Seminar at SC Association For Justice Convention	08/07/08;
(bb)	Orientation School for New Family Court Judges	06/04/08;
(cc)	Annual Family Court Judges Conference	04/23/08;
(dd)	Family Law Seminar at SC Bar Convention	01/25/08;
(ee)	SC Family Court Bench/Bar Conference	12/07/07;
(ff)	Annual Judicial Conference	08/22/07;
(gg)	Family Law Seminar at SC Trial Lawyers	08/02/07;
(hh)	Orientation School for New Family Court Judges	07/11/07;
(ii)	Annual Family Court Judges Conference	04/25/07;
(jj)	Seminar for Chief Judges for Administrative Purposes in Family Court	02/15/07;
(kk)	Family Law Seminar at SC Bar Convention	01/26/07.

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

- (a) From 1976-83, taught Business Law as an instructor at Francis Marion University;
- (b) In November 1991, organized a Family Law Seminar for the SC Bar which dealt with such issues as financial declarations, bankruptcy, judicial ethics, judicial temperament, properly handling criminal actions, abuse and neglect actions along with a legislative and case law update. Additionally served as moderator of the seminar;
- (c) In March, 1992, served on the seminar faculty for a Bar Association Continuing Legal Education Seminar discussing the topic of How to Properly Handle a Temporary Hearing;
- (d) In August 1992, served as a guest lecturer at the National Child Support Enforcement Association's Convention in Orlando, FL, and discussed issues with properly setting child support under newly structured guidelines and, more particularly, handling the deviations when dealing with multiple families, under employed parents, negotiated agreements and extraordinary expenses;
- (e) In August 1994, spoke at the SC Trial Lawyers Convention on How to Better Prepare Young Lawyers for Trial Litigation in Family Court;
- (f) In October 1994, spoke at a 2-day seminar at the SC Solicitor's Association Annual Conference which dealt with Family Court prosecutors handling detention and waiver hearings;
- (g) In May 1995, served on the seminar faculty for the Bar Association Continuing Legal Education Seminar dealing with Child Abuse and Neglect Cases and presented a topic pertaining to effective advocacy, civility and professionalism – A View From the Bench;
- (h) In August 1997, at the request of Court Administration, spoke at the Annual Judicial Conference on the Rules dealing with Alternative Dispute Resolution as they pertained to Family Court and also spoke to the Family Court Judges on how to prepare proper temporary orders;
- (i) In December 1997, served on the seminar faculty for the Bar Association's Continuing Legal Education Seminar discussing Pet Peeves regarding Family Court Practitioners and Family Court Judges as collected by a survey from the Bench and Bar.
- (j) In May 1998, spoke at the Annual Family Court Judges Conference on How to Properly Handle Pro Se Cases;

- (k) In May 1999, spoke at the Annual Family Court Judges Conference on How to Properly Handle Pre-Trial Matters and Detention Hearings;
- (l) In May 2000, organized the entire educational component of the Annual Family Court Judges Conference which dealt with a round table discussion of frequent problems that arise in Family Court and other interesting areas dealing with How to Properly Utilize Your Computer, Judicial Standards and Ethics, and a presentation from the Youth Law Center in Washington, DC, along with a Legislative Update;
- (m) In June 2000, spoke at the SC Annual Bar Convention dealing with Alternative Dispute Resolution – Mediation in Family Court;
- (n) In May 2001, spoke at the Family Court Judges Conference on Pertinent Evidentiary Problems Family Court Judges Encounter;
- (o) In December 2001, spoke at the Family Court Bench/Bar Conference sponsored by the SC Bar Association dealing with Proper Etiquette and Manners in the Courtroom;
- (p) In May 2002, was again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with alimony, a Legislative Update, when to order psychological as compared to psychiatric examinations for juveniles, and how to properly deal with Solicitors in criminal cases;
- (q) In May, 2003, again organized the entire educational component at the Annual Family Court Judges Conference which dealt with custody, DSS Abuse and Neglect cases, sealing records, Guardian ad Litem statute, juveniles, Legislative Update, appellate court decisions and computer generated Family Court forms;
- (r) In September 2003, spoke at the SC Solicitor's Association's Annual Conference to all of the prosecutors who come into Family Court;
- (s) In April 2004, again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with juvenile justice and the restorative justice program, how to handle complicated financial issues in Family Court, Legislative Update and typical problems a Family Court Judge deals with in the courtroom on a daily basis;
- (t) In April 2005, again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with appellate court decisions, handling pre-trial discovery, changing the default rules and the administrative strike rule, how to better handle pro se litigants, a Legislative Update dealing with the statewide Guardian ad Litem program, and tips on safety and security in the courtroom;
- (u) In September 2005, spoke at the SC Solicitor's Association's Annual Conference on a specific topic of waiver hearings and had a roundtable discussion with the juvenile prosecutors;
- (v) In December 2005, served on the seminar faculty for the Bar Association's Continuing Legal Education Seminar speaking specifically on proper enforcement of Court orders;
- (w) In April 2006, again asked to organize the entire educational component at the Annual Family Court Judges Conference which dealt with how to properly work with pro se litigants, the Guardian ad Litem statute, juvenile issues, how to better handle temporary hearings, Abuse and Neglect cases, adoptions, the benefits of mediation, the wrong and right wording for Domestic Abuse orders, a Legislative Update and better awareness of the methamphetamine problem;
- (x) In February 2007, organized a seminar for the Chief Administrative Judges for Family Court in the Sixteen Judicial Circuits discussing their responsibilities;
- (y) In April 2007, again organized the educational component for the Annual Family Court Judges Conference which dealt with a round table discussion of frequent problems that arise in Family Court and other interesting areas dealing with a Legislative Update and presentations by the Court of Appeals, Fatherhood Initiative, John de la Howe School, and System of Care-Family Solutions-DJJ;

- (z) In July, 2007, organized and moderated the entire three-day school for the new Family Court Judges recently elected;
- (aa) In April 2008, again asked to organize the entire educational component at the Annual Family Court Judges Conference;
- (bb) In June 2008, organized and moderated the entire three-day school for the new Family Court Judges recently elected;
- (cc) In August 2008, spoke at the SC Association for Justice Annual Convention;
- (dd) In February 2009, spoke at the New Clerk of Court's Conference dealing with Family Court issues;
- (ee) In April 2009, again asked to organize the entire educational component at the Annual Family Court Judges Conference;
- (ff) In June 2009, organized and moderated the entire three-day school for the new Family Court Judges recently elected;
- (gg) In April 2010, again asked to organize the entire educational component at the Annual Family Court Judges Conference;
- (hh) In June 2010, organized and moderated the entire three-day school for the new Family Court Judges recently elected;
- (ii) In June 2011, again asked to organize the entire educational component at the Annual Family Court Judges Conference;
- (jj) In June 2011, organized and moderated the entire three-day school for the new Family Court Judges recently elected;
- (kk) In December 2011, spoke at the Family Court Bench/Bar Conference sponsored by the SC Bar Association on Order Preparation – Small Things You Can Do To Become a Trusted Lawyer;
- (ll) In January 2012, spoke at the SC Bar Convention at the request of The Children's Law Committee on the Holistic Approach of Resolving Children's Problems in Family Court;
- (mm) In April 2012, again asked to organize the entire educational component at the Annual Family Court Judges Conference;
- (nn) In May 2012, organized and moderated the entire three-day school for the new Family Court Judges recently elected.

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

(4) Character:

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

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

(5) Reputation:

Judge Morehead reported that he is unaware of any rating by a legal rating organization.

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

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

- (6) Physical Health:
Judge Morehead appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Morehead appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Morehead was admitted to the SC Bar in 1973.

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

- (a) Joined the Law Firm of Nelson, Mullins, Grier & Scarborough in Columbia, SC, as an Associate in 1973 and remained there for three years practicing in all courts in this state with a general focus on defense litigation surrounding personal and property injuries, products liability and Worker's Compensation;
- (b) In 1976 moved to Florence, SC, and became a Partner in the Law Firm of Swearingen and Morehead, remaining there until June, 1985. Had a general practice doing both plaintiff's and defense litigation in state Civil Court, Federal Court and Family Court;
- (c) Was elected a Family Court Judge for the Twelfth Judicial Circuit on April 10, 1985, and began serving on June 19, 1985. Served continuously until Chief Justice Ernest Finney appointed me to serve on the Court of Appeals after Chief Judge William Howell retired until his successor was elected. Served from January 2000, until July 1, 2000, and then returned to the Family Court Bench. Also in March, 2003, due to the illness of Judge Carol Connor, Chief Justice Jean Toal appointed me to serve on the Court of Appeals for a one-month term. In June 2007, sat on the SC Supreme Court by special appointment of the Chief Justice as a result of a conflict with one of the Associate Justices.

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

- (a) Elected Family Court Judge for the Twelfth Judicial Circuit, Seat #2, on April 10, 1985, and began holding Court on June 19, 1985. Have served continuously since that date;
- (b) Upon retirement of Chief Judge William Howell from the Court of Appeals, Chief Justice Ernest Finney appointed me to serve on the Court of Appeals from January 2000 through June 2000. Also in March, 2003, due to the illness of Judge Carol Connor, Chief Justice Jean Toal appointed me to serve on the Court of Appeals for a one-month term. In June 2007, sat on the SC Supreme Court by special appointment of the Chief Justice as a result of a conflict with one of the Associate Justices.

The following is Judge Morehead's account of his five most significant orders or opinions:

- (a) ELIZABETH N. POWELL vs. JACKSON N. POWELL
The primary issues in the case surrounded alimony, equitable distribution and attorney fees. While it is an unpublished Opinion from the Court of Appeals handed down in January 2006, it is the first time since I have been on the Bench that the Appellate Court used my order in its entirety as its decision. A copy of the Opinion is attached.
- (b) SANDRA JEAN PREVATTE vs. HARRY PREVATTE
One of the leading cases dealing with Common Law Marriages in the removal of an impediment to establish the marriage. Additionally, there was an issue surrounding circumstantial evidence sufficient to establish adultery. The Appellate Opinion affirming my order was written by Chief Judge Alex Sanders and gave me much strength over the years especially in raising my children in that I kept page 4 of his Opinion on our refrigerator

where he concluded that I “was not born yesterday.” The case affirmed at 297 SC 345, 377 SE2d 114 (S.C. App., 1989). A copy of the decree and the appellate decision is attached.

- (c) KENNETH W. THORNTON, JR. vs. PAMELA P. THORNTON
Enclosed is a copy of the Final Decree which encompassed numerous complicated issues and the unpublished Appellate Opinion affirming the final decree.
- (d) EDITHA BECK POSTON vs. ODY M. POSTON
An extremely difficult contested custody case involving a parent who had a chemical dependency disorder. A copy of the final order is attached along with the unpublished Opinion of the Appellate Court affirming the decision.
- (e) ELIZABETH W. HARRISON, ATTENDANCE SUPERVISOR FLORENCE SCHOOL DISTRICT ONE, PETITIONER, IN RE: Various Minors
In this case, the parents were contending the children were not going to school based on their religious belief and the teachings of their church. Extensive research was done revealing a precarious balancing test necessary. States do have the power to impose reasonable regulations concerning compulsory school attendance, however, the states are not totally free to overlook the fundamental right to exercise one’s religion under the First Amendment.

Judge Morehead further reported the following regarding unsuccessful candidacies:

- (a) In the fall of 2002, was a candidate for Seat #6 on the SC Court of Appeals. Found qualified but not recommended;
 - (b) In the spring of 2007, was a candidate for Seat #5 on the SC Supreme Court. Found qualified but not recommended;
 - (c) In the fall of 2008, was a candidate for Seat #3 on the SC Supreme Court. Found qualified but not recommended;
 - (c) In the spring of 2009, was a candidate for Seat #4 on the SC Supreme Court. Found qualified but not recommended.
- (9) Judicial Temperament:
The Commission believes that Judge Morehead’s temperament has been and would continue to be excellent.
- (10) Miscellaneous:
The Pee Dee Citizens Committee found Judge Morehead “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. In summary, they stated, “Judge Morehead is an extremely well-qualified judge who has an outstanding reputation for legal capabilities as well as his community activities. He is an excellent role model in the legal community.”

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

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

Formerly:

- (a) member of Richland County Bar Association from 1973-76;
- (b) American Judicature Society;
- (c) The SC Defense Attorneys Association; and
- (d) The American Bar Association.

Presently:

- (a) a member of the Florence County Bar Association; and
- (b) SC Bar Association.
With the SC Bar Association, have served as Sixth District Representative, Young Lawyers Division, from 1978-80; on the Lawyer Referral Committee from 1974-80; on the Practice and Procedures Committee from 1980-82 and the Commission of Continuing Legal Education and Specialization from 1992 to 2000.
- (c) In 1994 served as President of the SC Conference of Family Court Judges and was previously a member of the National Council of Juvenile and Family Court Judges and the Association of Family and Conciliation Courts.
- (d) Presently serving as Chairperson of the Family Court Judges' Advisory Committee to the Chief Justice.

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

- (a) Member of the American Legion serving on local, district and state committees;
- (b) American Legion Palmetto Boys State for the past 50 years, serving as Director of the program from 1983-99 (In 1999 received recognition from National Commander of the American Legion for working with youth in the state of SC.) Presently serve as Chairman of the Boys State Committee for the State Department of the American Legion;
- (c) Past President of the Florence Country Club;
- (d) Member of the Pee Dee Area Citadel Club (past President);
- (e) Member of St. Anthony's Roman Catholic Church (Served on the Diocesan Pastoral Council under two Bishops for the Diocese of Charleston; past member of Parish Council and Chairman of School Board);
- (f) Worked with Encore Theatre Company and the Florence Little Theatre on its Board of Directors;
- (g) SC Family Court Judges Association (in 1996 received the President's Award in recognition for assisting and beginning the Parent and Children in Transition Program in the state of SC; in 2008 was the inaugural recipient of the Buchan, Brown, Jacobs award honoring integrity, professionalism, skill, compassion, spirit, optimism and courage);
- (h) Served as Chairman of the Twelfth Judicial Circuit Juvenile Justice Youth Council (Chairman from 1997-99);
- (i) Served on the Governor's Juvenile Justice Task Force from 1997-99;
- (j) Presently operating a Juvenile Drug Court in the Twelfth Judicial Circuit from 2002-present.

(11) Conclusion:

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

**The Honorable Rochelle Y. Conits
Family Court, Thirteenth Judicial Circuit, Seat 1**

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 Conits, 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 Conits meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Conits was born in 1965. She is 47 years old and a resident of Greer, SC. Judge Conits 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 1992.

(2) Ethical Fitness:

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

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

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

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

<u>Conference/CLE Name</u>	<u>Dates</u>
(a) Family Court Judges' Conference	04/25/07;
(b) 2007 Annual Judicial Conference	08/22/07;
(c) General Jurisdiction NJC Nevada	10/14/07;
(d) SC Bar Convention Family Law	01/25/08;
(e) Family Court Judges' Conference	04/23/08;
(f) 2008 Annual Judicial Conference	08/20/08;
(g) SC Bar Family Court Bench/Bar	12/05/08;
(h) Family Court Judges' Conference	04/22/09;
(i) 2009 Annual Judicial Conference	08/19/09;
(j) SC Bar Convention Family Law	01/22/10;
(k) Family Court Judges' Conference	04/22/10;
(l) 2010 Judicial Conference	08/18/10;
(m) Mini Summit on Justice for Children	12/02/10;
(n) SC Bar Family Court Bench/Bar	12/03/10;
(o) SC Bar Family Court Section	01/21/11;
(p) National Business Institute What Family Court Judges Want	02/18/11;
(q) 2011 Annual Judicial Conference	08/18/11;
(r) Children's Center Abuse & Neglect	11/18/11;

- (s) SC Bar Family Court Bench/Bar 12/02/11;
- (t) SC Bar Convention Family Law 01/20/12.

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

- (a) I taught briefly at the SC Court Administration Orientation for Family Court Judges on July 11, 2007.
- (b) I participated as a judge at the SC Bar High School Mock Trial Competition on February 23, 2008 in Greenville, SC.
- (c) I participated as a judge at the Carol N. Ney National Mock Trial Tournament at Furman University on March 26, 2010.
- (d) I participated as a panel speaker at the National Business Institute Judicial Forum on February 18, 2011.
- (e) I participated as a speaker at the Greenville High School Law Week on April 5, 2011.
- (f) I participated as a speaker at the Children’s Law Center Ethical Issues in Abuse and Neglect Cases on November 18, 2011.
- (g) I participated as a speaker at the SC Bar Family Court Bench/Bar Seminar on December 2, 2011.
- (h) I participated as a speaker at the National Business Institute Judicial Forum on February 16, 2012.
- (i) I participated as a judge at the Carol N. Ney National Mock Trial Tournament at Furman University on March 23, 2012.
- (j) I have hosted a student intern each summer through the NMRS Center on Professionalism Judicial Observation and Experience Program.

Judge Conits reported that she has published the following:

Marital Litigation in SC Substantive Law Third Edition

Roy T. Stuckey (S.C. Bar CLE 2001), Editorial Board.

(4) Character:

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

The Commission also noted that Judge Conits 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 Conits reported that her last available rating by a legal rating organization, Martindale-Hubbell, prior to her election to the bench, was AV.

(6) Physical Health:

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

(7) Mental Stability:

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

- (8) Experience:
Judge Conits was admitted to the SC Bar in 1992.

She gave the following account of her legal experience since graduation from law school:
I graduated from law school in May 1992, and my son, Capers was born in October 1992. After law school graduation, I worked part-time as a law clerk/paralegal at Harris & Graves, Columbia, SC and the Law Offices of Betty Gambrell Cobb, Columbia, SC. In January 1993, I accepted by first practicing position as an Associate Attorney at the Law Offices of King & Vernon, P.A., Columbia, SC. I worked primarily for Kermit S. King, focusing on private Family Court litigation. In January 1997, my son and I relocated to Greenville, SC, and I accepted a position at Wilkins & Madden, P.A., where I continued my Family Court practice. I was promoted to Partner at Wilkins & Madden, P.A., in March 2000. Wilkins & Madden, P.A. merged with Nelson Mullins Riley & Scarborough in February 2006. I was elected to the SC Family Court Bench in February 2006, and stopped practicing law in May 2006, when I was sworn in. I took the bench to fill the unexpired term of Stephen S. Bartlett in September 2006, and started my own term in June 2007. I have devoted my entire legal career to the area family law.

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

Since September 1, 2006, I have held Seat #1 SC Family Court for Greenville County. I was elected by the SC Legislature to this position in February 2006.

The Family Court is a court of limited, exclusive, and concurrent jurisdiction pursuant S.C. Code Sections 63-3-510; 63-3-520; 63-3-530; 62-5-201; 63-7-2520; 62-1-302; 63-7-1610; 63-9-40.

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

- (a) SC Department of Social Services, Respondent v. Mary C and Daniel C. WL#4444071, S.C.S.C. Advance Sheet #4891 (2011). This was a case involving sexual abuse allegations against Father. This case lasted over three (3) days, and there was voluminous evidence and testimony presented at trial. The Supreme Court affirmed my finding of an unknown perpetrator. The Supreme Court reversed my award of attorney fees for the DSS Guardian *ad Litem* and the award of private Guardian *ad Litem* fees.
- (b) Leah Gorecki v. Jeffrey Anthony Gorecki, 387 S.C. 626, 693 S.E.2d 413 (S.C. App. 2010). This was a divorce action from a long-term marriage. Husband appealed the divorce grounds, equitable division award, alimony award, and attorney fees. The Court of Appeals affirmed my ruling on all issues.
- (c) Patsy Gail Nicholson and Kyle Allen Nicholson v. F. Allan Nicholson, 663 S.E.2d 74, 378 S.C. 523 (S.C. App. 2008). This action involved college education expenses for the parties' son. The Court of Appeals affirmed my award of college educational expenses.
- (d) Scott G. Roesler v. Sara A. Roesler, 719 S.E.2d 275 (S.C. App. 2011). This was a divorce action where Wife contested jurisdiction and sought alimony for the first time at the final merits hearing. The Court of Appeals affirmed my exercise of personal and subject-matter jurisdiction; affirmed my refusal to appoint and attorney for Wife; and affirmed my waiver of mandatory mediation. The Court of Appeals reversed my decision not to entertain Wife's alimony request and remanded the matter for me to exercise my discretion in this regard.
- (e) McClure v. McClure, 2008-DR-23-1043, April 5, 2010. This was a divorce action from a long-term marriage. This trial involved complex business valuation testimony.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge Conits to be "Well qualified" for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her to be "Qualified" for constitutional qualifications, physical health, and mental stability.

Judge Conits is married to Spero John Conits. She has two children.

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

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

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

- (a) Grace Church Sunday School Teacher 2009/2010;
- (b) Grace Church Sunday School Administrative Support 2011/2012;
- (c) SC Conference of Family Court Judges;
Buchan, Brown & Jacobs Award Committee Member 2012.

Judge Conits further reported:

There have been several life experiences which have affected the kind of judge I am. I strongly believe that a judge's personal life experiences come into play when exercising the wide discretion afforded a judge in making decisions and rulings.

I grew up in Lexington, SC. I am 1 of 4 children. My father was a concrete finisher, and my mother was a physical therapist. I have two (2) older sisters and one (1) younger brother. My oldest sister, Barbara, died when she was in the 7th grade of cancer. My older sister, Tracy, is a 7th grade school teacher. My younger brother, Hayne, is a concrete finisher. I married the late Thomas H. Williamson, III, who died in November 1996 from cancer. I have one (1) son from this marriage, Capers, who is now 19 years old and a rising Sophomore at the Citadel Military College. Capers was 4 years old when his father passed away. I remarried in 2007, 11 years after Tom passed away. I was a single mother to Capers during the majority of his childhood. I remarried Spero Conits, and he and I have one daughter together, Heather, who is now 2 ½ years old. Spero and I also have the primary placement of his 16 year-old daughter during the school year.

My father operated his own concrete finishing company, and he worked extremely hard. Although he did not have more than a high school education, his hard work provided us with a comfortable lifestyle. I learned from my father the value and reward of hard work. My father had an incredibly strong work ethic, and he did not let the fact that he did not attend college hold him back or affect his self-esteem in any manner. I gained self-esteem and confidence from my father.

My mother is a soft-spoken, kind person. She literally sees nothing but the good in every person, even those who were not always nice to her. She treats everyone as if they are wonderful, special, and deserving. I have learned the true value of every person from my mother, and the fact that every person is worthy of fair and decent treatment.

I have learned the hardship of being a single parent from the tragedy of Tom's death. I have a unique perspective of the impact being without a parent can have on a child, as I watched Capers grow up without a father. I have an understanding of the difficulties of single parenthood, and I believe this understanding helps me make good decisions for parents and children leaving Family Court. I also understand how critically important it is for children to have healthy relationships with both parents. I believe I am especially vigilant in promoting and protecting a child's relationship to a parent.

I have the experience of blending children and families from prior marriages. I have three (3) grown step-children from my first marriage, and 3 step-children from my current marriage, one of whom is still a minor. I have a real understanding of the challenges and issues facing families as they blend together and move forward as a new family unit.

As a Family Court judge, I understand the value of every person who comes before me. I try to look at the totality of the circumstances involving litigants and their situations. I believe in the basic goodness of people, and I believe most people generally do the best they can do. I am concerned with the long-term impact of my rulings; and I try to make sure that people leave my courtroom with a sense of being treated fairly and hope for their future. I know how short and unpredictable life can be, having lost a sister and a husband to cancer. These life experiences have afforded me a true appreciation of what is important and what ultimately doesn't matter at all. I have a special place in my heart for the parent/child relationship, having watched Capers miss Tom and learn to grow up without him.

If re-elected I will continue to do all I can to ensure that children have the opportunity to have a meaningful relationship with both parents, even in situations of divorce.

(11) Conclusion:

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

**The Honorable William Marsh Robertson
Family Court, Thirteenth 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 Robertson, 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 Robertson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Robertson was born in 1963. He is 49 years old and a resident of Greenville, SC. Judge Robertson 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 1988.

(2) Ethical Fitness:

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

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

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

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

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

<u>Conference/CLE or JCLE Name</u>	<u>Date</u>
(a) What Family Court judges Want You to Know (panelist)	02/16/12;
(b) Family Saw Section, SC Bar Convention	01/20/12;
(c) 2011 SC Family Court Bench/Bar	12/02/11;
(d) 2011 Annual Judicial Conference	08/17/11;
(e) 2011 SCAJ Annual Convention	08/04/11;
(f) Family Court Judge's Conference	06/01/11;
(g) Family Saw Section, SC Bar Convention	01/21/11;
(h) 2010 SC Family Court Bench/Bar	12/03/10;
(i) SC Mini-Summit on Justice for Children	12/02/10;
(j) 2010 Annual Judicial Conference	08/18/10;
(k) 2010 Orientation School	06/02/10;
(l) Family Court Judge's Conference	04/22/10;
(m) 2009 SC Family Court Bench/Bar	12/04/09;
(n) Hot Tips From the Coolest Domestic Law Practitioners	09/18/09;
(o) Greenville County Bar Year-end Conference	02/13/09;
(p) 2008 SC Family Court Bench/Bar	12/05/08;
(q) Hot Tips From the Coolest Domestic Law Practitioners	09/19/08;
(r) Lawyer Communications as Officers of the Court and Drug Testing for Family Court Cases	02/26/08;
(s) 2007 SC Family Court Bench/Bar	12/07/07;
(t) Hot Tips from The Coolest Domestic Practitioners	09/21/07.

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

- (a) Lecturer, Domestic Practice, Hot Tips from the Experts, 1995, "Pendente Lite (Bifurcated) Divorces: Obtaining a Divorce Before the Final Order is Issued";
- (b) Lecturer, Domestic Practice, Hot Tips from the Experts, 1996, "Issues and Strategies surrounding the 270-Day 'Case-Striking' Rule";
- (c) Lecturer, Domestic Practice, Hot Tips from the Experts, 1998, "The Alimony Payor's Right to Retire";

- (d) Guest Lecturer, March 2011, College of Charleston, pertaining to SC adoption law;
- (e) Panelist, February 16, 2012, What Family Court Judges Want You to Know.

Judge Robertson reported that he has published the following:

I have not published any books or articles. I did serve on the Editorial Board for the following two books written by Roy T. Stuckey: *Marital Litigation in SC: Substantive Law, 3rd Ed.* (SC Bar – CLE Div. 2001) and *Marriage and Divorce Law in SC: A Layperson's Guide* (SC Bar – CLE Div. 2001).

(4) Character:

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

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

(5) Reputation:

Judge Robertson reported that his rating by a legal rating organization, Martindale-Hubbell, is AV, the publication's highest designation for legal ability and ethics. He was also selected for inclusion in SC Super Lawyers both years he was eligible.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Robertson was admitted to the SC Bar in 1988.

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

- (a) 1988-90: Lewis, Lide, Bruce, and Potts, Columbia, SC - I was an associate in this law firm and practiced in a wide array of areas but with an emphasis on real estate law;
- (b) 1990-95: Robertson and Robertson, PA, Greenville, SC – I practiced for this five-year stretch in a two-attorney partnership with my father, W.F. Robertson III. Our firm practiced exclusively in the area of family law;
- (c) 1996–June 2010: After the retirement of my father, I continued practicing exclusively in the area of family law, either in sole practice or in the following two-attorney partnerships: Robertson & Quattlebaum, LLC; Robertson & Coleman, LLC; and finally, Robertson & Hodges, LLC;
- (d) July 2010 – Present: Family Court, Seat 2, 13th Judicial Circuit.

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

- (a) James and Diane Y v. SC Department of Social Services v. Jane and John Doe, 2009-DR-39-689; 2012-UP-172.

Child (age 4) lived with former foster parents (Ys) since age one. Interveners (Does) adopted Child's four siblings. In a five-day trial, both Ys and Does sought to adopt Child. In an unpublished opinion, the Court of Appeals affirmed my ruling that under the unique case

facts, Ys had standing to adopt even without DSS consent, and further affirmed my determination that Child's best interests would be served by allowing adoption by Ys instead of by Does;

- (b) In the Interest of Cole G., a Juvenile, 2011-JU-23-155
After a two-day Juvenile Waiver/Transfer Hearing involving a child charged with murder, I denied the State's motion to transfer jurisdiction of the case to the Court of General Sessions. In the self-drafted order, I carefully analyzed the *Kent v. United States* factors before concluding that "the scales of justice tip in favor of retaining Family Court jurisdiction";
- (c) Chris and Frankie B. v. Jennifer J., Derrick H., and SC Department of Social Services, 2009-DR-23-2105
In what I described in my self-drafted 11-page final order as a "gut-wrenching case," I terminated the parental rights of Child's biological mother to allow for adoption by Plaintiffs/foster parents. My order included detailed analysis my "best interest" considerations, as well as a thorough discussion of the statutory TPR grounds upon which I relied, including the factors in this case that distinguished it from *SCDSS v. Marccuci*, Supreme Ct. Opinion N. 7049;
- (d) Heather C v. Kevin C. v. SCDSS, 2011-DR-23-4418 and 2010-DR-23-3510
Following a full-day hearing, I granted a joint motion filed under SC Code Ann. §19-1-180 by Plaintiff and DSS to allow out of court testimony by a minor child, a decision that proved instrumental in setting the stage for a full settlement of an extraordinarily protracted and contentious child custody dispute;
- (e) Carole Leigh Budreau v. Lawrence Thomas Budreau, 2009-DR-24-457
Upon information and belief, an appeal may be pending in this case. I issued a Final Divorce Decree resolving contested issues of divorce (adultery), alimony, equitable division of marital estate, contempt, and fees.

Judge Robertson further reported the following regarding unsuccessful candidacies:

I was qualified and nominated for Seat 6, Family Court, 13th Judicial Circuit, but withdrew my candidacy prior to the February, 2009 election. I was qualified and nominated for Seat 3, Family Court, 13th Judicial Circuit, but withdrew my candidacy prior to the May 2008 election.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Judge Robertson "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 Robertson is divorced. He has three children.

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

- (a) Greenville County Bar Association;
- (b) SC Bar (Family Law Section);
- (c) SC Family Court Judges Association.

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

- (a) Christ Episcopal Church;
- (b) Greenville Country Club;
- (c) DeBordieu Club (no longer a member);
- (d) Poinsett Club.

Judge Robertson further reported:

I have had the honor and privilege of serving the citizens of SC as a Family Court judge for just over two years. Prior to assuming the bench, I practiced exclusively in the area of Family Court law for approximately 20 years. During those years, I came to admire a select number of past and present Family Court judges who shared a certain combination of qualities and traits that are quite simple in concept, yet perhaps less simple to achieve. They projected high intellect and reason, and demonstrated a thorough comprehension of family law and procedure grounded on many years of experience in the field. They were diligent and industrious. They were analytical yet compassionate, with a keen sense of fairness. They were inflexibly honest. Perhaps most compelling, they were passionately dedicated to our societies' families, and to the laws that have developed to preserve and protect our families, especially our children. Every day that I go to work, I persevere to follow in the footsteps of those judges.

(11) Conclusion:

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

**The Honorable Gerald C. Smoak, Jr.
Family Court, Fourteenth Judicial Circuit, Seat 1**

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 Smoak, 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 Smoak meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Smoak was born in 1959. He is 53 years old and a resident of Walterboro, SC. Judge Smoak 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 Smoak.

Judge Smoak 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 Smoak reported that he had not made any campaign expenditures.

Judge Smoak reported he has not:

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Mini Summit on Justice for Children	August 22, 2006;
(b) Family Court Bench/Bar	December 1, 2006;
(c) Family Law Section	January 26, 2007;
(d) Family Court Judges' Conference	April 25, 2007;
(e) 2007 Annual Judicial Conference	August 22, 2007;
(f) Family Court Bench/Bar	December 7, 2007;
(g) Family Law Section	January 25, 2008;
(h) 2008 Family Court Judges Conference	April 23, 2008;
(i) SCTLA Family Law Seminar	August 2, 2008;
(j) 2008 Judicial Conference	August 20, 2008;
(k) 2009 SC Bar Convention	January 23, 2009;
(l) Family Court Judges' Conference	April 22, 2009;
(m) 2009 Annual Judicial Conference	August 19, 2009;
(n) 0209-50; 2009 SC Tort	December 4, 2009;
(o) Family Law Update	January 22, 2010;
(p) Family Court Judges Conference	April 22, 2010;
(q) SCAJ 2010 Annual Convention	August 5, 2010;
(r) 2010 Judicial Conference	August 18, 2010;
(s) Mini Summit on Justice for Children	December 2, 2010;
(t) Family Law Section	January 21, 2011;
(u) Family Court Judges' Conference	June 1, 2011;
(v) 2011 Annual Judicial Conference	August 17, 2011;
(w) Family Law Section	January 20, 2012;
(x) Family Court Judges Conference	April 19, 2012.

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

Paralegal courses for The Technical College of the Lowcountry:

- (a) Estates;
- (b) Family Law;
- (c) Legal Bibliography;
- (d) Litigation;
- (e) Torts.

Panel for discussion at SC Family Court Bench/Bar Conference, December 3, 1999.
Lectured at the local high school.
Appeared at career day at the local high school.
Spoke at the Child Abuse Prevention Rally in Colleton County.

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

(4) Character:

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

The Commission also noted that Judge Smoak 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 Smoak reported that he is not rated by any legal rating organization.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Smoak was admitted to the SC Bar in 1983.

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

- (a) 1983 - Law Clerk for Honorable William T. Howell;
- (b) 1984-95 - General practice with majority of work in Family Court;
- (c) 1984-93 and 1995 - Prosecutor for child abuse and neglect cases for the Department of Social Services;
- (d) 1984-95 - Public Defender for City of Walterboro;
- (e) 1993-95 - Conflict Attorney for Colleton County Public Defender, including Juveniles;
- (f) 1995 to present - Family Court Judge, 14th Judicial Circuit, Seat #1.

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

Family Court Judge, 1995-present, 14th Judicial Circuit, Seat #1.

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

- (a) In the interest of: LaTreece M.D., a minor under the age of seventeen, U.P. No. 2001-UP-071;
- (b) Shannon v. Shannon, 578 S.E. 2d 753;
- (c) Tefft vs. Tefft, U.P. No. 2011-UP-096;
- (d) Hawkins vs. Hawkins, U.P. No. 2010-UP-510;
- (e) SCDSS vs. Tyesha R.H., Tyrone D, Johnnie Lee R, of whom Tyesha H. is the Appellant, in the interest of two minor children under the age of eighteen, U.P. No. 2011-UP-408.

Judge Smoak further reported the following regarding an unsuccessful candidacy:

In 1994, Family Court Race for Seat #2, 14th Judicial Circuit.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Lowcountry Citizen's Committee found Judge Smoak 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 Smoak is married to Elizabeth Thompson Smoak. He has two children.

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

- (a) Former Member of SC Trial Lawyers Association;
- (b) SC Bar Association;
- (c) Colleton County Bar Association.

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

- (a) Former Member Jaycees;
- (b) Former Sertoma Member;
- (c) Assistant Baseball Coach, Colleton County Recreation Commission, 1992-2002;
- (d) Member of the Colleton Preparatory Academy School Board, 1998-2006;
- (e) Member of the Bethel United Methodist Church;
- (f) Former Member of the Governor's Youth Council;
- (g) Judge for the National High School Mock Trial Championship;
- (h) Lectured to the Guardian ad Litem program for the 14th Judicial Circuit;
- (i) Drug Court Judge for 14th Judicial Circuit;
- (j) Family Court Judge's Association Legislative Liaison Committee Member.

Judge Smoak further reported:

I have lived in the small town of Walterboro all my life. I have been married for 27 years. My pride and joy are my 26 year old son who is a Mechanical Engineer and my 18 year old daughter who is an upcoming college freshman. I practiced law in Walterboro with my father for twelve years before going on the bench. I learned early that you treat people the same way you would want to be treated. I am the product of divorced parents whom I love very much. I feel the small town I live in has given me small town values. I believe my background helps me when dealing with family law matters. I enjoy my job and my family. I believe I have been and continue to be a fair and patient Judge who understands that family law matters are the most important of all.

(11) Conclusion:

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

The Honorable Jan Benature Bromell Holmes
Family Court, Fifteenth Judicial Circuit, Seat 1

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Judge Holmes was born in 1970. She is 42 years old and a resident of Georgetown, SC. Judge Holmes 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.

(2) Ethical Fitness:

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

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) FCJA/Family Court Judges Conference	04/18-20/12;
(b) SC Bar (Family Law Section) Annual Convention	01/20/12;
(c) Horry County Bar/Family Court Seminar	12/13/11;
(d) SC Bar/2011 SC Family Court	12/02/11;
(e) SCCA/2011 Annual Judicial Conference	08/17-19/11;
(f) SCAJ/2011 SCAJ Annual Convention	08/04/11;
(g) FCJA/Family Court Judges Conference	06/01-03/11;
(h) SC Bar/Annual Convention(Family Law Section)	01/21/11;
(i) Horry County Bar/Family Court Seminar	12/09/10;
(j) SCBar/2010 SC Family Court	12/03/10;
(k) CLO/Mini Summit on Justice for Children	12/02/10;
(l) SCCA/2010 Judicial Conference	08/18-20/10;

(m)	FCJA/Family Court Judges Conference	04/22/10;
(n)	SC Bar/ (Family Law Section) Annual Convention	01/22/10;
(o)	SCBar/ 2009 SC Family Court Bench/Bar	12/04/09;
(p)	SCCA/2009 Annual Judicial Conference	08/19-21/09;
(q)	FCJA/Family Court Judges' Conference	04/22-24/09;
(r)	SC Bar/2009 SC Bar Annual Convention	01/23/09;
(s)	Horry County Bar/ Family Court Seminar	12/17/08;
(t)	SC Bar/2008 SC Family Court Bench Bar	12/05/08;
(u)	FJC/National Judicial College--General Jurisdiction	10/19-30/08;
(v)	SCCA/ 2008 Judicial Conference	08/20-22/08;
(w)	FCJA/ 2008 Family Court Judges Conference	04/23-25/08;
(x)	SC Bar/Family Law Section	01/25/08;
(y)	SC Bar/Family Court Bench/Bar	12/07/07;
(z)	Horry County Bar/Family Court Procedural	10/11/07;
(aa)	SCCA/2007 Judicial Conference	08/22-24/07;
(bb)	SCCA/ Orientation School for Family Court	07/11/07;
(cc)	FCJA/ Family Court Judges' Conference	4/25-27/07.

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

- (a) I have presented at the 2007, 2008, 2009, 2010, and 2011 Horry County Bar Family Court Seminar-Procedural for Family Court practitioners;
- (b) I have presented at the National Business Institute One Day Seminar entitled "What Family Court Judges Want You to Know" on October 28, 2011;
- (c) I have presented at the Children's Law Center Volunteer Guardian ad Litem Conference entitled Permanency Planning for Children on October 7, 2011, to volunteer guardian ad litem;
- (d) I have presented at the Children's Law Center "Training for Attorneys Appointed in Abuse and Neglect Cases" in the 15th Judicial Circuit on November 13, 2009.

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

(4) Character:

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

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

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Holmes was admitted to the SC Bar in 1995.

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

Since my graduation from law school on May 13, 1995, I worked for Morant and Morant Law Firm located at 1022 Prince Street in Georgetown, SC, from September 1995-July 1997. I performed title searches, closed real estate loans, handled social security disability cases, personal injury cases, prepared wills, prepared deeds and handled Family Court cases.

In July 1997, I ventured out and opened my own law firm, Jan B. Bromell, P.A. Seventy-five percent of my practice consisted of domestic matters. I prosecuted and defended child support and child custody cases, divorce, alimony, separate maintenance and support, adoption and termination of parental rights, appointed and retained on juvenile cases, appointed and retained on abuse and neglect matters, name change, annulment, equitable distribution, and orders of protection. Twenty-four percent of my practice consists of civil matters. I handled real estate transactions, performed title searches, handle social security disability cases, personal injury cases, prepared power of attorney, contracts, wills and deeds. One percent of my practice consisted of criminal cases.

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

Family Court Judge. I was elected February 7, 2007, by the S.C. General Assembly to serve a period beginning July 1, 2007-June 30, 2013. Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court. Family Court is empowered by statute to have exclusive jurisdiction over all matters involving domestic or family relationships. Family Court handles issues involving marriage, divorce, legal separation, custody, visitation rights, termination of parental rights, adoption, support(spousal and child), alimony, equitable division of marital property, and name change(adult and child). Family Court also has exclusive jurisdiction to hear matters involving juvenile delinquency for juveniles 17 and under alleged to have violated any state law or municipal ordinance. Juveniles who have committed serious criminal charges may be waived or transferred to Circuit Court.

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

(a) High v. High, S.C. Court of Appeals Opinion # 4717

This was a divorce action with an agreement on equitable distribution of marital property and debt. The contested issues were child custody and attorney fees. The matter was appealed. The Father appealed my order granting Mother sole custody of the couple's two children, arguing the Family Court erred in: (1) refusing to qualify Teresa Harrington, LPC as an expert witness; (2) prohibiting the introduction of statements made by the couple's minor daughter to Harrington; (3) refusing to admit Harrington's records into evidence; (4) making certain findings of fact relevant to the issue of custody which were not supported by the record; (5) failing to consider important factors contained in the record in its award of primary custody to Mother; (6) awarding Mother sole custody based on the fact that Mother was historically the caregiver of the minor children; and (7) granting Mother custody based on the primary caretaker factor. The Mother cross-appealed arguing that the Family Court erred in (1) hearing Father's untimely motion to alter or amend, and (2) failing to award her attorney's fees and costs. The Court of Appeals affirmed my ruling.

(b) In the Interest of Spencer R., S.C. Court of Appeals #4668

This was a juvenile delinquency matter in which Spencer R. was charged with pointing and presenting a firearm. This case was my first juvenile trial as a Family Court judge. What was difficult about this case is that the State charged the juvenile in one petition for pointing and presenting a firearm at three different people. I didn't understand why the

State didn't file three petitions, one for each person. It was clear to me that the juvenile intended to point and present a firearm at one of the individuals, but not the other two. However, because of how the petition was filed, I thought that I had to find the juvenile delinquent on the petition. The juvenile appealed his conviction for presenting a firearm, alleging the Family Court erred in finding sufficient evidence to support his conviction. The Court of Appeals affirmed the conviction of one of the individuals and reversed the conviction of the other two individuals. I am particularly proud of this case because prior to my ruling, there was no case law in the State of SC which defined presenting a firearm.

(c) Simmons vs. Simmons, Supreme Court Opinion #26970.

This was a difficult case for me. The parties divorced in 1990 and entered into a Family Court-approved settlement agreement that was determined to be void in part. A central part of the parties' agreement required Husband to give Wife one-third of his Social Security benefits if he began receiving them at age 62 or one-half of those benefits if he began receiving them at age 65. The Social Security benefits were to "be construed only as a property settlement, and shall not in any way be considered or construed as alimony." Husband attained the age of 62 in 1994 and 65 in 1997, but he failed to pay Wife any portion of his Social Security benefits. In December 2003, Wife filed a petition for a rule to show cause, seeking to compel compliance with the agreement. Husband responded by filing a Rule 60(b)(4), SCRCP,[2] motion, asserting that the Family Court lacked subject matter jurisdiction to order division of his Social Security benefits. The Family Court dismissed Husband's subject matter jurisdiction challenge, and Husband appealed. The court of appeals reversed. Simmons v. Simmons, 370 S.C. 109, 634 S.E.2d 1 (Ct. App. 2006). The court found that the Social Security Act, specifically 42 U.S.C. § 407(a) (2010), preempted and expressly precluded the parties' agreement to divide Husband's Social Security benefits. As a result, the court voided that portion of the agreement. The appeal presented the question of whether the Family Court may revisit, in whole or in part, the now partially voided agreement. I ruled in 2008 that I lacked subject matter jurisdiction to reconsider the 1990 court-approved agreement. The Supreme Court reversed and remanded for reconsideration of the court-approved agreement.

(d) Charleston County DSS v. Latrina R., 2009-UP-570

This case was significant to me in that it involved a mother who had an extensive history with the Charleston County DSS for abuse and neglect of her children due to drug addiction. The CCDSS sought to terminate her parental rights. I found that they met their burden by clear and convincing evidence on four grounds: failure to remedy the condition that caused the removal of the children from her home; the children were removed from the home and the mother failed to support the children for more than a six month period; the children were removed from the home and the mother failed to visit the children for more than a six-month period; the children were in foster care for 15 of the most recent 22 months. The Guardian recommended that I return the children to the Mother because the CCDSS had failed to file the TPR action within 60 days of the permanency planning hearing as ordered by the Court. He didn't consider the fact that the children were doing well in foster care and that one of the children didn't remember the Mother. It didn't appear that the GAL understood his role in the matter. The Court of Appeals found that TPR was in the Children's best interests and affirmed my decision.

(e) Erma L.J. and Joe J., Jr. vs. Linda D.W. 2010-UP-506

The facts of this case were difficult. A mother was serving time in prison for the murder of one of her children. The paternal grandparents sought to terminate her parental rights and adopt the remaining two children. Mother was not able to personally appear because she was incarcerated in the State of NC. However, she was allowed to testify by teleconference in my chambers because the courtroom did not have a telephone line. She objected to her

rights being terminated. The Father consented to his parents adopting the children and thereby signed a consent and relinquishment terminating his parental rights and consenting to the adoption. I terminated the Mother's rights on two grounds: based on the severity of abuse the home cannot be made safe within twelve months and the physical abuse of a child by a parent resulted in the death of the child and the parent was convicted of murder. I further found that TPR was in the minor children's best interest. The Court of Appeals affirmed my ruling.

(9) Judicial Temperament:

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

(10) Miscellaneous:

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

Judge Holmes is married to Cleveland Bernard Holmes. She has two children.

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

- (a) National Council of Juvenile and Family Court Judges;
- (b) SC Bar Association;
- (c) Georgetown County Bar Association;
- (d) SC Family Court Bench/Bar Committee.

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

- (a) Alpha Kappa Alpha Sorority, Inc. (Treasurer 2008-11) Member of the Year for 2009;
- (b) St. Paul AME Church, Steward (2005-Present), Finance Committee (2005-Present) Christian Education Department (2004-Present), Women's Missionary Society (1995-Present);
- (c) Women Missionary Society of the AME Church (3rd and 1st Vice President 2005-11).

Judge Holmes further reported:

I have come into contact with thousands of people over the past five years as a Family Court Judge. I have the utmost respect for all individuals who appear before me. These individuals come from many walks of life. I have been patient, dignified, open-minded and diligent in disposing of their cases. I have handled the pressure of a rigorous schedule and look forward to the opportunity to continue to serve the public as a Judge of Family Court.

(12) Conclusion:

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

**The Honorable David Glenn Guyton
Family Court, Sixteenth 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 Guyton, 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 Guyton meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Guyton was born in 1961. He is 51 years old and a resident of Rock Hill, SC. Judge Guyton 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 1988.

(2) Ethical Fitness:

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

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

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Domestic Violence and the Criminal Justice System	4/05/06;
(b) Rudolph C. Barnes Sr. symposium	2/02-3/07; 12/13/00;
(c) Children’s issue in Family Court	3/23/07;
(d) Domestic Violence and the Criminal Justice System	4/05/07;
(e) Annual Judge Advocate Officer training	4/27/07;
(f) SC Law for Military Attorneys	9/28/07;
(g) Education Law Training	7/25/08;
(h) Training for attorneys appointed in Neglect and Abuse cases	

	in the 16 th Judicial Circuit.	2/08/08;
(i)	SC Summary Court Judges Association.	5/05/08;
(j)	Prosecuting the Impaired Driver	5/15-16/08;
(k)	Hot Tips from the Coolest Domestic Law Practitioners	9/19/08;
(l)	Guardian ad litem Continuing Education Training	10/03/08;
(m)	Commission on Lawyer Conduct and ATA Seminar	10/21/08;
(n)	8 th Domestic Operational Law Course	10/27-31/08;
(o)	CDV and Legal Updates.	12/18/08;
(p)	SC Summary Court Judges Association	5/4-5/09;
(q)	MCAA 2009 Spring Meeting	4/19/09;
(r)	Family Law Training	3/20/09;
(s)	SCNG JAG Legal Conference	9/12/09;
(t)	SC Conference on Lawyer and Judicial Conduct	10/22/09;
(u)	Domestic Violence.	11/12/09;
(v)	Introduction to Court Annexed	11/20/09;
(w)	Fiscal Year 2010 Legal Training Conference	1/22/10;
(x)	GAL Training	1/9/10;
(y)	Ethics.	3/12/10;
(z)	Family Court Judges Conference	4/22/10;
(aa)	2010 Domestic Operation Law	5/02/10;
(bb)	2010 Orientation School for new Judges	6/02/12;
(cc)	SCAJ 2010 Annual Convention.	8/05/10;
(dd)	2010 Judicial Conference	8/18/10;
(ee)	SC Military Justice.	9/17/10;
(ff)	Domestic Law: Hot Tips from the Coolest Practitioners	10/01/10;
(gg)	SC Conference on Lawyer and Judicial Conduct	10/26/10;
(hh)	Mini Summit on Justice for Children	12/02/10;
(ii)	2010 Family Court Bench/Bar	12/03/10;
(jj)	Family Law SC Bar Convention	01/21/11;
(kk)	Children's Law Committee SC Bar Convention	01/22/11;
(ll)	Family Court Judge's Conference.	06/01/11;
(mm)	2011 Annual Judicial Conference	08/26/11;
(nn)	SC Conference on Lawyer and Judicial Conference	11/01/11;
(oo)	Family Court Bench/Bar	12/02/11;
(pp)	SC Bar Convention.	01/20/12;
(qq)	What Family Court Judges Want You to Know	05/11/12;
(rr)	Family Court Judge's Conference	04/19/12.

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

- (a) I drafted materials and presented them at a session of the December 2011 Family Court Bench/Bar focusing on military issues relating Family Court practice. I received the 2d highest evaluation of the CLE;
- (b) 2012 CLE Judicial Panel member for CLE "What Family Court Judge's want you to know";
- (c) Presented materials and a lecture on the Military Parents Equal Protection Act and other topics at Aug 2011 SC JAG Conference;
- (d) November 12, 2011 Color of Justice Panel Member;
- (e) Taught local clerk of court's office personnel courtroom procedure and evidence;
- (f) Taught Volunteer Guardian ad litem for local training requirements;

- (g) I have organized and conducted Military Justice Training to SCNG Judge Advocates and Administrative Officers on several occasions through the years;
- (h) Organized and conducted Military Support to Civilian Authorities training and CD at SC JAG Conference;
- (i) I made a presentation to the Municipal Court Administration Association as a City Court Judge on diffusing hostility;
- (j) Presented Legal Tips at an “HR Boot Camp” for unemployed Veterans.

Judge Guyton reported that he has published the following:

The Military Parent Equal Protection Act SC Lawyer Magazine March 2012, co-authored with COL Barry Bernstein.

(4) Character:

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

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

Judge Guyton reported the following military service:

United States Marine Corps October 01,1988 to October 01, 1991. I was discharged with an Honorable Discharge as a Captain and Gulf War Veteran upon completion of my term. The military used my social security number instead of assigning a separate serial number.

SC Army National Guard from March 1992 through the present date. I was promoted to the rank of Colonel on September 14, 2012. I currently serve at Joint Force Headquarters at the Adjutant General’s Building in Columbia, SC, transitioning into the position of State Judge Advocate, as the current SJA will retire in a few weeks.

Judge Guyton reported that he has not held any other public office.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Guyton was admitted to the SC Bar in 1988.

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

Upon graduation from law school and passing the Bar exam I worked at the law firm of Harrelson & Hayes in Rock Hill, SC, for approximately 6 months while awaiting orders for active duty with the United States Marine Corps. I handled any area of the law they assigned me within that short

time frame as they knew I would be leaving for military service. I served 3 years active duty with the Marines from 10/01/88 to 10/01/91, primarily as a Trial Counsel, including Courts-Martials in Saudi Arabia and Bahrain during Desert Shield and Desert Storm. Upon release from active duty I returned to Rock hill, SC, and practiced with Harrelson & Hayes as an Associate in their firm. I became a Partner in 1996, and the firm became Harrelson Hayes & Guyton. I practiced continuously as a Partner in the same firm until I was sworn in as a Family Court Judge on April 16, 2010. My primary area of practice was Family Court (75%). I also did residential real estate closings, simple estate documents and probate, and criminal defense on a regular basis as an Associate and Partner (25%). I also handled some Landlord-Tenant, personal injury, foreclosure, and contract disputes on a limited basis through the years. I also joined the SC Army National Guard in March 1992, and still serve as a Judge Advocate. I have been a trial counsel, defense counsel, military judge, Staff Judge Advocate, legal assistance attorney, and deputy battle captain.

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

I was appointed as an Associate City Judge for the City of Rock Hill by Municipal Court Judge Jane P. Modla in 1999 and confirmed by the Rock Hill City Council. I served continuously in that capacity as a part time Judge until I was elected as a Family Court Judge in February of 2010. I was reaffirmed by City Council each time a vote was required. I presided over bench trials, jury trials, and set bonds. In the last few years of my service I primarily presided over dockets for evening court, usually only for a few hours each month. The jurisdiction of that court was for offenses in the jurisdiction of the Rock Hill City Police and Winthrop University, up to 30 days in jail or \$500 fine, and as otherwise allowed by statute (such as DUS 3rd which allows for a 90 day sentence). City Court does not handle civil matters. With the assistance of another Judge we handled over 200 cases on a docket in one evening on more than one occasion. I was paid as an independent contractor, not as an employee of the City of Rock Hill. I of course could no longer act in that capacity as soon as I was elected as a Family Court Judge.

I served as the Military Judge for the SC National Guard from 2008 until December 2011. The position carries the powers of a state Circuit Court Judge by statute. I was assigned as Military Judge by then SC Adjutant General, MG Stanhope Spears, and our state Judge Advocate COL Barry Bernstein. I was compensated by my normal National Guard pay and did not receive any extra pay for being assigned as a Judge. I preside over Special Courts-Martial for the National Guard under the SC Code of Military Justice, and could impose incarceration, fines, reduction in rank, and a Bad Conduct Discharge. It was considered a state circuit court, not a federal court. I was assigned as the SJA for the 263 Army Air Missile Defense Command until December of 2012, and then to my current position as State SJA.

I was elected to my current position as Family Court Judge of the 16th Judicial Circuit, Seat #2, on February 3, 2010, and sworn in on April 16th, 2010. I am serving the unexpired term of Henry T. Woods. I handle Divorces, separations, child custody and visitation, alimony, marital property and marital debt division, child support, adoptions, name changes, SC Department of Social Services neglect and abuse cases for children and vulnerable adults, Juvenile Court for minors under age 17 who commit crimes or status offenses, Truancy Court for children who have excessive tardies or unexcused absences from school, Protection from Domestic Abuse Act hearings, Bench Warrants and Rules to show cause for nonpayment of child support, annulments, common law marriages. I also preside over a weekly drug court program for juvenile offenders upon which successful completion results in expungement of their charges.

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

I haven't had any cases that were significant such that they changed the law of the state, but I do know every case I have involving a child is significant, and possible life changing, for that child.

It is a very heavy but incredibly important burden every Family Court Judge faces every day, and I do not take it lightly.

Significant cases:

- (a) In July 2011 I presided over an uncontested adoption proceeding for a couple who had taken in a foster baby. The mother's parental rights had been terminated. The father was in prison and had never been involved in the baby's life. The adopting father was a Vietnam Veteran. After the adoption process had been started, the adopting father was diagnosed with pancreatic cancer. He and his wife had already successfully raised 2 daughters ages 37 and 23, but they absolutely fell in love with baby Alyssa, and were determined to see the adoption through. The cancer progressed quickly, but the Guardian ad litem and certified investigators all worked quickly in hopes the adoption could take place. As a Judge I did not know any of this in advance, but I received a phone call from the attorney's office asking if we could make time for an adoption on a Monday. My clerk said we had time Monday afternoon and it was scheduled for after lunch. That weekend the attorney went to the jail to get the written consent from the biological father to terminate his rights and allow the adoption. On Monday morning I had some time open on the docket so I had my clerk call the attorney and ask if they wanted to come to court early. They did and at Court I discovered that the adopting father was on his deathbed in a hospice facility, because he had taken a turn for the worse over the weekend. He had previously provided an affidavit and all testimony corroborated his one remaining desire for the adoption to take place so that baby Alyssa would be his daughter, and she would be able to receive his benefits for social security and veteran purposes. One of his grown daughters remained by his bedside. We held the hearing and addressed all issues without special consideration (we did not bend any rules) and I signed the adoption decree. It was filed at 11:50 am to make it official. They called his daughter who whispered in his ear that the adoption was final and that Alyssa was his. He took a few more breaths and passed away at 11:53 am. He had held on to life and fought death long enough for the adoption to be completed. This story was published in detail in our local paper with the permission of the family. It was also published in the State newspaper. A national reporter picked it up, did some more follow up, and the story was published nationally. It seemed to touch everyone's heart and motivated people to consider adoption. I felt it was all providence, and that I was just a very fortunate part of the story. It has given me the opportunity to speak to groups about adoption and I know that adoptions have taken place as a result of this case.
- (b) Recently I held my first "waiver" hearing in Juvenile Court in which a 16 year old took part in a planned armed robbery of a convenience store with several other adults (17 or over) which resulted in the death of one victim and the paralysis of another victim. While the content and reality of the event was heart wrenching, I found significance in the required procedures and analysis of our system guided by the U.S. Supreme Court case of Kent v. United States in how the rights of an accused juvenile were balanced against the need to seek justice for victims and protect society. I did transfer jurisdiction of the case to General Sessions Court because the facts were clear and tragic, but I discovered what deep thought should and does go into the analysis of the determination of whether a juvenile is waived to "high court" to be tried as an adult. I am proud that our system requires such careful analysis of the eight Kent factors in all waiver cases. It speaks strongly for our justice system.
- (c) I recently completed a four day trial in which the primary issue was custody of a 6 year old autistic child who may also be on the lower end of the autism spectrum. I was a visiting Judge in that jurisdiction. The case was over 3 years old. The child had been 3

years old when the case started. It was set for a 2 day trial, but it was obvious before the case started it would take more than 2 days to try the case. Instead of continuing the case and re-scheduling it for trial with the appropriate time frame available, I informed the litigants we would try the case and find a way to get it completed. Although counsel for both parties and the Guardian ad litem were competent and courteous, the trial was contentious and time consuming. After 2 days we then used a Friday afternoon in which we normally do not schedule court, and then traveled to my courtroom on the following Monday during my emergency day of chambers week and held court until the trial was completed. I am not describing this case to brag on my extra efforts to get it completed, but instead to show how important it is to move cases along in a timely manner. Even with our 365 day rule in Family Court, cases get delayed for various reasons, but children and parents need and deserve to have their cases heard and get some degree of finality and direction in their lives. The significance of this case is an example of how much damage can be done to children when litigation is delayed or extended for lengthy periods, and how hard we as Judges must work to make every effort to move them to completion.

- (d) For the last 2 years, I have tried to set one day of court solely for uncontested adoptions, at or near the last day of the yearly docket. I believe this past year we did 12 adoptions in one day, and it becomes one of those rare wonderful days in Family Court where people leave smiling and happy. One case this past year involved a grandmother who adopted her 3 grandchildren. The children's mother (her daughter) had been murdered. After that, the home they all lived in was destroyed by a tree during a bad storm. Grandmother works in a nursing home making just above minimum wage. The fathers of the children were not paying support. Grandmother had basically already raised the children on her own. The attorney and his staff handled the case on a pro bono basis. The children were in court, very happy, and took their grandmother's last name. The entire Family said it was the best Christmas present they could have received. I note this case and this particular day because it reflects well on our court and the people who will do whatever it takes to take care of children. I've attached an article from our local paper about that adoption.
- (e) I hold juvenile drug court every Tuesday afternoon I am in Rock Hill. This is a program which allows juveniles who have plead guilty to substance abuse or other crimes an opportunity to move through several phases and numerous requirements with their families and, if successful, have the charge(s) expunged. The kids are tested for drugs weekly, do community service hours, have weekly homework assignments, and attending counseling sessions for issues such as conflict resolution. I do not get paid any extra for this time, and court is held after the scheduled docket. I estimate a little more than 50% graduation rate, after about a year in the program. I get to speak at their graduation, and hear from the kids and their parents. I have heard several parents stand up and thank me and the drug court staff for saving the life of their child and giving them their family back. Their tearful gratitude is deeply satisfying, and it is with great pride that I sign their expungement orders and leave them with a new start and the tools to be successful. The fact that this program is successful and we are changing the lives of these kids in a constructive manner, and saving taxpayer money in doing so, is very significant to me as Family Court Judge.

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

I was an associate, and then a Partner in the firm of Harrelson, Hayes, & Guyton, from October 1991 until sworn in as a Family Court Judge April 10, 2010. My law partners Hugh Harrelson and Wes Hayes were my supervisors prior to my becoming a Partner in the firm. I have been a

Judge Advocate with the SC Army National Guard since March 1992 when I joined as a Captain. I have served continuously since then, and was recently promoted to Colonel September 14, 2012. My current supervisor is COL Barry Bernstein. I will be taking his place as the M-Day state SJA in the next few months as he enters retirement. My former supervisors have included COL James Lockemy (retired) and LTC Vic Rawl (retired). My duties have included trial counsel, defense counsel, Military Judge, legal assistance, and battle captain, as well as the SJA for the 263 AAMDC and the 228th Signal Brigade.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Piedmont Citizen's Committee found Judge Guyton to be "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge Guyton is married to Crystal Fickling Guyton. He has two children.

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

- (a) SC Bar Association since 1988. Member of Military Law Section and Family Law Section. SC Bar Outstanding Young Lawyer Award. Pro Bono program volunteer and legal assistance to military personnel volunteer prior to becoming a Judge;
- (b) York County Bar Association since 1992. Past Secretary, Treasurer, and President (1996);
- (c) American Bar Association since 1988;
- (d) SC Summary Court Judges Association from 1999 until elected Family Court Judge in 2010;
- (e) Commission on Lawyer conduct for over 10 years until elected Family Court Judge;
- (f) Commission on Judicial Conduct from election to the present date.

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

- (a) Charter member of the Marine Corps League Olde English Leatherneck Detachment. Judge Advocate from charter in April 2002 until April 2012. Several Outstanding Marine awards and the Four Chaplains award;
- (b) Member and Judge Advocate for VFW Old Hickory Post 2889 since early 1990s;
- (c) Member American Legion Frank Roach Post 34 since 1992;
- (d) Member of York County Veteran's Council from 1993 to 2010. I have served as Secretary for several years. I have acted as their Master of Ceremonies for our annual York County Memorial Day Ceremony for 19 years;
- (e) Children's Attention Home Charter School Board member and Treasurer;
- (f) Rock Hill School District Foundation Board, past Treasurer, 2009 Outstanding Volunteer Award;
- (g) Palmetto Volunteers in Medicine Clinic, Inc, Charter Board member and Secretary. I incorporated it as a nonprofit in SC and obtained 501 (c) (3) tax exempt status;
- (h) Rock Hill Kiwanis Club for 17 years. Past President. Terrific Kids Program current volunteer and past coordinator;

- (i) Charter Board Member for Rolling in Rock Hill program (annual paint project painting homes of poor and disabled); served for 15 years before stepping down after election;
 - (j) Oakland Baptist Church Sunday School ; former teacher, Deacon, RA leader, youth leader, various committees;
 - (k) North Rock Hill Church ; Journey Group Leader;
 - (l) Former Auxiliary Probation Officer through the Department of Juvenile Justice;
 - (m) Former Weblos Scout Den leader.
- (11) Conclusion:
The Commission found Judge Guyton qualified and nominated him for re-election to the Family Court.

**Rosalyn Woodson Frierson
Family Court, At-Large, Seat 1**

Commission’s Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission’s investigation, Ms. Frierson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Frierson was born in 1958. She is 54 years old and a resident of Columbia, SC. Ms. Frierson 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 1992.

- (2) Ethical Fitness:
The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Frierson.

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

Ms. Frierson 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
<u>2006</u>	
(a) Family Court Judges Conference	7/26/2006;
(b) Mini Summit on Justice for Children	8/22/2006;
(c) 2006 Annual Judicial Conference	8/23/2006;
(d) S.C. Judges/Journalists	9/8/2006;
(e) Ladder to Success: S C Women Lawyers	10/13/2006;
<u>2007</u>	
(f) IT 101 for Attorneys	6/14/2007;
(g) National Summit on Public Health Legal Preparedness	6/18,20/2007;
(h) Chief Magistrates Technology	7/19/2007;
(i) Annual Judicial Conference	8/22/2007;
(j) The Changing Face of Justice	10/19/2007;
(k) How to Avoid Major Missteps	10/19/2007;
<u>2008</u>	
(l) Family Court Judges Conference	4/23/2008;
(m) Prosecuting Sexual Assault from Crime Scene to Courtroom	5/1/2008;
(n) Chief Magistrates Meeting	7/9/2008;
(o) Annual Judicial Conference	8/20/2008;
(p) Judicial Selection in SC	9/17/2008;
(q) Annual Free CLE Ethics Seminar	11/7/2008;
<u>2009</u>	
(r) The Practice of Mediation	
(s) Civil Law Update	1/23/2009;
(t) Financials and Families in Family Court	1/23/2009;
(u) Recent Developments in Peer & Medical Board Proceedings	1/24/2009;
(v) Practicing Before Masters in Equity	4/2/2009;
(w) Family Court Judges Conference	4/22/2009;
(x) Justice is the Business of Government: The Critical Role Of Fair & Impartial State Courts	5/7-9/2009;
(y) Annual Chief Magistrates Meeting	6/23/2009;
(z) Annual Judicial Conference	8/19/2009;
(aa) SCWLA/NCAWA Conference & CLE	9/30/2009;
(bb) Annual Free CLE Ethics Seminar	11/6/2009;
<u>2010</u>	
(cc) Lawyer Mentoring Workshop	1/28/2010;
(dd) Family Law Update	1/22/2010;
(ee) Labor Law	1/22/2010;
(ff) Probate & Elder Law	1/21/2010;
(gg) Annual Judicial Conference	8/18/2010;
(hh) Mastering the Game: Skills Law	10/22/2010;
(ii) Mandatory School for Magistrates	11/5/2010;
<u>2011</u>	
(jj) Elder Law	1/20/2011;
(kk) Criminal Law	1/21/2011;
(ll) Family Court Issues	1/21/2011;
(mm) Law Firm Management	1/22/2011;

(nn)	Lawyer Mentoring 2 nd Pilot Program	3/3/2011;
(oo)	Family Court Judges Conference	6/1/2011;
(pp)	Annual Judicial Conference	8/17/2011;
(qq)	USC Law School Nonprofit Organizations Clinic	9/1/2011;
(rr)	How Autopsies are Used in Trials	9/7/2011;
(ss)	Southern Region High Court Conference	9/15-16/2011;
(tt)	Social Security Disability & Children	10/12/2011;
(uu)	Masters-in-Equity 2011	10/14/2011;
(vv)	Women Lawyers and Leadership: Status & Success in a Changed Profession	10/21/2011;
(ww)	Summary Court Judges Fall Program	11/4/2011;
<u>2012</u>		
(xx)	Elder Law Section CLE	1/19/2012;
(yy)	Family Law Section	1/20/2012;
(zz)	Government Law Section	1/20/2012;
(aaa)	Health Care Law Section	1/20/2012;
(bbb)	Probate Planning & Trust Section	1/20/2012;
(ccc)	Family Court Judges Conference	.

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

- (a) I have made presentations at the S.C. Bar “Bridge the Gap” Program for new lawyers giving an overview of the State Court System. I have presented at almost all programs since becoming State Court Administrator in 1998.
- (b) I have provided opening remarks and overview to Summary Court judges during the Orientation School for Summary Court judges twice a year for at least 12 years.
- (c) I was a panelist at the University of Kentucky Law Journal Symposium on Court Funding, 9/23/2011. The topic was 18th Century Courts – 21st Century Expectations. The audience included State Chief Justices, State Court Administrators, attorneys and law professors from across the U.S. and territories.
- (d) I was a presenter at the 2008 Annual Meeting of the Conference of Chief Justices and State Court Administrators during an educational session. The educational session was a mock trial where I presented oral argument on behalf of the state in a hypothetical case related to ethical misconduct. The audience was State Chief Justices and State Court Administrators and other guests.
- (e) I have made numerous presentations at the annual Clerks of Court Association conferences related to court related procedural issues, legislation affecting the courts and other pressing concerns affecting clerks of court and the operation of the courts.
- (f) I was a presenter at the ABA Task Force on Preservation of the Justice System - General Counsel Summit May 2, 2012. The summit included chief legal counsel from America’s leading corporations, Chief Justices and other attorneys.
- (g) I was a presenter at the ABA Symposium titled Justice is the Business of Government: The Critical Role of Fair & Impartial State Courts, 5/7-9/2009. The invitation only national conference was hosted by the ABA Presidential Commission on Fair and Impartial State Courts and the National Center for State Courts. The discussion centered around best practices for improving inter-branch cooperation towards the goal of making the justice system more effective and efficient to meet the needs of the public.
- (h) I was a panelist at the ABA Tort Trial & Insurance Practice Section CLE 5/18/2012 discussing continuity of operations for state courts in the event of a disaster. The audience consisted of attorneys from various states.

- (i) I was a presenter at the Master in Equity CLE discussing background leading to the mortgage foreclosure administrative order issued by the Supreme Court in May 2011 and provided information on recent court procedural changes.

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

(4) Character:

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

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

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Frierson was admitted to the SC Bar in 1992.

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

State Court Administrator, SC Judicial Department; November 1998 - Present

As State Court Administrator, I am responsible for administering the state court system under the direction of the Chief Justice of the SC Supreme Court. My Responsibilities include developing procedures to implement Supreme Court rules, policies and state law affecting state courts. Additional responsibilities include coordinating state judicial functions with county court officials; serving as State contact with the National Center for State Courts; serving as a conduit for information for the management of personnel and operations in support of the functions of the state courts at all levels. Duties include serving as liaison between the Legislative and Judicial Branch relating to the annual appropriation act and legislation affecting the courts. My duties involve managing Court Administration staff including staff attorneys and Judicial Department Court Reporters. As State Court Administrator, my responsibilities include responding to legislative, governmental, media and citizen inquiries. Duties require frequent interaction with governmental agencies such as the Department of Social Services, Department of Juvenile Justice, Probation Parole and Pardon, Department of Corrections, Guardian ad Litem and Foster Care Review Board regarding state court policies and procedures. I assist the media with requests for court related information promoting public accountability and transparency. Duties include making recommendations to the Supreme Court to implement changes in state law and court rules. My office is responsible for providing education and direction to judges, clerks of court and the bar to implement new policies and procedures. This position involves identifying emerging issues that may impact the courts statewide or that may have precedent setting impact and making recommendations to the Supreme Court to address the challenges. On a regular

basis, I am required to exercise judgment and problem resolution skills particularly related to the interpretation of state law and court rules.

Law Clerk to the Honorable Ernest A. Finney, Jr., Chief Justice SC Supreme Court, July 1993 - November 1998

As a Supreme Court law clerk, I researched complex legal issues on appeal to the Supreme Court. I wrote bench memoranda for the court providing legal case analysis and proposed recommendations and opinions in the areas of domestic, civil and criminal law. Because of my earlier experience as a Budget Research Analyst for the House of Representatives, Ways and Means Committee, I assumed the additional duty of monitoring legislative bills that affected the Judicial Branch, as well as the Appropriations Act.

Legal Writing Instructor University of SC School of Law 1998-1999

I taught legal writing to first year law students and was responsible for providing instruction on legal research and legal writing, graded assignments and provided course grades.

Staff Attorney: SC Supreme Court, August 1992 - July 1993

I researched legal issues; prepared screening memoranda and reviewed appellate motions for the Supreme Court Justices.

Summer Associate, Nelson, Mullins, Riley & Scarborough, Columbia, SC, May 1990 - August 1990; May 1991 - August 1991

Researched legal issues and drafted memoranda with emphasis in Workers' Compensation, Bankruptcy and Commercial Law.

Ms. Frierson further reported regarding her experience with the Family Court practice area:

Seeking a nomination for a Family Court Judgeship has been my professional goal and I am confident my keen analytical skills and extensive leadership experience coupled with a diverse legal background provide the essential underpinning to become a successful jurist. This experience is based on my service as a Supreme Court staff attorney and law clerk, State Court Administrator and substantial involvement in family law issues on the local and national level.

As State Court Administrator, I have assisted in the development of Family Court administrative orders issued by the Supreme Court related to the management of the family court docket. Such orders include procedures to monitor family court cases that are older than 365 days; revisions to the Order of Protection from Domestic Abuse; and development of a court coordination protocol to improve efficient management of child abuse and neglect cases that also include criminal charges. I have worked with the DSS Office of Child Support Enforcement in the periodic review of the Child Support Guidelines.

I initiated efforts to receive federal Court Improvement Grant funds to assist S.C. in implementing systematic improvements in the courts handling of child abuse and neglect proceedings. One of the initiatives accomplished with grant funds was the development of a video educational tool for judges to hear directly from foster care youth on the impact of the foster care system to their lives and their desire to be heard by the court. I participated in the National Leadership Summit on the Protection of Children funded largely by the PEW Charitable Trusts. This Summit began the national discussion on the importance of exercising leadership in each state to make child protection a priority. I organized a S.C. team which as a result of our participation led to the planning of two subsequent S.C. Summits bringing the court, Department of Social Services attorneys, child service workers, Guardian ad Litem attorneys and Foster Care agencies together to discuss ways to improve the child protection system at the county and state levels. Also, as a direct result of the National Summit, we recommended that the appellate court amend the Appellate Court Rules to give to expedite termination of parental rights cases.

I have chaired the Courts, Children and Families Committee for the Conference of State Court Administrators for over 5 years and co-chaired the committee for several years prior to that time. Over the years I have been involved in national policy issues such as reviewing federal

legislation and making recommendations on policy positions such as child welfare, child support, domestic violence and elder abuse. I have represented the committee on the Department of State Advisory Committee on Private International Law's Study Group on the 1006 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of parental responsibility and measures for the protection of children. Discussion involved the role of state courts in implementing the provisions and assisting judges in complying with the treaties if ratified. Additionally, the Courts Children and Families Committee is involved in issues including child welfare, adoption, domestic violence, guardianship and elder abuse. I have also served as a liaison to the National Council of Juvenile and Family Court Judges since 2009 and worked on common issues in the family court area. As liaison, I participated in the Work Group of Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges to develop a bench card entitled "Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care." The bench card serves as a checklist for judges to use in preliminary protective hearings.

Over the last year, I have worked with the National Center for State Courts, Conference of Chief Justices and ABA on Language Access issues. I worked as part of a small group to refine the proposed ABA Language Access Standards in the courts to produce a document that was acceptable to state courts. Also, as a result of discussion on Language Access Standards I am a member of the team planning a Language Access Summit for all states to provide best practices to ensure courts are accessible.

As a Supreme Court Law Clerk, I was assigned to Doe v. Clark, an adoption case where the issue on appeal related to whether a mother's consent to relinquish her parental rights before the birth of her child was valid. Gilley v. Gilley, consolidated appeals from circuit and family court orders related to partition of property held as tenants-in-common and claim for equitable apportionment was precluded based on prenuptial agreement.

I am willing to study diligently to compensate for what may be viewed as limited trial experience. I stand ready to complete all requisite and available training for new judges, to fully leverage my ability to serve on the Family Court with distinction.

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

- (a) Federal: 0%;
- (b) State: 0%.

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

- (a) civil:
- (b) criminal:
- (c) domestic
- (d) other:

My service in state government precludes private practice or appearance in court.

Regarding whether Ms. Frierson serves as sole counsel, chief counsel, or associate counsel, she stated, "My service in state government precludes private practice or appearance in court."

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

I provide appellate cases handled as a Supreme Court Law Clerk.

- (a) Thomas v. Grayson, 456 S.E.2d 377 (1995) – Certified question from the U.S. District Court involving determination whether amendment to complaint to assert qualification in S.C. of foreign personal representative would be allowed in an which was otherwise timely.

- (b) Gilley v. Gilley, 488 S.E.2d 310 (1997) - consolidated appeals from circuit and family court orders related to partition of property held as tenants-in-common and claim for equitable apportionment was precluded based on prenuptial agreement.
- (c) Doe v. Clark, 457 S.E.2d 336 (1995) – involved an adoption case where the issue on appeal related to whether a mother’s consent to relinquish her parental rights before the birth of her child was valid.
- (d) State v. Cooney, 463 S.E.2d 597 (1995) – Review of murder conviction and determination whether there was error in not charging on common law of citizen’s arrest and use of reasonable force and exclusion of evidence.
- (e) Gilliam v. Woodside Mills, 461 S.E.2d 818 (1995) – Workers’ Compensation matter regarding degree to which claimant was disabled.

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

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen’s Committee on Judicial Qualification found Ms. Frierson to be “Well qualified” with respect to ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Commission found her to be “Qualified” for experience, physical health, mental stability, and constitutional qualifications. In summary, the Committee noted the following: “Our Committee was very impressed by Ms. Frierson, and we enjoyed our interview with her. She is mature, compassionate, and truly has a heart for the Family Court. Although she may not have trial experience, she has served our state honorably in Court Administration for 14 years. We are certain she would serve our State and the Family Court with wisdom, common sense, and fairness to all. For these reasons, we believe Ms. Frierson is well qualified to serve on the Family Court and we believe she would continue to serve our State in an exemplary manner.”

Ms. Frierson is divorced. She has two children.

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

- (a) SC Women Lawyers Association, President 2007;
- (b) SC Children’s Justice Act Task Force;
- (c) Family Court Bench Bar Committee;
- (d) SC Commission on Alternative Dispute Resolution;
- (e) SC Bar House of Delegates 2010-present;
- (f) ABA State Delegate representing SC Bar 2010-14;
- (g) Richland County Bar Association member 2000–present; Civic Star Award 2002;
- (h) SC Access to Justice Commission 2007 - present;
- (i) American Bar Association member 2008- present;
- (j) Columbia Lawyers Association 2011-present;
- (k) SC Bar Professional Potential Task Force 2008-09;
- (l) SC Legal Services Board of Directors 2007-11;
- (m) President Conference of State Court Administrators 7/2011-8/2012;
- (n) Vice Chair, National Center for State Courts 7/2011 – 8/2012;
- (o) SC Lawyer Magazine Articles Editor 2006 – present;
- (p) Executive Session for State Court Leaders in the 21st Century
Harvard Kennedy School of Government (participation by invitation) 2009 -11;

- (q) Supreme Court Task Force on State Court Elderly 2009 -10;
- (r) Graduate, Midlands Furman Diversity Leadership 2009;
- (s) Graduate S. C. Executive Institute 2004;
- (t) SC Bar Practice and Procedure Committee;
- (u) SC Bar CLE - Seminar Committee.

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

- (a) Richland Memorial Hospital Board of Trustees, member 2008 – present - Secretary 2009-10;
- (b) Palmetto Health Board of Directors 2010 – present;
- (c) Columbia Alumnae Chapter of Delta Sigma Theta Sorority, Inc.,
- President 2007–11
- Parliamentarian 2003–07;
- (d) St. Martin de Porres Catholic Church, collection counter 2007 - present;
- (e) St. Martin de Porres Catholic Church, Lector (Lay Reader) 2005 - present;
- (f) St. Martin de Porres Catholic Church, Women’s Gospel Choir 2008-10;
- (g) Rosary Altar Society, Parliamentarian 2011-12.

Ms. Frierson further reported:

I have worked as an attorney during my 20 year legal career in what may be viewed as a less conventional path. I have worked with practicing attorneys and was married to an attorney for many years who practiced in domestic law. I have seen the practicing side of an attorney from that secondary view. I believe that I have the skills required of a judge. Over my years of service as a Court Administrator, I have worked on educational programs for family court judges. Through my close working relationship with family court judges, I understand what is involved with service as a family court judge. I believe that my experiences are valuable training for the bench. I acknowledge that there are areas that I will have to educate myself on and I am willing to spend the time to enhance my skills. I believe that my varied background gives me a well rounded perspective. My unique experience gives me an in depth understanding and vision of the family court system.

Additionally, my many experiences as a presiding officer of professional and civic organizations have allowed me to perfect my analytical, communication, organization and problem solving skills. All of these skills would be beneficial to presiding as a judge. On a personal level, I have always believed in fairness, and treating others fairly. I have always been a peacemaker and a problem solver.

I believe in treating people with respect and without bias. I believe that my ability to listen to all sides, along with my patience, passion for justice and fairness are all essential attributes for service as a judge. I have established a professional reputation built on integrity, exceptional intellect and judgment, as evident by the letters of recommendation. I am confident these essential attributes will directly support my qualification as a Family Court Judge.

(11) Commission Members’ Comments:

The Commission commented on Ms. Frierson’s impressive experience as Director of Court Administration and noted her breadth of experience, although not traditional, as it relates to her administration of the Family Court.

(12) Conclusion:

The Commission found Ms. Frierson qualified and nominated her for election to the Family Court.

**Mary Jane Goodwin
Family Court, At-Large, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Ms. Goodwin was born in 1965. She is 47 years old and a resident of Anderson, SC. Ms. Goodwin 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 1991.

(2) Ethical Fitness:

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

Ms. Goodwin 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. Goodwin reported that she has made campaign expenditures of \$178.00 for introduction cards and \$135.00 for postage.

Ms. Goodwin 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) The ABC's of Social Security	08/25/2006;
(b) Family Court Bench/Bar	12/07/2007;
(c) Best of Family Law Hot Tips	02/09/2008;
(d) Defending Abuse & Neglect Cases in SC	02/11/2008;
(e) 2008 Public Defender's Conference	09/29/2008;
(f) 2009 Public Defender's Conference	09/28/2009;
(g) Search Engine Marketing for Law Firms	10/11/2009;
(h) The Virtual Law Office	03/01/2010;
(i) SC Traffic Law	09/15/2010;
(j) 2010 Guardian ad Litem Training & Update	01/29/2010;
(k) 2011 Guardian ad Litem Training & Update	01/28/2011;

- (l) 2011 Children’s Law Conference 11/04/2011;
- (m) 2012 GAL Training & Update 01/27/2012;
- (n) A Tricycle, a Marathon, Ethics, Stress Management and Your Mom’s Car 02/04/2012.

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

- (a) I lectured at the 2010 Guardian ad Litem Training & Update. This was my first time presenting at a CLE. I spoke on “What I Think a Guardian ad Litem Should Do.” I received a high rating for my presentation.
- (b) I lectured at the 2011 Guardian ad Litem Training & Update. My topic was “Writing Guardian ad Litem Report”. I received a 3.4 of 4 on my presentation and a 3.3 of 4 on my written materials.
- (c) I lectured at the 2012 Guardian ad Litem Training & Update. My topic was “Interviewing Children”. I received the second highest rating. My score was 3.7 out of 4.
- (d) I taught the Family Law portion of the paralegal course for the American Institute of Paralegal Studies in Greenville, SC, from October 1994-January 1995. My curriculum covered all aspects of what a paralegal needs to know, including but not limited to drafting pleadings and financial declarations, and basic substantive legal knowledge such as grounds for divorce and matters to be considered in custody cases.
- (e) I was a guest speaker at the American Horse Protection Association, Inc. seminar given in April 1994. My presentation involved the law of search and seizure as it applies to law enforcement and animal protection volunteers.
- (f) I taught the “Legals” section of the SLED Security Officer Training Course, Level I, at Tri County Technical College in Pendleton, SC, from October 1991-September 1994. This course covered the law of arrest and the law of search and seizure.

Ms. Goodwin reported that she has published the following:

- (a) “Homicide” published in SC’s Legal Encyclopedia, Jurisprudence. Volume 23, pages 184-215;
- (b) Recurring column “Legal Pad” in the online newspaper “The Anderson Observer” www.andersonobserver.com; November 24, 2009-present.

(4) Character:

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

The Commission also noted that Ms. Goodwin 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. Goodwin reported that her rating by a legal rating organization, Martindale-Hubbell, is B.V. Distinguished, 4.4 out of 5.

(6) Physical Health:

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

(7) Mental Stability:
Ms. Goodwin appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:
Ms. Goodwin was admitted to the SC Bar in 1991.

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

- (a) Immediately after graduation from USC Law School in 1991, I clerked for Jack Swerling in Columbia, SC, while studying for the bar exam. I worked with Mr. Swerling preparing criminal defense cases for a wide variety of criminal defense clients. My work included legal research, preparation of exhibits for court, jail visits with clients and attendance at hearings with Mr. Swerling.
- (b) I began employment with the Tenth Judicial Circuit Solicitor's Office in July 1991. I was an Assistant Solicitor from July 1991-September 1994. I was initially assigned to handle Family Court matters, which at the time included both prosecution of Department of Juvenile Justice cases and handling Department of Social Services Cases. The most serious juvenile cases I prosecuted were murder cases. I later also handled General Sessions prosecutions, including cases involving DUI, Criminal Domestic Violence and Criminal Sexual Conduct and Child Abuse Cases.
- (c) On September 19, 1994, I opened my firm: M. J. Goodwin, Attorney at Law. My initial focus was on Family Court matters. I took in a great deal of Guardian ad Litem work. I also did adoptions, divorces, custody cases, separation cases, DSS defense and various General Sessions and Magistrates Court cases. I have handled a few Common Pleas cases. My practice has encompassed a wide variety of cases and clients: from homeless people to millionaires. I have handled simple matters and very complex cases. The most serious crimes I have defended are criminal sexual conduct with minors, armed robbery and murder.
- (d) On January 1, 1996, I began a part-time contract as the City Prosecutor for the City of Anderson, SC. I continue this contract. For three days each month, I prosecute Municipal level cases of CDV, DUI, shoplifting, simple possession of marijuana and other similar cases in which the defendants have requested jury trials. I also handle all appeals from the Municipal Court to the Court of Common Pleas. A term of Municipal Court can often handle as many as 100 charges over a three day term. This job has taught me to work efficiently and effectively.
- (e) In March 2008, I began a part-time contract with the SC Department of Social Services. I continue this contract. I average 15-20 hours per week with DSS. I handle a variety of their cases, including Termination of Parental Rights Hearings, Merits/Removal Hearings, Emergency Protective Custody Hearings and Vulnerable Adult Hearings.
- (f) In February 2012, I took on another attorney and founded Goodwin & Pruette, Attorneys at Law, LLC. My partner in my firm is Todd Pruette. My firm continues to focus on Family Law and Criminal Defense cases. We do not handle cases involving DSS or the City of Anderson. The character of the practice remains the same as that stated in item (c) above.

Ms. Goodwin further reported regarding her experience with the Family Court practice area:

Divorce:

I have handled a wide variety of divorces, from uncontested divorces to very complex divorces with a wide variety of issues, from more typical issues such as adultery or physical cruelty, to more unusual situations such as bigamy, "swinger" lifestyles, homosexuality, criminal behavior,

and serious mental health issues. My clients have come from all walks of life. I have handled a lot of divorces involving domestic violence issues.

Equitable Division of Property:

My cases have included clients with substantial assets as well as clients who need to file bankruptcy and essentially had only debt to divide. Some of the more difficult cases are those in which the parties have only debt to divide and one party does not want to file bankruptcy.

Child Custody:

The bulk of my work in family court has encompassed child custody cases. Many of these cases are very contentious and hotly contested. I have had the honor and privilege of serving as Guardian ad Litem in over 1,000 cases. I know well the toll that the family court process takes on children. Whether serving as counsel or Guardian ad Litem, I make every effort to minimize the impact of the legal proceedings on the children.

Adoption:

Adoptions are the most wonderful part of Family Court. I have been privileged to handle many adoptions, both step-parent and “stranger” adoption over the years. I have handled both uncontested and contested adoptions.

Abuse and Neglect:

I began my career as an Assistant Solicitor handling DSS cases in 1991. Once I opened my firm in 1994, I took in DSS defense cases, both as a retained attorney and as an appointed attorney. In 2008, I began a contract with DSS to handle a portion of their caseload on a part-time basis. I have handled EPC hearings, merits hearings, non-emergency removals, interventions, TPR case and vulnerable adult cases. I have also handled appeals from DSS cases. I have a very good understanding of the inner workings of DSS cases.

Juvenile Justice:

Juvenile Justice/DJJ cases were a huge part of my job as an assistant solicitor. I prosecuted all sorts of juvenile crimes, including murder cases. I was involved in the DJJ staffing process and in determining if there were other options more appropriate for the rehabilitation of the juvenile than sending the juvenile defendant to a DJJ facility.

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

- (a) Federal: 0;
- (b) State: weekly, often daily appearances in state court, especially Family Court. It is not unusual for me to have several Family Court hearings in one day.

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

- (a) civil: 2.52%;
- (b) criminal: 8.22%;
- (c) domestic: 83.86%;
- (d) other: 5.4%.

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

- (a) jury: 1*;
- (b) non-jury: 25 (approx)**.

*I have not included City Court jury trials in this number. I have only included General Sessions trials. City Court jury trials occur monthly and I usually have at least 3 jury trials per month.

**This statistic is from my memory and my best estimate. These are Family Court trials.

Ms. Goodwin provided that she most often serves as chief counsel or guardian ad litem in these trials.

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

- (a) Fisher v. Tucker, 697 S.E.2d 548, 388 S.C. 388 (SC 2010); legal father v. biological father in the context of a reconciled marriage. This case went to the SC Supreme Court. I was the Guardian ad Litem for the two children born from the extramarital affair;
- (b) DSS v. Michael Davis; TPR action. Appeal is pending. Father had serious criminal charges pending and had been determined incompetent to stand trial on those charges due to his mental retardation;
- (c) Sate v. Terrance Goss; armed robbery trial. All evidence was circumstantial and included statements of gang members;
- (d) Jennifer Campbell v. Leroy Campbell; change of custody trial. Primary evidence was based on the child's preferences and the fact that the father had married a woman only a few years older than the child;
- (e) DSS v. Sherri D., et al; 2010-UP-178 (Ct. Appeals). DSS case involving excessive corporal punishment.

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

- (a) DSS v. Sherri D., et. Al; 2010-UP-178 (Ct. Appeals);
- (b) DSS v. Michael Davis (pending);
- (c) Fisher v. Tucker, 697 S.E.2d 548, 388 S.C. 388 (SC 2010); as Guardian ad Litem.

Ms. Goodwin reported the following regarding criminal appeals:

I have not handled any criminal appeals as a defense attorney. I do handle appeals that go from Municipal Court to the Court of Common Pleas. None of the appeals are significant.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Ms. Goodwin "Qualified" in each of the nine evaluative criteria of constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. In summary, the Committee stated that "[i]n the community interviews and investigations conducted by the Committee, questions were raised regarding her work ethics, scheduling, and timely paperwork. The questions were raised with Ms. Goodwin. Some of her answers conflicted with the community interviews."

Ms. Goodwin is married to Thomas Christopher Goodwin. She has one child.

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

- (a) SC Bar Association;
- (b) American Bar Association;
- (c) Anderson County Bar Association.

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

- (a) Carolina Marsh Tacky Association; Board Member; elected 2011;
- (b) Daughters of the American Revolution; Cateechee Chapter;
- (c) St. John's United Methodist Church, Anderson, SC.

Ms. Goodwin further reported:

All human beings are a total of their experiences and their reactions, both intellectual and emotional, to those experiences. We look upon life through the lens of our own past. To that extent, my life experiences most certainly impact the type of Family Court Judge I plan to be. I think my relevant life experiences can be divided into two parts: my parents' lessons and my husband and sons' lessons.

I have been very fortunate in life. This is a fact I do not take for granted. I come from a loving home, with parents who set good examples and who were married for 48 years, until my mother's death in November 2011. My mother was an educator at Converse College in Spartanburg, SC, for 40 years, working first as a biology professor and then as Dean of Arts and Sciences. My father's career spanned 30 years. He first served in the US Army, then worked for the SC Welfare Department and for the SC Department of Vocational Rehabilitation until his retirement. Both of my parents instilled in me a strong work ethic and a desire to succeed, while encouraging me toward the service of others. Much of what my parents have taught me over the years and what my father continues to teach me as an adult child, will be of great help to me as a Family Court Judge. My parents taught me personal responsibility and its importance in living a happy, meaningful life. As a Judge, I will be called upon to make tough decisions affecting the most fundamental part of the lives of my fellow humans: the family. My life lessons in the importance of personal responsibility will serve me well as a Family Court Judge.

As a pre-teen, during part of an everyday conversation, I asked my father what job he wanted me to take when I was grown up. Without really thinking about it or giving consideration to his answer, my father said that it did not matter what job I chose, as long as the job would allow me to take care of myself without reliance on anyone else. As a pre-teen, I simply shrugged off that answer. However, as I have practiced family law over the past 20 years, I have come to realize what my father meant and how important his words were. My father didn't have to think about his answer because of his years at Welfare and Vocational Rehabilitation. He knew firsthand what a monumental problem it is for person not to be financially self-reliant. That person lacks freedom. That person may stay stuck in an unpleasant or even violent relationship due to a lack of financial self-reliance. That person cannot give their child what the child needs due to lack of financial self-reliance. My father's wisdom will follow me to the bench.

Throughout my childhood and teenage years, my mother repeatedly stated "Mary Jane, you are responsible for the consequences of your actions." Of course as a teenager, I paid little heed to how important that lesson is. But my mother's words were wise indeed. Each and every day, every person makes a myriad of choices that affect not only that person's own life, but the entire family's life. In making our choices, we are governed by laws and personal morality and hopefully at least a little common sense. Being responsible for the consequences of one's actions is the best blue print for how to live life.

My parents' gift to me of understanding the importance of personal responsibility will serve me well if I am elected to the Family Court Bench. Rulings often require a litigant to take personal responsibility, even if the litigant is not willing to do so. This is the power of the Family Court in making situations better for families and especially for children.

In 1991, I married my best friend, Chris. I met my husband at Shandon United Methodist Church. I have learned a lot being married to Chris. Most important to a successful marriage are patience, compromise, communication, respect, and love. I have been fortunate that Chris and I agree on the big issues. If that is the case, then most potential arguments in a relationship are eliminated. For example, there is not ever an argument in our household as to whether we should

pay our mortgage payment or go gambling in Las Vegas. Our financial obligations come first. Other little arguments, such as exist in all human relationships, are resolved with compromise and love and respect for one another. I believe that the ability to be patient and to see the potential for meaningful, mutually beneficial compromise is an important core ability for a Family Court Judge. Communication of the Court's decisions and respect for everyone before the Court are equally important.

Chris and I became parents in 1999 with the birth of our son, Thomas. Parenting is an awesome adventure all its own. We have been successful on that challenging front as well, using communication, compromise, patience, respect and love. Parenting and custody issues are at the heart of the Family Court. A child is a gift, not an object. Family Court Judges are often called upon to make decisions by parties who have taken polar opposite positions in regard to their children. A Judge must realize that children are gifts of a chance to raise and mold another human being. A child is not an object to be won or lost.

My husband's and son's gifts to me of understanding the importance of patience, respect, compromise and communication, as well as the gift of parenthood, will serve me well if I am elected to the Family Court Bench.

While I have been fortunate, I have also worked very hard. I have studied the law and applied my reasoning and common sense to the cases that I have handled. I have obtained good results for my clients in most cases. If a good result is not possible in my opinion, due to the facts and evidence against my client, I counsel my client toward a compromise resolution. I encourage my clients to be self-sufficient and to be responsible for the consequences of their actions. I encourage them to see the blessings in their own lives, even if the blessings are not apparent on the face of the Court's order.

If I am fortunate enough to be elected to the Family Court Bench, I intend to run my courtroom as I have endeavored to run my life: with respect for others, with respect for the law, with respect for the physical, emotional, spiritual and moral welfare of children and with a great deal of common sense. I intend to issue rulings that comply with the law and that are in the best interest of the children that are before me, while supporting the parties' efforts to start over in a new life in which they care for themselves and are also responsible for the consequences of their actions.

(11) Commission Members' Comments:

The Commission commented on Ms. Goodwin's well-rounded experience in family law, including service as a guardian ad Litem, which would assist her on the Family Court bench.

(12) Conclusion:

The Commission found Ms. Goodwin qualified and nominated her for election to the Family Court.

**Kelly Pope
Family Court, At-Large, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Ms. Pope was born in 1973. She is 39 years old and a resident of Lyman, SC. Ms. Pope 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 2001.

(2) Ethical Fitness:

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

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

Ms. Pope 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SCTLA Auto Torts XXX	11-30-2007;
(b) SCTLA Auto Torts XXX	12-01-2007;
(c) AAJ Litigating Nursing Home Cases	06-05-2008;
(d) AAJ Litigating Nursing Home Cases	06-06-2008;
(e) AAJ Litigating Nursing Home Cases	06-07-2008;
(f) SCAJ Annual Convention	08-07-2008;
(g) SCAJ Annual Convention	08-07-2008;
(h) What Civil Court Judges Want You to Know	09-19-2008;
(i) SCAJ Annual Convention	08-06-2009;
(j) SCAJ Annual Convention	08-07-2009;
(k) SC Adoption Law	10-29-2010;
(l) Applying the Rules of Evidence	12-14-2011;
(m) What Family Court Judges Want You to Know	02-16-2012.

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

- (a) I made a presentation at the CLE "Applying the Rules of Evidence: What Every Attorney Needs to Know" on December 14, 2011. The CLE was hosted by NBI;
- (b) I made a presentation at the CLE "Plaintiff's Personal Injury from Start to Finish" on January 28, 2010. The CLE was hosted by NBI;
- (c) In the fall of 2010, I wrote and presented a program to the SC Upstate Paralegal Association that dealt with the most effective use of evidence at trial;

- (d) I made a presentation at the CLE “Obtaining the Best Settlement for Personal Injury Clients” on January 22, 2008. The CLE was hosted by NBI.

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

(4) Character:

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

The Commission also noted that Ms. Pope 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. Pope reported that her rating by a legal rating organization, Martindale-Hubbell, is BV Distinguished.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Pope was admitted to the SC Bar in 2001.

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

Cunningham & Associates, Tega Cay, SC –

I worked for Kevin Cunningham as an associate from August 2001 to April 2002. My practice primarily focused on family law matters ranging from uncontested divorce to child custody cases. I also handled some small criminal matters as well as personal injury matters representing both plaintiffs and defendants. I handled all of the firms DSS court appointed matters ranging from Guardian Ad Litem work to defending parents on custody and TPR issues.

Cobourn & Saleeby, Spartanburg, SC –

I was an associate with Cobourn & Saleeby from approximately May 2002 to November 2003. The primary focus of the firm was and continues to be plaintiff personal injury work. While an attorney with the firm, I handled all SC litigation except for worker’s compensation and social security disability. Cases ranged from simple motor vehicle collisions to wrongful death and third-party worker’s compensation claims. I handled most of the firm’s DSS court appointed matters ranging from vulnerable adult issues to child custody and TPR cases.

Christian and Davis, Greenville, SC –

I was an associate with Christian and Davis from November 2003 to October 2005. The firm focuses on plaintiff personal injury matters. While an associate with the firm I handled simple to complex motor vehicle collisions, tractor trailer collisions, medical malpractice, wrongful death, breach of contract and bad faith case

Babb and Brown, Greenville, SC –

I was an associate with Babb and Brown from October 2005 to September 2007. The firm primarily focuses on real estate issues. However, I handled all of the litigation for the firm, which

included family law, personal injury, construction law, insurance law and homeowner association law. I worked in a variety of courts. The family law work included contested and uncontested matters. The cases involved matters of equitable division, alimony, child support and child custody. The personal injury matters ranged from simple motor vehicle collisions to complex medical malpractice/wrongful death cases. The firm also represented several residential homebuilders and I handled all of the litigation concerning these homebuilders that was not covered by insurance. I also represented homeowners in cases against builders alleging defective construction. The firm represented several area homeowners associations. The by-laws and restrictive covenants of the communities would be reviewed and I would provide legal advice on situations presented by the board of the homeowners associations. In addition, I would litigate any matters wherein the homeowners associations were named as plaintiffs or defendants in actions.

Mooneyham Berry & Pope, LLC, Greenville, SC –

In October 2007 the law firm of Mooneyham Flowers Berry & Karow, LLC was formed. In August 2008, David Flowers left the practice and the law firm became Mooneyham Berry & Karow, LLC. Following my divorce in May 2011, I resumed my maiden name and the law firm became Mooneyham Berry & Pope, LLC. Our firm represents client throughout the state of SC. My practice consists of civil, family law and criminal defense work. I continue to work in a variety of courts.”

Ms. Pope further reported regarding her experience with the Family Court practice area:

Divorce and Equitable Division of Property

I have been practicing for 11 years with a portion of my practice being dedicated to family law matters for most of my years in practice. I have handled numerous contested and uncontested divorces. I have litigated divorces involving issues of adultery, habitual drunkenness, physical abuse, alimony and division of marital property. The marital estates have ranged from very small in economic value to estates with a very high value including numerous real estate properties, retirement and money market accounts. I have handled divorce cases in Spartanburg, Greenville, York and Pickens Counties.

Child Custody

I have handled child custody cases that involved simple issues to litigate to more complex cases involving allegations of abuse and neglect. Some of these litigated cases have involved court appointments to represent parents or grandparents in DSS actions.

Adoption

I have handled DSS adoptions for foster parents. One I recently handled dealt with a young child that was born in Honduras, which presented immigration issues. I am currently handling another adoption case for a foster parent in a DSS action where we have filed a counterclaim against DSS and a cross-claim against the birth parents for TPR and to move forward with adoption of the minor child by my client.

Abuse and Neglect

My experience with abuse and neglect cases actually started prior to my becoming an attorney. Prior to attending law school I worked for the Foothills Rape Crisis Center and Safe Harbor Domestic Abuse Shelter. My work for these agencies focused primarily on children who were victims of abuse and neglect. During my legal career I have handled court appointed DSS cases involving issues of abuse and neglect. In my civil work I represent victims of all ages that have been victims of sexual abuse.

Juvenile Justice

This would an area of family practice in which I have very limited experience. While working for the Foothills Rape Crisis Center and Safe Harbor Domestic Abuse Shelter some of the juveniles were dealing with criminal issues and those were addressed in their counseling. In addition, some

of the juveniles that have been a part of the DSS cases I have been involved with have faced criminal prosecution, but I did not represent them on the criminal matters.”

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

- (a) Federal: none;
- (b) State: bi-weekly.

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

- (a) Civil: 55%;
- (b) Criminal: 10%;
- (c) Domestic: 30%;
- (d) Other: 5%.

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

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

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

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

- (a) Hilliard v. Mitchell Contractors, Inc. f/k/a Mitchell Contractors Interiors, Inc. and Parkway Plaza, LLC, 2006-CP-23-6203

This was a case involving a young lady that was sexually assaulted at work. The case involved claims of negligent hire, negligent supervision, negligent retention and negligent security. After an extensive discovery phase, the case was settled prior to trial. This case was significant because it brought to light deficiencies in the security and hiring procedures of the defendants. It also provided an avenue for my client, the plaintiff, to begin the healing process by knowing her courage to pursue the case resulted in possible changes to company policies of the defendants. The case also gave the plaintiff the financial means to continue therapy to deal with the emotional aftermath of the sexually assault.

- (b) Adoptive Parents v. SCDSS, et al

This was a Spartanburg Family Court case where I represented foster parents in an action to terminate the parental rights of the birth parents and move for adoption. The child had been with the foster parents since 2009 when I filed the action for termination and adoption in 2011. This case was recently finalized with the adoption of the child by the foster parents. We were also able to finalize a second adoption for this foster family at the same hearing. The second adoption dealt with complicated immigration issues as the minor child had been born in Honduras. These cases are significant because it brought closure for the foster family in the form of adoptions and gave security to the minor children.

- (c) Gilliard v. City of Greenville, et al, W.C.C. File No.: 0627382.

This was a worker’s compensation case for a deceased City of Greenville police officer. The police officer became very sick while working for the City of Greenville. A worker’s compensation claim was filed, but during the litigation of the case the plaintiff died due to complications from his illness. His wife decided to continue with case on behalf of her deceased husband. The issue in the case was whether Mr. Gilliard contracted an occupational disease during his time as a police officer with the City of Greenville and

did that disease cause his death. At the initial hearing the plaintiff prevailed. However, that decision was overturned by the Worker's Compensation Commission. On behalf of the plaintiff, the WCC decision has been appealed. Even though the matter is pending, the case is significant not only because of the complexity of occupational disease cases, but Mrs. Gilliard's strength following the death of her husband has been inspiring.

(d) Doe v. Harper, 2008-CP-37-111

This was a repressed memory sexual assault case. I represented the plaintiff, who was a female in her late twenties. The complexity of the repressed memory issue made this case significant. It was also important because the outcome relieved insecurities the plaintiff had with herself and it also provided her with financial means to continue with therapy related to the sexual abuse. However, the plaintiff had an emotionally troubled past that affected her choices in life as she got older. This case reminded me that a successful outcome in a case does not always provide closure for clients. On many occasions I have thought about this client and hope that she has found some form of inner peace.

(e) Ten years ago I tried my first case. It was a car wreck case with disputed liability and damages. The case was tried in Cherokee County and I represented the plaintiff. The defendant was represented by a prominent and very experienced defense attorney from Spartanburg. I cannot remember the case caption, but what I do remember is that I lost the trial. This case is significant to me because I learned there are many things law school can prepare you for and many things it cannot.

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

Gilliard v. City of Greenville, et al, W.C.C. File No.: 0627382. Case is currently on appeal. The appeal is being handled by my partner, Joe Mooneyham, and myself.

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

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizens Committee found Ms. Pope to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Ms. Pope is divorced. She has one child.

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

- (a) SC Bar Association;
- (b) SC Association of Justice;
- (c) SC Women Lawyers Association – Member and Greenville Representative 2005-07;
- (d) American Trial Lawyers Association – Member and NLD Board of Governors 2007-08.

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

- (a) Inman First Baptist Church;
- (b) Spartanburg First Steps – Board Member;
- (c) Paws to the Rescue - volunteer;
- (d) Queen for a Day - volunteer;

(e) Zeta Tau Alpha.

Ms. Pope further reported:

In seventh grade I tried out for the basketball team where I attended school. I thought it would be fun. At the time I did not realize the hard work and dedication it would take to be a part of the team. Two weeks into practices I wanted to quit the team. I begged, pleaded and at times had the awful attitude that kids that age can have when they do not get their way. My parents would not let me quit the team. If I started something, it was my responsibility to finish it. I ended up loving not only basketball, but volleyball too and used that passion as a tool to help pay for college. My parents taught me that if you make a commitment, you keep it and work hard at it. They taught me to take responsibility for my actions. I remember at times my parents working two jobs because that was what had to be done. I have a strong work ethic and an attitude of determination as a result of lessons I learned from my parents.

My lesson in compassion began with volunteering. My passion as an advocate for victims began in college when I became a volunteer for SAFE Homes Domestic Abuse Shelter and Rape Crisis Center and The Children's Shelter in Spartanburg. I later expanded my volunteer work into other counties and other organizations. The experience I gained as a volunteer lead to my job with the Foothills Rape Crisis Center and later with the Safe Harbor Domestic Violence Shelter.

My work at these organizations was filled with humbling and life changing experiences. While at Safe Harbor, the organization did not have the funds to support a separate staff office space from the shelter. Therefore, our offices were in the shelter. At times that situation made it difficult to work because of the distractions, but it also allowed us to provide immediate support to the women and children staying at the shelter. I remember getting a call at home one night from the 24 hour shelter staff because one of the children I worked with was having a difficult time adjusting to being in the shelter. I drove back to the shelter and stayed with the child until he fell asleep. There were times when difficult and painful decisions had to be made in order to protect children. Unfortunately there were decisions made by mothers that put their children in dangerous situations and appropriate agencies had to be contacted.

The children I worked with taught me the value of life. I witnessed those children at one of the most painful points in their lives and most still found strength and courage to want to trust and love again. They were inspiring.

During my legal career I have continued my work as a child and victim advocate. I represent victims of sexual abuse in the civil arena in an attempt to recover for past and future therapy expenses. I assist foster parents in DSS actions as they pursue adoption of children, who are victims of abuse and neglect. My goal has always been and will always be to protect children.

(11) Commission Members' Comments:

The Commission commented that Ms. Pope has an excellent temperament and a wide range of experience with family law and other types of litigation, which would be an asset for a Family Court judge.

(12) Conclusion:

The Commission found Ms. Pope qualified and nominated her for election to the Family Court.

Tony Miller Jones
Family Court, At-Large, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Jones was born in 1958. He is 54 years old and a resident of Rock Hill, SC. Mr. Jones 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 Mr. Jones.

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

Mr. Jones 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.

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

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

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Hot Tips from the Coolest Domestic	09/21/07;
(b) What's New in the World of	10/30/07;
(c) Family Court Bench/Bar	12/07/07;
(d) Hot Tips from the Coolest Domestic	09/19/08;
(e) 2008 SC Family Court Bench/Bar	12/05/08;
(f) Federal & State Securities Enforcement	12/09/08;
(g) 2009 Hot Tips from the Coolest Domestic	09/18/09;
(h) Introduction to Court Annexed	11/20/09;
(i) 2009 SC Family	12/04/09;
(j) Guardian ad Litem update	01/29/10;
(k) Ethics	03/12/10;
(l) 2010 Hot Tips from the Coolest Domestic	10/01/10;
(m) 20/20: An Optimal View of 2010	02/11/11.

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

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

(4) Character:

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

The Commission also noted that Mr. Jones 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. Jones reported that his previous rating by a legal rating organization, Martindale-Hubbell, was BV, the last time he was listed by this organization in the 1990s. He stated, "when I was with the law firm of Elrod, Jones, Leader, and Benton, we made the collective decision to discontinue our listing and focus more on an Internet web page. We felt that the web page gave us more exposure, given the advancement in technology."

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Jones was admitted to the SC Bar in 1983.

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

Upon graduation from law school in 1983 I was employed with Luther C. Elrod, III, a sole practitioner. Mr. Elrod practiced primarily in the area of Worker's Compensation and civil litigation. I was hired to expand the scope of the practice. Within several years, I was made a partner and the name of the law firm changed to Elrod and Jones. In 1989 Jack G. Leader joined the firm and the name of the firm was changed to Elrod, Jones and Leader. In 1990 or 1991 David Benson joined the firm and the firm was shortly thereafter became known as Elrod, Jones, Leader and Benson. In 2001 Harold Staley, Jr. was hired as an associate. In 2006 I left the firm and became a solo practitioner.

Upon passing the bar my practice focused on family law, social security, civil litigation and to a lesser extent criminal law. Within a few years the domestic practice began to grow and slowly the other areas were eliminated. By 1988 I was practicing family law and social security disability law almost exclusively. The family law practice made up 80-85% of my practice at that time. In the early 1990's Jack Leader began handling all of the social security for our firm and I began handling Family Court law exclusively.

Mr. Jones further reported regarding his experience with the Family Court practice area:

I have an extensive amount of experience in the areas of divorce, equitable division of property, alimony, child abuse, abuse and neglect, and to a lesser extent adoption and juvenile cases. For the past five (5) years, I have averaged almost 200 Court appearances per year in Family Court. In my career I have handled well over 2,000 domestic cases. I have been involved in extremely contested cases involving fault grounds of divorce.

Quite a number of my cases concern equitable division of property. I have extensive experience in handling cases where I have to deal with the character of the property whether it be marital or non-marital, and whether or not transmutation had taken place. I have been involved in cases where I had to go through a great deal of discovery to uncover hidden assets and utilize the services of expert witnesses to delve into tax returns and financial records to locate assets that were not identified by the adverse party.

I have tried a number of cases involving alimony. As alimony is within the sound discretion of the trial court, it can be a complicated matter. I tried the case of Croom vs. Croom # 305 S.C. 158 (Ct. App. 1991) where we sought to terminate alimony based upon post divorce misconduct. While the relief we sought was denied by the Court of Appeals, the case itself was a factor in the legislature passing Section 20-3-150, SC Code of Laws, 1976 as amended.

I have been involved in quite a number of child custody cases. A number of domestic cases will start out with child custody as an issue, but frequently settled once a Guardian ad Litem becomes involved, and, in particular, psychological evaluations are preformed. However, there are times when cases do not settle and I have a considerable amount of experience in hotly contested child custody cases. I tried the case of Lee v. Lee in 1991 against Jim McLaren and Brooks Goldsmith and the trial ran for five (5) days. The case involved psychologists, psychological evaluations, etc. The case did not involve any major issue of equitable division, but rather, only child custody.

I have handled a great number of abuse and neglect cases whether I was retained or appointed. I have also assisted other lawyers who are not experienced in the area of Family Court who have been appointed to complicated abuse and neglect cases. It seems I always have several of these cases going on and given the fact that I am on the appointment list, a steady stream of them come into my office. Although, now that I have hired an associate attorney, he handles most of the appointed abuse and neglect cases since coming with my firm in 2010.

My experience in adoption and juvenile cases is not quite as extensive as the other areas of family law. While I have handled a number of intra family adoptions over the years, my experience with newborn adoptions is more limited. That is a specialized area that only a few attorneys in my county practice on a regular basis. However, I am familiar with the statutory procedures and would be able to handle such matters as they came before me, given my familiarity with the system and the law of Family Court in general.

The same is true in juvenile justice matters. While I have handled a number of cases over the years, I do not do so on a routine basis. Here again, I am familiar with the body of law insofar as juvenile justice is concerned and am aware of the procedures handling these matters. My background in the overall system of Family Court and familiarity with the body of law and procedures as a whole will enable me to handle these matters without any issue.

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

- (a) Federal: Zero;
- (b) State: I have averaged approximately two hundred Court appearances per year over the past five years in the Family Court.

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

- (a) Civil: 0%;

- (b) Criminal: 0%;
- (c) Domestic: 100%.

Mr. Jones reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100% (Family Court).

Mr. Jones provided that he most often served as sole or chief counsel.

The following is Mr. Jones' account of his five most significant litigated matters:

- (a) Croom v. Croom # 305 S.C. 158 (Ct. App. 1991).
In this case, an ex-wife lived with a paramour and supported him, at least in part, with her alimony payments. Evidence was submitted at the Trial Court which indicated they decided not to marry so she could continue to receive her alimony. Had the wife lived with her paramour prior to the divorce, alimony would have been barred due to her misconduct. The case was significant because, under SC law at that time, there was no provision to terminate alimony where an ex-spouse lived with a partner and elected not to remarry because it would terminate her alimony payment. The Court of Appeals decided the case on other grounds, as the parties had entered into an agreement which provided that alimony could be modified only by a written agreement of the parties. However, the Court indicated that, if such an agreement had not been in place the decision may have been different. This case gave rise to the passage of the alimony statute which provided cohabitation for a period of ninety (90) days shall result in termination of one's alimony. This is found in Section 20-3-150, SC Code of Laws, 1976 as amended.
- (b) Panas v. Panas # 03-DR-46-165
In this case, I represented the wife. The husband was involved in a number of business enterprises, most of which involved "sweepstakes" contests. It was basically a scam and the various business enterprises were, and currently are, under federal investigation. The case involved issues relating to the divorce. The wife sought a divorce on the grounds of adultery, physical cruelty and habitual intoxication. Ultimately, she was awarded a divorce on all of those grounds. The issue of alimony was difficult because the husband did not comply with the discovery and the issue of his income was decided on the basis of the lifestyle that the parties had enjoyed during the marriage, as there was little evidence to complete document his income. His financial declaration claimed income that barely met his support obligations under the Temporary Order yet he continued to enjoy a lavish lifestyle of his own. The parties had two children. The wife was awarded \$4,000.00 per month in support and \$7,500.00 per month in alimony. For purposes of equitable division, the husband did not fully disclose his assets. The wife was ultimately awarded \$2,062,872.00 for her equitable division of property. The Court had to speculate to some degree as to the value of the marital estate due to husband's failure to disclose assets. His failure to disclose assets was determined by an investigation of his financial records which listed ownership in various enterprises for which the records were not produced. It was an extremely complicated case which touched on the issues of alimony, equitable division of property, grounds for divorce, etc. After the divorce, the husband filed an appeal. He then fled the country to avoid criminal prosecution. During the pendency of the appeal a Motion was filed seeking to dismiss his appeal based upon the Fugitive Disentitlement Doctrine. This Motion resulted in the appeal being dismissed and an unpublished opinion being issued setting for the reasons why he was not entitled to relief as he was a fugitive from justice. He remains at large out of the country.

- (c) Lee v. Lee #91-DR-29-113. This case was tried in 1991. This was a case involving child custody. The case was tried before the Honorable Berry Mobley for an entire week. I represented the wife, along with my co-counsel, Debbie Mollycheck. The father was represented by Jim McLaren, along with his co-counsel Brooks P. Goldsmith. The case involved issues of the misconduct and mental stability of the mother as well as the father's inability to provide an appropriate environment for the children. The case involved psychologists, psychiatrists, and the like. The standard for determining custody is what is in the best interests of the child. That determination must be determined from almost every aspect of the children's lives, the environment and their stability. This case touch on almost every aspect of what can constitute the best interests of the child insofar as the determination of custody is concerned. The case was not appealed.
- (d) Yousefian v. Yousefian #99-DR-12-481. This case was tried on May 8, 2001 (Chester County and June 8, 2001 Fairfield County). This case involved grounds for divorce, alimony, equitable division of property, and attorney's fees. The wife sought a divorce from the husband on the grounds of physical cruelty. The husband was a doctor. He had recently sold his practice to a local hospital and was earning less money than when he previously operated his own clinic. At issue (for purposes of determining alimony) was his income versus his income potential. This case was significant because the amount of alimony the wife received depended on the husband's income and the question was whether or not he had voluntarily reduced his income by selling his medical practice and did that justify a reduction in the alimony. Also, since he had sold his practice, the value of the practice was not considered for purposes of equitable division. However, the proceeds that he received became an issue as to whether or not that was going to constitute equitable division of property or a substitute for his income, which had diminished. It became a tangled mess and the case was tried over a period of four days. It was extremely complicated insofar as a determination of the husband's income, the alimony entitlement, the equitable division of property and the grounds for the divorce itself.
- (e) Jackson v. Jackson #98-DR-46-581. The case was tried on March 7, 2000. This was a long term marriage which included grounds for divorce, and an equitable division of property/transmutation of property. The wife sought a divorce from the husband on the grounds of adultery. After much effort it was ultimately discovered that the wife was guilty of adultery, which served as a bar to her receiving alimony. She was an alimony candidate due to the length of the marriage, the husband's fault, and the disparity in income. However, the central issue was the transmutation of property. The husband worked in a family business known as Jackson's Cafeteria. Over the years of the marriage, the husband's father gave him significant amounts of stock and ownership in the business enterprises. Transmutation was the central issue in the case, as to whether or not the gifts had been transmuted into marital property. Some of the property had been transmuted and some had not. After that had been determined, the division of property was impacted, as the contributions to the acquisitions of the properties was skewed to the extent that the husband had received gifts of property that were ultimately determined to be marital. On the eve of trial, the matter was settled with the husband receiving 60% of the estate and the wife 40% of the estate and some of the properties that were received from the husband's father were considered non-marital. It was a complicated property matter.

The following is Mr. Jones' account of five civil appeals he has personally handled:

- (a) Croom v. Croom, 305 S.C. 158 (Ct. App. 1991).

- (b) Terese Lynn Milczewski-Willis v. James Michael Willis #08-DR-46-182-Supersedeas
- (c) Darrin Mahan v. Shari Mahan #07-DR-46-811-Supersedeas
- (d) Suzanne Jones v. Robert Jones #97-UP-424 (Ct. App. 1997)
- (e) Catherine Panas v. Richard Panas #2010-up-537 (Ct. App. 2010).

Mr. Jones reported he has not personally handled any criminal appeals.

Mr. Jones further reported the following regarding an unsuccessful candidacy:
I was an unsuccessful candidate for Family Court Judge in 2009-2010 for the seat left open by the retirement of Judge Henry T. Woods. David Guyton won the election.

(9) Judicial Temperament:

The Commission believes that Mr. Jones' temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee found Mr. Jones to be "Well qualified" for ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee did not assess Mr. Jones for the criteria of constitutional qualifications, physical health, and mental stability. In summary, the Committee stated that "[a]ll committee members rated Mr. Jones as Well qualified".

Mr. Jones is not married. He does not have any children.

Mr. Jones reported that he was a member of the following bar associations and professional associations:

- (a) SC Car Association - 1983-present;
- (b) York County Bar President 1988.

Mr. Jones provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Mr. Jones further reported:

My parents were divorced when I was ten years of age. It occurred at a time when divorce was not a common occurrence in SC. I know what it is like to be a child in a divorce situation and what type of impact a bitter, embroiled domestic case can have on a young child. I am keenly aware of what divorce can do to a child.

I served on the Board of Directors for The Children's Attention Home in York County for six to eight years. The Children's Attention Home is a facility where children who are taken into emergency protective custody are placed until such time as a disposition can be made for their placement by the Courts. Frequently, they go from the Attention Home into foster care or to another family member's home. I was Chairman of the Board for a considerable period of my tenure. I was in the home a number of days per week, as I was involved in the day to day activities of the facility. I saw the children come and go on a daily basis. Being in the courtroom and dealing with the outcome of the case is one thing, but seeing the children eye to eye is another. I know the pain that a child feels when they come into such a facility. I have seen the fear in their eyes; it will break your heart.

I have served as a foster parent. I had two young children in my home - at separate times. I dealt with them, as well as their families, as we worked together to try to provide those children with an opportunity for a better life. There were good times and there were bad. I grew to love them and still keep up with them - one more than the other. One is now married with two

children, is a tax payer and a productive member of our society. I take some measure of pride in his accomplishments.

I believe my life experiences, as well as my extensive experience in handling matters in the Family Court makes me well suited to hear cases that would come before me.

(11) Commission Members' Comments:

The Commission commented the Mr. Jones is an excellent candidate whose experience, expertise, work ethic, and dedication in the area of family law are extraordinary.

(12) Conclusion:

The Commission found Mr. Jones qualified and nominated him for election to the Family Court.

**Samuel McGowan Price, Jr.
Family Court, At-Large, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Price meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Price was born in 1949. He is 63 years old and a resident of Newberry, SC. Mr. Price 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. Price.

Mr. Price 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. Price reported that he has not made any campaign expenditures.

Mr. Price 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.

Mr. Price 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 Mr. Price to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Price described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Ethics on the River	06/22/12;
(b) SC Conference on Lawyer and Judicial Conference	11/01/11;
(c) Family Law Training	04/01/11;
(d) Old Republic Title Insurance Seminar	05/12/10;
(e) SC Conference on Lawyer and Judicial Conference	10/22/09;
(f) Like-Kind Real Estate Exchanges	12/11/07;
(g) Real Estate Practice	05/10/07.

Please note I have been exempt from the CLE requirement since December 2009.

Mr. Price reported that he has taught the following law-related courses:

- (a) I was an Associate Professor at Newberry College for the years 1976, 1977, 1979, and 1980;
- (b) Business Law, a 3-hour course survey of civil law;
- (c) Real Estate and Insurance Law, a 3 hour-course focused on SC real estate law and life insurance and property casualty insurance;
- (d) I was in the Judge Advocate section of the National Guard. One of the duties was to help prepare guardsmen for deployment;
- (d) Pre-mobilization lectures. These lectures focused on the need and application of powers of attorney, last will and testaments, living wills, health care powers of attorney. The lectures also taught principles of real estate law, probate and estate law, domestic relations and insurance law.

Mr. Price reported that he has published the following:

Information for Troop Deployments Outside the Continental United States; February 3, 1990. This is a 120-page compilation of guidelines for troops deployed in fifteen European countries and two Mid-eastern countries. I edited, compiled, indexed and formatted the pamphlet to be distributed through channels in the SC Army National Guard.

(4) Character:

The Commission's investigation of Mr. Price did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Price did not indicate any evidence of a troubled financial status. Mr. Price has handled his financial affairs responsibly.

The Commission also noted that Mr. Price 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. Price reported that his rating by a legal rating organization, Martindale-Hubbell, is Distinguished 4.4 of 5.

Mr. Price reported the following military service:

U. S. Army from September 1, 1974-November 1974 (active duty for training)
 SC Army National Guard from February 1976-October 1, 1995 – Lieutenant Colonel – Retired – Honorable discharge.

Mr. Price reported that he has held the following public office:

Newberry County Election Commission and Registration Board. Appointed on January 8, 1999, and continue to serve. I have typically timely filed my report with the State Ethics Commission during this time; however, one year I did not file on time because of my confusion as to which year to file, i.e. unlike an income tax return which is filed for the previous year, the Ethics Report is required to be filed before the calendar year ends.

- (6) Physical Health:
Mr. Price appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Price appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Price was admitted to the SC Bar in 1974.

He gave the following account of his legal experience since graduation from law school:

- (a) December 1974-May 30, 1976: Associate attorney in the Law Office of Richard M. Kenan. Represented clients in General Sessions Court and Common Pleas. Researched and prepared two separate briefs for appeals to the SC Supreme Court.
- (b) June 1, 1976 to Date: Sole practitioner. The practice consists of both an office practice and a trial practice.

The office practice consists of real estate closings, drafting and supervising the execution of documents including, but not limited to, wills, trusts, powers of attorney, health care powers of attorney, deeds, promissory notes, real estate mortgages, prenuptial agreements, contracts of sale, bills of sale, living wills, and specialized contracts and probate and estate work. I have spent much time counseling and advising clients as to specific legal problems.

The trial practice consists of appearances in Common Pleas Court, Family Court, Magistrate's Court, City Recorder's Court, Office of Disability Adjudication and Review (Social Security Disability cases), SC Court of Appeals, and SC Supreme Court. Over the last ten years, I have done very little criminal work.

Mr. Price further reported regarding his experience with the Family Court practice area: My domestic practice started immediately. My first domestic cases were before the State had a uniform Family Court system. Judge Francis Nicholson would conduct Common Pleas for domestic matters on specified Saturday mornings otherwise domestic matters were squeezed into the Common Pleas docket or referred to other lawyers as special referees. Non-support cases were handled in General Sessions Court. I have handled hundreds of cases in Family Court. Some cases went to trial; many cases were settled after negotiations. I have been appointed on abuse and neglect cases, juvenile justice cases and I have been appointed as a Guardian Ad Litem in custody cases. I have taken the training in Family Court Mediation. I have handled divorce cases, separation cases, equitable division cases, child custody cases, child support cases, adoption cases, abuse and neglect cases, and DJJ matters. I am intimately familiar with the fear, frustration, anxiety, humiliation, and sometimes terror in the hearts and minds of Family Court litigants. I am also familiar with the lawyering difficulty in bringing a case to trial. This experience gives me the ability to make fair and equitable decisions.

Mr. Price reported the frequency of his court appearances during the past five years as follows:

- (a) federal: My experience in Federal Court in the last five years is limited to Social Security Disability appeals. I have filed three (3) cases in Federal

District Court; one of which was appealed to the Fourth Circuit Court of Appeals. In these cases, the issues were submitted by briefs. No physical appearance was had before a live judge or panel.

- (b) state: I have an active practice before all courts (excepting General Sessions). I could only guesstimate an answer. I have had dozens of appearances in the past five years.

Mr. Price reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

	Fees	Estimated Time
(a) civil:	30%	25%
(b) criminal:	3%	5%
(c) domestic:	12%	45%
(d) other:	55%	25%

Social Security disability; Drafting documents; Probate; Special Referee fees.

Mr. Price reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 25%;
(b) non-jury: 75%.

Mr. Price provided that he most often served as sole counsel.

The following is Mr. Price's account of his five most significant litigated matters:

- (a) Gilliam v. Foster, 75 F.3d 881 (4th Cir. (S.C.) January 29, 1996); 63 F.3d 287 (4th Cir. (S.C.) Aug 08, 1995). This is a criminal murder case. I was appointed to represent one of three defendants. One of the defendants was the son of a sitting county councilman. The jury had been picked, seated and sworn in. The State had presented several witnesses. A SLED forensic investigator had taken numerous photographs of the crime scene. Some of these photographs, but not all, had been introduced into evidence by the SLED investigator. After the investigator's testimony, the Court recessed for lunch. The photographs that had not been introduced into evidence were left on the witness stand. The bailiff put the photographs on the rail of the jury box. When the jury came back from lunch, they viewed photographs that had not been entered into evidence. On the State's motion, the trial judge granted a mistrial. The case was scheduled for retrial. An appeal was filed in the State Court system under theory of double jeopardy and a simultaneous action was filed in Federal District Court. Both the SC Court of Appeals and the Federal District Court refused to find that a retrial would be double jeopardy. The District Court decision was appealed to the Fourth Circuit. The retrial began. After several State witnesses had testified, an Order was issued by the Fourth Circuit to stop the trial. The case was scheduled to be heard before the Fourth Circuit en banc. The Fourth Circuit found that jeopardy had attached and the retrial would be unconstitutional. Although the State filed a petition for certiorari, such petition was denied by the United States Supreme Court. The importance of this case is that it further defined and refined double jeopardy principles.
- (b) Shelton v. Oscar Mayer Foods Corp., 325 S.C. 248, 481 S.E.2d 706 (S.C.1997); 319 S.C. 81; 459 S.E.2d 851 (S.C.App.1995). This is a wrongful termination case. Plaintiff was accused (wrongfully) of smoking marijuana in the company parking lot after his shift. Defendant was fired. After three days of trial before a jury, the trial court granted defendant employer's motion for directive verdict. The Court of Appeals affirmed the

lower court. The SC Supreme Court remanded the case for a new trial confirming that in SC there is a covenant of good faith and fair dealing in every employment contract.

- (c) Brooks v. Kay, 339 S.C. 479, 530 S.E.2d 120 (S.C. Mar. 27, 2000). This is an action to set aside a deed. Plaintiff was the only heir of grantor. Grantor was an elderly lady who transferred 200 plus acres to defendant. Defendant was a stranger to grantor who met her while hunting her land. He befriended her, did favors for her, and purchased one or two lots from her. Defendant then presented grantor with a deed transferring the property to himself. The deed was executed in the office of the Clerk of Court for Newberry County. Defendant was present during the execution. When grantor returned to her home, she called the Clerk's office and said "Do not record the deed." Defendant had obtained a copy of the executed deed before he left the Clerk's office. After grantor's death, during the probate process, defendant submitted the copy of the deed as proof of title transfer and ownership. This matter was tried in Common Pleas, judge only. The trial court affirmed the transfer. The Court of Appeals upheld the trial court. The SC Supreme Court reversed. The Court addressed the issues of the dead man's statute, the existence of a confidential relationship and its impact on grantor, and undue influence. This case contained many factual issues that will be helpful for those persons trying to protect the elderly from being financially duped.
- (d) Hancock v. Mid-South Management Co., Inc., 673 S.E.2d 801, 381 S.C. 326 (S.C. 2009); 370 S.C. 131, 634 S.E.2d 12 (S.C.App. Jun 12, 2006). This is a slip and fall case. Plaintiff tripped over a small pot hole in the parking lot of a newspaper company when she was attempting to buy a paper from a newspaper box. The plaintiff was elderly. When she fell, she damaged her shoulder. The case was dismissed on defendant's motion for summary judgment. The Court of Appeals affirmed. The SC Supreme Court reversed finding that this was a matter to be determined by a jury on the facts which not only included the condition of the parking lot surface but also the considerations of any duty defendant may owe an invitee because of any physical limitations. The case was later tried by a jury and a verdict was rendered for plaintiff (Plaintiff had died during the appellate process).

The following is Mr. Price's account of five civil appeals he has personally handled:

- (a) Daniel v. White et al., 272 S.C. 477, 252 S.E.2d 912 (S.C. 1979);
(b) Austin v. Taylor, 284 S.C. 414, 326 S.E.2d 656 (S.C. 1985);
(c) Nelums v. Cousins, 304 S.C. 306, 403 S.E.2d 681 (S.C.App. Apr. 22, 1991);
(d) Shelton v. Oscar Mayer Foods Corp., 325 S.C. 248, 481 S.E.2d 706 (S.C.1997); 319 S.C. 81; 459 S.E.2d 851 (S.C.App.1995);
(e) Brooks v. Kay, 339 S.C. 479, 530 S.E.2d 120 (S.C. Mar. 27, 2000).

Mr. Price reported that he has not personally handled any criminal appeals.

Mr. Price further reported the following regarding unsuccessful candidacies:

- (a) County Council – 1980. This was a three person race. I missed the run-off by 19 votes.
(b) City Council – 1995. This was a three person race. I was in the run-off but lost the race.

(9) Judicial Temperament:

The Commission believes that Mr. Price's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee found Mr. Price "Well qualified" in the areas of ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament.

They found him “Qualified” in the areas of constitutional qualifications, physical health, and mental stability. In summary, the Committee stated, “[a]ll committee members rated Mr. Price well-qualified.”

Mr. Price is married to Ann Renwick Price. He has three children.

Mr. Price reported that he was a member of the following bar associations and professional associations:

- (a) Newberry County Bar;
- (b) SC Bar;
- (c) SC Association for Justice;
- (d) American Bar Association;
- (e) American Association for Justice.

Mr. Price provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Aveleigh Presbyterian Church, Newberry, SC, Former Elder, Former Deacon, Former Coach for Church League Basketball team ages 8-11;
- (b) Rotary Club of Newberry, SC, former President, Rotarian of the Year and Paul Harris Fellow;
- (c) Former Assistant Scout Master of Boy Scout Troop No. 1, Assistant Scout Master of the Year in Blue Ridge Council;
- (d) Former Chairman of the Newberry County Red Cross Chapter;
- (e) Former Chairman of the Newberry County Commission on Alcohol and Drug Abuse;
- (f) Former chairman of the Newberry County Family YMCA Board;
- (g) Former member of the Exchange Club of Newberry.

Mr. Price further reported:

As a sole practitioner in a small town, I have represented people from all walks of life. I understand cash flow problems. I have numerous clients who pay me “when they can”. I understand people who have financial difficulties. Dr. Lewis P. Jones, one of my history professors, introduced me to the concept of noblesse oblige (the obligation of the noble). My personal philosophy is that the world should be a better place because of my efforts. I have always been concerned about taking care of “the little people”. I believe everyone should be equal under the law. I think all persons should be treated with honor and dignity.

(11) Commission Members’ Comments:

The Commission commented on Mr. Price’s general practice of law for 38 years, which would assist him as a Family Court jurist, and is well respected in his community.

(12) Conclusion:

The Commission found Mr. Price qualified and nominated him for election to the Family Court.

William Gregory Seigler
Family Court, At-Large, Seat 2

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Seigler meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Seigler was born in 1974. He is 38 years old and a resident of McCormick, SC. Mr. Seigler 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 2000.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Seigler.

Mr. Seigler 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. Seigler reported that he has not made any campaign expenditures.

Mr. Seigler 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.

Mr. Seigler 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 Mr. Seigler to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Seigler described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Annual Public Defender Conference	9/26/11;
(b) Annual Public Defender Conference	9/27/10;
(c) Annual Public Defender Conference	9/28/09;
(d) Title I	1/1/09;
(e) Personal Injury Clients	1/28/09;
(f) Estate Planning	2/25/09;
(g) Title Insurance I	5/21/08;
(h) Title Insurance II	5/22/08;
(i) Children’s Issues in Family Court	4/17/06;
(j) Municipal Court-Orientation School	3/17/06;
(k) How to Make the Right Decision	5/19/05.

Mr. Seigler reported that he has not taught any law-related courses.

Mr. Seigler reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Seigler did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Seigler did not indicate any evidence of a troubled financial status. Mr. Seigler has handled his financial affairs responsibly.

The Commission also noted that Mr. Seigler 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. Seigler reported that he is not rated by any legal rating organization.

Mr. Seigler reported that he has held the following public office:

The only position that I have held that could possibly be considered a public office is that of the Tri-County Public Defender.

(6) Physical Health:

Mr. Seigler appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Seigler appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Seigler was admitted to the SC Bar in 2000.

He gave the following account of his legal experience since graduation from law school:

- (a) Law Offices of W. Greg Seigler, 2000-10, Solo Practitioner with a general practice that focused on Family Law, but included Criminal law, Probate Law, Personal Injury, and Real Estate. During this time I was the attorney for the SC Guardian ad Litem Program, Attorney for the Town of Troy (Greenwood County), and Attorney of the Town of Plum Branch (McCormick County);
- (b) Chief Municipal Court Judge for the Town of Calhoun Falls-part time, 2005-07;
- (c) Tri-County Public Defender (Edgefield, McCormick, and Saluda Counties), 2007-10-designated as part time. I represent all defendants charged with crimes determined to be indigent in all three counties, in General Sessions Court, Family Court and Magistrate/Municipal Court;
- (d) Eleventh Circuit Public Defender's Office- Tri-County Public Defender, 2010-current, full time. I represent all defendants charged with crimes determined to be indigent in all three counties, in General Sessions Court, Family Court and Magistrate/Municipal Court.

Mr. Seigler further reported regarding his experience with the Family Court practice area:

I have literally represented domestic clients in every area of family law. While in private practice I handled hundreds of divorces that ranged from uncontested divorces with little or no assets with grounds for divorce being one year continuous separation, to long term marriages destroyed by adultery, substance abuse, or physical cruelty with assets valued in the millions. I have handled divorces, child custody cases, and others all pro bono for clients that were in abusive relationships

or for whatever reason simply could not afford to pay me. I have also handled high profile divorces and custody cases where I earned a significant fee. I have handled many child custody cases, some of which were settled during the divorce proceedings, some that involved grandparent's rights, stepparent's rights, and some of which stemmed from an action being filed due to a significant change in circumstances with the change ranging from income, to residency issues, relocation issues, remarriage, exposing the children to an immoral environment etc. I have been involved in many adoption cases both as counsel for the adoptive parents, guardian ad litem for the child, and even as counsel for the biological parent contesting the adoption. For many years I was the attorney for the SC Guardian ad Litem program. In that capacity I was involved in almost every abuse and neglect case in McCormick County. Prior to taking that position I was appointed to many clients who were defendants involved in abuse and neglect cases with the Department of Social Services whereby DSS was pursuing the termination of parental rights, emergency protective custody, parenting plans, or child support. I have been involved in abuse and neglect cases which ended in a wonderful manner with a child being adopted by a wonderful family, and I have been involved in cases that ended in tragedy. In private practice I was hired on a few cases that involved juveniles who were charged with crimes or otherwise considered delinquent, but it was not until I was appointed Tri-County Public Defender until I really became involved with juveniles. For the past five years I have represented approximately 99% of all juvenile cases in McCormick, Saluda, and Edgefield Counties. I am appointed to represent about 200 children per year who are charged with crimes ranging from shoplifting to attempted murder. I will admit that it is rewarding when you feel as though you were able to help a juvenile who is heading down the wrong path, but that is not always the case. So, with all humility and respect, I have handled about every type of Family Court case imaginable.

Mr. Seigler reported the frequency of his court appearances during the past five years as follows:

- (a) federal: none;
- (b) state: Almost every day between Magistrate Court, Family Court, and General Sessions Court.

Mr. Seigler reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 5%;
- (b) criminal: 30%;
- (c) domestic: 60%;
- (d) other: 5%.

Mr. Seigler reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 40%;
- (b) non-jury: 60%.

Mr. Seigler provided that he most often served as sole counsel.

The following is Mr. Seigler's account of his five most significant litigated matters:

- (a) George and Connie Gable vs David Kay - I represented the Gables, lifelong McCormick County residents, in a child custody case as grandparents of an eight year old boy whose mother had just died of brain cancer. The mother of course being their daughter. The biological father, Mr. Kay, had seen the child only a few times during the child's life. Upon the mother's death Mr. Kay tried to take the child from the grandparents. The Gable's were

successful in gaining custody of the child where he still is today some 4 years later. Based on the current law in this state that was a significant achievement;

- (b) Carl Thomas Wall vs Jamie Wall - this was divorce that involved one child, two step-children, and many assets resulting from the dissolution of a thirty year marriage where a divorce was sought on the grounds of habitual drunkenness. I represented the Husband in this matter. The Wife had been abusing drugs and alcohol for many years and ultimately vacated the marital home leaving him with nothing but the biological. My client was a lifelong friend of my father's. I was able to secure a favorable result of him and his child. This case was significant to me because I was able to help a life-long friend of my father's, but also because I spent hundreds of hours on this case without being paid one penny. That was often the case in a small rural county;
- (c) State vs Stephen Louis Barnes - this case is significant because Mr. Barnes was in Edgefield County jail awaiting trial for murder where the state was seeking the death penalty. While incarcerated he was charged with throwing bodily fluids on a jailer. I was appointed to represent him on that charge which he was ultimately convicted of after about eight hours of jury deliberation. It is significant because the state used this conviction during the penalty phase where Barnes ultimately received the death penalty.;
- (d) State vs Thomas Hilliard - this case is significant because it involved two friends who were intoxicated who engaged in mutual combat that resulted in an accidental death of one individual. Mr. Hilliard was charged with murder and ultimately convicted of involuntary manslaughter and sentenced to ten years incarceration;
- (e) Estate of James Strom - the case is significant to me because James was a lifelong successful friend of mine with a bright future, a beautiful wife, and two teenage children. They were all four killed in a plane crash in Greenwood County where the plane was flown by James. The investigation revealed the result of the crash was due to pilot error. I represented the estate; it was tragic. It was also important because you really had to have a good grasp of probate law and have a lot of experience in that area of law to properly disburse the estates, because James and his wife had wills that I had prepared years before, but they devised all of their assets to each other, and in the event they predeceased each other then to the children. However, the children were gone too.

Mr. Seigler reported he has not personally handled any civil or criminal appeals.

Mr. Seigler reported that he has held the following judicial office:

Chief Municipal Court Judge for the Town of Calhoun Falls, 2005-07, and was appointed by the mayor and town council. He presided over traffic court, signed warrants, and presided over pleas and trials for minor criminal offenses within the magistrate's jurisdiction. He had no civil jurisdiction as a municipal court judge.

Mr. Seigler reported that following regarding his employment while serving as a judge:
He worked for the Law Offices of W. Greg Seigler from 2005-07.

(9) Judicial Temperament:

The Commission believes that Mr. Seigler's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Mr. Seigler to be "Well qualified" in the evaluative criteria of ethical fitness, experience professional and academic ability, character, reputation, and judicial temperament. The Committee found Mr. Seigler "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. In summary, the Committee

stated that it “was honored to interview Mr. Seigler. He is one of the most experienced and well-rounded candidates we have interviewed. We strongly believe Mr. Seigler is most eminently qualified to serve on the Family Court, and we are confident he would serve our State in an outstanding and exemplary manner.”

Mr. Seigler is married to Jennifer P. Seigler. He has three children.

Mr. Seigler reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar, past family law division;
- (b) McCormick County Bar President, 2003-current;
- (c) SC Trial Lawyers Association-past member;
- (d) SC Summary Court Judges Association-past member.

Mr. Seigler provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) The Citadel Alumni Association;
- (b) Grand Lodge of Ancient Freemasons of SC-Worshipful Master, Senior Warden, Junior Warden, Senior Deacon, Junior Deacon, and Steward of Mine Lodge Number 117, McCormick, SC;
- (c) Shriner- Jamil Temple, Red Fez Shrine Club, McCormick, SC;
- (d) National Rifle Association (NRA)-life member;
- (e) National Wild Turkey Federation (NWTf)-member;
- (f) SC Wildlife Endowment;
- (g) McCormick Rotary-past member;
- (h) Bethany Baptist Church.

Mr. Seigler further reported:

As a child I was very fortunate to have been reared in an environment that instilled moral values and demanded discipline. I applied that type of raising to each and every life goal and objective. At The Citadel the values and discipline that I learned as an adolescent were fine tuned. I have applied the lessons and values learned to my everyday life as well as my law practice. I feel that my experience in every aspect of family law provides me with tools and knowledge necessary to be Family Court judge. I also feel that as a husband and a father of three sons coupled with my legal experience, I have the skills to deal with the unique are of domestic law. I also believe that I possess the appropriate perspective and temperament for this position. If given the opportunity I will serve the citizens of this great state with honor and integrity.

(11) Commission Members’ Comments:

The Commission commented on Mr. Seigler’s dedicated service as a Public Defender and his experience in the family law arena.

(12) Conclusion:

The Commission found Mr. Seigler qualified and nominated him for election to the Family Court.

(n)	S.C. Family Court Bench & Bar	11/4/08;
(o)	Representing the Volunteer Guardian Ad Litem	6/20 08;
(p)	Child Witness Credibility	1/24/08;
(q)	Almost Annual Ethics CLE	12/14/07;
(r)	S.C. Family Court Bench & Bar	12/7/07;
(s)	Training for Attorneys Appointed in GAL Cases	11/16/07.

Mr. McGee reported that he has taught the following law-related courses:

- (a) I am currently a Political Science Instructor at Francis Marion University and have been so since 2008. This is a 101 level class comprised mostly of freshmen students.
- (b) On one or two occasions each year, I am asked by the Centers for Equal Justice to teach a seminar for indigent citizens regarding seeking a pro se divorce. This involves instructing lay persons how to file and serve divorce pleadings as well as how to conduct themselves during their hearing.
- (c) I regularly speak to the Florence County Guardian Ad Litem program participants regarding Court procedure. The GAL program consists of volunteers who are trained to participate as GALs for children in DSS abuse and neglect cases. I occasionally am a panelist for forums created for attorneys for the S.C. GAL program.

Mr. McGee reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. McGee did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. McGee did not indicate any evidence of a troubled financial status. Mr. McGee has handled his financial affairs responsibly.

The Commission also noted that Mr. McGee 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. McGee reported that he is not rated by any legal rating organization.

Mr. McGee reported that he has held the following public office:

I served as a member of the SC House of Representatives from 1997 through 2006. Members of the General Assembly file reports with their respective chamber's ethics committees. Based upon my recollection, I filed one campaign disclosure report late and was fined \$100, which I paid from my personal funds. The disclosure report was not timely mailed from my law office. It was my responsibility to timely file the report.

(6) Physical Health:

Mr. McGee appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. McGee appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. McGee was admitted to the SC Bar in 1995.

He gave the following account of his legal experience since graduation from law school:

Since I graduated from law school in 1995, I have worked at Dusenbury, Snow & McGee, P.A. in Florence, S.C. The law practice consists of myself and Stuart W. Snow, two full-time employees and one part-time employee.

I have practiced in Family Court almost exclusively since my graduation from law school, comprising an estimated 95% of all of my cases. These cases include, but are not limited to, divorce, custody, visitation, child support, adoption and name change. Because our law firm also serves as attorneys for the Guardian *ad litem* programs in Florence and Marion Counties, I have been involved in D.S.S. child abuse and neglect cases.

In 2008, I became the part-time General Counsel for Francis Marion University and currently serve in that capacity.

Mr. McGee further reported regarding his experience with the Family Court practice area:

As set forth above, over my 17 years of practicing law, an estimated 95% of my caseload has been in the Family Courts of SC. I have extensive experience in matters pertaining to divorce actions: custody, equitable division and alimony. I have also represented clients in several adoptions. My role as attorney for guardian ad litem in the Twelfth Judicial Circuit (Florence and Marion Counties) has given me extensive experience in D.S.S. abuse and neglect cases.

Mr. McGee reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0%;
- (b) State: 100%;
- (c) Other: 0%.

Mr. McGee reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 1%;
- (b) Criminal: 1%;
- (c) Domestic: 95%;
- (d) Other: 3%.

Mr. McGee reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. McGee provided that he most often served as sole counsel.

The following is Mr. McGee's account of his five most significant litigated matters:

- (a) DSS v. Burgess, et al (2012)(Florence County) - This matter is a recent case in which the expert testimony of the examining psychologist revealed that the birth mother had a low intellect and that said condition was unlikely to improve. The psychologist testified that because of mother's low intellect she was not able to properly parent her three children, who ranged in age from 10 to 6. Custody was placed with a relative, the case was closed and all parties were relieved. I chose this matter because it is emblematic of the sometimes difficult facts a Court is required to balance in making a decision. While there was a history of drug use in this matter, many parents of normal intellect are able to overcome these issues when motivated with the seriousness of the situation that confronts them. While it was apparent that while this mother dearly loved her children and was attempting to take the steps to remedy the cause for removal, she was not going to be able

to perform what was required of her for reunification simply because of her intellect, a circumstance beyond her control. While the Court may have some empathy for situations such as this, it was clear that it was in the best interest of the children to close this matter and bring permanency to the child's life.

- (b) Powell v. Powell (2011) (Divorce) - This was the dissolution of a 40 plus year marriage with allegations of long-time physical abuse. My client appeared to be suffering mentally. She cried uncontrollably in my office as she alleged events of her marriage. I suggested she undergo mental health counseling as I concomitantly filed litigation to divide a significant family business as well as real property assets and requested restraining provisions. At the conclusion of the matter, client was well adjusted mentally and able to enjoy the assets she retained in the divorce settlement. This matter significant to me because of my client's fragile mental condition. I was able to work well with her through some difficult mood swings. I would add that it was a pleasure to work with opposing counsel in this matter, who was a zealous advocate of his client's interests, but rational and reasonable. This was also significant to me because at the end of the case, the client was protected both from a Family Court standpoint and balanced from a mental standpoint. This can often be a matter in Family Court cases; clients requiring more than the services offered by the attorney. The attorney (and the Court, if necessary) should be able to recognize other issues in the client's life that may affect the both the client's well-being and ability to make rational decisions.
- (c) Atkinson v. Atkinson (1999) (Divorce/Custody) (Unpublished Opinion Number 2002-UP-720)- This was the divorce of a young couple with a small child. I represented the wife. Each had filed for divorce on fault based grounds (Husband filed on adultery, Wife on physical cruelty). Proving fault based grounds for physical cruelty is generally difficult because such incidents are commonly not witnessed by a third party. Sometimes there is very little evidence other than the testimony of the alleged victim or visual evidence of physical harm to the victim through photographs. This matter presented no physical evidence of abuse and was required to be developed through testimony. Based upon the testimony presented, the Court found that grounds for a divorce upon physical cruelty by clear and convincing evidence. The Court's decision was appealed by Husband and affirmed by the Court of Appeals in an unpublished opinion. Even though the allegation of adultery by my client was also found, I felt as though the allegation I was required to prove was much more difficult and important in the issue of custody.
- (d) Wells v. City of Lynchburg, 501 S.E.2d 746, 331 S.C. 296 (S.C. Ct. App. 1998).- This was a case I inherited when I joined my current law practice not long after graduating from law school. The matter had been filed by a previous attorney who worked at the firm. Larry and Earther Wells had lost their home in Lynchburg in a fire. The Wells alleged their home burned to the ground because the hydrants near their home were not operating. Had the hydrants been operating properly, the Wells alleged the damages would have been much less significant. Through discovery, I turned up documents showing malfunctioning with some hydrants in Lynchburg. Through depositions, I was able to find that the Town of Lynchburg knew the hydrant adjacent to the Wells home was malfunctioning before the fire, but the town neglected to repair it. The matter was dismissed pursuant to a 12(b)(6) motion. The Wells directed me to appeal and the decision which was affirmed by the Court of Appeals. This matter was significant to me because I would not have filed the lawsuit if it had been brought to me initially, but after doing the work through discovery, I felt the Wells claim was valid, even though it was dismissed. I learned that first impressions about a matter are not always correct.
- (e) McDaniel (2002) (Adoption)- This is the case of a woman who ended up with physical custody of a so-called "crack baby". She was diligent in providing the young child the

special medical and educational attention needed due to the child's condition. She desired to adopt the child but did not have any funds to do so. I felt Ms. McDaniel should be rewarded for her loving devotion to the child. After discussing the matter with my law partner, I filed the litigation, TPRed the parents and secured the adoption without cost to Ms. McDaniel. This was satisfying and significant to me because I was able to use the privilege of practicing law granted to me by the State of SC to recognize Ms. McDaniel's efforts. I don't know where this child would be today without her.

The following is Mr. McGee's account of two civil appeals he has personally handled:

- (a) Wells v. The Town of Lynchburg, 501 S.E.2d 746, 331 S.C. 296 (S.C. Ct. App. 1998);
- (b) Atkinson v. Atkinson, Unpublished Opinion Number 2002-UP-720.

Mr. McGee reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. McGee's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizen's Committee on Judicial Qualification found Mr. McGee 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. In summary, the Committee reported, "Mr. McGee exemplifies what we believe a Family Court Judge should be: compassionate, highly intelligent and trustworthy."

Mr. McGee is married to Kathy Marie Shirley McGee. He has one child.

Mr. McGee reported that he was a member of the following bar associations and professional associations:

- (a) S.C. Association of Criminal Defense Lawyers (held no offices);
- (b) Florence County Bar Association (held no offices);
- (c) SC Bar Association (held no offices).

Mr. McGee provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Mr. McGee further reported:

I was employed for ten years as a journalist before attending law school. In this position, there is an obligation to the public to disclose facts and information so the public can make decisions regarding their government, their health, safety and well-being. Sometimes the facts are obvious to a journalist and sometimes they are not. A journalist holds a position of trust, that he or she will work diligently to discover the facts and disclose them to the public, without influence from those the information may damage. It was this sense of service as a journalist that led me to law school. Like a journalist, an attorney holds a position of trust. My clients have entrusted me with important facets of their lives. Matters dealing with custody and visitation can be some of the most emotional and impactful in one's life, not only for the clients, but for their children as well. I have participated in hundreds of DSS abuse and neglect cases as attorney for the Florence and Marion County GAL offices. I am proud of the work the volunteer GALs have done to improve the lives of children that come through our Courts. I am confident this work has and will lead to better lives for these children and will make the difference in putting children on the path of becoming productive adults. I can see how a Court, paying attention to details in these cases,

makes a difference. I told my wife once that I had appeared hundreds of times on live television into thousands of households during my career as a journalist, but that I had never felt the pressure like the pressure of being an attorney in a domestic relations matter or DSS abuse and neglect matter. From this perspective, it is not difficult to see the importance of the S.C. Family Court Judge. The issues brought before the Court are not only important, but they are often deeply emotional for the litigants and they involve the future well being of children and potentially, the well being of the State of SC. The Court must be patient, respectful and attentive. The Court should work to make sure each side has the opportunity to have their matter heard so that a sound and just decision can be reached while following the lodestar of the best interests of the child. I believe all of my experience gives me the skill set to perform the difficult task of a S.C. Family Court Judge. As importantly, it is my desire to provide service to my state in this capacity.

(11) Commission Members' Comments:

The Commission commented that Mr. McGee is very well qualified to serve as a Family Court jurist.

(12) Conclusion:

The Commission found Mr. McGee qualified and nominated him for election to the Family Court.

Monét S. Pincus
Family Court, At-Large, Seat 4

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Pincus meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Pincus was born in 1965. She is 47 years old and a resident of Columbia, SC. Ms. Pincus 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 1993. She was also admitted to the Florida Bar in 2001, but her license is now inactive.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Pincus.

Ms. Pincus 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. Pincus reported that she has made \$71 in campaign expenditures for name tags, postage, business cards, paper, and envelopes.

Ms. Pincus 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.

Ms. Pincus 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 Ms. Pincus to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Pincus described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Family Law Seminar, SCAJ	8/2/12-8/2/12;
(b) Moderator, Family Ct. Judicial Forum	5/11/12;
(c) Abuse and Neglect Cases	11/18/11;
(d) Annual Solo & Small Firm Seminar	9/23/11;
(e) Hot Tips from the Coolest Fam. Law Practitioners	9/16/11;
(f) Houston Family Law Trial Inst.	5/15/10;
(g) Hot Tips for the Solo or Small Firm	9/24/10;
(h) Hot Tips from the Coolest Family Ct.	10/1/10;
(i) Family Ct. Bench and Bar	12/3/10;
(j) Hot Tips from the Coolest Family Ct.	9/18/09;
(k) Family Ct. Bench and Bar	12/3/09;
(l) Hot Tips from the Coolest Family Ct	9/19/08;
(m) (Audited but did not report hours as annual requirement was previously met)	
(n) Family Ct. Bench and Bar	12/5/08;
(o) Attorney Ethics in Negotiation	2/21/07;
(p) Military Family Support	1/10/07;
(q) Ethical Considerations and Pitfalls for the Family Law Lawyer	3/27/07;
(r) Family Court Mediation Training	8/16/07.

Ms. Pincus reported that she has taught the following law-related courses:

I taught for 4 years at the USC Law School as an adjunct legal writing professor to 1L's. I taught bankruptcy at Columbia Junior College as an adjunct professor in 1998. I taught bankruptcy and law office management at South University for its paralegal program in 2003 and a family law paralegal course in 2001 and 2002. I have lectured or taught at the following seminars: Solo & Small Firm Annual Seminar (2010) (Keeping and Getting a Good Reputation), Hot Tips from the Coolest Family Law Practitioners (2010) (Admissibility of Evidence at Trial), Children's Law Center (2010) (Abuse and Neglect); SC Bar Distance Learning Program-produced 1 hour video on child custody cases (2011), Children's Law Center (2011)(Abuse and Neglect); Children's Advocacy Law Society, (Children in Family Court Litigation) (2011); Divorce Litigation: From Start to Finish (2011) lectured about discovery in Family Court; Moderator: Family Court Judicial Forum (2012) (Moderated Panel of Judges with questions/answers). I am a scheduled speaker: September 14, 2012: Presenter, Fees Roundtable, Solo & Small Firm Annual Conference; September 28, 2012, Presenter, Deposition Dos and Don'ts, Hot Tips from the Coolest Domestic Practitioners.

Speaker's Bureau for the SC Bar: I have been on the bureau for more than 6 years as an available community speaker for family law issues. I taught the family law course for the "Law School for Non-Lawyers" at Midland's Tech. I taught the Legal Lessons Series on Family Law

at the public library in 2011. I was interviewed by a local radio station to promote the Law School for Non-Lawyers family law course. I spoke to a Grandparent's Group about grandparent rights. I spoke to a Church Group about divorce matters. I spoke to a group of practicing family law paralegals to teach them how to effectively assist family law attorneys. I speak at business network meetings on family law.

Ask-A-Lawyer: I have served as a volunteer for more than 4 years for this program offered through the S.C. Bar which answers questions from the public during designated times either through a phone bank or a web chat. Most of the questions I field are about family law issues.

Ms. Pincus reported that she has published the following:

My written material for each CLE Presentation listed in Question 11 is published as part of the CLE program for the attendees. Articles published in the CityMom, a SC Publication: The New Year, What You Need to Know About Divorce 101 (1/05), Child Custody—Does Mother Know Best? (3/05), Divide the Child (5/05), A Woman's Life After Divorce—Now What? (7/05). Legal Lessons: A Series for the Public (SC Bar) 2011/2012.

(4) Character:

The Commission's investigation of Ms. Pincus did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Pincus did not indicate any evidence of a troubled financial status. Ms. Pincus has handled her financial affairs responsibly.

The Commission also noted that Ms. Pincus 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. Pincus reported that her rating by a legal rating organization, Martindale-Hubbell, is AV Preeminent Rated by her peers.

(6) Physical Health:

Ms. Pincus appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Pincus appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Pincus was admitted to the SC Bar in 1993.

She gave the following account of her legal experience since graduation from law school:

- (a) Berry, Quackenbush & Stuart, 1993-97: I was an associate in the litigation section of the law firm; I participated in all aspects of civil litigation from client intake to trial.
- (b) Hampton Monge Shupe & Curlin, 1997-2001: I was a member of this law firm with family law as my primary practice area. This firm eventually became Curlin Law Firm when the other partners left and was dissolved on 9/26/02.
- (c) Pincus Law Firm, LLC, 2001-9/26//02. I was a sole practitioner practicing family law exclusively.
- (d) Palmetto Law Group, LLC: 9/02-2003. I merged my practice with two other attorneys and continued my focus in family law.

- (e) Monet S. Pincus, LLC: 2003-June 2007. I returned to my own practice as a sole practitioner with a focus in family law.
- (f) Pincus & Loomis, LLC: June 2007-June 2010. I took on a partner in June 2007. I continued my family law practice during this time. My partner accepted another employment position.
- (g) Monet S. Pincus, LLC: June 2010-present. I reverted to this company when my partnership dissolved in June 2007. I do business as Pincus Family Law.
- (h) Department of Health and Human Services 8/2007 to present: Contracted hearing officer in conjunction with my private practice.

While my law firm has changed corporate names several times since 1997, I have exclusively practiced family law since 1997.

Ms. Pincus further reported regarding her experience with the Family Court practice area:

Divorce: I have instituted and defended multiple actions for divorce over 15 years. I have litigated all the grounds for divorce; pled affirmative defenses; and successfully defended grounds for divorce. I have handled many divorces between parties who were residing overseas. I have dealt with the Hague Convention regarding service of process for divorce actions involving other countries.

Equitable Division of Property: Most of my divorce actions involve equitable division to some degree. I have handled complex estates and simple estates. I am familiar with the complex areas of law involving equitable division such as federal taxation, business valuations, ERISA, QDRO's and division of different types of retirement plans. My admission to the AAML affords me the use of national expertise in these areas as well. I have utilized financial experts and consultants in this area as well. I am familiar with transmutation. I have tried many equitable division and settled many through mediation as well.

Child Custody: This is my preferred choice of litigation. Many of my cases overlap with custody and equitable division issues, but many are also solely based on child related issues, such as parties that were never married but had children. I have handled all types of cases involving children including visitation, custody, interstate custody, and all ancillary aspects of a custody case. I have utilized experts and have served as a Guardian. I have had several trials involving custody. Most of my custody cases have had successful endings. I have drafted forms and information for clients and prospective clients regarding custody. I spend hours studying about child cases and the law both local and nationally. I participate in mediation and arbitration regarding custody issues. I am familiar with the local experts and Guardians and have a good working relationship with them.

Adoption: I have handled many step-parent adoption cases or relative adoption cases. I have handled a few contested adoption cases including a current case the details of which I would like to protect.

Abuse and Neglect: I have been appointed in these cases for children and I have volunteered for adult APS cases when DSS was no longer allowed to appoint attorneys for APS cases. I teach CLEs on abuse and neglect and have good working knowledge of the statutes and procedures.

Juvenile Justice: I have not represented a juvenile. My practice and experience in Family Courts, along with my ability to understand our statutory law will be a great benefit for me to transition into Juvenile work from the bench.

Ms. Pincus reported the frequency of her court appearances during the past five years as follows:

- (a) federal: 0%;
- (b) state: 100%.

Ms. Pincus reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 0%;
- (b) criminal: 0%;
- (c) domestic: 100%;
- (d) other: 0%.

Ms. Pincus reported the percentage of her practice in trial court during the past five years as follows:

- (a) jury: 0%;
- (b) non-jury: 100%.

Ms. Pincus provided that she most often served as sole or lead counsel.

The following is Ms. Pincus' account of her five most significant litigated matters:

- (a) Pincus v. South Beach Marina, et al. This case was significant because it was the first trial of my legal career and I handled it as sole counsel. It was a civil case, jury trial that lasted 5 days. I prepared everything on this case from the pleadings to my closing argument. Opposing counsel was highly experienced and had a team of support staff assisting him. I won a jury verdict which included punitive damages for the civil tort of intentional interference with a contract;
- (b) Courtenay v. Courtenay. This was my first multi-day custody case as a family law practitioner lasting 5 days. The case was important because I represented the father seeking custody of his 3 daughters. He was in the military and stationed in Germany throughout the proceeding. If he prevailed, it would mean the children would leave the US to live with their father in Germany. The mother had been the primary caretaker. The judge believed the best interest of the children would be served if my client were the custodial parent and my client and his daughters moved to Germany. The significance of this case to me was that my client had to overcome a primary caretaker mom and an international relocation. It was also my first exposure to expert witnesses and expert testimony by a psychological expert;
- (c) - v. - [the parties names are omitted]. This case is a custody case that I considered very significant. I represented the mother who was trying to regain custody of her daughter from a third party. She lost custody through a DSS abuse and neglect case because of her crack cocaine addiction. She spent several years rehabilitating herself and saving money for an attorney. She used all of the available state resources to help her with rehabilitation and employment. She even won an award through her state job project that paid her Guardian ad litem fees as her prize. This is one of my happiest cases in Family Court and a wonderful example of a mother working for her second chance and getting it. Mother and daughter are reunited and thriving;
- (d) Duncan v. Duncan. This was a custody and equitable division case involving a military Father and a Mother with a cocaine addiction. Father was awarded temporary custody during the litigation due to Mother's chronic drug use and ultimately won custody at the trial. This was significant to me because I was able to successfully argue against dividing Father's military retirement benefits with Mother due to Mother's lack of support for him and child during marriage and failure to enter evidence into the record regarding the valuation of such benefits. It was also significant because it was the first case that I used to train my associate attorneys to litigate by delegating tasks to them including examination of certain witnesses and trial preparation. Mentoring these associates was incredibly rewarding;

- (e) Moore v. Massey, Hineline and Henderson. This action involved the Uniform Child Custody Jurisdiction Act (UCCJEA). It was significant because I not only enjoy the challenge of interstate, complex matters, but it involved a child wrongfully taken from his caretaker and his home state of TN. I prevailed in SC and the child was returned to TN.

The following is Ms. Pincus' account of the civil appeal she has personally handled: Rochester, Paul (Respondent) v. Jenkins, Ruby (Appellant). I was lead counsel for Mr. Rochester at trial and co-counsel during the appeal. The appeal was dismissed on 3/17/11.

Ms. Pincus reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Pincus' temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Ms. Pincus "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found her "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee stated in summary, the committee "was very impressed by Ms. Pincus in many ways, and we enjoyed our interview with her. Her passion for the Family Court and her energy is contagious. We were impressed by her not just her honors and accomplishments but by the fact that she operated her own family law firm for 15 years. She has the Family Court "in her blood," and we believe she is ready to serve. We feel she would be a committed and compassionate public servant, and for all of these reasons we find her most eminently qualified to serve on the Family Court."

Ms. Pincus is married to Danny Wade Allman. She has three step-children.

Ms. Pincus reported that she was a member of the following bar associations and professional associations:

- (a) American Academy of Matrimonial Lawyers, Fellow;
- (b) American Bar Association;
- (c) American Bar Association Family Law Section;
- (d) SC Bar Association;
- (e) SC Bar Association Family Law Section;
- (f) SC Solo & Small Firm Section, Council Member 2010-13;
- (g) Richland County Bar Association;
- (h) Lawyer Related Education Committee;
- (i) LRE Mock Trial Sub Committee;
- (j) CLE Committee;
- (k) Assigned Member Fee Dispute Board, SC Bar;
- (l) SC Association for Justice;
- (m) SC Women's Lawyer Association;
- (n) Speaker's Bureau, SC Bar;
- (o) U.S. District Court, SC;
- (p) SC Bar Admission;
- (q) Florida Bar Admission (Inactive).

Ms. Pincus provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) I am a volunteer pro bono attorney with the SC Bar. I received a Certificate of Appreciation for 35 or more hours of pro bono public service in 2003.
- (b) I volunteer for Meals on Wheels.

Ms. Pincus further reported:

My devotion to family law and my Family Court experience should reflect positively on my candidacy and will be an asset to my judgeship. This is the only type of law I practice and my practice is large. My firm sees 400-600 people each year that are facing Family Court issues. These consultations have given me extensive insight to what the people of this State think about our Family Court system and what they are most concerned about when bringing their cases before a judge. This insight will be beneficial to me as a Family Court Judge. I also spend many hours keeping abreast of the law, attending family law CLE's, attending national and statewide conventions to enhance my skills and knowledge of family law and reviewing marital litigation reference books. My vast courtroom experience arguing motions and trying cases will be an asset to me as a Family Court Judge. Additionally, my practical application of the Family Court Rules, the Rules of Civil Procedure, and the Rules of Evidence on a near daily basis are an asset to my candidacy.

I have above-average experience in this area of law. I am not seeking this judgeship simply to be "a judge"—I only want to be a Family Court Judge. I promote the profession of family law to the public through speaking and my radio show; to young lawyers through mentoring and offering law clerk positions; and to my peers by teaching CLEs and participating in many networking events. I support the Bar through volunteer, charitable giving and active participation. I am a certified Guardian ad Litem and a Certified Family Court Mediator. My life's experiences as a child of divorce and a step-mother affect how I practice family law and influence me with not only with my commitment to family law as a practitioner, but my desire to serve as a Family Law Judge.

- (11) Commission Members' Comments:
The Commission commented on Ms. Pincus' outstanding credentials as she is a Fellow in the American Academy of Matrimonial Lawyers, which would serve her well on the Family Court bench.
- (12) Conclusion:
The Commission found Ms. Pincus qualified and nominated her for election to the Family Court.

**The Honorable Caroline Whitehead Streater
Family Court, At-Large, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Streater meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Streater was born in 1964. She is 48 years old and a resident of Columbia, SC. Judge Streater 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 1989.

- (2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Streater.

Judge Streater 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 Streater reported that she did not make any campaign expenditures.

Judge Streater 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 Streater 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 Streater to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Streater described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SCSCJA Legislative Seminar	March 5, 2008;
(b) SCSCJA Charleston Seminar	July 28-29, 2008;
(c) SCSCJA Annual Conference	Sept. 4-5, 2008;
(d) SC Supreme Court Magistrate's Training	Nov. 7, 2008;
(e) LRADAC DUI Law Update and Mandatory ADSAP	Feb. 20, 2009;
(f) SCSCJA Legislative School	March 4, 2009;
(g) SC Supreme Court Magistrate's Training	Oct. 30, 2009;
(h) SCSCJA Legislative School	March 10, 2010;
(i) SC Association for Justice Annual Conference	Aug. 4 – 8, 2010;
(j) SCCA Mandatory School for Magistrates	November 5, 2010;
(k) NJA Advanced Evidence for Judges	July 25, -July 28, 2011;
(l) SCCA Intensive Training for Magistrates	August 15, 2011;
(m) SCCA Summary Court Judges Fall Program	November 4, 2011.

Judge Streater reported that she has taught the following law-related courses:

- (a) Moderator, S.C. Bar CLE on Perspective of Victims of Abuse (1995);
- (b) Presented before the Family Court Judges on a number of occasions on a risk assessments and disposition options for juvenile offenders;
- (c) Presenter, ABA Sponsored Conference, Resisting the Abolition of Childhood: In Defense of Children in the Juvenile Court (1999);
- (d) Presenter, Annual Conferences for both Public Defenders and Solicitors on juvenile justice issues (1998);
- (e) Guest lecturer at the University of SC, School of Law and the College of Criminal Justice, as well as Coker College;
- (f) Guest lecturer for the S.C. Criminal Justice Academy in the areas of child abuse investigations and juvenile procedures;

- (g) Presented at a number of professional conferences and forums on the areas of child abuse investigations and prosecutions as well as juvenile justice issues;
- (h) Presented legal updates to sworn law enforcement officers employed by the Department of Juvenile Justice as part of their mandatory annual training;
- (i) Participant in mock trial training for DSS employees conducted by the University of SC Children's Law Office;
- (j) Lectured on several occasions beginning in 2006 on the issue of bail and bonds during the SC Court Administration Orientation School for Summary Court Judges;
- (k) Presented on a variety of legal topics to summary court judges attending summary court seminars;
- (l) Presented on the Magistrate Court System as part of the SC Bar's pro bono clinic series and the Richland County 101 series;
- (m) Presented to lawyers, judges, and police officers throughout the state on DUI trials;
- (n) Adjunct professor since 2011 at Midlands Technical College, have taught semester long courses on the Court System, Criminal Law, and the Criminal Justice System;
- (o) Lectured twice a year for SC Court Administration beginning in 2011 on the SC Rules of Evidence during the SC Court Administration Orientation School for Summary Court Judges.

Judge Streater reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Streater did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Streater did not indicate any evidence of a troubled financial status. Judge Streater has handled her financial affairs responsibly.

The Commission also noted that Judge Streater 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 Streater reported that she is not rated by any legal rating organization.

(6) Physical Health:

Judge Streater appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Streater appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Streater was admitted to the SC Bar in 1989.

She gave the following account of her legal experience since graduation from law school:

August 1989: Law Clerk, The Honorable C. Anthony Harris, Circuit Court Judge.

Research assigned legal issues on both criminal and civil matters before the judge

Schedule hearings

Prepare draft orders for the judge's review

Review orders drafted by attorneys

August 1990: Twelfth Judicial Circuit Solicitor's Office, Assistant Solicitor

Represented the State in criminal prosecutions;
Represented the State in drug forfeiture proceedings;
Represented the State in abuse and neglect proceedings and prosecuted juvenile justice delinquency petitions before the Family Court.

May 1994: SC Commission on Prosecution Coordination, Special Prosecutor

Prosecuted criminal cases throughout the state involving special victims;
Advised solicitors and law enforcement on criminal prosecutions involving special victims;

December 1995: The Department of Social Services, Aiken County, Staff Attorney

Represented the department in abuse and neglect proceedings before the Family Court;
Assisted in the prosecution of certain cases in General Sessions Court;
Coordinated with agency representative in civil actions in state and federal court actions

November 1997: The Department of Juvenile Justice Assistant Counsel

Advised staff on state and federal laws impacting juvenile justice;
Advised the agency on general legal matters;
Represented the agency in employment matters;
Coordinated with agency representative in civil actions in state and federal court actions

April 2005: Magistrate, Richland County

Preside over assigned criminal matters within the magisterial jurisdictional limit;
Preside over assigned civil matters within the magisterial jurisdictional limit;
Responsible for scheduling preliminary hearings in Richland County.

Judge Streater further reported regarding her experience with the Family Court practice area:

As a prosecutor for more than four years with the Twelfth Circuit Solicitor's Office, I handled abuse and neglect proceedings in Family Court as well as juvenile delinquency petitions in addition to my other responsibilities. After moving to Columbia, I served as a statewide prosecutor specializing in prosecuting crimes against children. In many of these cases, there were companion Family Court proceedings in which I was involved. As a staff attorney for the Aiken Department of Social Services, I prepared and presented abuse and neglect petitions, as well as petitions for termination of parental rights. While employed as staff counsel with the Department of Juvenile Justice (1997 through 2005,) I advised employees and prosecutors throughout the state on juvenile delinquency law as well as other laws impacting the children served by the agency. I was often consulted in the interpretation of Family Court orders. Every one of the cases I listed in response to question # 19 below involved a Family Court proceeding. During my tenure in the above positions, I also had significant interaction with Guardian Ad Litem and have a profound respect for their responsibilities in the Family Court system.

Throughout my employment with both DSS and DJJ, there were opportunities in which the SC law on both child custody and adoption were implicated. As a result, I was familiar with those provisions and the case law interpreting them. Additionally, in 1998, my husband and I had the distinct pleasure of adopting a child who had previously been the subject of a DSS proceeding. Today, she is a thriving teenage girl who has brought immeasurable love and joy to our lives.

As a magistrate, I have significant experience with SC's domestic abuse law and its application through restraining orders, orders of protection and criminal proceedings. These experiences have provided me with a deeper understanding of these laws and their application.

A distinctive and important responsibility for a Family Court Judge in any case is determining the facts of the case to which the judge then applies the relevant law. Since 2005, I have presided as a Richland County Magistrate where a large portion of my daily responsibilities include presiding in both civil and criminal bench trials. In these trials, I determine and apply the law to the facts as I find them. This has provided me with invaluable experience in assessing witness' credibility as well as determining the value and weight of the evidence introduced.

Prior to serving in my current position, I had no practical experience in many areas of the law, including landlord tenant law, the Uniform Commercial Code and the Consumer Protection Code. A significant portion of the magistrate's civil jurisdiction includes cases which require the application of these laws. I have worked hard to become proficient in these areas so that my decisions are based on sound legal principles. This task is made even more difficult when you consider that most of the litigants that appear before a magistrate appear pro se and the magistrate does not often have the luxury of considering well researched and eloquently argued positions from the litigants. I believe my intellect and work ethic would serve me in becoming proficient in the laws regarding divorce and equitable division of property.

Judge Streater reported the frequency of her court appearances prior to her service on the bench as follows:

- (a) Federal: 0;
- (b) State: 7.

Judge Streater reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench as follows:

- (a) Civil: 20%;
- (b) Criminal: 5%;
- (c) Domestic: 60%;
- (d) Other: 15%.

Judge Streater reported the percentage of her practice in trial court prior to her service on the bench as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Judge Streater provided that prior to her service on the bench she most often served as sole counsel.

The following is Judge Streater's account of her five most significant litigated matters:

- (a) The State v. George Lewis, 478 S.E.2d 861 (Ct. App. 1996). The defendant was indicted on several counts of sexual abuse while operating a day care facility. At the trial level, this case presented some difficult legal issues, including the competency of young victims, severability and the defendant's 6th Amendment right to confront his accusers. Ultimately, the jury convicted the defendant as to one victim. I believe that the trial itself provided the victims' families and the community with some degree of closure, despite the verdict. The Court of Appeal's opinion on this case provides an analysis of the law regarding a defendant's rights under the 6th Amendment Confrontation Clause balanced against the risk of further trauma to a child victim. The conviction was reversed.
- (b) The State v. Gary Grovenstein, 517 S.E.2d 216 (S.C. Supreme Ct. 1999). The defendant was indicted and found guilty of sexually assaulting children. The trial of the case required addressing and explaining complex issues such as delayed reporting of abuse and recantation to a jury. They jury returned a guilty verdict. This case was appealed on the grounds that the defendant did not receive a fair trial because an alternate juror was accidentally allowed to remain with the jury during some portion of the deliberation. The Court of Appeals reversed the conviction. The Supreme Court later reversed the Court of Appeals and upheld the conviction.
- (c) The State v. Donnie Wayne Sheffield, 96UP018. The defendant was indicted and convicted for sexually assaulting a young child. This conviction was ultimately reversed

on the issue of the court's admission of a co-conspirator's statements. The child sustained permanent severe injuries from the sexual assault but was not old enough to verbalize how the injuries were sustained. This made prosecution difficult. Because of the mother's complicity, this case highlighted for the inherent sadness present when a child, abused and traumatized by a member of their family, must suffer further trauma through the removal of their family support system and participation in the criminal justice process. All of these steps were taken by the system for the protection of the child victim.

- (d) The State v. Terrell Wayne Thompson, II, (94-GS-21-1100). This was my first experience with prosecuting under the homicide by child abuse statute. There were significant legal considerations regarding circumstantial evidence and lesser-included offenses and at that time there was no state precedent yet established with respect to this statute. Additionally, the nature of the crime made it personally difficult for me and many of the personnel involved in the prosecution of this case.
- (e) Aiken County Department of Social Services v. John and Diana H. This case was an abuse and neglect matter where the children had been taken into emergency protective custody by law enforcement. It was significant for several reasons. When I assumed responsibility for representing the department, this case was one that had failed to process through the court system in a timely manner. The children had languished in foster care with no permanent plan. Criminal charges against one of the parents were pending. Additionally, the mother had borne another child in the intervening time and was caring for that child. Balancing the presumption of family reunification with the children's right to be safe required complex analysis in crafting the department's recommendations and trial strategy and ultimately in the judge's decision.

The following is Judge Streater's account of the civil appeal she has personally handled:
SC Department of Social Services v. Connie Sevier, Daniel Sevier, Gary Grovenstein, and Bobby Randall, S.C. Court of Appeals, June 30, 1997, UP 97-UP-402.

Judge Streater reported that she has not personally handled any criminal appeals.

Judge Streater reported that she has held the following judicial office:

I was appointed to fill an unexpired term as a Richland County Magistrate beginning April 2005, and reappointed on April 2007 and April 2011. Magistrate jurisdiction in civil matters is limited in most cases to those actions where the claim or counterclaim does not exceed \$7,500.00. In landlord tenant matters, where the claim is based on back due rent, there is no monetary limit. In criminal cases, a magistrate's dispositional jurisdiction is limited, with some exceptions, to those crimes which carry penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both.

Judge Streater provided the following list of her most significant orders or opinions:

- (a) Palmer v. Davis 2005CV401011032;
- (b) Gainesville Industrial Electric Co. v. JDs Company 2005CV401012584;
- (c) Thompson v. KJ Auto Sales 2005CV401011232;
- (d) Daniels v. Sherman 2006CV4010574;
- (e) Smith v. Williams and Williams 2011CV401091195.

Judge Streater reported the following regarding her employment while serving as a judge:

I have occasionally contracted with the University of SC Children's Law Office to assist in mock trial training for DSS employees. I have also served as an adjunct professor for Midlands

Technical College. In that capacity, I have taught classes on Criminal Law, the Court System and the Criminal Justice System

Judge Streater further reported the following regarding an unsuccessful candidacy:

In 2004, I filed as a candidate for the Fifth Circuit Family Court Seat #1. I was found to be qualified but not nominated by the Commission in the report issued on January 18, 2005. In 2010, I filed a letter of intent to seek election to the At Large Circuit Seat # 9 but ultimately withdrew my candidacy in October 2010.

(9) Judicial Temperament:

The Commission believes that Judge Streater's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Judge Streater to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found her "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. In summary, the Committee stated, "Judge Streater is a very impressive candidate with a wealth of experience practicing in the Family Court and as a sitting Magistrate. We appreciate her energy, obvious work ethic, and common sense. We are confident she would treat lawyers and litigants with respect, dignity and compassion. We are certain she would make a most outstanding Family Court judge and believe she is eminently qualified to join the Family Court."

Judge Streater is married to Campbell Laney Streater. She has three children.

Judge Streater reported that she was a member of the following bar associations and professional associations:

- (a) SC Summary Court Judges Association;
- (b) SC Bar Association;
- (c) SC Children's Justice Act Task Force;
- (d) SC Executive Institute, Alumni.

Judge Streater provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Congaree Girl Scout Troop Leader;
- (b) Forest Lake Presbyterian Church- Trustee; Elder; Sunday School Teacher; Childhood Enrichment Center Board; Outreach Ministry Moderator; and Service and Benevolence Ministry Moderator;
- (c) Forest Lake Elementary School PTO;
- (d) Dent Middle School PTO;
- (e) Richland Northeast High school PTO;
- (f) Forest Lake Elementary School Educational Foundation, Treasurer;
- (g) Forest Lake Elementary School, Mentor;
- (h) Rockbridge Swim and Tennis Club.

Judge Streater further reported:

The summary court is where most citizens experience their only contact with the judicial system. As a magistrate, I believe one of my primary jobs is ensuring litigants appearing before me completely understand the process, their rights, and the potential outcomes of their court appearance. It is my personal goal that every party walks away from their court experience

believing that they have had an opportunity to be heard and treated in a respectful manner. In seven years, I have presided over many disputed matters. Although the litigants may not agree with the outcome, I strive to ensure that they understand the ruling and its consequences. I believe this approach has been effective. I take pride in the fact that, to date, I have never had to respond to a complaint filed against me by a litigant.

The opportunity to participate in the criminal justice system from the issuance of a warrant through the trial of a case and ultimately the imposition of sentence provides me with a unique vantage point. I believe this experience has made me a more discerning judge, allowing me a broader perspective in much of what I do on the bench.

Identifying and applying the relevant law to the problem at hand and understanding that there are real consequences to the affected people as a result of that analysis is both challenging and humbling. I believe it imperative for any judge not only to understand and correctly apply the law but also appreciate its impact upon litigants. While I must be impartial, this understanding allows me to be an empathetic judge.

(11) Commission Members' Comments:

The Commission commented that Judge Streater is a most outstanding candidate, noting her service as a Magistrate since 2005, and is very well-qualified to serve as a jurist for the Family Court.

(12) Conclusion:

The Commission found Judge Streater qualified and nominated her for election to the Family Court.

**Katherine Joyce Hall Tiffany
Family Court, At-Large, Seat 4**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Tiffany meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Tiffany was born in 1970. She is 42 years old and a resident of Greenville, SC. Ms. Tiffany 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.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Tiffany.

Ms. Tiffany 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. Tiffany reported that she has made \$86.05 in campaign expenditures for postage.

Ms. Tiffany 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.

Ms. Tiffany 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 Ms. Tiffany to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Tiffany described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Children's Issues in Family Court	3/17/06;
(b) Electronic Discovery	6/2/06; 12/13/00;
(c) Hot Tips from the Coolest Domestic Law Practitioners	9/22/06;
(d) Family Law Intensive Workshop	11/2/06;
(e) Family Court Bench/Bar	12/1/06;
Attendee; Speaker, "Psychological, Ad Hoc, Joint Etc Custody Update"	
(f) Children's Issues in Family Court	3/23/07;
(g) 2007 SCTLA Annual Convention Family Law and Ethics	8/2/07;
(h) SideBar: Ethics 2007	9/16/07;
(i) Hot Tips from the Coolest Domestic Law Practitioners	9/21/07;
(j) Laughter is the Best Medicine	7/17/08;
(k) 2008 SCTLA Annual Convention Family Law and Ethics	8/7/08;
(l) Hot Tips from the Coolest Domestic Law Practitioners	9/19/08;
(m) 2009 SCAJ Annual Convention Family Law & Ethics	8/6/09;
(n) 2009 SC Family	12/4/09;
(o) Family Law Update	1/22/10;
(p) Advanced Family Law (National Business Institute)	2/8/10;
Attendee; Speaker "Getting the Child Heard"	
(q) 2010 SCAJ Annual Convention; Family Law & Ethics	8/5/10;
(r) 2010 Hot Tips from the Coolest Domestic Law Practitioners	10/1/10;
Attendee; Speaker, "Child Support that is Off the Charts"	
(s) SC Bar Convention Family Law Section	1/21/11;
(t) Spring Diversity Luncheon (Greenville County Bar)	3/8/11;
(u) 2011 SCAJ Annual Convention Family Law & Ethics	8/4/11;
(v) 2011 Family Law Intensive Workshop Course Planner	10/6/11;
(w) Managing Ethical Issues in Your Day to Day Practice	12/6/11;
(x) SC Bar Convention – Family Law Section	1/20/12;
(y) What Family Court Judges Want You to Know	2/16/12;
Moderator and Author of Handbook	
(z) Presenting the Family Law Case	4/27/12;
Speaker: Preparing the Final Order	
(aa) 2012 SCAJ Annual Convention Family Law & Ethics	8/2/12.

Ms. Tiffany reported that she has taught the following law-related courses:

- (a) I prepared written materials and served as a speaker at the 2005 SC Bar Family Court Bench/Bar Seminar, on the topic "War of Fathers: Biological v. Legal";
- (b) I prepared written materials and served as a speaker at the 2006 SC Bar Family Court Bench/Bar Seminar, on the topic "Psychological, Ad Hoc, Joint Etc Custody Update";

- (c) I served as a speaker at the 2010 National Business Institute Advanced Family Law Seminar, on the topic “Getting the Child Heard”;
- (d) I prepared written materials and served as a speaker at the 2010 SC Bar Hot Tips from the Coolest Domestic Law Practitioners, on the topic “Child Support that is Off the Charts”;
- (e) I served as the co- course planner for the 2011 SC Bar Family Law Intensive Workshop. I selected the topics, arranged for the presenters, reviewed written materials, and attended/moderated the workshop which took place over 3 days;
- (f) I prepared the written course materials (that were provided to attendees) and served as the moderator for the 2012 National Business Institute Seminar “What Family Court Judges Want You to Know”;
- (g) I prepared written materials and served as a speaker at the 2012 SC Bar Seminar “Presenting the Family Court Case” on the topic “Preparing the Final Order”;
- (h) I am currently serving as the course planner for the 2013 SC Bar Family Law Intensive Workshop, tentatively scheduled for October of 2013. I am in the process of selecting topics and finding potential presenters.

Ms. Tiffany reported that she has published the following:

Co- Author, “Business Good Will in SC”, SC Lawyer Magazine, May 2011.

(4) Character:

The Commission’s investigation of Ms. Tiffany did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Tiffany did not indicate any evidence of a troubled financial status. Ms. Tiffany has handled her financial affairs responsibly.

The Commission also noted that Ms. Tiffany 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. Tiffany reported that her rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

Ms. Tiffany appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Tiffany appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Tiffany was admitted to the SC Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

- (a) August 1995-August 1996, Judicial Law Clerk to the Honorable Henry F. Floyd, Circuit Court 13th Judicial Circuit;
- (b) August 1996 to January 2006, Associate Attorney, Carter, Smith, Merriam, Rogers & Traxler, P.A.;
- (c) January 2006 to present, Partner/Shareholder, Carter, Smith, Merriam, Rogers & Traxler, P.A.;

From 1996 to approximately 2002, my practice primarily focused on Family Court cases. I was also involved in some Common Pleas, Magistrate Court and Probate Court cases. Since 2002, my practice has almost exclusively focused on Family Court cases, with only occasional involvement in other areas of practice.

Divorce

I have handled the issue of divorce, both in conjunction with the other issues listed below, and as the sole issue in cases. I have been involved in cases involving divorces on all statutory grounds (one year separation; adultery; habitual drunkenness and physical cruelty), with the exception of desertion, which I have not seen raised in my 16 years in private practice. I have also handled at least one annulment action and one action involving common law marriage.

In April of this year, I prepared written materials and spoke at the SC Bar Seminar "Presenting the Family Court Case" on the topic of preparing final orders. In my materials I provided an outline of each statutory grounds for divorce, including the code section, burden of proof and findings required for such grounds.

Equitable Division/Property

While in private practice, I have dealt with the identification, valuation and division of many different types of marital property, including real estate, livestock, automobiles, retirement accounts (401ks, IRAs, annuities, pension plans and defined benefit plans); investment accounts; stocks; stock options; restricted stock; insurance policies; capital loss carryovers; closely held businesses; professional practices; and personal property to give examples. In conjunction with property issues, I have also dealt with the identification and allocation of debts, including secured debts and unsecured debts; tax debts; and credit cards.

In all of my cases, I have tried to be diligent and thorough in preparing detailed assets and debts lists supported with documentation or objective evidence.

In several cases I have worked with expert witnesses who have valued assets such as real estate, personal property, businesses and defined benefit plans, preparing direct and cross examination and educating myself on their methods.

I have dealt not only with issues involving marital property, but also those involving non marital property, such as defending against and pursuing claims of interest in non marital property sought on the basis of transmutation and special equity.

I have drafted Qualified Domestic Relations Orders for the division of different types of retirement plans -- including the division of 401k plans; IRAs; pension plans/benefits for corporations; and defined benefit plans such as the SC Retirement System and airline pilot benefit plans.

Child Custody

I have represented parents (married, unmarried, male and female) in custody and visitation actions. I have also represented third parties (grandparents, stepgrandparents, and non blood relatives) seeking custody of children. I have served as a Guardian Ad Litem for children in many custody and/or visitation actions.

My experience includes actions for custody and visitation (in both "initial" actions raising these issues, and in actions seeking to modify custody and/or visitation). I have dealt with custody/visitation issues involving healthy children, children with special needs, children who are infants and children who are teenagers close to emancipation.

I have had to confront and address claims of physical abuse, neglect and parental alienation. I have worked with professionals (such as physicians, therapists and teachers) and expert witnesses (such as psychological and forensic custody evaluators) in connection with custody and visitation issues. I have also had to navigate complicated issues of biological and legal paternity.

Adoption

I have served as an attorney and a Guardian Ad Litem in several adoption actions. These actions have involved both blood relative/stepparent adoptions as well as adoptions through private

agencies. Some of these actions have also included actions for termination of parental rights -- such as for failure to visit and failure to support. Most of the actions have been uncontested, but (see below) I also have experience with highly contested and complicated adoption issues.

Abuse & Neglect

I have served as 608 counsel (as an attorney and as a Guardian Ad Litem), as substitute counsel and as privately retained counsel in actions for abuse and neglect. I have represented parents and third parties accused of abuse or neglect; I have represented third party caregivers seeking to intervene in abuse and neglect actions. I have represented alleged victims of abuse and neglect, including infants, young children, teenagers and the elderly. Some of these actions have been brief and concluded after one hearing. Others have lasted for several years at a time and required numerous hearings. My court appearances in these actions have included uncontested issues (such as agreements to treatment plans) as well as contested hearings (in removal actions, termination of parental rights, and permanency planning (issues such as relief from services, reunification/return to home, placement with third parties). Some contested hearings have lasted as little as 1 hour; others have extended over several days.

Juvenile Justice

I have not served as counsel of record in any Juvenile Justice matters. However, I have gained some knowledge and experience in this area through my work on Abuse and Neglect cases, especially as a Guardian Ad Litem where DJJ has been involved. I have attended hearings on the companion DJJ action, reviewed DJJ records, and met with caseworks involved in the companion DJJ actions.

Ms. Tiffany reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: no appearances;
- (b) State: my schedule varied, sometimes I would appear 3 to 4 times per week, other times once per week, and occasionally no appearances in a week.

Ms. Tiffany reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 100%.

Ms. Tiffany reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Ms. Tiffany provided that she most often served as chief counsel.

The following is Ms. Tiffany's account of her five most significant litigated matters:

- (a) Elaine Nutting Greene v. Jackson Edward Greene Et al 1998-DR-23-1531

My partner Tom Traxler and I represented the Husband in this action, which involved a 10 year marriage; divorce on the grounds of (Wife's) adultery; equitable division of assets, as well as attorneys fees. The Husband had substantial real estate and other assets he had acquired prior to the parties' marriage. The Wife claimed, based on transmutation and special equity, that the Court should equitably divide the Husband's premarital real estate. My partner and I defended against these claims, arguing that the Husband's premarital real estate should be excluded from division. The property issues also included division of other assets, including a number of horses that had to be valued,

auctioned and sold during the action; investment accounts and real estate acquired by the Wife with marital earnings during the marriage; and other real estate which wife contracted to buy prior to the date of filing of the action but did not close on until after the action was filed.

The Family Court found a 10% special equity interest in the Husband's premarital real estate which was included in the marital estate, but rejected the Wife's claim that the entire property had been transmuted. The Court also found that other assets acquired by the Wife during the marriage (including the real estate contracted before but closed after the action was filed, and rental income received by the Wife) were marital assets to divide.

The Wife appealed the Family's Court's ruling as to transmutation of the Husband's premarital real estate; the amount of special equity interest awarded; the inclusion of the Wife's real estate and rental income in the marital estate; and the overall apportionment in the marital estate. Mr. Traxler and I continued to represent the Husband in the appeal. The Court of Appeals issued its opinion in August of 2002, reversing the Family Court's decision to include as marital assets the real estate Wife had contracted to buy but did not close on until after the action was filed; remanding to the Family Court to determine if the Husband had a special equity interest in this real estate; reversing the Family Court's decision to include Wife's post filing rental income in the marital estate; affirming the Family Court's finding that the Husband's premarital real estate had not been transmuted; affirming the Family Court's calculation of the Wife's special equity interest in this real estate; and affirming the Family Court's equal division of the marital estate.

I consider this one of my most significant cases because of the property issues my partner and I had to address both in the lower court and on appeal. It was my first extensive experience with the discovery, research and preparation of transmutation and special equity issues. I also had to deal with other unique property issues, such as farm equipment and horses, and the analysis of investment accounts and earnings. It was also my first experience with preparing appellate briefs.

- (b) SC Department of Social Services v. Sandra Ivester and Michael Truitt, 2001-DR-23-3179

I was appointed as counsel for Defendant Michael Truitt in this action. DSS sought termination of Mr. Truitt's parental rights to his twin sons and infant daughter when in June of 2001, Mr. Truitt and the children's mother (Defendant Ivester) left all three children in the care of Mr. Truitt's mother and failed to return by the next morning. DSS took custody of the children and filed the action to terminate parental rights in July of 2001, alleging that Mr. Truitt had abandoned his children as defined in 20-7-1572(7) and alternatively, that Mr. Truitt had harmed his children pursuant to 20-7-1572(1). A two day contested merits hearing was held in November of 2001. Mr. Truitt was incarcerated during the time this action was pending ad heard.

At trial, I argued that Mr. Truitt could not have abandoned his children as they were in the legal custody of their mother at the time pursuant to a previous court order. The Family Court terminated Mr. Truitt's parental rights, finding that Mr. Truitt had abandoned his children; that he had harmed them, and that termination of parental rights was in the children's best interests.

After the Family Court issued its Order, I advised Mr. Truitt of his post trial rights. I filed a Motion to Reconsider which was heard and denied by the Family Court. I then filed a Notice of Appeal on Mr. Truitt's behalf, and petitioned for In Forma Pauperis status for Mr. Truitt. The Court of Appeals granted In Forma Pauperis status to

Mr. Truitt and instructed me to proceed with his appeal pursuant to *In Re Cauthen* which required DSS to pay for the cost of the transcript and the record on appeal.

I requested and reviewed the transcript of the Family Court proceedings; prepared initial and final briefs; and assembled the Record on Appeal on Mr. Truitt's behalf. In September of 2004, I appeared before the Court Of Appeals for oral argument. In October of 2004, the Court of Appeals issued its opinion (see below) affirming the decision of the Family Court to terminate Mr. Truitt's parental rights.

I was not successful on Mr. Truitt's behalf in the lower court or on appeal. Yet I look back on this case as a true turning point in my practice. It was the first time I had a lengthy contested DSS matter; the first time I dealt "in depth" with the issue of termination of parental rights; the first appeal I handled completely on my own; and the first (and so far only) oral argument I have presented to our appellate courts. But most importantly, it was the first time I realized the importance of our rule 608 providing counsel for indigent parties -- and the obligation I had as an attorney for each one of my clients, regardless of their background, education, circumstances or station in life. Judge Williams was kind enough to include a footnote in the opinion he issued for the Court of Appeals commending me (and Ms. Ivester's attorney, also appointed by Rule 608) for our "thorough and zealous representation" of our court appointed clients. Those words spoke to me and have guided me through my later years of practice. I have endeavored to live up to them with each and every client.

(c) Lesle Dean Long Cobin v. John Macarewich Cobin, et al, 2006-DR-23-4325

This case involved a short marriage of less than 5 years. The parties had one child, who was 6 months old at the time this action was filed. A Final Hearing took place in two installments, the first in 2008, spanning 7 days, the second installment in 2009 nearly a year later, lasting 1 day.

I represented the Wife. For most of the time this action was pending the Husband represented himself.

I consider this case to be one of my most significant because of the sheer volume of work, time and effort involved. This case involved nearly every family law issue -- common law marriage; domestic violence; custody, with allegations of mental illness and alienation, requiring evaluations and testimony by experts as well as a lengthy and thorough investigation by a Guardian Ad Litem; support, with issues of imputation of income; non marital and marital property, with assets of different types, including stocks, trusts, closely held business (requiring valuation by an expert), real estate (in SC and in a foreign country), insurance policies, annuities, stocks, investment accounts; attorneys fees, with experts retained on issues of custody and valuation of assets.

Although the Husband represented himself for much of the action, he filed numerous and voluminous motions with the Court, seeking relief and making allegations which required constant efforts to protect my client's interests as well as those of the minor child in my client's custody. From the time of filing to the conclusion of the Final Hearing, the Husband filed over 50 *pro se* Motions, Oppositions or Contempt actions, which were denied or dismissed by the Family Court. He also attempted to appeal a Temporary Order to the SC and United States Supreme Courts. My client, staff and I had to constantly monitor assets which were in the Husband's name and under his control to try and prevent the Husband from disposing of assets in violation of temporary restraining orders that were in place. We were able to intervene before some assets were liquidated, but unfortunately the Husband did succeed in disposing of others. During the 2 and 1/2 years before the Final Hearing began in this matter, there was scarcely a day when I did not have to devote some time to this case. After the first installment of the

Final Hearing, when final custody was awarded to my client and final child support was assessed, the Husband left the country, but continued to file motions from overseas.

The Husband did not appear at the conclusion of the Final Hearing. But after the Final Order was issued (which was over 100 pages long, and included an award of attorneys fees and litigation costs against the Husband as well as findings of contempt), the Husband initiated an appeal to the SC Court of Appeals which was dismissed because the Husband refused to comply with the Appellate Court Rules requiring him to pay for the costs of the transcript. The Husband then attempted to seek a "Writ of Review" with the SC Supreme Court, which was denied. My partners and I represented the Wife during both appellate actions, which lasted for nearly a year.

It was during this case that I felt that I truly embraced my role as an advocate for my client, providing her with the protection and help she needed, without regard for the time or cost (or fees that would likely go unpaid). When the Husband's behavior made me concerned for my own welfare and my partners stepped in to assist me without a moment's hesitation, I was touched and humbled by their willingness to share in my responsibilities despite their own heavy caseloads.

(d) Jane Roe and John Roe v. Craig Reeves, Victoria Addis and Baby Boy, an infant, 2009-DR-23-0975

I was appointed as Guardian Ad Litem for Baby Boy in this action, which was filed by adoptive parents seeking to adopt Baby Boy, who was the biological child of Mr. Reeves and Ms. Addis.

Mr. Reeves contested the adoption, and sought custody of Baby Boy. Although Ms. Addis signed a Relinquishment of Parental Rights and Consent for the Roes to adopt Baby Boy prior to the filing of the action, she initially supported Mr. Reeves claims for custody of Baby Boy. The Family Court awarded temporary custody of Baby Boy to the Roes but also awarded visitation privileges to Mr. Reeves and required him to pay child support for Baby Boy while the action was pending.

I conducted an extensive investigation on behalf of Baby Boy, who was born just days before this action was filed and who was 8 and 1/2 months old at the time of the Final Hearing. My investigation included several interviews with the parties; visits to both parties' homes; interviews of numerous witnesses; reviewing transcripts of depositions taken; reviewing medical and other records; observing visitation exchanges; reviewing the statutes and case law pertaining to adoption; preparing a lengthy report detailing my investigation and its findings; and attending, participating in and testifying at the 2 day final

The Family Court found that Mr. Reeves' consent was required in order for the Roes to adopt Baby Boy; that Mr. Reeves did not consent to the adoption; denied the Roes' request for adoption, and awarded custody of Baby Boy to Mr. Reeves. When Mr. Reeves assumed custody of Baby Boy, Baby Boy had just celebrated his 1st birthday.

The Roes appealed the Family Court's Order to the Court of Appeals. The Supreme Court of SC took certiorari and issued an opinion in May of 2011 (when Baby Boy was 2 years old) reversing the Family Court, finding that Mr. Reeves' consent to adopt was not required and ordering Baby Boy returned to the custody of the Roes. Mr. Reeves petitioned for rehearing and later for Writ of Certiorari from the United States Supreme Court, both of which were denied.

Although I had served as Guardian Ad Litem many times before this case, and had always done my best to fulfill my obligations in conducting my investigations; preparing my reports and representing the best interests of each one of my wards, it was in this case that I felt even more than I had before the weight of the responsibility of a Guardian Ad Litem. I also realized how crucial it was for a Guardian Ad Litem to fully

and diligently comply with her obligations and to actively participate in the Final Hearing by cross examining witnesses and being prepared to testify (and submit to cross examination) regarding her investigation, observations and recommendations. Although the Family Court denied Baby Boy's adoption against my recommendation, I felt confident that I had fully and thoroughly represented my ward's interest. And when the Supreme Court reversed the Family Court, based in part on information I had presented in my report, I was grateful that I had taken the time and effort (and detailed notes) I had taken in my investigation.

(e) Sari L. Farrell v. Sean Farrell, 2009-DR-23-2900

I represented the Husband in this action, which involved a relatively brief marriage. Although issues were raised as to divorce, property division, alimony and attorneys fees, the primary issue was custody of the parties' special needs child, who suffered from Down's Syndrome as well as a number of other medical, physical and behavioral issues. At the time the case was filed, the child was 3 years old. The case was pending for nearly 3 years, and at the time of the Final Hearing in July of 2012, the child was 6 years old.

I consider this case to be the most significant custody action I have handled. The custody issue which is difficult enough by itself, was complicated by the special needs of the child (which required an enormous amount of research and preparation on the child's medical, educational, therapeutic and living needs, as well as the parties' access to resources and abilities to meet these needs); the geographic distance between the parties (the Wife lived in SC, the Husband in Virginia), and the circumstances that arose during the 3 years the action was pending. A Guardian Ad Litem was appointed who conducted a lengthy and very detailed investigation.

The Wife was represented by 3 different attorneys in the action. While the action was pending, the Wife claimed she had been diagnosed with and was being treated for cancer. She used this as a basis for delaying mediation but then refused to answer discovery requests inquiring about her medical conditions. At the request of the Guardian Ad Litem, the parties submitted to forensic psychological and custody evaluations by a mental health expert. Both parties were deposed and literally volumes of medical and educational records for the minor child were compiled and exchanged in discovery.

The parties were awarded temporary joint custody, with primary placement remaining with the Wife and Husband receiving specific placement privileges 1 to 2 times per months and more extended placement on holidays and during summers. The Husband did not initially seek sole custody, hoping that the issue could be resolved amicably. But while the action was pending, the Husband became concerned about the Wife's behavior toward him as well as toward the child (who had excessive absences from school and therapy). He decided to seek primary custody of the parties' child.

The Final Hearing was scheduled and continued two times before it was finally heard in June of 2012, over a period of 4 days. The final hearing involved lengthy testimony by both parties, the examination and cross examination of mental health experts, the Guardian Ad Litem as well as third party witnesses. Over 70 exhibits were entered into evidence. The Family Court awarded the Husband (who lived in Virginia) primary placement of the parties' child (who had been in then temporary primary placement of the mother in SC for nearly 3 years) and adopted the parenting plan proposed by the Husband. I was instructed to prepare the Final Order, which was nearly 50 pages long (excluding exhibits and attachments) which has been submitted to the presiding judge.

This case required years of patience and diligence, not only from me but also from my client whose primary concern the entire time was the health, safety and well being of his child. I am proud to have represented this client and to have been a part of helping him secure his child's medical, educational and physical care.

The following is Ms. Tiffany's account of six civil appeals she has personally handled:

- (a) Elaine (Nutting) Greene v. Jackson Edward Greene et. al, 569 S.E.2d 393 (Ct. App. 2002). Opinion Issued August 5, 2002.
I was co-counsel with my partner, Thomas Traxler, for Mr. Greene in the underlying action before the Family Court. Mr. Greene retained us to represent him in the appeal as well. I was largely responsible for preparing the brief(s) submitted on behalf of Mr. Greene. Mr. Traxler attended the oral argument before the Court of Appeals
- (b) SC Department of Social Services v. Sandra Ivester and Michael Truitt, 603 S.E.2d 867 (Ct. App. 2004). Opinion Issued October 11, 2004.
I was counsel of record for Defendant/Appellant Michael Truitt, appointed by rule 608 in the underlying Family Court action. At my client's request (who was incarcerated at the time) I filed a Notice of Intent to Appeal and handled the appeal, including review of the (very lengthy) transcript, preparation of the briefs, preparation of the Record on Appeal and the oral argument before the Court of Appeals.
- (c) Jane Roe and John Roe v. Craig Reeves, Victoria Addis and Baby Boy, 708 S.E.2d 778 (2011). Opinion Issued May 2, 2011.
I served as the Guardian Ad Litem for Baby Boy in the underlying action. I was listed in the appeal as the Guardian Ad Litem and was served with all filings and notified of all proceedings. I did not prepare any briefs in this matter, although I was served with the briefs prepared by the parties' counsel and reviewed them thoroughly. I attended the oral argument before the SC Supreme Court, but did not present any argument, although I was prepared to do so if called upon by the Court.
- (d) Lesle Dean Long Cobin/Respondent v. John Macarewich Cobin/Appellant, 2006-DR-23-4325 In the SC Supreme Court, Appeal from the Greenville County Family Court, Supplemental Temporary Order of Timothy L. Brown dated April 2, 2007. Order Dismissing Appeal issued by the SC Supreme Court on August 24, 2007. Order Requiring payment of Attorneys fees by Husband/ Appellant to Wife/Respondent issued on October 17, 2007. Tom Traxler and I were both listed as counsel of record. I was primarily responsible for the preparation of correspondence and submissions to the Court.
- (e) Lesle Dean Long Cobin/Respondent v. John Macarewich Cobin/Appellant, 2006-DR-23-4325 In the SC Court of Appeals, Appeal from the Greenville County Family Court, Final Order of William J. Wylie, dated May 14, 2009. Order(s) Dismissing Appeal and denying Motion to Reconsider issued by the SC Court of Appeals on October 5, 2009; November 12, 2009; and December 8, 2009. Tom Traxler and I were both listed as counsel of record. I was primarily responsible for the preparation of correspondence and submissions to the Court of Appeals.
- (f) Lesle Dean Long Cobin/Respondent v. John Macarewich Cobin/Appellant, 2006-DR-23-4325 In the SC Supreme Court, Petition for Writ of Review(Certiorari). Order denying Petition for Writ of Review issued on March 8, 2010.
Tom Traxler and I were both listed as counsel of record. I was primarily responsible for the preparation of correspondence and submissions to the Supreme Court.

Ms. Tiffany reported she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Tiffany's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee found Ms. Tiffany "Qualified" in each of the nine evaluative criteria of constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Ms. Tiffany is married to Peter Clifford Tiffany. She has two children.

Ms. Tiffany reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar Association Family Law Council, current member, serving since 2009;
- (b) Greenville Bar Association.

Ms. Tiffany provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Paris Elementary School Improvement Council, 2007-11;
- (b) Paris Elementary PTA
Member 2006 to present
Red Ribbon Week Coordinator 2007 to Present;
- (c) St. James Episcopal Church
Member 2000 to present
Vacation Bible School Volunteer 2010 and 2011
Nursery Volunteer 2010 - 2011
Children's Church Leader 2012 - present;
- (d) Leukemia and Lymphoma Society "Team in Training" Program
Fund Raiser/Participant in 2011 Savannah Rock n Roll Half Marathon
Raised over \$4000, trained for and completed Half Marathon course.

Ms. Tiffany further reported:

I have practiced almost exclusively as a Family Court lawyer for 16 years. My partners and I have set high standards for each other and our practice that I have strived to attain. I have tried to improve my knowledge and experience by tackling difficult issues in litigation and by researching and presenting on novel legal issues at CLE's.

I intend to bring to the bench the same drive and eagerness to learn that I have applied to my 16 years of private practice. If I have the honor of serving as a Family Court Judge, I plan to devote myself to my responsibilities for as long as I am nominated and elected to serve.

(11) Commission Members' Comments:

The Commission commented that Ms. Tiffany is a sharp Family Court practitioner and noted how impressive her presentation was at the Public Hearing.

(12) Conclusion:

The Commission found Ms. Tiffany qualified and nominated her for election to the Family Court.

Martha McCright Rivers Davisson
Family Court, At-Large, Seat 5

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Rivers Davisson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Rivers Davisson was born in 1972. She is 41 years old and a resident of Williston, SC. Ms. Rivers Davisson 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 1996.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Rivers Davisson.

Ms. Rivers Davisson 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. Rivers Davisson reported \$171.70 in campaign expenditures for printing, stamps, and a name badge.

Ms. Rivers Davisson 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.

Ms. Rivers Davisson 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 Ms. Rivers Davisson to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Rivers Davisson described her continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2012 SCWLA Ethics	01/05/2012;
(b) 2011 SCAJ Annual Convention	08/04/2011;
(c) 2011 Hot Tips from the Coolest Domestic	09/16/2011;
(d) RPWB Litigation Seminar	04/30/2011;
(e) SCWLA Mastering the Game	10/22/2010;
(f) Ch. Sch. Of Law; Law & Society	02/18/2010;
(g) SCWLA Conference	10/01/2009;
(h) SCWLA Ethics	01/15/2009;
(i) Ch. Sch. Of Law Riley Inst. State Constitutional Reform	01/16/2009;
(j) 2008 SC Bar Criminal Law Update	01/25/2008;
(k) SCWLA Ethics	02/07/2008;

- | | | |
|-----|---------------------------------------|-------------|
| (l) | SCTLA Annual Convention | 08/03/2006; |
| (m) | SC Bar Residential Real Estate Update | 05/12/2006. |

Ms. Rivers Davisson reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Ms. Rivers Davisson reported that she has published the following article:
“The Leaner and Meaner Youthful Offender Act,” SC Lawyer, Volume 9, Number 3, November/December 1997.

- (4) Character:
The Commission’s investigation of Ms. Rivers Davisson did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Rivers Davisson did not indicate any evidence of a troubled financial status. Ms. Rivers Davisson has handled her financial affairs responsibly.

The Commission also noted that Ms. Rivers Davisson 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. Rivers Davisson reported that her rating by a legal rating organization, Martindale-Hubbell, is BV Distinguished.

- (6) Physical Health:
Ms. Rivers Davisson appears to be physically capable of performing the duties of the office she seeks.

- (7) Mental Stability:
Ms. Rivers Davisson appears to be mentally capable of performing the duties of the office she seeks.

- (8) Experience:
Ms. Rivers Davisson was admitted to the SC Bar in 1996.

She gave the following account of her legal experience since graduation from law school:

After graduation from the USC School of Law in 1996, I clerked for one year for the Honorable Thomas L. Hughston, Jr., of the Eighth Judicial Circuit. I then became an associate attorney at Bedingfield & Williams in Barnwell, SC. From 1997-2000, I assisted the partners, Daniel W. Williams and Walter Bedingfield, in the general practice of law. I developed my own caseload that quickly became predominantly domestic cases. I also learned the procedures for real estate closings, and litigated criminal cases with Mr. Bedingfield. I developed a modest civil litigation caseload as well. From my initial days as a litigating Attorney, I handled divorces involving equitable division, alimony, child support and custody issues.

In 1999, my husband entered the Masters in International Business program at the Darla Moore School of Business at USC. In 2000, I left Bedingfield & Williams to live with Doug in Zurich, Switzerland. We returned in December 2000. I then began my practice as a sole practitioner in January 2001 in Williston, SC. My practice developed much like my associate work. Today, my practice is a majority of real estate work and domestic litigation in Aiken and Barnwell counties. I handle some criminal cases, by appointment and through my private

practice. I also maintain a small plaintiff's practice, litigating cases in the Second Judicial Circuit. Being in a small town, I often prepare simple wills and other estate planning documents.

As a domestic practitioner, I routinely handle divorces involving the division of assets, including retirement assets, custody litigation, and issues of child support. I regularly serve as a Guardian ad litem on behalf of children involved in litigation. Recently, I have been involved as an advocating attorney and as a Guardian ad Litem in litigation involving grandparent rights and potential psychological (but not biological) parents of minor children. Because attorneys are no longer subject to appointment as a Guardian ad litem in DSS cases, I also volunteer in Barnwell and Bamberg counties in this capacity.

Ms. Rivers Davisson further reported regarding her experience with the Family Court practice area:

I have substantial experience in the areas of divorce, equitable distribution of property, child custody and visitation matters. Most divorces do not present complicated legal issues but require the attorney to educate her client as to the law and the process of separating their lives. Early in my career, I handled a change in custody action brought by a parent where the custodial parent intended to move out-of-state. The parties had been to court multiple times since their divorce, resulting in a Family Court order requiring all communication to be in writing. In an early meeting, my client placed before me two large notebooks of typed and handwritten letters and notes. Much of the written communication involved relatively trivial issues. I often use this fact scenario to caution clients. I explain to them that it is my goal that each parent I represent not become that case. As a Family Court judge, I want to craft a solution to the problem presented before me rather than creating future problems.

In matters of equitable distribution, I have handled a full range of issues. I have advocated for clients whose main asset was a home with negative equity. I have also been involved in distribution disagreements where the parties argued over every item of personal property. It is my common practice to verify property valuations, provide proof of valuations in cases as feasible, and to require my clients to produce documentation to me regarding the values of property. This helps my client make an informed decision during an emotional process. It helps me to explain the division of assets to my client and in negotiating with the opposing attorney. Another key element in representing clients in divorce actions is to identify all assets. Also, health insurance coverage is now a critical asset. I recently represented a litigant with an uncomplicated divorce based upon one year continuous separation except that the spouse suffered from unusual medical conditions. The opposing party had been denied disability, had not had consistent employment during the marriage or since, and required several prescriptions for documented medical problems. What was otherwise a non-spousal support case became one simply because someone had to pay for health insurance coverage.

I regularly handle matters of child custody and visitation as an advocating attorney and as a *Guardian ad litem*. I am currently representing a non-biological party in bringing a request for custody based upon the psychological parent statute against the desires of other relatives. This case demonstrates how important it is to put the interests of the child as the top priority.

As a *Guardian ad litem*, I routinely conduct home visits and interview relatives and friends regarding custody and visitation issues. I believe this work has given me invaluable experience that I can bring to the judiciary. As a *Guardian*, I am not advocating for either parent. I am reviewing the evidence presented by both parents.

I have some experience in the field of adoption. When approaching an adoption, I try to proceed with extreme caution. I do not want any procedural questions to prevent the adoptive family from having a wonderful family life. For example, I represented a young couple adopting their biological nephew. The biological mother relinquished her rights voluntarily and asserted that she had no knowledge of the identity of the father. Extensive questioning by me and the

adoptive parents failed to change her response. Although it appeared we may be able to get by with a publication notice in SC, I also published notice in the city and state where conception may have occurred. I want to make it as difficult as possible to raise any issue that would question the procedure of an adoption case. As a judge, I would scrutinize these cases with extreme care.

At one time in my career, I received indigent appointments from the General Sessions docket as well as from the abuse and neglect caseload. I found these cases troubling as issues of poverty, mental health, and/or addiction run through almost every facet of each case. As an advocate, I often had to track down my client to meet with him or her before the court hearing. Many clients in this system lack basic life skills. They either fail to recognize the gravity of the case or feel overwhelmed by it and choose to ignore it. The core work in an abuse and neglect case is often negotiating with the Department of Social Services to craft a treatment plan that your client may be able to complete. A few years ago, I represented a mother of limited intellectual abilities. Her children were placed in protective custody due to their exposure to violence from her relationship with an abusive boyfriend. There were no allegations of physical harm to the children by the mother. The mother needed services for her protection. I worked with the Department of Social Services, including attending staffings with the Department of Mental Health, to reunify the family and continue services to the family to ensure the safety of the children and my client.

Today, I receive appointments from the General Sessions docket and volunteer as a *Guardian ad litem* in abuse and neglect cases. My role as a volunteer *Guardian* differs from my role in private cases. This volunteer work has provided additional insight into the work of the Department of Social Services and the procedures the department follows in presenting its case.

Finally, I also have experience in the realm of juvenile justice. My experience in General Sessions court has given me a general knowledge of criminal law. Juvenile justice differs in the status offenses applicable to minors and the pre-trial procedure. In 2010, I represented a juvenile charged with armed robbery. I saw no logical reason a young man like him should be in the juvenile justice system as much as he had been. He was intelligent, had a caring family, and had the opportunity to excel in school. For the armed robbery charge, we reached a reasonable plea deal given the severity of the crime and the evidence presented. In this case, I saw how the juvenile justice system tries to rehabilitate juveniles to avoid adult criminal activity.

Ms. Rivers Davisson reported the frequency of her court appearances during the past five years as follows:

- (a) federal: 0%;
- (b) state: At least once a month in Family Court although I sometimes attend Family Court three times in a week; once every two months in Magistrate's court; once a quarter in General Sessions court.

Ms. Rivers Davisson reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 5%;
- (b) criminal: 10%;
- (c) domestic: 45%;
- (d) other: 40% (other is real estate, wills, advance directives, business documents).

Ms. Rivers Davisson reported the percentage of her practice in trial court during the past five years as follows:

- (a) jury: 15%;
- (b) non-jury: 85%.

Ms. Rivers Davisson provided that she most often served as sole counsel.

The following is Ms. Rivers Davisson's account of her five most significant litigated matters:

- (a) State v. David M. McClure, Jr., Opinion No. 25193 (2000). While I was an associate at Bedingfield & Williams, Walter Bedingfield was appointed lead defense counsel for the first death penalty trial in Barnwell County. As his associate, I assisted in all pre-trial matters, met with expert witnesses, met with the client, conducted research, and assisted in trial preparations. The case involved the murder of Mr. McClure's father and his father's girlfriend when he was a teenager. Mr. McClure admitted to stabbing them both and then fleeing. The sheer nature of a death penalty trial makes it significant in anyone's life. As a litigator, this case was significant for me in learning the preparation required for such a case and the voluminous legal issues presented. Mr. McClure was convicted by the jury and sentenced to death in the penalty phase. The penalty verdict was later overturned for improper comment upon the defendant's right to remain silent. He recently entered a plea from which he will serve life without parole;
- (b) Deloach, et al. v. Norfolk Southern (2005). In January 2005, a collision of Norfolk Southern trains in Graniteville, SC, caused the release of toxic gas in an area known as the Valley. I represented a resident of the area for his own injuries, as an heir to his father who passed away from the exposure, and on behalf of his infant daughter who was in the house with them. I served as co-counsel with the Hulsey Litigation Group and with Lawrence Brown who represented other family members of the Deloach family. I was involved in the preparation of litigation documents, negotiations with the defendants and managed the state court proceedings. This case is significant because it involves mass tort litigation and because of the facts presented. A case of this type requires a significant commitment from the representing attorneys in both time and preparation. All of my cases involving the Graniteville train wreck were settled without trial;
- (c) Baltzegar v. Baltzegar (2004). This case involved the separation and divorce of a thirty-six year old marriage. Although the property division was important, the significance of the case was that Ms. Baltzegar had medical conditions that were potentially very serious in the future. The uncertainty of her medical needs made health insurance imperative for her. Mr. Baltzegar had recently had some medical issues as well, making retirement seem more appealing. Neither party was close to social security age at the time of the litigation and all non-employer based health insurance was not financially possible due to the wife's medical condition. Both parties wanted a divorce. This case demonstrated that the most important asset may not be a physical asset held by either party. Furthermore, the court is often limited in how it can assist. A settlement was reached with an attempt to address the health insurance issue;
- (d) Pennicuff v. Pennicuff (2005). I served as the Guardian ad Litem for two minor children who were in the physical custody of their mother. The mother moved from Georgia to Ohio without making provisions for father's visitation. The father brought an action for change in custody or to address his visitation. During the investigation, questions arose regarding the stability of the children in mother's custody. With the assistance of an attorney in Ohio, we were able to present a full and accurate report of the status of these children to the SC court which led to a change in custody. Unfortunately, the limited court schedule for trials of any significant length meant that the case was not heard for many months after the completion of the investigation. This case demonstrated the need for a Guardian advocate for the minor children to move the case forward for the benefit and protection of the children. The attorneys are representing their individual clients and may have other issues to consider;

- (e) Thomas v. Thomas (2004) I represented the plaintiff/wife in this action for divorce. The parties were married in 1971. Defendant/husband had been employed and managed the family farm. There were allegations of spousal abuse by the defendant who now appeared to have several physical disabilities. With the help of local law enforcement, we were able to prove that defendant's physical condition did not prevent the stalking and harassment that plaintiff continued to allege. This was essential in reaching a favorable settlement that involved support and a marital property settlement. I believe my client's physical well being was seriously threatened. The defendant/husband was presenting himself to the court and his attorney as physically unable to do the things he was accused of. Thankfully, my client remained physically safe during the time it took to prove husband's deceit to the court.

Ms. Rivers Davisson reported she has not personally handled any civil or criminal appeals.

Ms. Rivers Davisson reported the following regarding an unsuccessful candidacy:
I ran for the SC House of Representatives District 91 seat in the special election held in April 1999. I lost to the Honorable Lonnie Hosey, who still serves in that seat.

(9) Judicial Temperament:

The Commission believes that Ms. Rivers Davisson's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Ms. Rivers Davisson to be "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee found Mrs. Rivers Davisson "Qualified" in the evaluative criteria of experience, constitutional qualifications, physical health, and mental stability. In summary, the Committee stated, "Mrs. Rivers Davisson is an outstanding attorney with integrity, wisdom and common sense. We believe she would make an excellent Family Court judge and our committee finds her very qualified to serve on the Family Court."

Ms. Rivers Davisson is married to Douglas Raymond Davisson. She has three children.

Ms. Rivers Davisson reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) SC Women Lawyers Association.

Ms. Rivers Davisson provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Williston Ivy Garden Club;
- (b) Williston United Methodist Church;
- (c) Williston Country Club (not a current member).
- (d) Barnwell United Methodist Church;
- (e) Aiken Civic Ballet Company Board.

Ms. Rivers Davisson further reported:

Regardless of your background, Family Court is a place where many litigants lack foresight into his/her situation and succumb to the emotional nature of the litigation. I hope to present a calm and friendly demeanor to each litigant who comes into court.

For over ten years, I have maintained a general practice law firm in rural SC. Although this is not a unique practice in our state, it certainly is an interesting perspective on life in SC and provided me with insights on how the Family Court and other courts affect their lives in myriad ways. I have advised families with their child or grandchild facing charges through juvenile justice. I have represented children before the local school board, and participated in DSS hearings as an advocate for a parent accused of abuse or neglect and as a volunteer guardian ad litem. As a private practitioner, I regularly act as a guardian ad litem in cases in Barnwell County. Many of my clients live in poverty conditions and have provided me insight into the struggles of raising families on such limited incomes. Most litigants fear the judicial system and have many misconceptions as to the workings of the court. My Family Court experience will aid me in serving the litigants who come before me, and I will strive to be both respectful and fair in all of my actions.

While maintaining my law practice, I am raising three lovely girls with my husband of seventeen years. My children have given me immeasurable insight into my Family Court practice. I have also managed the struggles of maintaining a law practice while meeting the demands of parenting. An at-large judgeship would require travel away from home, but my husband, parents and extended family would continue to provide support for me and my children.

As a judge, I would strive to respect the law and provide pragmatic solutions to the family disputes presented to me. My law practice has given me insight into the problem faced by families in SC. I would use this knowledge to work with the SC Bar, other members of the court system, and other stakeholders to make the judicial process more efficient and effective, especially for cases involving children.

(11) Commission Members' Comments:

The Commission commented that Ms. Rivers Davisson had a high test score on the Commission's Practice and Procedure Exam, good interview answers, and a diverse practice that would serve her well on the Family Court bench.

(12) Conclusion:

The Commission found Ms. Rivers Davisson qualified and nominated for election to the Family Court.

**Melissa Johnson Emery
Family Court, At-Large, Seat 5**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Emery meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Emery was born in 1969. She is 43 years old and a resident of Myrtle Beach, SC. Ms. Emery 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 1994.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Emery.

Ms. Emery 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. Emery reported that she has made \$50 in campaign expenditures for stationary and postage.

Ms. Emery 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.

Ms. Emery 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 Ms. Emery to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Emery described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Substantive Issues in Family Law	12/14/06;
(b) Family Court Procedural & Substantive Law	10/11/07;
(c) Children's Issues in Family Court	03/28/08;
(d) Family Law Intensive Workshop	11/21/08;
(e) Family Court Procedural & Substantive Law	12/07/08;
(f) 2009 SC Family Court Bench/Bar	12/04/09;
(g) Family Court Procedural & Substantive Law	12/10/09;
(h) Steering Your Way Through Family Court	05/21/10;
(i) ABA 2010 Annual Meeting - Family Court Seminar	08/05/10;
(j) Family Court Procedural & Substantive Law	12/09/10;
(k) The 8 Types of Clients and How to Survive 7 of Them	02/23/11;
(l) Family Court Procedural & Substantive Law	12/08/11;
(m) Presenting the Family Law Case: The Basic Essentials	04/27/12.

Ms. Emery reported that she has taught the following law-related courses:

- (a) I have coordinated and participated as a presenter for the annual Horry County Family Court Procedural & Substantive Law Seminar from 2000 to present. This is an annual seminar that is conducted each year by the Horry County Family Court Bar, which I have chaired since 2000. In working closely with our resident judges, the committee presents a practice nuts & bolts type seminar which aides the Family Court practitioner with substantive and procedural issues dealt with in Family Court.
- (b) I was part of the presentation faculty for the seminar Presenting the Family Law Case: The Basic Essentials on April 27, 2012. This is a seminar presented by the Family Law Council of the SC Bar on a bi-annual basis to teach attorneys who are new to Family Court the basic procedures for practicing in Family Court.
- (c) I was part of the presentation faculty for the seminar Steering Your Way Through Family Court on May 21, 2010. This is the first seminar presented by the Family Law Council of the SC Bar, now done on a bi-annual basis to teach attorneys who are new to Family Court the basic procedures for practicing in Family Court.

- (d) I was part of the presentation faculty for the seminar Children's Issues in Family Court on March 17, 2006 and March 28, 2008. This seminar dealt directly with the issues of children in Family Court. It also served as training for Guardians ad Litem in Family Court.
- (e) I was part of the presentation faculty for the seminar Hot Tips from the Coolest Domestic Law Practitioners on September 23, 2005. This is a seminar conducted by the Family Law Council each year to educate new and experienced attorneys in Family court.
- (f) I was part of the presentation faculty for the seminar Guardian ad Litem Training on March 5, 2004. This seminar dealt directly with the issues of children in Family Court and served as training for Guardians ad Litem in Family Court.

Ms. Emery reported that she has published the following:

SC Family Lawyer's Toolkit, Second Edition Published by the SC Bar in 2010.

(4) Character:

The Commission's investigation of Ms. Emery did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Emery did not indicate any evidence of a troubled financial status. Ms. Emery has handled her financial affairs responsibly.

The Commission also noted that Ms. Emery 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. Emery reported that her rating by a legal rating organization, Martindale-Hubbell, is BV, 4.4 rating.

Ms. Emery reported that she has held the following public office:

Francis Marion University Board of Trustees - May 1998-Present. All reports were timely filed.

(6) Physical Health:

Ms. Emery appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Emery appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Emery was admitted to the SC Bar in 1994.

She gave the following account of her legal experience since graduation from law school:

- (a) Law Clerk to the Honorable James E. Lockemy, Circuit Judge of the Fourth Judicial Circuit - August 1994 to August 1995.
- (b) Law Offices of John R. Clarke, North Myrtle Beach, SC, Associate, Civil and Domestic Litigation, August 1995 to November 1996.
- (c) Jeffcoat Pike & Nappier, LLC, Myrtle Beach, SC, Associate, Domestic Litigation to include GAL work and mediation, November 1996 to August 2000.
- (d) Monckton Law Firm, Myrtle Beach, SC, Associate, Domestic Litigation to include GAL work and mediation, August 2000 to March 2001.

- (e) Jeffcoat Pike & Nappier, LLC, Myrtle Beach, SC, Partner, Domestic Litigation to include GAL work and mediation, March 2001 to October 2007.
- (f) McLain & Lee, LLC, Conway, SC, Partner, Domestic Litigation to include GAL work and mediation, October 2007 to December 2010.
- (g) Melissa Johnson Emery, LLC, Conway, SC, Owner, Domestic Litigation to include GAL work and mediation, January 2011 to Present.

Ms. Emery further reported regarding her experience with the Family Court practice area: I have practiced in the Family Court area since 1995, and exclusively since 1996.

Divorce/Separate Support and Maintenance/Equitable Division: The majority of my cases fall into this category. I have dealt with each ground for divorce as allowed by statute in my cases throughout my practice as a Family Court practitioner. Some of my cases have been so disturbing that I feared for the life of my client. I have had to seek Ex Parte Orders and Emergency Hearings on the most severe cases. As part of most divorce cases, the issue of equitable division of assets and debts must be dealt with. My cases dealing with this issue have ranged from parties with little by way of assets and debts to parties with estates worth millions of dollars. Some of the cases have included businesses that must be evaluated [sic] and buy outs discussed. I have also handled cases that deal with common law marriage and these are very difficult once the relationship [sic] goes sour.

Children's Issues: Many of the divorce cases I have handled also included issues involving the minor children of the parties. In most cases, there is generally a primary caretaker of the children, but more and more there is a blending of duties between parents in regarding to the children. Because both parents are such an integral part of raising children while they are married, it is hard to explain to parents that their time and rights to their children could be drastically cut when going through a divorce. In addition to the contested custody cases, I have also dealt with complex issues involving children such as child endangerment, drug and alcohol abuse, parental alienation, visitation restrictions and adoptions. I have also dealt with many modification actions wherein parties have moved from the area or have had other substantial changes of circumstance. I have handled many adoption cases, as I have a personal interest in this area. (I have a few family members who are adopted, including my own daughter.) I have tried two complex termination of parental rights cases in the last few years. I have also done adult adoptions. I have represented parents seeking to change the name of their child, one of which resulted in a contested trial.

Another role in which I have addressed children's issues is as a Guardian *ad Litem*. I have served as a Guardian *ad Litem* for contested custody cases and adoptions for over fifteen years. I have participated in trials as the Guardian for the minor children involved in the action, and have conducted investigations so that I could represent the best interest of my charge. I have served as a Guardian in termination of parental rights actions, to include one particular case in which twin girls were horribly burned, allegedly by one or both of their parents.

DSS/Juvenile Justice: All Family Court appointments dealing with the Department of Social Services and juvenile justice came to me for many years in my prior firm. I have handled many cases as the attorney for a litigant in a DSS case or I have served as the Guardian *ad Litem* for the minor child(ren) in abuse and neglect cases. I have conducted investigations on behalf of the client. I strongly believe that any attorney appointed to these cases should serve their client just as any paid client is served. Often these people need help the most, and I know that these children are the neediest in the court system. I have handled cases as the attorney for a juvenile who has been arrested, and have also served as the GAL for the juvenile when their parent or guardian is not present or was the victim of the alleged crime.

Mediation: Horry County is a pilot county for mediation, and I have served as a certified Family Court mediator for approximately thirteen years. I must say that I truly enjoy this aspect of

family law. It is rewarding to help parties reach a resolution that can begin the healing process, especially for their children. The litigants may not always get what they want; however, if they have had a hand in reaching a resolution, the end result is usually very successful and contempt actions tend to be avoided.

Ms. Emery reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: none;
- (b) State: Average of 3 - 4 times per week in Family Court.

Ms. Emery reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 100%;
- (d) Other: 0%.

Ms. Emery reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100% (Family Court).

Ms. Emery provided that she most often served as sole counsel.

The following is Ms. Emery's account of her five most significant litigated matters:

- (a) Eileen K. Lee v. Thomas F. Lee, Jr. (2010-DR-22-071). This was a divorce wherein the parties separated due to the sexual and mental abuse of the parties' minor child by the Defendant Father. While the private divorce case was pending, there were separate actions involving SCDSS and criminal charges against the Defendant Father. While the Family Court had found that the Defendant Father had abused his son, he still continued to fight in the divorce action to have access to the minor child even though he was under a court order to receive services which he refused. He contested each and every issue before the Court and this added to the level of difficulty because of the threat of harm against the Plaintiff Mother and the minor child. He challenged the notion that the marriage was broken by his acts against the minor child as those acts did not constitute grounds for divorce under the laws of SC.
- (b) Dewey Cecil Baldwin v. Mary Florence Matherly Baldwin (2010-DR-26-0768). This case dealt with a modification of alimony requested by the Plaintiff. At the time of the divorce, the parties agreed that the Plaintiff would pay permanent periodic alimony to the Defendant. They agreed that alimony would continue until such time as Defendant remarried or either party died, as that was the current statute at the time. Subsequently, the alimony statute was changed to include the current cohabitation clause as a way to terminate alimony. Defendant had been living with her paramour for over fifteen years but would not marry him because she would lose her alimony. Plaintiff sought to terminate the alimony because of the change in the statute regarding cohabitation as well as the fact that she was living in a relationship that was tantamount to marriage. Defendant argued that the cohabitation term did not apply to her because the law was changed after their Final Order was entered. This case challenged the Family Court judge to determine if the statutory change was retroactive to orders that came before it. During the trial, and after briefs on the topic were submitted and argued, the parties agreed to a resolution that found the relationship was tantamount to marriage and an

agreement was reached. Alimony was subsequently terminated. Therefore, the issue of the statute being retroactive did not have to be addressed.

- (c) Irene Wanda Shubeck v. Theodore Richard Shubeck (2008-DR-26-2666). This case dealt with a divorce, alimony and equitable distribution. The problematic aspect of this case was based upon the fact that the parties owned several businesses in a flea market setting which took in a lot of cash that may or may not have been accurately reported. While the parties were able to maintain a very comfortable lifestyle during the course of the marriage, the values and incomes of their businesses were sketchy at best. With difficulty, the attorneys and the Court had to pick through financial records and proof of lifestyle, to include items purchased throughout the marriage, to determine what values could be assigned to their property as well as what income should be used in determining support obligations.
- (d) David Wayne Schamens & Piliana M. Schamens v. William Gaither & Julie Gaither (05-DR-26-2225). This case dealt with the termination of parental rights of both parents and the adoption of the minor child by her maternal uncle and aunt. The parents of the child had been involved in litigation over the child for an eight year period of time. Both of them eventually abandoned the litigation as well as the minor child. Mother had an order allowing supervised visitation; however, she only made sporadic efforts to see her daughter. Father had supervised custody (due to sexual abuse allegations) and was to be supervised by his wife. The step-mother raised the minor child for a period of two years with no monetary support from either parent and little or no visitation with either parent. Mother's brother and sister-in-law petitioned to terminate the parents' parental rights and adopt the minor child. Both parents came forward to contest the action. Eventually, Father voluntarily gave up his parental rights. Mother fought the action in a four day trial. The Court terminated her parental rights on six separate grounds and granted the adoption.
- (e) Nicolaos G. Papagianis v. Debbie T. Papagianis (00-DR-26-619). This case dealt with a unique caveat of equitable distribution. The parties owned a small business, which the husband operated while Wife worked a separate job. Husband was injured severely when he was struck by a police squad car during a high speed chase. Wife was forced to quit her job and operate the family business and take care of Husband while he recuperated. When the parties separated, Wife sought a share of Husband's personal injury settlement due to the fact that she had given up her job to care for him when he could not care for himself. Husband argued that he should receive 100% of the settlement proceeds because a large portion was based on his future pain and suffering. The Court awarded Wife 10% of the personal injury settlement proceeds received by Husband.

The following is Ms. Emery's account of the civil appeal she has personally handled: Daniel Griffin v. Terri Lopez (02-DR-26-1152). In this case I represented the Defendant who filed a Rule to Show Cause contempt action against the Plaintiff after the case was finalized. The Plaintiff was found to be in contempt and he appealed the ruling. After initial briefs were filed by the parties, the Plaintiff dismissed the appeal allowing the contempt finding to stand.

Ms. Emery reported that she has not personally handled any criminal appeals.

Ms. Emery further reported the following regarding an unsuccessful candidacy: I ran for Horry County Family Court Seat 2 in 2008. I withdrew from the race in January 2008.

(9) Judicial Temperament:
The Commission believes that Ms. Emery's temperament would be excellent.

(10) Miscellaneous:
The Pee Dee Citizens Committee found Ms. Emery "Well qualified" in five of the nine evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her "Qualified" in the criteria of constitutional qualifications, physical health, and mental stability. In summary, the Committee stated, "Ms. Emery has the experience as well as empathy to be an outstanding Family Court judge. We give her superlative marks and hope to hear that she will be on the bench soon."

Ms. Emery is divorced. She has two children.

Ms. Emery reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) Horry County Bar Association;
- (c) SC Bar Family Law Section Council, 2003 - present; Section Delegate, 2012; Chair, 2010; Vice Chair, 2009; Secretary, 2008;
- (d) SC Fee Disputes Board, April 2012 - present;
- (e) Horry County Family Court Executive Committee, 2000 - present;
- (f) Certified Family Court Mediator, 1999 - present;
- (g) Coastal Women's Law Society, 2000 - present; President, 2000 - 2003.

Ms. Emery provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Burgess Elementary School Improvement Council, 2008 - present; Secretary, 2008-09;
- (b) Francis Marion University Board of Trustees, 1998 - present.

Ms. Emery further reported:

With the exception of my first year in practice, I have dedicated my entire professional life to practicing in Family Court and have practiced in no other area. I am very passionate about this area of the law. We deal with people's children, livelihood, and assets that they have worked their entire lives to acquire. They are truly at their most vulnerable and have put their complete trust in their lawyer to take care of their family issues and the presiding judge to make a fair decision. Having gone through the process of adopting a child and also a divorce myself, I have been on the "litigant" side of Family Court as well. Therefore, I am well acquainted with the fact that someone going into the Family Court arena has to put their trust in the system and the fact that the judge presiding over the matter has the requisite knowledge of law and concern for the litigants. I believe that my life experience has prepared me to be a judge who will understand the fact that those appearing in front of me are not just a caption and case number but people who need to know that the judge is compassionate and will strive to be as fair as possible.

(11) Commission Members' Comments:
The Commission commented that Ms. Emery is known as a very competent Family Court practitioner and noted her strong background as a mediator and guardian ad litem.

(12) Conclusion:
The Commission found Ms. Emery qualified and nominated her for election to the Family Court.

Randall E. McGee
Family Court, At-Large, Seat 5

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. McGee meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. McGee was born in 1965. He is 47-years old and a resident of St. Matthews, SC. Mr. McGee 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 1991.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. McGee.

Mr. McGee 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. McGee reported that he has made \$81.00 in campaign expenditures.

Mr. McGee 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.

Mr. McGee 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 Mr. McGee to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. McGee described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Slip, Trip and Fall Cases	5/10/12;
(b) Advanced Family Law	2/03/12;
(c) Legal Ethics of Email	1/31/12;
(d) Mediation and Arbitration	1/11/12;
(e) Legal Ethics Hot Topics1	2/13/10;
(f) Hot Tips for Solo or Small Firms	9//24/10;
(g) LLC: From Formation to Special	8/24/10;
(h) Winning Numbers	2/24/10;
(i) Everything you Want to Know	2/19/10;
(j) Plaintiff’s Personal Injury	12/11/08;
(k) Hot Tips Domestic	9/19/08;
(l) Successful Financial Settlements	6/17/08;
(m) Auto Torts XXX	11/30/07;

(n) Strategies in Handling DUIs

8/14/0.

Mr. McGee reported that he has taught the following law-related courses:

- (a) 2003 - I lectured and presented my written article, "How to Win a Temporary Hearing," at the SC Bar Seminar, Cool Tips from the Hottest Domestic Law Practitioners.;
- (b) 2004 – I lectured and presented my written article, "Custody and Visitation Factors" at the 2004 Guardian Ad Litem Training Seminar.;
- (c) 2008 – I presented my article, "The Dangers of Filing False Affidavits at a Temporary Hearing"; SC Bar seminar, Hot Tips From the Coolest Domestic Law Practitioners.

Mr. McGee reported that he has published the following books or articles:

- (a) "How to Win a Temporary Hearing," 2003. Cool Tips From the Hottest Domestic Law Practitioners, (SC Bar CLE 2003);
- (b) "Custody and Visitation Factors," 2004. Guardian ad Litem Training Seminar, SC Bar CLE;
- (c) "The Dangers of Filing False Affidavits at a Temporary Hearing," 2008 Hot Tips From the Coolest Domestic Law Practitioners, (SC Bar 2008).

(4) Character:

The Commission's investigation of Mr. McGee did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. McGee did not indicate any evidence of a troubled financial status. Mr. McGee has handled his financial affairs responsibly.

The Commission also noted that Mr. McGee 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. McGee reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

Mr. McGee appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. McGee appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. McGee was admitted to the SC Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

- (a) 1991-92, Associate, Felder & Prickett, St. Matthews, SC;
- (b) 1992-95, Associate, Felder, Prickett & Mizzell, St. Matthews, SC;
- (c) 1995-97, Junior Partner, Felder & Prickett, St. Matthews, SC;
- (d) 1997-2002, Partner, Felder, Prickett & McGee, LLP, St. Matthews, SC;
- (e) 2003-present, Partner, Felder & McGee, LLP, St. Matthews, SC;
(All the above are general practice firms).
- (f) 1993-present, title insurance agent for either Lawyers Title or First American Title Insurance Company;
- (g) 2003-present, School Attorney, Calhoun Academy, St. Matthews, SC.

Mr. McGee further reported regarding his experience with the Family Court practice areas:

I have practiced in a general practice law firm in St. Matthews, SC, since being admitted to the bar in November 1991. John G. Felder, Sr. and Bates N. Felder are my law partners. John Felder has been practicing in St. Matthews for over thirty years, and Bates Felder has been practicing in St. Matthews for over ten years.

During my tenure at the law firm, I have developed a broad practice that is heavily concentrated in domestic/family law. I have represented clients in the Family Court (and Circuit Court) throughout the state, including Calhoun, Orangeburg, Lexington, Richland, Clarendon, Dorchester, Bamberg, Sumter, Saluda, Horry, Charleston, Colleton, Newberry, Kershaw, Dillon, Greenwood, and York counties.

I have handled over five hundred divorce cases. I have actively tried about 50 of these cases that were not settled by agreement. These cases included equitable distribution issues with some of a complicated nature involving business interests, retirement and pension plans. I have associated with certified public accountants to assist in many cases. (Ex. Taylor v. Taylor, 2004-DR-09-26 and Tyler v. Tyler, 2010-DR-38-1202).

I have handled many custody, visitation, and/or child support cases, including paternity issues. In one case, Sloop v. Sloop, 2010-DR-38-971, I successfully limited the exposure of my client's children to the new wife of their father, who had a homicide conviction in her past.

I have handled one case wherein I secured my client \$9000.00 monthly in alimony. Baugh v. Baugh, 2010-DR-40-4326.

One of my first custody cases that I won, Laurence Mitchell v. Mercy Dodoo, Un.P.Op.No. 95-UP-167, was appealed to the SC Court of Appeals, where the decision was affirmed. I have been successful in securing custody for two sets of grandparents where it was in the best interest of the minor child to be in their custody as opposed to one or both of their parents.

I have been appointed to and hired for abuse and neglect cases. I was the DSS abuse and neglect attorney in Calhoun County for six months in 1993 until I resigned from the position to concentrate more fully on my private practice.

I have had experience with juvenile justice cases and I have handled several adoption and/or termination of parental rights cases. My experience in Family Court has been complete and has allowed me to gain knowledge that will be invaluable as a Family Court judge.

I also have had extensive practice, including trial work, in General Sessions and Common Pleas Court, Probate and Magistrate Court, Administrative Courts, and the Workers' Compensation Commission. I also have handled many Social Security disability cases before the Administrative Law Judge office in Columbia.

Mr. McGee reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: infrequent;
- (b) State: almost weekly.

Mr. McGee reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 10%;
- (b) Criminal: 10%;
- (c) Domestic: 70%;
- (d) Other: 10%.

Mr. McGee reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 80% for non-family;

- (b) Non-jury: 20% court matters.

Mr. McGee provided that he most often served as sole counsel.

The following is Mr. McGee's account of his five six) most significant litigated matters:

- (a) State v. Roger Dale Johnson, death penalty case in Calhoun County, tried in February, 1996. I was appointed to represent the defendant as second chair to Thomas Culclasure, but I conducted the majority of the penalty phase trial work. The conviction and death penalty sentence were upheld by the SC Supreme Court. This case was instrumental in my legal development because of its complexity, scope, and importance. Due to my involvement in this case, I was exposed to trial pressure that many lawyers never experience, and I am now more attuned to evidentiary and procedural matters as well as case law. Having the experience of trying a death penalty case makes me confident that I can handle any matter that could come before me as a Family Court judge.
- (b) Harley v. Harley, 05-DR-09-0072. In this case, I was able to reverse a temporary order granting Mother custody after discovery that the Mother offered several suspect and/or forged affidavits, and many improperly notarized affidavits at the temporary hearing. My motion to vacate the temporary order was successful and resulted in a new pendente lite decision awarding custody to my client, the Father.
- (c) Mitchell v. Doodoo, (S.C. Ct. App. Unp. Op. No. 95-UP-167). I represented Mr. Mitchell, a father seeking custody of his son. The father, while married, had an affair that resulted in the birth of the child over which he sought custody. The mother, who was from Ghana, had left the child with the father shortly after his birth to move to Washington, DC. After two years, she returned and kidnapped the child. This case taught me that sometimes the law must move fast to protect a child. I was able to obtain an ex parte order to have the child returned to SC where the mother then contested custody. Because of my swift actions, the child was safely returned home under a temporary custody order within a few days of his removal by the mother and all litigation took place in SC. From this case, I also learned to stand by my position. The Guardian ad litem in this case changed her custody recommendation in the courtroom after hearing a child psychologist testify. I was able to effectively use the expert's testimony to show the child's attachment to his father and surroundings that caused the guardian to change her custody recommendation to the father. I also represented my client on appeal wherein the decision of the Family Court was affirmed.
- (d) State v. Patrick Jackson, murder trial in Orangeburg County, tried in 1999. I represented the defendant in this case. This case was significant because it involved the legal theory of the hand-of-one is the hand-of-all.
- (e) State v. Malcolm Jeffcoat. I tried this case in 1999 with my law partner, John G. Felder, Sr. Our client, Mr. Jeffcoat, was charged with criminal sexual conduct with a minor (5 counts) and lewd act (5 counts). He was found guilty on four counts of each charge. The victim was a five-year-old step-granddaughter of the defendant, around three years old at the time of the alleged crimes. My duty in this case was to cross-examine the little girl during the competency hearing and at trial. This case helped me develop cross-examination skills.
- (f) Carroll v. Carroll, (2009-DR-38-949). In this case, the parents fought for custody of two (2) autistic children during a divorce. The case was resolved through a unique form of on-going mediation due to the special needs of these children. This case showed me that alternative resolution devices could be used to bring an end to difficult litigation; particularly for the best interests of the minor children.

The following is Mr. McGee's account of the civil appeals he has personally handled:

- (a) Mitchell v. Doodoo, Unp. Op. No. 95-UP-167, (S.C. App. 1995), Family Court appeal.;

- (b) Golini v. Bolton, 487 S.E.2d 784 (S.C. App. 1997).;
- (c) Lott, P.R. Estate of Lula S. Morris v. Bovain, Unp. Op. No. 96-UP-019, (S.C. app. 1996).;
- (d) Marvin Ott v. Leo Ott, 01-CP-38-578 civil appeal, Unp. Op. No. 2003-UP-025.;
- (e) Wolf v. Wolf, Unp. Op. No. (2008-UP-245). I assisted my law partner, John G. Felder, Sr., who was lead attorney on this appeal from Family Court.

Mr. McGee reported he has not personally handled any criminal appeals.

Mr. McGee further reported the following regarding an unsuccessful candidacy:

I was unsuccessful in my application for Family Court, First Judicial Circuit, Seat 1, in 2000.

(9) Judicial Temperament:

The Commission believes that Mr. McGee's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. McGee "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.

Mr. McGee is married to Judy Hicks McGee. He has three children.

Mr. McGee reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) Calhoun County Bar;
- (c) Orangeburg County Bar;
- (d) SC Association of Justice;
- (e) Past Member Family Law Council, Family Law Section, SC Bar.

Mr. McGee provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Member and Stockholder, Calhoun Country Club, St. Matthews, SC.;
- (b) Board Member, Calhoun Academy, St. Matthews, SC.;
- (c) Member and various offices, First Baptist Church, St. Matthews, SC.;
- (d) Member, Coterie Club (Social) St. Matthews, SC.;
- (e) Coach, Dixie Youth baseball, Lake Marion League.

(11) Commission Members' Comments:

The Committee was impressed by Mr. McGee's varied legal practice with a concentration in family law, his involvement in his community, his intelligence, and his excellent job in handling the questions asked of him at the public hearing.

(12) Conclusion:

The Commission found Mr. McGee qualified and nominated him for election to the Family Court.

Thomas Tredway Hodges
Family Court, At-Large, Seat 6

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Hodges meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Hodges was born in 1959. He is 53 years old and a resident of Greenville, SC. Mr. Hodges 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 1987.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Hodges.

Mr. Hodges demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Hodges reported that he has made approximately \$60 in campaign expenditures for postage, stationery, and printing and sent notifications of the expenditures to the House and Senate Ethics Committees.

Mr. Hodges 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.

Mr. Hodges 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 Mr. Hodges to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Hodges described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2011 Family Court Bench/Bar	12/2/11;
(b) What Family Court Judges Want You to Know (moderator)	2/18/11;
(b) Hot Tips from the Coolest Domestic Law Practitioners	10/01/10;
(c) Advanced Family Law	2/8/10;
(d) Greenville County CLE Conference	2/12/10;
(e) 2008 Family Court Bench/Bar	12/5/08;
(f) Greenville County Annual CLE Conference	2/13/08;
(g) Managing Ethical Issues in Your Day to Day Practice	12/10/07;
(h) Training for Attorneys Appointed in Abuse and Neglect Cases in the 13 th Circuit	10/05/07;
(I) Hot Tips from the Coolest Domestic Law Practitioners	9/21/07;

(j)	Ethical Considerations and Pitfalls for the Family Law Lawyer	12/27/06;
(k)	Civil and Criminal Law Update	12/8/06;
(l)	2006 Family Court Bench/Bar	12/1/06;
(m)	Family Law Intensive Workshop	11/2/06.

Mr. Hodges reported that he has taught the following law-related course:

I participated in the program titled “What Family Court Judges Want You to Know” held in Greenville on 2/18/11. This seminar involved a panel of eight Family Court judges speaking on a variety of Family Court issues. I moderated the judges’ discussions and prepared their materials.

Mr. Hodges reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Hodges did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Hodges did not indicate any evidence of a troubled financial status. Mr. Hodges has handled his financial affairs responsibly.

The Commission also noted that Mr. Hodges was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Hodges reported that his rating by a legal rating organization, Martindale-Hubbell, is AV and that he was “selected as ‘Super Lawyer’ in the area of Family Law in 2008 and 2009.”

(6) Physical Health:

Mr. Hodges appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hodges appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hodges was admitted to the SC Bar in 1987.

He gave the following account of his legal experience since graduation from law school:

I graduated from law school in May 1987. In August 1987 I was hired as an associate with Haynsworth, Baldwin, Miles, Johnson, Greaves and Edwards in Greenville. (That firm later became Haynsworth, Baldwin, Johnson and Greaves). I remained an associate until I was made a partner at the end of 1994. The Haynsworth firm was a labor and employment firm representing employers exclusively. As a new associate I primarily did legal research for all types of labor and employment cases pending before state and federal courts and various state and federal agencies. Over time I began to make appearances in those same forums at all times representing management exclusively. I participated in several breach of contract and unlawful discharge trials. I reviewed employer policies and documents to ensure legal compliance and I regularly provided legal training to employers concerning a wide variety of employment matters. In the early 1990s my work became more focused on traditional labor matters, including union elections, unfair labor practices and labor arbitrations. I traveled the country extensively representing employers in labor disputes and union campaigns. I represented companies before the National Labor Relations Board from Alaska to Florida and from New Jersey to California

and most states in-between. I handled hearings before NLRB hearing officers, Administrative Law Judges and arbitrators. Those hearings were always non-jury and typically lasted anywhere from 1 day to several days. The hearings involved taking testimony, cross-examination of witnesses, introducing and objecting to evidence and drafting briefs for the judge or hearing officer. The nature of my practice remained primarily NLRB related until my resignation from the Haynsworth firm in May 2003.

In October 2003 Marsh Robertson (now Judge Robertson), Ann Coleman, and I formed Robertson, Hodges and Coleman. Our practice was limited to Family Court matters exclusively. Coleman left the practice in 2005. Robertson and I formed Robertson and Hodges, LLC. We continued to practice exclusively in Family Court. Robertson was elected to the Family Court Bench in 2010. Our partnership was dissolved and I continued my practice under the name Thomas T. Hodges, P.A. I still limit my practice to Family Court matters.

Mr. Hodges further reported regarding his experience with the Family Court practice area:

Divorce: I have handled numerous divorce cases. Some have been complicated by significant property or support issues. Some have been very simple where there are no property or support issues to resolve. I have handled many fault based divorce cases as well as many no-fault cases. I have handled contested and uncontested cases alike. I have handled many separate support cases. I have also litigated and handled cases involving the existence of a common law marriage.

Alimony and Child Support: I have prosecuted and defended cases requesting alimony, termination of alimony and modifications to alimony and child support awards. I have represented unwed mothers in actions to establish child support.

Equitable Division: I have handled a wide variety of cases where the parties have argued over personal property that had little or no monetary value to cases where one party or the other is a multi-millionaire. Occasionally an expert is needed to value property or a business. I have worked closely with those experts in identifying the property and valuing it. Several recent cases have involved parties with significant non-marital assets that while not included in the marital estate, still impact the percentage of the estate to be awarded to a spouse and impact the support that a spouse is to pay. I have dealt with issues of transmutation of non-marital property. I have drafted numerous pre-marital agreements dealing with the disposition of property in the event of a later divorce or separation.

Child Custody: I have handled many custody issues whether they were part of a divorce case or independent of a divorce action. I have handled numerous change of custody actions representing both the plaintiff and defendant. I have handled cases wherein one parent has made serious, but unfounded charges of sexual abuse of the child against the other parent. I have successfully represented un-wed fathers in obtaining custody and/or visitation rights. I have represented grandparents in obtaining custody of their grandchildren.

Adoption: I have had limited exposure to adoptions. There are several attorneys who specialize in adoptions to whom I refer those cases. I have represented individuals who have relinquished their parental rights for others to adopt the child.

Abuse and Neglect: I have been appointed in abuse and neglect cases as an attorney and as a guardian ad litem for both children and adults. However, other than appointed cases, I have not represented any one in an abuse and neglect case.

Mr. Hodges reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0;
- (b) State: frequent.

Mr. Hodges reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 100%;
- (d) Other: 0%.

Mr. Hodges reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. Hodges provided that he most often served as sole counsel.

The following is Mr. Hodges's account of his five most significant litigated matters:

- (a) NLRB v. Minette Mills This case is not reported however earlier Minette Mills cases are reported and are pertinent to understanding the importance of this case. Minette Mills was a textile mill located in Grover, North Carolina that was accused of unlawfully terminating a man and his wife during a union campaign in 1990. In 1991 the NLRB ruled that that the company had acted unlawfully and ordered the company to reinstate the employees with back pay. *Minette Mills, Inc.*, 305 NLRB 1032 (1991). I was one of two trial lawyers in that case. The Fourth Circuit Court of Appeals upheld the NLRB's order. *Minette Mills, Inc. v. N.L.R.B.*, 983 F. 2d 1056 (4th Cir. 1993). The company reinstated the employees but could not agree on the amount of back pay owed to them, so a two day hearing was held on that issue in January 1994. I handled that trial and the subsequent appeal to the full NLRB. *Minette Mills, Inc.*, 316 NLRB 1009 (1995). The case I will remember as being significant followed when the employees were terminated a second time and charges of unlawful discrimination and retaliation were filed again by the NLRB. The significance is that the trial on the second discharges was held before the same judge that heard the back pay issue and the company was under the threat of contempt for non-compliance with the Fourth Circuit order. Despite the stacked deck of the case, the judge ruled that the company had not violated the law and dismissed the complaint. To my knowledge the NLRB did not appeal that decision.
- (b) Tracy v. Tracy 2008-DR-23-564. This case involved significant property and support issues. The parties were appreciably apart throughout the case concerning the identity and value of the marital property. Complicating the matter further, the wife became statutorily barred from receiving alimony midway through the case which had the effect of making both parties more steadfast in their demands. Numerous depositions were taken including expert and fact witnesses. The case was settled on the night before trial with the husband providing substantial lump sum alimony despite the statutory bar in order to take advantage of the tax benefits. This arrangement allowed him to retain more marital property which in turn allowed him to feel as if the outcome was fair to both parties.
- (c) Jones v. Johnson, 2006-DR-23-968. I represented an unwed father in this case. The child's parents lived in Florida when he was born. Shortly after the child's birth the mother brought the child to SC. Several weeks later the mother died. The maternal grandmother brought an action in SC for custody of the child. The father brought an action in Florida for the return of the child. The case involved the Uniform Child Custody Jurisdiction Act as well as SC's de facto parent statute that had just been enacted among other issues related to the custody of the child. Several hearings were held with judges from both states conferring over jurisdiction and factual issues. The case was

ultimately resolved without a trial with the father gaining custody of his child and returning him to Florida.

- (d) Stiggers-Smith v. Smith, 2009-UP-105. I represented the defendant in this common-law marriage case. The plaintiff sought the establishment of a marriage, a divorce, spousal support and equitable division. The plaintiff was given nominal support at the temporary hearing and the case was bifurcated allowing the issue of the marriage to proceed separately. A one-day trial resulted in the plaintiff winning her argument that a marriage existed. This case was significant to me and my practice as I necessarily had to do extensive research on the issue of common law marriages which has benefited me in later cases. It also reaffirmed the importance of the credibility of witnesses when faced with facts that could be viewed from different perspectives.
- (e) Martin v. Martin, 2006 DR 23-5378. I represented the defendant/father in this divorce case that turned into a heated custody battle. The temporary order granted the father custody after the mother had moved out of state and refused to allow him to see the children. Later a contempt hearing was held on the mother's claim that the father had exposed the children to his paramour. The father prevailed in the hearing and ultimately was granted primary custody of the children.

Mr. Hodges reported that he has not personally handled a civil appeal, but explained further: I have not personally handled a civil appeal. While I was listed as an attorney of record in Stiggers-Smith v. Smith, 2009-UP-105, and tried the case at the trial level, I did not handle that appeal by myself.

Mr. Hodges reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Hodges's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee found Mr. Hodges to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Hodges is married to Erroll Anne Hay Yarbrough Hodges. He has two children.

Mr. Hodges reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar;
- (b) Greenville County Bar.

Mr. Hodges provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) I am a member of the Greenville Country Club;
- (b) I am a member of Hogskins Hunt Club in Honea Path, SC;
- (c) I am a member of the Greenville Gun Club.

Mr. Hodges further reported:

I have been practicing exclusively in the Family Court for 10 years. Prior to that, I was a labor lawyer for 16 years with one of the nation's preeminent labor law firms. In both practices I worked very closely with individuals who were going through stressful situations. I have worked

closely with multimillionaires to bankrupt individuals. As a result I have learned how to relate and connect with people regardless of their economic, social or educational background. I believe that my ability to treat all people with the same level of dignity and respect will be an invaluable asset as a Family Court judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Hodges had an excellent demeanor, and an interesting legal background in both labor law and family law.

(12) Conclusion:

The Commission found Mr. Hodges qualified and nominated him for election to the Family Court.

**David Earl Phillips
Family Court, At-Large, Seat 6**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Phillips meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Phillips was born in 1970. He is 42 years old and a resident of Easley, SC. Mr. Phillips 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. Phillips.

Mr. Phillips demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Phillips reported that he made campaign expenditures for \$73.80 on postage.

Mr. Phillips 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.

Mr. Phillips 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 Mr. Phillips to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Phillips described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2011 SC Solicitor's Association	09/28/11;
(b) Prosecuting Cases in Family Court	08/17/11, 12/13/00;
(c) ABOTA: Masters-in-Trial: Winning Your Trial Through Trial Witnesses	02/04/11;
(d) Prosecuting Cases in Family Court	08/16/10;
(e) Prosecuting Cases in Family Court	08/21/09;
(f) 2008 SC Solicitor's Association	09/28/08;
(g) Hot Tips From the Coolest Domestic Practitioners	08/20/08;
(h) Prosecuting Cases in Family Court	08/20/08;
(i) 2007 Annual Conference	09/23/07.

Mr. Phillips reported that he has taught the following law-related courses:

- (a) Lectured at a Clemson University Sociology class regarding juvenile justice issues;
- (b) Lectured juvenile arbitration program volunteers in Anderson, SC.

Mr. Phillips reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Phillips did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Phillips did not indicate any evidence of a troubled financial status. Mr. Phillips has handled his financial affairs responsibly.

The Commission also noted that Mr. Phillips was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Phillips reported that he is not rated by any legal rating organization and noted that "he has not requested a rating due to the fact that the vast majority of [his] practice is local."

(6) Physical Health:

Mr. Phillips appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Phillips appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Phillips was admitted to the SC Bar in 1997.

He gave the following account of his legal experience since graduation from law school:

- (a) Chapman, Byrholdt & Yon, LLP, August 1997 to August 31, 2004: I began my law practice with this law firm in August 1997, shortly after having taken the bar exam. Upon being admitted to the bar, I was very fortunate to work for three excellent attorneys on a wide variety of cases including family law, workers' compensation, personal injury, and criminal defense. I was lead counsel in 90% of the cases I handled at this firm. I worked for this firm until August 31, 2004.
- (b) David E. Phillips, Attorney at Law, LLC, September 1, 2004-May 23, 2011: I opened my own law practice September 1, 2004. I continued to practice in the same areas in which I had gained experience at Chapman, Byrholdt & Yon. In August 2006, I was asked to be the

juvenile prosecutor for the Anderson County Solicitor's Office on a part-time, contract basis. Despite the "part-time" nomenclature, this contractual employment has been significant in terms of the time it has demanded from my private practice; however, it has also been rewarding, as I truly feel that I have contributed to helping steer young people in the right direction.

- (c) Tenth Circuit Solicitor's Office, May 23, 2011-present: On May 23, 2011, I began serving full-time as an assistant solicitor. I prosecute all of the juvenile delinquency cases in Anderson County. Additionally, I prosecute all of the civil forfeiture cases for Anderson County and Oconee County. I also prosecute all of the Transfer Court cases, bond estreatments and preliminary hearings for Anderson County.

Mr. Phillips further reported regarding his experience with the Family Court practice area:

Divorce and equitable division of property: I have represented hundreds of individuals in these types of cases. In the vast majority of these cases, I evaluated and applied the statutory factors relating to equitable division of property. Often, these cases required consideration of procedural issues of varying degrees of complexity.

Child Custody: I have represented many individuals in these types of cases, both incident to divorce and as separate actions where custody was the primary issue. The paramount and controlling interest in each of these cases is the best interest of the child or children. These cases almost always required consideration of issues incident to custody including visitation, child support, and restrictions regarding parental conduct. In many of these cases, the court was assisted by a guardian *ad litem*.

Adoption: I have represented families in adoptions. These have been some of the most emotionally rewarding cases of my life. Although I have handled far fewer of these cases than divorce or custody cases, the adoption cases have been spread out over the course of my practice such that I remain familiar with this area of law on an ongoing basis.

Abuse and neglect: One of the first contested cases I tried in Family Court was a three day termination of parental rights case in which I was appointed to represent the defendant mother. I have had additional experience in the area; however, my experience has been limited. I believe my background in other family law matters has adequately prepared me to preside over these matters as Family Court Judge. The custody cases I have had over the years have required me to evaluate each case in light of the child or children's best interest(s). While this is not the only concern of the Family Court, it is the paramount concern.

Juvenile justice: I have significant experience in juvenile justice cases. In 2000, I served as juvenile public defender in Anderson County and gained significant experience in this area. In 2006, I began serving as the juvenile prosecutor for Anderson County and presently still serve in that capacity. I have represented the State in hundreds of cases in the two year period of time. I have tried numerous criminal cases in Family Court both as prosecutor and defense attorney. As prosecutor, I have successfully tried a waiver (or transfer of jurisdiction) case where State sought to transfer jurisdiction over a 15-year old juvenile to the Court of General Sessions for prosecution as an adult.

Mr. Phillips reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None in the last five years;
(b) State: On average three to four times per week.

Mr. Phillips reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 10%;
(b) Criminal: 40%;
(c) Domestic: 40%;
(d) Other: 10%.

Mr. Phillips reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 30%;
- (b) Non-jury: 70%.

Mr. Phillips provided that he most often served as sole counsel.

The following is Mr. Phillips' account of his five most significant litigated matters:

- (a) In the Interest of Jermal R., 2006-JU-04-539-543, 2007-JU-04-409-420: This was a juvenile waiver case where I served as prosecutor. In a waiver case, the State is seeking to transfer jurisdiction over a juvenile to the Court of General Sessions to be tried as an adult. These cases are often considered to be among the most serious cases tried in Family Court. The juvenile was accused of being involved in armed robberies and kidnapping. I succeeded in having jurisdiction of this case transferred to the Court of General Sessions after a lengthy hearing in Family Court on the matter. The juvenile eventually pled guilty in the Court of General Sessions and was sentenced to eleven (11) years in prison.
- (b) State v. Holder, 2003-GS-23-1307: This was a high profile, four day trial in which co-counsel and I defended a mother accused of homicide by child abuse. This was a very difficult case which centered around the death of my client's two year old son. The case required extensive preparation. I evaluated numerous complex evidentiary and legal issues. The experience was significant because of the volume of evidence I was required to evaluate and the media exposure the trial received. During the trial, I made the opening statement, presented direct testimony of some of the witnesses, cross-examined some of the witnesses, and delivered the closing argument.
- (c) Perrin v. Health Management Resources, SCWCC File No. 0124951: This was a workers' compensation case in which I was sole counsel at the hearing commissioner level and appellate panel level. The case was significant because it was a difficult case, and it was the first case in which I was able to obtain permanent and total disability benefits for my client as the result of a trial.
- (d) SC Department of Social Services v. Pettis, et al, 95-DR-04-207: This was one of the first Family Court cases I tried. I defended a mother in a termination of parental rights action brought by DSS. I was appointed to represent the mother after DSS had been involved with this family for a long period of time. This case was tried over a three day period in Family Court and demonstrates my familiarity with this area of law.
- (e) Rogers v. Tipton, 2007-DR-39-1079: This was a termination of parental rights and adoption case where mother and step-father of a ten year old child sought to terminate the parental rights of the child's birth father so that his step-father could adopt him. The step-father had assumed the role of father in the child's life for many years due to the difficult circumstances in which the birth father found himself. Ultimately, the termination of parental rights and adoption were granted by the court. The case is special to me because of the personal friendship I have with the plaintiffs and the child.

Mr. Phillips reported he has not personally handled any civil or criminal appeals.

Mr. Phillips further reported the following regarding an unsuccessful candidacy:

I was a candidate for Family Court Judge, 10th Judicial Circuit, Seat 1. I was qualified and nominated by the Judicial Merit Selection Commission in that race; however, I withdrew just prior to the election in February 2009.

(9) Judicial Temperament:

The Commission believes that Mr. Phillips's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizen's Committee found Mr. Phillips to be "Qualified" the evaluative criteria of constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Phillips is married to Maryanne Evington Phillips. He has two children.

Mr. Phillips reported that he was a member of the following Bar and professional associations:

- (a) SC Bar;
- (b) Anderson County Bar;
- (c) Anderson Inn of Court;
- (d) SC Solicitor's Association.

Mr. Phillips provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Mount Pisgah Baptist Church- Body of Deacons –Chairman of Deacons;
- (b) Mount Pisgah Baptist Church- Finance Committee- Chairman;
- (c) Mount Pisgah Baptist Church Search Committee- Vice- Chairman;
- (d) Mount Pisgah Baptist Church- Sunday School Teacher-College and Career Class;
- (e) Potter's House Family Counseling- Board of Directors;
- (f) Anderson University Drive Smart Partnership Advisory Board;
- (g) 2012 Ernest F. Hollings Award for Excellence in State Prosecution, Family Court category.

Mr. Phillips further reported:

God blessed me with parents who taught me so many things by example, not the least of which is a strong work ethic. My father worked full-time with IBM for thirty years including literally hundreds of hours of overtime each year and earned numerous awards for service. During this time, he also served as part-time minister of music and senior adults. He is now retired, but I believe he still works as many hours as he did prior to his retirement. Likewise, I have observed my mother work hard throughout my life. She was a stay-at-home mother to my brother and me when we were very young. She later returned to school and earned her college degree. In fact, she did so well, she was asked to return and teach, which she did for many years at Greenville Technical College. She no longer teaches but works more hours now than she ever has.

I intend to bring this work ethic with me to the bench. I take pride in being reliable and diligent in my work. For seven years, I practiced with a firm in Anderson, SC. For nearly seven years thereafter, I had my own office as a sole practitioner. I now work as an assistant solicitor in Anderson County. In each of these roles, I have been reliable and being diligent, and as a result, I have enjoyed great success everywhere I have been. As a judge, the citizens of this state can count on me to continue working diligently to serve them in this new role.

(11) Commission Members' Comments:

The Commission members were impressed by Mr. Phillips' great experience noting that he is sharp and has a good demeanor, which would serve him well on the Family Court bench.

(12) Conclusion:

The Commission found Mr. Phillips qualified and nominated him for election to the Family Court.

Paul Daniel Schwartz
Family Court, At-Large, Seat 6

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 56 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.

(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 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.

Mr. Schwartz 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 Mr. Schwartz to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Schwartz described his past continuing legal or judicial education during the past five 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) SCTLA 2007 Annual Convention	08/02/07;
(e) Auto Torts XXX	11/30/07;
(f) 2008 SCTLA Annual Convention	08/07/08;
(g) Children's Issues in Family Court	11/19/08;
(h) Auto Torts XXXI	12/05/08;
(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) 2011 SCAJ Annual Convention	08/04/11;

(m)	Auto Torts XXXIV	12/02/11;
(n)	Best Interest of the Child 2012	01/26/12;
(o)	2012 SCAJ Annual Convention	12/03/12.

Mr. Schwartz reported that he has taught the following law-related courses:
I spoke at a 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.

Mr. Schwartz reported that he has published the following:
SC 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.

- (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 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 presiding judge, and I have been handling cases as the Guardian Ad Litem ever since, now for nearly 20 years. Approximately 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 nearly 30 years now I have practiced and handled cases in these areas. At any given time, I may have 5 to 10 divorce cases ongoing. 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. 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 currently have about five pending. 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: Infrequent, only a handful at most;
- (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: 40 to 50%;
- (b) Criminal: less than 5%;
- (c) Domestic: 50% or more;
- (d) Other: less than 5%.

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 in many of the cases set for a jury trial he was a co counsel. In the majority of non jury matters I 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. Good law on alimony.
- (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 overturning 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 Ct 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 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;
- (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.

(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 "Well qualified" in the areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. They found him "Qualified" in the areas of constitutional qualifications, physical health, and mental stability.

Mr. Schwartz is married to Nancy Bryson Schwartz. He does not have any children.

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.

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, 3rd Vice President 2012-13;
- (b) Rotary Club of Charleston Breakfast, President 2001-02; Board of Directors, 1999-2003;
- (c) Charleston Habitat for Humanity, Board of Directors, 2005-10;
- (d) James Island Charter High School; Board of Directors, 2008-10;
- (e) College of Charleston Volunteer attorney for Student Assistance Program, 2008-11.

I was re-elected to serve on the Board of the James Island Charter High School on September 27, 2012, as an At-Large community member.

Mr. Schwartz further reported:

I have always worked and 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.

(11) Commission Members' Comments:

The Commission commented on Mr. Schwartz's dedication to family law issues as well as to his community, which would assist him well as a jurist.

(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 Shirley Canty Robinson
Administrative Law Court, Seat 5**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Robinson meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Robinson was born in 1951. She is 61 years old and a resident of Columbia, SC. Judge Robinson 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 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Robinson.

Judge Robinson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Robinson reported that she has not made any campaign expenditures.

Judge Robinson 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 Robinson 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 Robinson to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Robinson described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2012 Annual Bar Convention	01/19-20/12;
(b) SCAARLA 2011 Ethics Seminar	10/07/11;
(c) SCAARLA Internet for Lawyers	08/19/11;
(d) SCAARLA Ethics Seminar	02/25/11;
(d) SCWLA Ethics Seminar	02/03/11;

(e)	2011 Annual Bar Convention	01/20-21/11;
(f)	SCWLA/Judicial Selection in SC	09/17/08;
(g)	2008 SCAARLA Conference	09/19/08;
(h)	SC Assoc. of Counties Workshop	12/12/08;
(i)	2007 SCAARLA Conference	09/21/07;
(j)	Federation of Admin. & Reg. Boards	10/05/07;
(k)	National Assoc. of Hearing Officers	11/5-6/07;
(l)	SCAARLA Ethics	10/31/07.

Judge Robinson reported that she has taught the following law-related course:

I made a presentation on the basics of practicing Administrative Law to lawyers attending the 2011 SC Black Lawyers Convention.

Judge Robinson reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Robinson did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Robinson did not indicate any evidence of a troubled financial status. Judge Robinson has handled her financial affairs responsibly.

The Commission also noted that Judge Robinson was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Robinson reported that she is not rated by any legal rating organization.

(6) Physical Health:

Judge Robinson appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Robinson appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Robinson was admitted to the SC Bar in 1991.

She gave the following account of her legal experience since graduation from law school:

- (a) May 2009–Present-- Judge, SC Administrative Law Court
- (b) 2000–May 2000 --- SC Department of Labor Licensing & Regulation Hearing advisor for professional licensing boards.
- (c) 1995–2000 ---Associate, Law Offices of Newman & Sabb, PA (Firm's name changed to Law Offices of Ronnie A. Sabb, LLC, upon Judge Newman's election to the Circuit Court)
- (d) I was a senior associate in the Columbia and Lake City Offices where I practiced primarily in Family Court and consumer bankruptcy,
- (e) 1992-94 -- Executive Director, SC Legislative Black Caucus Legal experience limited to research.
- (f) 1991-92 --Assistant Solicitor, 8th Circuit Solicitor's OfficeProsecuted juveniles, and abuse and neglect cases.
- (g) 1991 --Associate, Law Firm of Edwards & Associates

I initially worked as a law clerk, and upon passing the Bar exams, I was hired as a 1st year associate where I worked with other attorneys on personal injury, family law and workers' compensation cases.

Judge Robinson reported that she has held the following judicial office:

On May 13, 2009, I was elected by the General Assembly to fill Seat #5 on the Administrative Law Court, and have been serving continuously since that date.

The Administrative Law Court has jurisdiction over four types of administrative cases involving governmental agencies and private parties: contested cases (conducted in the form of bench trials), appellate cases, regulation hearings, and certain requests for injunctive relief. However, 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 the statute or regulation.

Judge Robinson provided the following list of her most significant orders or opinions:

- (a) Protect Blacksburg, et al. vs. SC Department of Health & Environmental Control, Docket No. 10-ALJ-07-0654-CC (case was appealed, however the appeal was withdrawn prior to being ruled on by the Court of Appeals);
- (b) Bulls Bay Overlook Community Association, Inc. vs. SC Department of Health & Environmental Control, Docket No. 09-ALJ-07-0323-CC (case was appealed, however the appeal was withdrawn prior to being ruled on by the Court of Appeals);
- (c) Charleston County Assessor vs. LMP Properties, Inc., Docket No. 09-ALJ-17-0533-CC;
- (d) MRI at Belfair, LLC, et al. vs. SC Department of Health & Environmental Control, et al., Docket No. 07-ALJ-07-0538-CC (assigned case following partial reversal and remand by SC Supreme Court);
- (e) Allergy and Asthma Consultants, LLP vs. SC Department of Revenue, Docket No. 09-ALJ-17-0500-CC.

Judge Robinson further reported the following regarding unsuccessful candidacies:

Unsuccessful candidate for Administrative Law Court on following dates:

- (a) Administrative Law Judge, Seat #2, January 18, 2005 (found qualified and nominated);
- (b) Administrative Law Judge, Seat #5, May 4, 2006 (found qualified and nominated);
- (c) Administrative Law Judge, Seat 4, January 20, 2009, (found qualified and nominated, but withdrew prior to election).

(9) Judicial Temperament:

The Commission believes that Judge Robinson's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Robinson to be "Well qualified" in the evaluative categories of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found her "Qualified" for the constitutional qualifications, physical health, and mental stability. In summary, the Committee stated: "The Committee was honored to interview Judge Robinson and we enjoyed our time with her. We appreciated her humility, wisdom, and common sense. We feel that Judge Robinson is most highly qualified to continue her outstanding service on the Administrative Law Court."

A complaint was filed against Judge Robinson by Wendell Norris. Finding no merit in the complaint as to the candidate's character, competency, or ethics, the Judicial Merit Selection Commission dismissed the complaint.

Judge Robinson is divorced. She has one child.

Judge Robinson reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar;
- (b) SC Women's Lawyers Association;
- (c) SC Black Lawyers' Association;
- (d) Columbia Lawyers' Association.

Judge Robinson provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) James L. Belin Board of Trustees – Chairman 2008-10, Vice Chairman 2005-07, Secretary 2002-04;
- (b) Board of Trustees, Columbia Bethlehem Community Center;
- (c) Former member, Babynet Interagency Coordinating Council;
- (d) 1988 recipient Am Jur, Contracts.

Judge Robinson further reported:

Just prior to being elected to serve as an Administrative Law Judge, my elderly father came to live with me, and I was fortunate to have him in my household until his death last June. My father didn't have a lot of formal education, he left school when he was nine years old to care for his sick mother while his father worked their small farm; he was however one of the wisest individuals I've ever had the privilege of knowing. While he instilled in each of his children a sense of pride, he also taught us to temper that pride with humbleness and to give thanks each day for our blessings. Each day that I serve as a Judge with the ALC, I strive to honor him by displaying in my courtroom, and in my daily life, the characteristics of fairness, wisdom and compassion that were a part of his daily life up to the time of his death.

(11) Conclusion:

The Commission found Judge Robinson qualified and nominated her for re-election to the Administrative Law Court.

CIRCUIT COURT QUALIFIED, BUT NOT NOMINATED

Lucius "Scott" Harvin
Circuit Court, At-Large, Seat 14

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Harvin meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Harvin was born in 1965. He is 47 years old and a resident of Walterboro, SC. Mr. Harvin 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 1991.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Harvin .

Mr. Harvin 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. Harvin reported that he spent approximately \$100 on campaign expenditures.

Mr. Harvin 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.

Mr. Harvin 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 Mr. Harvin to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Harvin described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2006 SCTLA Annual Convention	08/31/2006;
(b) 2007 SCTLA Annual Convention	08/02/2007;
(c) 23 rd Annual S.C. Criminal Law Updates	01/25/2008;
(d) Kinbrough/Gall Seminar – FPD of SC	02/01/2008;
(e) 2008 SCTLA Annual Convention	08/07/2008;
(f) 2008 Federal Bar Association – annual meeting	09/11/2008;

(g)	Federal Criminal Practice – FPD of SC	10/16/2008;
(h)	Sporting Clays/Skeet Shoot (Ethics)	10/30/2008;
(i)	“Fighting to Win DUI Cases”	10/31/2008;
(j)	CJA Mini Seminar-Spring 2009– FPD of SC	05/01/2009;
(k)	National Seminar on Federal Sentencing Guidelines	06/10/2009;
(l)	2009 SCTLTA Annual Convention	08/06/2009;
(m)	Federal Criminal Practice-Fall 2009	10/29/2009;
(n)	Annual Criminal Practice Parts 1 & 2	01/22/2010;
(o)	Federal Practice 2010	04/01/2010;
(p)	Sporting Clays CLE (Ethics)	04/29/2010;
(q)	SCAJ 2010 Annual convention	08/05/2010;
(r)	Sporting Clays CLE (Ethics)	10/28/2010;
(s)	Sporting Clays CLE (Ethics)	04/14/2011;
(t)	Federal Criminal Defense Practice-2011	04/21/2011;
(u)	Case Law & Procedure Update - Colleton County Bar	03/23/2012;
(v)	Seminar for Criminal Defense Bar	04/05/2012;
(w)	Federal Criminal Defense Practice	04/20/2012.

Mr. Harvin reported that he has taught the following law-related courses:
 USC - Salkahatchie, 2005-07; Political Science S201 – American National Government; Study of the formation and development of the national Government, its organization and powers.

Mr. Harvin reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Harvin did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Harvin did not indicate any evidence of a troubled financial status. Mr. Harvin has handled his financial affairs responsibly.

The Commission also noted that Mr. Harvin 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. Harvin reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

Mr. Harvin reported that he has held the following public office:

I was appointed to the Colleton County Board of Elections & Voter Registration on March 3, 2011, and have served continuously since. I was cited on or about November 4, 2011, for a failure to file a Statement of Economic Interests. I had originally filed a paper copy with the State Ethics Commission, but had failed to complete the online disclosure. When I was notified that the online requirement was not completed, I attempted to electronically file the public disclosure. While I saved my disclosure on the system, I was unaware that this would not actually file the report. Apparently, a second step was required which I neglected. Upon discussing this with a member of the SC Ethics Commission’s office, I realized this error and promptly completed the technical requirements of the electronic system. I was fined One Hundred Dollars (\$100.00) by the State Ethics Commission, and I did not appeal the fine.

- (6) Physical Health:
Mr. Harvin appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Harvin appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Harvin was admitted to the SC Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

- (a) Hood Law Firm, Charleston, SC, 1991-93
Junior Associate in Asbestos Defense Litigation and General Insurance Defense Practice;
- (b) Ninth Circuit Solicitor's Office, Charleston, SC, 1993-94
Associate Solicitor prosecuting general criminal offenses, but with a primary emphasis on driving under the influence enforcement;
- (c) Harvin Law Firm, Charleston, SC, 1994-97
Solo practitioner in general litigation practice with a primary emphasis on criminal defense and driving under the influence defense;
- (d) Hetrick, Harvin & Bonds, Walterboro, SC, 1997-present
Partner in small firm practice concentrating equally in plaintiff personal injury litigation and criminal defense.

Mr. Harvin further reported regarding his experience with the Circuit Court practice area:

I began practicing law as an Assistant Solicitor with the Ninth Circuit Solicitor's Office in 1993-94. Although I prosecuted a variety of criminal offenses, my main concentration was on driving under the influence cases in Circuit Court. Upon leaving the Solicitor's Office, my solo practice was at least fifty percent criminal defense with an emphasis on defending those charged with driving under the influence and drug offenses.

As I have become older, more experienced and more established, my criminal practice has grown. Over the past five years, I have handled 386 criminal cases of all types as chief or sole counsel in the Circuit, Magistrate and Municipal Courts. My jury trial experience is diverse. I have acted as chief or sole counsel in matters ranging from assault and battery with intent to kill, armed robbery, burglary, drug distribution, driving under the influence, and exploitation of an elderly person/vulnerable adult. I have also sat as associate counsel with my law partners in several cases including a highly publicized dog fighting case.

While criminal defense represents roughly half of my practice, I also maintain a very extensive civil litigation practice. The majority of this practice consists of personal injury litigation; however, I also handle various other torts and insurance questions, almost exclusively on the plaintiff's side. I estimate that I personally handle 50-75 civil litigation matters per year.

Of the personal injury cases, the majority involve automobile accidents. Five years ago, more than half of these cases would have settled prior to filing suit. Today with the poor economy and changing attitudes, I file suit on nearly all. My practice is not unique but, the vast majority of these cases settle prior to trial; however, I have taken a significant number to jury verdict. I do not track the exact number that have reached a verdict, but estimate that as lead or assistant counsel, it would exceed 40. Over the last five years, I believe the number of jury trials would average about 2 per year.

Mr. Harvin reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Over the last 5 years I have handled 12 civil cases and 7 criminal cases in Federal Court;

- (b) State: I routinely make an appearance in various state courts including Circuit, Magistrate, and Municipal Courts at least once a week.

Mr. Harvin reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 49%;
- (b) Criminal: 50%;
- (c) Domestic: 0%;
- (d) Other: 1.

Mr. Harvin reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: I estimate that seventy percent to ninety percent (70-90%) of my practice is devoted to matters in which a jury trial has been demanded;
- (b) Non-jury: I handle 3 to 5 foreclosures cases per month as Special Referee.

Mr. Harvin provided that “I most often serve as sole counsel on matters that do not actually reach trial. My law firm has an informal policy where we prefer to have two lawyers attend, and participate in every jury trial no matter the size. In half of these trials, I would have served as chief counsel, and half as associate counsel.”

The following is Mr. Harvin’s account of his five most significant litigated matters:

One of the things that I have learned over my years of practice is that there is no insignificant case to a client. What we as lawyers sometimes view as routine, almost always holds vast importance to our clients. This in particular with regard to many of my local clients charged with driving under the influence. I have faith in the old adage that good people sometimes do bad things. Often people engage in destructive behavior when their lives are otherwise under tremendous stress from the loss of a job, a divorce or some other seminal event in their lives. One of the things of which I am most proud as an attorney, is the number of people in my community who thank me for helping them through difficult times in their lives. As a result, I suspect that my most significant case is not listed here and may be one that I would not have anticipated. Nevertheless, I submit the following list:

- (a) Upchurch v. Upchurch, 367 S.C. 16, 624 S.E.2d 643 (2006);
In this appeal, the Supreme Court clarified that a judicial order is not final when a judge signs an order and distributing it to counsel, but it is final only upon filing with the Clerk of Court..
- (b) USA v. Tyrone Lorenzo Robinson, 9:00-CR-00263-SB-19;
This trial was significant to my growth as a criminal defense attorney. The drug conspiracy alleged in the indictment included dozens of defendants. Fourteen defendants went to trial. My client and one other were acquitted. The trial lasted approximately five weeks. I learned much from the prosecuting assistant United States attorneys, and some of the most esteemed defense attorneys in the State such as James “Punky” Holler, Lionel Lofton, and Mike Macloskie. Of course, any lawyer who ever aspired to be a judge would be fortunate to participate in a five week trial presided over by The Honorable Sol Blatt, Jr. Finally, the case has additional personal meaning because it was tried over the period including September 11, 2001.
- (c) William A. Smith vs. Financial Independence Group, Inc., David F. Ward (individually), and Assurity Life Insurance Company, 2008-CP-15-938;
My law partner, Bobby Bonds, and I represented William Smith, a blue collar gentleman in his seventies, who retired after many years of hard work. He had amassed a sizable

retirement account. Unfortunately, Mr. Smith was approached one day by a disreputable life insurance agent who encouraged Mr. Smith to roll his tax-free retirement account into a whole life insurance policy. As a result, Mr. Smith incurred a tremendous tax bill he could not afford to pay. Even more reprehensibly, the agent convinced Mr. Smith to borrow money from his this policy to purchase additional life insurance. As a result, Mr. Smith's retirement account was nearly eliminated. Mr. Bonds and I were fortunate to the return these funds to Mr. Smith

- (d) Thomas "Tommy" Hucks v. Pilgrim's Pride Corporation, PPC Transportation, and Russell Mixon, 5:10-2479-MBS;
Mr. Hucks was a driver for United Parcel Service making a delivery when his vehicle was struck in the rear by another vehicle. Mr. Hucks suffered a traumatic brain injury. Given the difficulty that this particular injury presented to the medical providers, I feel great satisfaction in assisting him.
- (e) State of SC v. Phillip Maffei, Sr., 2006-GS-15-0230; This prosecution involved a highly publicized dog fighting case in Colleton County. The trial occurred during the Michael Vick hysteria. In addition, the SC Attorney General's office invested a significant amount of resources into their prosecution including retaining a special canine DNA laboratory in California, as well as presenting nationwide experts on dog fighting. This case changed my perspective on dealing with the media, and with how to screen jurors for potential bias during a high profile case.

The following is Mr. Harvin's account of five civil appeals he has personally handled:

- (a) Upchurch v. Upchurch, 367 S.C. 16, 624 S.E.2d 643 (2006);
- (b) Upchurch v. Upchurch, 359 S.C. 254, 597 S.E.2d 819 (Ct. App. 2004);
- (c) Summersell v. SC Department of Public Safety, 337 S.C. 19, 522 S.E.2d 144 (1999);
- (d) Summersell v. SC Department of Public Safety, 334 S.C. 357, 513 S.E.2d 619 (Ct. App. 1999);
- (e) SC Department of Public Safety and SC Department of Motor Vehicles vs. John E. Voss; Case No.: 11-ALJ-21-0624-AP; Filed May 31, 2012.

The following is Mr. Harvin's account of three criminal appeals he has personally handled:

- (a) State v. Taylor, 355 S.C. 392, 585 S.E.2d 303 (2003);
- (b) State v. Taylor, 348 S.C. 152, 558 S.E.2d 917 (Ct. App. 2001);
- (c) State v. Casey, 325 S.C. 447, 481 S.E.2d 169 (Ct. App. 1997).

(9) Judicial Temperament:

The Commission believes that Mr. Harvin's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. Harvin "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. They found him "Qualified" for constitutional qualifications, physical health, and mental stability.

Mr. Harvin is divorced. He has two children.

Mr. Harvin reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) Colleton County Bar Association;

- (c) National College for DUI Defense- Founding Member;
- (d) SC Association for Justice;
- (e) SC Association of Criminal Defense Lawyers;
- (f) Federal Bar Association.

Mr. Harvin provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) St. Jude's Episcopal Church, Walterboro, SC;
- (b) Walterboro/Colleton County Chamber of Commerce;
- (c) Boy Scouts of America- Coastal Carolina Council, Pineland District Chairman, 2011- Present;
- (d) Colleton County Arts Council;
- (e) Hill School Alumni Association, Pottstown, Pennsylvania;
- (f) Duke University Alumni Association;
- (g) Duke University, Iron Dukes, Athletic Booster Association;
- (h) University of SC Alumni Association;
- (i) University of SC, Gamecock Club Athletic Booster Association;
- (j) Elks Club, Walterboro, SC;
- (k) Dogwood Hills Country Club, Walterboro, SC;
- (l) Forest Lake Club, Columbia, SC;
- (m) Kiawah Island Community Association, Kiawah Island, SC.

Mr. Harvin further reported:

I believe that I am an especially qualified candidate for the circuit court not only because of my education and legal experience, but because of the life journey that has brought me to seek judicial office. I was raised by two wonderful and loving parents, John Roland Harvin, M. D. and Margaret Barnwell Harvin. My father was a pediatrician in Columbia, who served on Forest Acres City and Richland County Councils. My mother is a housewife, who returned to work at the Internal Revenue Service when I was in the fourth (4th) grade. Later she worked for H & R Block. My parents taught me the value of hard work and to maintain the utmost regard for the feelings of others.

I was born in 1965, during segregation. However as a young child, I had no concept of what this meant. I attended Hammond Academy through the eighth grade. Up until the time I left Hammond, I had been exposed to very few people different from me. Starting in the ninth (9th) grade, I attended prep school at the Hill School in Pottstown, Pennsylvania. The Hill School is one of the best high schools in the country. I am extremely thankful that my parents could afford to provide me with this opportunity, one denied to all but a few.

My early childhood years were comfortable. However, they were also very sheltered. At the Hill School, I was first exposed to discrimination directed towards me. During the very first few minutes of my very first class at the Hill School, I was ridiculed for being from SC. I was only a fourteen (14) year old and five hundred (500) miles from home. The teacher asked each of us to introduce ourselves and tell the class where we lived. When I announced I was from Columbia, SC, the teacher said "Well, that is your fault". Unfortunately, I began to let other people define who I was. I began to act as people expected of me rather than who I was. At times, I acted ignorant. This was far from the truth. My parents had raised me in a loving environment where I had been taught to have respect for each and every human being.

I graduated from Hill School with what I believe to be the best high school education I possibly could receive, and enrolled at Duke University in Durham, North Carolina. I was emotionally unprepared for college life, and over indulged in alcohol. After making several poor choices, including a prank where I removed a sign from Duke University Hospital, I was asked to

take a one year leave of absence. As part of the requirements to return, I enrolled and completed drug and alcohol rehabilitation. I will be forever loyal to Duke University. Many other universities would have expelled and abandoned me. Duke recognized that sometimes good people do bad things. They provided me not only with one of the best college educations available, but provided me with support and encouragement to continue on with my life.

It has now been 25 years since I graduated from college. I am proud to consider myself successful. Every day, I work with individuals of all races, religions, and creeds. I work in a small law office, in a small town. I help people deal with real problems. I build personal relationships with my clients. There are few things more satisfying in one's professional life than hearing how much you have helped a client/friend in need.

While I was preparing this application last weekend, I posted on social media that I was grumpy and doing paperwork on a Saturday evening. One of my former clients posted back "I am sorry u are knee deep in paperwork but without u doing that paperwork ... a lot of ppl would not be in a grateful, happy position. Like me! I can never repay u ... So hey, thanks for doing that paperwork!"

I have come a long way in my lifetime since that little boy was born in 1965. SC has come a long way since that little boy was born in 1965. I want to continue helping real people through hard times in their lives. I think I can do that best by being a circuit court judge in the State of SC.

(11) Commission Members' Comments:

The Commission commented on Mr. Harvin's active involvement in his community and his diverse legal practice.

(12) Conclusion:

The Commission found Mr. Harvin qualified but not nominated to serve as a Circuit Court judge.

David Warren Miller
Circuit Court, At-Large, Seat 14

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Miller meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Miller was born in 1972. He is 40 years old and a resident of Aiken, SC. Mr. 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 2001.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Miller.

Mr. 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.

Mr. Miller reported that he has not made any campaign expenditures.

Mr. Miller 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.

Mr. Miller 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 Mr. Miller to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. 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) Capital Litigation for Prosecutors: Basic Issues	5/21-23/12;
(b) 2011 Solicitor's Conference	9/25-28/11;
(c) Capital Litigation for Prosecutors: Rebutting Mitigation	5/2-5/11;
(d) 2010 Solicitor's Conference	9/26-29-10;
(e) Capital Litigation for Prosecutors: Overview	6/1-3/10;
(f) Competency Hearings and Evaluations	05/21/10;
(g) 2009 Solicitor's Conference	9/28-30/09;
(h) NDAA Capital Litigation: Penalty Phase	8/10-14/09;
(i) Dealing with Difficult Clients	10/31/08;
(j) 2008 SCTL Annual Convention	8/6-9/08;
(k) Training for Appointed Attorneys in Capital Cases	11/9/07;
(l) 2007 SCTL Annual Convention	8/2-4/07;
(m) 2006 SCTL Annual Convention	8/3-5/06.

Mr. Miller reported that he has taught the following law-related courses:

I lectured on several topics and led focus groups with other experienced prosecutors at the 2012 "Prosecutor's Boot Camp" for new lawyers. These courses were held in March of 2012.

Mr. Miller reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Miller did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Miller did not indicate any evidence of a troubled financial status. Mr. Miller has handled his financial affairs responsibly.

The Commission also noted that Mr. 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:

Mr. Miller reported that he is not rated by any legal rating organization.

Mr. Miller reported the following military service:

1991-95 US Marine Corps, Corporal, Honorable Discharge.
1995-96 USMC Reserve, Corporal, Honorable Discharge.

- (6) Physical Health:
Mr. Miller appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Miller appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Miller was admitted to the SC Bar in 2001.

He gave the following account of his legal experience since graduation from law school:

2001-02	Law Clerk for The Honorable Rodney A. Peeples
2002-04	Robert J. Harte, P.C. - Associate attorney involved in general litigation matters representing plaintiffs and criminal and civil defendants.
2004-09	Smith, Massey, Brodie, Guynn & Mayes, P.C. - Associate attorney involved in general litigation matters representing plaintiffs and criminal and civil defendants.
2009-Present	Office of the Solicitor, 2nd Judicial Circuit - Assistant Solicitor prosecuting felonies and misdemeanors in the General Sessions and Magistrate courts.

Mr. Miller further reported regarding his experience with the Circuit Court practice area:

My first job as a member of the SC Bar was working as a law clerk for The Honorable Rodney A. Peeples. I then practiced as a private attorney for several years before becoming an assistant solicitor and was able to gain experience in many different types of cases, both civil and criminal. I have defended numerous criminal cases, involving defendants charged with everything from murder and criminal sexual conduct to Driving Under the Influence. I have also prosecuted hundreds of cases as an assistant solicitor in the General Sessions and Magistrate courts. I have prosecuted several violent felonies including multi-defendant armed robbery cases, murders and home invasions.

Before becoming an assistant solicitor, I also represented both plaintiffs and defendants in civil matters while in private practice. As an associate attorney in a medium sized firm, I would handle diverse civil litigation matters ranging from personal injury cases to contract disputes in trial courts. I also was personally involved in the litigation involving the Estate of James Brown before leaving private practice.

Mr. Miller reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 1 appointed GAL matter in the last five years;
(b) State: More than 50 per year for the last five years.

Mr. Miller reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 8%;
(b) Criminal: 90%;
(c) Domestic: 0%;
(d) Other: 2%.

Mr. Miller reported the percentage of his practice in trial court during the past five year as follows:

- (a) Jury: 98%;
- (b) Non-jury: 2%.

Mr. Miller provided that he most often served as chief counsel.

The following is Mr. Miller's account of his five most significant litigated matters:

- (a) David Mark Hill v. State of SC, 377 S.C. 462, 661 S.E.2d 92. This case was a Capital PCR where the Petitioner ultimately waived his rights to appeal and was put to death. This case is the most significant case I ever participated in because my client requested that I be one of his witnesses when the sentence was carried out, so I ultimately watched my client be put to death on June 6, 2008.
- (b) State of SC v. Honorio Gurrero, 382 S.C. 620, 677 S.E.2d 603. This was an extremely complex case logistically because it involved four defendants (none of whom spoke English) and four different defense attorneys. All of the defendants were tried together. This case is also significant to me because it was the first criminal case I ever defended in General Sessions.
- (c) State of SC v. Tyler Lane Jones. This was a complex case involving a string of armed robberies of local businesses and a home invasion. The father of the Defendant was also convicted of supplying contraband to a witness against his son while the witness was incarcerated in Georgia.
- (d) State of SC v. Joshua Forrest. This was the first murder case I prosecuted as an assistant solicitor. The Defendant was convicted and sentenced to life.
- (e) State of SC v. Demetrius Boyd. This was a home invasion/kidnapping/ABWIK case where I was appointed to represent the Defendant. It is significant to me because the Defendant was the most difficult client I ever had to deal with, but I was convinced the defendant hadn't committed the crimes he was charged with. Less than two weeks before the trial, I received the State's notice of intent to seek life without parole. We tried the case and the jury found the defendant not guilty on all charges. After the trial, I bought the defendant a one-way bus ticket back to his home state of Michigan and drove him from the jail to the bus station in Augusta, GA.

The following is Mr. Miller's account of the civil appeal he has personally handled:

David Mark Hill vs. State of SC, SC Supreme Court (April 28, 2008) 377 S.C. 462, 661 S.E.2d 92.

Mr. Miller reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Miller's temperament would be excellent.

(10) Miscellaneous:

The Midlands Judicial Citizens Committee found Mr. Miller "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee found him "Qualified" in the criteria of constitutional qualifications, physical health, mental stability, and experience. In summary, the Committee noted that they "... enjoyed meeting Mr. Miller. He is an energetic and sincere attorney who is committed to public service and being in the court room. He is a trial attorney with common sense beyond his years, and he has the commitment and maturity to be an outstanding judge. We believe his is very well qualified to serve on the Circuit Court and we believe he would serve in an outstanding manner."

Mr. Miller is married to Christian Morton Miller. He has two children.

Mr. Miller reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar 2001 - Present;
- (b) Aiken County Bar, 2001 - Present, President 2004-06;
- (c) SCTLA, 2001 - 2008, Member, Board of Governors 2005-08.

Mr. Miller provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Aiken Center for the Arts, Board Member, 2007-11;
- (b) Community Medical Clinic of Aiken County, Board Member 2009-11;
- (c) Public Education Partners, Board Member 2006-09.

Mr. Miller further reported:

I have been fortunate in my legal career to have witnessed and worked with many excellent trial lawyers. Whether from the bench as judges or from the opposing counsel table, I have tried to consistently learn the skills that would allow me to be successful as an advocate. I try to implement the best characteristics of the lawyers I see. I have not handled many cases in the appellate Courts, and only one as lead counsel, but I have spent my entire career in the trial courts of this State. I have had a client executed in front of me, but I still believe that the death penalty is the appropriate punishment for certain crimes.

I strive to be fair in just in my dealings with the public and other members of the bar. I am proud of my reputation for being tough, but compassionate and fair. This is particularly important in my position as an assistant solicitor, and I think will be valuable experience to carry onto the bench. I am passionate about what I do, but I remember what it is like to be in private practice, so I try to be empathetic to other lawyers.

I want to be known as a “lawyer's judge”. I want both sides of a dispute to come into the courtroom knowing that they will get a ruling that I believe is legally proper and free from outside influences. I know that from time to time I may ultimately be incorrect, but that will never be the result of prejudice or bias. The Judges I have developed the greatest respect for are the Judges that maintain an even temper, accommodate the parties when possible, and don't hesitate to make a ruling when a ruling needs to be made. Being decisive and consistent allows the attorneys to accurately anticipate judicial decisions. This in turn allows the litigants to better prepare their clients and witnesses for court and, ultimately, leads to more resolutions of cases.

(11) Commission Members' Comments:

The Commission commented that Mr. Miller gave an impressive presentation at the public hearing and took note of his thorough discussion of judicial temperament.

(12) Conclusion:

The Commission found Mr. Miller qualified but not nominated to serve as a Circuit Court judge.

Jared Sullivan Newman
Circuit Court, At-Large, Seat 14

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Newman meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Newman was born in 1959. He is 53-years old and a resident of Beaufort, SC. Mr. 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 1989.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Newman.

Mr. 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.

Mr. Newman reported that he has made any campaign expenditures.

Mr. Newman 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.

Mr. 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 Mr. Newman to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Newman described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Reese Joye DUI Seminar	11-05-2011;
(b) ABOTA Masters in Trial	02-04-2011;
(c) 26 th Ann. Crim Law Seminar	02-26-2011;
(d) Personal Injury Seminar	01-29-2010;
(e) Defending DUI Cases	11-13-2009;
(f) Beyond the Elements	09-25-2009;
(g) Ethics in Mediation	02-23-2009;
(h) 24 th Ann. Crim Law Seminar	01-23-2009;
(i) Fighting DUI Cases	10-31-2008;
(j) Masters in Trial	11-16-2007;
(k) Nuts & Bolts of S.V.P. Cases	07-27-2007.

Mr. Newman reported that he has taught the following law-related courses:

- (a) 1998, Public Defender Conference, Automobile Search & Seizure Case Review;
- (b) 2007, Sexually Violent Predator Cases, Preparing for Trial;
- (c) 1992-93, Taught Constitutional and Criminal Law for Reserve Police Officer Certification.

Mr. Newman reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Newman did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission also noted that Mr. 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:

Mr. Newman reported that his rating by a legal rating organization, Martindale-Hubbell, is BV-Distinguished (Rated 4.4 out of 5.0).

(6) Physical Health:

Mr. Newman appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Newman appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Newman was admitted to the SC Bar in 1989.

He gave the following account of his legal experience since graduation from law school:

- (a) Asst. Solicitor 14th Judicial Circuit, 1989-93. I Prosecuted cases in General Sessions Court, Family Court Juvenile Criminal Cases and Magistrate's Court;
- (b) Jared S. Newman, P.A., 1993-2002. I was a Sole Practitioner Private Practice. Defended state and federal criminal cases, represented clients in divorce and custody cases, general tort cases for plaintiffs, Tort Claims Act cases for plaintiffs, federal civil rights litigation for plaintiffs in police misconduct cases, prisoner and jail rights cases, workers compensation cases for claimants.;
- (c) Newman & McDougall, P.A., 2002-07. I was Managing Partner. I Primarily focused on tort litigation both state and federal, criminal law, state and federal and civil rights cases.;
- (d) Jared S. Newman, P.A., Sole Practitioner Private Practice. Defended state and federal criminal cases, general tort cases for plaintiffs, Tort Claims Act cases for plaintiffs, federal civil rights litigation for plaintiffs in police misconduct cases, prisoner and jail rights cases.

Mr. Newman further reported regarding his experience with the both criminal and civil practice areas:

Criminal Matters:

I have represented defendants and tried cases for the past 19 years in numerous murder, criminal sexual conduct, drug trafficking, drug distribution, drug possession, burglary, armed robbery, arson, felony DUI, manslaughter, reckless homicide, conspiracy, grand larceny, attempted

murder, CDV high and aggravated and assault cases, in addition to bond hearings, preliminary hearings, probation revocation hearings, suppression hearings, identity suppression hearings, forensic evidence suppression hearings, P.C.R. hearings, and SVP trials and magistrate court criminal appeals (technically civil cases). I have handled a number of criminal appeals. I am death penalty qualified and have represented a client in a death penalty case. In federal court I have represented clients in drug conspiracy cases and mail and wire fraud cases, handled a number of detention hearings and suppression hearing. I have had innumerable magistrate's court trials, including DUI, drug possession, shoplifting, criminal domestic violence, boating under the influence, illegal commercial fishing, shrimping and crabbing, minor in possession of alcohol and other cases. In magistrate's court I have also handled preliminary hearings and bond hearings. I have focused in cases involving 4th Amendment search and seizure issues involving automobile stops and detention cases. I am currently handling a case involving an immunity hearing and appeal in a manslaughter case under State v. Duncan. I have also tried a felony case to conclusion in a General Courts Martial at Parris Island Marine Corps Recruit Depot under the UCMJ.

Civil Matters:

For the past 19 years I have represented primarily plaintiffs in tort cases and focus on Tort Claims Act cases, wrongful death and civil rights violations in both state and federal court. I have tried a number of Tort Claim Act cases in state court, for wrongful death, wrongful arrest and detention, excessive force and automobile accident cases. I have recently tried a deliberate indifference/jail suicide case in USDC in Columbia. I have litigated and settled a number of wrongful death cases involving jail and in-custody deaths. I have tried land disputes, slander of title and breach of contract cases. I have opened estates and handled probate matters in conjunction with wrongful death and survivorship cases and done minor settlements. I am a certified circuit court mediator. In federal court I have tried civil rights cases involving in-custody deaths and police misconduct. I have litigated innumerable cases which have settled at various stages during the course of litigation. I have tried cases in the USDC in Charleston, Columbia and Florence divisions. I have tried or litigated civil and/or criminal cases in the following counties: Allendale, Aiken, Barnwell, Bamberg, Dorchester, Colleton, Hampton, Jasper, Beaufort, Charleston, Berkeley, Horry, Florence, Darlington, Kershaw, Newberry, Greenville, Richland, Sumter, Laurens, York Orangeburg and Dillon.

Mr. Newman reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Approximately 5-6 times a year;
- (b) State: Approximately 15-20 times a year.

Mr. Newman reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 33%;
- (b) Criminal: 66%;
- (c) Domestic: 0%;
- (d) Other: 1% (probate court).

Mr. Newman reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 98%;
- (b) Non-jury: 2%.

Mr. Newman provided that he most often served as sole counsel.

The following is Mr. Newman's account of his five most significant litigated matters:

- (a) State v. Paul "Peanut" Graham, Jr. (Jasper Co G/S). The Defendant had been previously convicted of murder by a Jasper County jury. The case was reversed and remanded on appeal. I represented the Defendant on the re-trial. The murder was notorious in Jasper County and all three of the co-defendants were convicted in connection with the murder. All three co-defendants testified against the Defendant as well as a prison cell-mate of the Defendant. The Defendant was 16 years old at the time of the murder. The case involved extensive cross-examination of the co-defendants. I challenged the forensic medical examiner and got her to admit that she could not state conclusively that the decedent was in fact alive when Mr. Graham shot him. The jury acquitted the Defendant;
- (b) State v. West Omar McKinnon (Beaufort Co. G/S). The defendant was charged with a double-murder, kidnapping and burglary along with a co-defendant. The co-defendant was tried separately and convicted of murder, burglary and kidnapping. I fought the identification of the Defendant by the surviving witnesses. The jury acquitted the Defendant on all counts;
- (c) State v. Joel O'Quinn (Jasper Co. G/S). The Defendant was a retired D.N.R. officer and former sheriff's candidate who was indicted for assault with intent to kill and assault and battery with the intent to kill. The defendant admittedly shot the victim and at the victim's nephew in a restaurant parking lot. The Defendant was shot five times himself by the victim's nephew. There had been a long history of bad blood between the Defendant and the victim, with each claiming that the other had relations with their respective spouses. Both spouses testified in favor of the Defendant. I argued the defenses of accident and retreat and got the SLED agent to admit that the victim was in fact the primary aggressor. The jury acquitted the Defendant;
- (d) Dickman v. Jasper County Sheriff's Office (USDC Charleston Division). This was a civil rights case involving the wrongful incarceration of the Plaintiff. The Plaintiff was never brought before a judicial officer as required when he was arrested as a fugitive from Florida. No fugitive warrant was ever obtained. The police obtained a coerced waiver of extradition and admitted that no extradition hearing had been held and no warrant issued. The Plaintiff spent seven days in jail without any judicial process or warrant. The jury awarded actual and punitive damages in favor of the Plaintiff for violation of his federally protected right to appear before a judicial officer;
- (e) State v. Ronald P. White. (Florence Co. G/S). The Defendant was indicted for violation of the State's Anti-Tattooing Act. I raised First Amendment and Obstruction of Interstate Commerce issues to quash the indictment. The trial court disagreed and convicted the Defendant. The S.C. Supreme Court ultimately affirmed the conviction. The case became a *cause celeb* and was appealed to the United States Supreme Court. A year later the S.C. General Assembly passed legislation allowing and regulating Tattooing. The U.S. Supreme Court case was abandoned, as Mr. White had achieved his goal of legalizing Tattooing in SC. The Ninth Circuit Court of Appeals cited the dissent in *State v. White* in deciding that Tattooing is protected speech, thoughts or ideas under the First Amendment.

The following is Mr. Newman's account of the civil appeal he has personally handled:
Solley v. Navy Federal Credit Union, 397 S.C. 192, 723 S.E.2d 597 (S.C. Ct. App. 2012).

The following is Mr. Newman's account of the criminal appeals he has personally handled:

- (a) State v. White, 348 S.C. 532, 560 S.E.2d 420 (SC 2002);
- (b) United States v. Brugal, 209 F.3d 353 (4th Cir. En Banc 2000);
- (c) Livingston v. Murdaugh, et al., 183 F.3d 300 (4th Cir. 1999);

- (d) State v. Fripp, 397 S.C. 455, 725 S.E.2d 136 (S.C. Ct. App. 2012) (Robert Pachek on brief)(I did the oral argument and response to motion to re-hear and response to petition for cert.);
- (e) State v. Dickman, 341 S.C. 293, 534 S.E.2d 268 (SC 2000).

Mr. Newman further reported the following regarding an unsuccessful candidacy:
I ran for House Seat 124 in a Republican Primary (either 1996 or 1998).

(9) Judicial Temperament:

The Commission believes that Mr. Newman's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee reported that Mr. Newman was "Qualified" for the three evaluative criteria: constitutional qualifications, physical health, and mental stability. The Committee found him "Well qualified" in the six evaluative criteria: ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. However, they commented that they are "concern[ed] over the pending tax liens with this candidate."

Mr. Newman is married to Cynthia James Newman. He has four children.

Mr. Newman reported that he was a member of the following bar associations and professional associations:

- (a) American Bar Association;
- (b) SC Assoc. of Criminal Defense Lawyers;
- (c) Member of the SC Bar.

Mr. Newman provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Vice-Chairman, Beaufort County Aviation Advisory Board (2008-11) (Resigned in 2011);
- (b) Beaufort County Aviation Advisory Board Member (2006-08).

Mr. Newman further reported:

I have raised 4 responsible children and am proud of that fact. I think it would be difficult to judge others, especially young people without the experience as a father. Since my kids are grown and on their own, I now have the time to travel and do research in the evenings.

My experience as a police officer, deputy and detective has allowed me to see firsthand how things work on the street. I've seen what impact crime can have on victims. I have seen people who need help, even those whom I have arrested. I have lived a life outside being a lawyer and can understand the legal system from outside the box.

My life as an assistant solicitor has given me insight to the process of prosecuting a case, deciding charges and recommending an appropriate sentence. I have learned administrative skills of preparing cases, pleas and other matters for upcoming terms of court.

I believe strongly in ensuring the rights of criminal defendants. If we are to imprison an individual, we need to get it right. There are people who need to serve every day locked away and there are people who need guidance and everywhere in between. These experiences, I believe, will allow me to determine each case on its own facts and merits. I will listen to and balance all facts in aggravation and in mitigation to fashion an appropriate judgment.

I believe in the obligations of an attorney. Although I file with O.I.D. on appointed cases for tracking purposes, I have not submitted vouchers for payments in years.

I have litigated all manner of cases. I believe between civil cases and criminal cases, I have a good insight to trial work. The best thing I can bring to the bench is patience, open mindedness,

civility and to ensure every litigant, plaintiff or defendant, state or accused is accorded a full and fair trial or hearing.

(11) Commission Members' Comments:

The Committee commented that they were impressed with Mr. Newman's legal experience in both criminal and civil matters over his 23-year career.

(12) Conclusion:

The Commission found Mr. Newman qualified and not nominated to serve as a Circuit Court judge.

**April Woodard Sampson
Circuit Court, At-Large, Seat 14**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Sampson meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Sampson was born in 1973. She is 39 years old and a resident of Irmo, SC. Ms. Sampson 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 1998.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Sampson.

Ms. Sampson 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. Sampson reported that she has not made any campaign expenditures.

Ms. Sampson 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.

Ms. Sampson 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 Ms. Sampson to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Sampson described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name

Date

- (a) Beginning Westlaw 3/24/2007;
- (b) School Law Conference 8/25/2007;
- (c) Winning Before Trial: The 10 Ways to Win Deposition 1/11/2008;
- (d) Fighting to Win Your DUI Case 10/31/2008;
- (e) Civil Court Mediation Training 3/26/2009;
- (f) Practicing Before Masters in Equity 4/2/2009;
- (g) Advanced Westlaw 4/28/2010;
- (h) DL-146 2/28/2011;
- (h) Capital Litigation for Prosecutors 5/2/2011;
- (i) Solicitor's Conference 9/26/2011.

Ms. Sampson reported that she has taught the following law-related courses:

- (a) Lecturer, SC Bar Program, "It's All a Game – Top Trial Lawyers Tackle Evidence";
- (b) Presenter and Lecturer, "Criminal Trial Techniques," William W. "Bill" Daniels Trial Advocacy Program sponsored by the Georgia Association of Criminal Defense Lawyers;
- (c) Adjunct Professor, USC, 2002-04;
- (d) Associate & Adjunct Professor, South University, 2006-11;
- (e) Instructor, Legal Writing and Analysis and Legal Research and Analysis, National Advocacy Center, Executive Office for United States Attorneys, 2009-10.

Ms. Sampson reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Sampson did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission also noted that Ms. Sampson 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. Sampson reported that she is not rated by any legal rating organization.

(6) Physical Health:

Ms. Sampson appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Sampson appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Sampson was admitted to the SC Bar in 1998.

She gave the following account of her legal experience since graduation from law school:

- (a) Assistant Solicitor, Fifth Circuit Solicitor's Office, Columbia SC
January 2011-Present. Responsibilities include prosecuting major felonies and supervising a team of attorneys.
- (b) Attorney, Law Office of Richard Breibart, L.L.C., Columbia, SC
May 2008-September 2010. Responsibilities included representing clients charged with crimes in both state and federal court, and interviewing potential clients.
- (c) Attorney, Duff, White & Turner, L.L.C., Columbia, SC

- October 2006-May 2008. Responsibilities included representing school districts on a variety of issues including special education, tort claims, and employment discrimination in both state and federal court, representing indigent defendants in criminal proceedings.
- (d) Instructor, South University, Legal Studies Department, Columbia, SC
July 2006-11. Responsibilities include preparing PowerPoints for classes, teaching courses on Evidence, Constitutional Law, Criminal Law, Advanced Legal Writing, Introduction to Paralegalism, and Employment Law, Family Law, Probate, and grading exams.
- (e) Adjunct Professor, USC, Department of Criminal Justice, Columbia, SC
January 2002-04. Responsibilities included preparing for class, teaching courses on the American criminal court system and Race and the Criminal Justice System, and grading exams.
- (f) Deputy Chief Public Defender, Richland County Public Defender's Office, Columbia, SC
November 2002-October 2006. Responsibilities included training new attorneys, scheduling and presenting training seminars for attorneys, supervising attorneys, arguing motions, pleading clients, preparing and representing clients at criminal trials and at preliminary hearings, filing appeals.
- (g) Attorney and Partner, Johnson, Kears, and Sampson, L.L.C., Columbia, SC
April 2002-November 2002. Responsibilities included managing Columbia office, preparing motions, preparing and representing clients in Family Court, preparing wills, preparing and representing clients in criminal court.
- (h) Attorney, Smalls Law Firm, P.C., Columbia, SC
October 2001-April 2002. Responsibilities included preparing motions, preparing and representing clients in Family Court, preparing wills, preparing and representing clients in criminal court.
- (i) Public Defender, Richland County Public Defender's Office, Columbia, SC
June 1999-September 2001. Responsibilities included arguing motions, pleading clients, preparing and representing clients at criminal trials and at preliminary hearings, filing appeals.
- (j) Attorney, Protection & Advocacy for People with Disabilities, Inc., Columbia, SC
March 1999-May 1999. Responsibilities included representing clients at school board appeal hearings, attending Individualized Educational Program meetings, preparing material for due process hearings.

Ms. Sampson further reported regarding her experience with the Circuit Court practice area:

Most of my career I have practiced criminal defense. As an attorney with the Richland County Public Defender's Office, I began by handling misdemeanor matters in General Sessions and progressed to major felonies. I am certified to defend Death Penalty cases, and served as defense co-counsel in a death penalty trial in 2003. After leaving the Public Defender's Office, I continued to handle felony cases in General Sessions Court through the appointment list and being retained by family members of criminal defendants. From 2008 until 2010, I worked for Richard Breibart handling felonies and misdemeanors in General Sessions, and misdemeanors in city and magistrate courts. Beginning in 2011, I joined the Fifth Circuit Solicitor's Office as a Senior Assistant Solicitor and team leader, and now prosecute major felonies including murder, armed robbery, and criminal sexual conduct.

In the past five years, I have been involved in the following criminal trials:

State v. Steven Kranendonk: (2012)

Defendant was accused of reckless homicide of two victims and causing great bodily injury to two other victims by recklessly operating a boat on Lake Murray. As the second chair in this prosecution, I was responsible for learning about and then explaining to the jury the technicalities

of boating, boating laws and boating safety. During the trial, I qualified a Department of Natural Resources officer as an expert in the field of boating rules and regulations for the first time in her career. We obtained a guilty verdict on both counts of reckless homicide and the Defendant was sentenced to 10 years on each, to run concurrent. The other two charges were nolle prossed.

State v. Robin Reese and Henry Gray:(2012)

Again, I served as second chair in the prosecution of co-defendants for murder. Both Defendants were accused of causing the death of the victim by beating and stomping the victim to death. There were some questions as to intervening causes in the victim's death, but we were able to overcome these through the testimony of medical expert. During the trial, I directed witnesses and performed the closing argument. We obtained a guilty verdict against both Defendants, 30 years each.

State v. Alirio Ortiz: (2012/Pending)

The Defendant is accused of cutting his neighbor's parents with a machete on the hand and on the arm. The defense asserted that the Defendant was entitled to prosecutorial immunity under the Protection of Persons and Property Act because he was defending himself on his own property. At the pre-trial ("Castle Doctrine") hearing, I successfully argued that the Act was not applicable because: (1) the defendant was not acting lawfully; (2) the incident did not occur on the defendant's property and (3) the defendant was not in a place where he had the legal right to be. The case is currently on interlocutory appeal.

State v. Zachary Oree: (2012/Pending)

The Defendant is accused of murdering the victim by shooting him while he was driving his car. The defense is asserting that the defendant is entitled to prosecutorial immunity under the Protection of Persons and Property Act because the Defendant was in a place where he had the legal right to be. At the pre-trial ("Castle Doctrine") hearing, I argued that the Act is not applicable because the defendant was not in a place where he had the legal right to be because the incident occurred on a public highway. The case is still waiting for a ruling from the Honorable G. Thomas Cooper, Jr.

State v. Mark Roberts: (2011/Pending)

The Defendant was accused of robbing a postal worker at knifepoint. The defense argued that a police sketch disseminated by SLED during the investigation was an accurate rendering of a suspect, and thus any out-of-court identifications or line-ups with our Defendant, who did not resemble the sketch, should be suppressed. During the trial, I successfully argued that the defense should not get a jury charge on witness misidentification and suggestibility nor should a witness' out-of-court identification be excluded. The case is currently pending as there was a mistrial due to a hung jury.

State v. Darrin Goodwin: (2011)

The Defendant was accused of breaking into a motor vehicle and stealing money from the console. My role was assisting co-counsel in his first trial as lead attorney.

State v. Sean Toran: (2011)

The Defendant was accused of stabbing three people outside of a local bar. Prior to trial, the defense asserted that the defendant was entitled to immunity under the Protection of Persons and Property Act. I successfully argued that the defendant was not entitled to an evidentiary hearing because even if he was acting in self-defense, he did not have a legal right to be on a public sidewalk.

State v. Ricky Bowman: (2011)

The Defendant was accused of breaking into an apartment with three others and robbing three victims at gunpoint. I successfully convinced a reluctant witness to testify at the trial, along with his co-Defendant, and convicted the defendant of Burglary 1st degree and Armed Robbery.

State v. Daniel McAllister: (2010)

The Defendant was accused of committing homicide by child abuse for beating his girlfriend's child. While preparing for trial, I determined that the medical examiner had not properly examined the body. I successfully represented the Defendant at trial, thoroughly cross-examined the coroner and was able to get him to concede he had not internally examined the body during the autopsy. I obtained a verdict of not guilty.

(2010): The Defendant was charged with solicitation of a minor and attempted Criminal Sexual Conduct with a minor. The Defendant was alleged to have instant- messaged a law enforcement official, believing him to be a 14 year-old girl, asking for sex and arranging a date and time to meet for sex. The Defendant drove from Georgia to Aiken, SC, to the arranged place for the meeting and was arrested. After pre-trial hearings and picking a jury, we were able to arrange a plea deal with the prosecutors from the Attorney General's office and the Defendant pled guilty.

State v. Matthew Colling: (2009)

The Defendant was accused of driving under the influence. We successfully argued that the officer improperly performed the field sobriety tests and the case was dismissed in the pre-trial stage, after the jury had been sworn.

(2009): The defendant was charged with criminal domestic violence for slapping his girlfriend and mother of his child. My role was to assist my co-counsel as this was her first trial as lead counsel. The Defendant was found guilty, but we successfully argued that he should not go to prison for his crime.

State v. Eric Caulder: (2008)

The Defendant was accused of robbing two people at gunpoint in their driveway. The Defendant was adamant that he wanted a trial and would not plea to more than 10 years in prison. After picking the jury and discussions with the Assistant Solicitor, we negotiated a plea offer for the defendant to plead to 10 years in prison.

(2008): The Defendant was charged with criminal domestic violence in city court. The victim alleged that the defendant hit her and spit on her while driving home. The defendant alleged that the victim attacked him while he was driving so he drove to the closest police station to get help. I successfully argued that the Defendant acted in self-defense when he pushed his wife to keep her from hitting him and the jury found him not guilty.

From 2006 until 2010, I was involved in several civil matters. While an associate at Duff, White, and Turner, I represented school districts in defending lawsuits on a variety of issues. Primarily, I worked on cases involving wrongful termination, employment discrimination, and personal injury. My work in these areas continued when I joined the Law Office of Richard Breibart in 2008. I argued for summary judgment in cases involving a roller skating accident on school property in Fairfield County, improper dismissal of a teacher in Orangeburg, and wrongful termination of a school employee in Cherokee County. I conducted and attended dozens of depositions in many different cases. I attended three mediations, two of which were settled successfully at the mediation. My only civil trial was a breach of contract case between two private citizens. I argued to the jury that the plaintiff had not proven that a contract existed, and even if a contract did exist, the defendant had completed the work he had been contracted to do. The jury found for the defendant.

Clearly, I do not have as much experience in civil matters as I do in criminal matters. However, in my career, I have completed over 60 trials and prepared three times as many cases for trial. Although the rules of evidence for civil and criminal trials are similar, there are differences which I am aware of, not only from my experiences, but also from teaching Evidence at South University. I believe I am fully prepared to preside over both criminal and civil matters, but I also understand that I do not and cannot know everything. Therefore, if a matter came up with which I was unfamiliar, I would listen to the arguments made by the attorneys before me, read the cases handed up by the attorneys, research the issue myself, and have my law clerk

research the issue. If I was still unsure of the answer, I would consult with other judges more familiar with the issue.

Ms. Sampson reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: Rarely;
- (b) State: Weekly.

Ms. Sampson reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 20%;
- (b) Criminal: 75%;
- (c) Domestic: 5%;
- (d) Other: 0%.

Ms. Sampson reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 35%;
- (b) Non-jury: 65%.

Ms. Sampson provided that she has most often served as chief counsel.

The following is Ms. Sampson's account of her five most significant litigated matters:

- (a) State v. Daniel McAllister:

This case involved a Defendant who was charged with beating to death his girlfriend's child. I was appointed counsel in this matter. My client was the only one with the child when she began having seizures. He took her to the emergency room, where doctors determined that she had a subdural hematoma and needed surgery. She died a few days later, and the coroner determined that her death was due to blunt force trauma to her head that caused bleeding. In reviewing the medical records, I found a discrepancy between the findings of the coroner, who reported that all of the child's organs had been harvested for donation, and the report of the physicians who treated the child at the hospital, who reported that the child's lungs, kidneys, and intestines were placed back in the body because they were diseased and could not be transplanted. Based on this, I was able to prove at trial that the medical examiner had not internally examined the body, which provided support to my expert's opinion that the child had not died from abuse, but instead had bleeding on her brain for days prior to her death. My client had always asserted his innocence, but other than my paid expert, I had nothing to support his assertions. The jury came back with a not guilty verdict for my client after just an hour of deliberations. It was a poignant lesson for me as a defense attorney. I learned that no matter how much it may seem a person is guilty and you feel like there is nothing you can do, you must advocate zealously for one's client. You must cull through each and every record, as many times as necessary, to contextualize and understand the entire picture. Had I not, I have no doubt he would be sitting in prison today.

- (b) State v. Sharon Smith:

The Defendant was accused of murdering her boyfriend by stabbing him one time in the chest with a knife. By the time her case went to trial, I had been a criminal defense attorney for several years and had a great deal of confidence in my abilities. Because my client was the only witness to the event, I felt strongly we would win when the jury heard her tell her story of how the victim defended herself when the decedent came at her, and

she pushed him away. At trial, I made several errors due to not knowing the law. The most devastating was when the judge asked whether or not I wanted the jury charged on the law of accident. I told him no, without discussing it with my client and without asking for time to research the parameters of an accident charge. I have never been so devastated by a guilty verdict, and to this day, when people ask me how I defended murderers and rapists, I tell them in all honesty that this case is the only one that causes me to lose sleep. It is significant to me because it showed me that there is no such thing as a “slam dunk” case when a jury is involved, that I will never know everything there is to know about trying a case, to ask for help when I need it, and to do everything I can to fix my mistakes. This case is currently awaiting a ruling on the defendant’s Post Conviction Relief hearing, where I put on the record every mistake I made in an attempt to right the wrong I made.

(c) State v. Brenda Gail Cutro:

This case involved a woman who ran a daycare out of her home and was accused of killing two infants and injuring a third. This was the first high profile case I tried. It is significant to me for three reasons. One, it showed me how important it is to learn the science involved with a case as well as you can. There were several experts involved in the case, and it soon became clear that although they were brilliant, speaking in regular English so that a jury could understand them was not something they had ever been taught to do. Second, it opened my eyes to the fact that, no matter what a person is charged with, a defendant is a human being first. At the time of the trial, my oldest child was a little over a year old. Upon learning that I had a toddler at home, Ms. Cutro started giving me some wonderful parenting tips, and in that moment, I realized I was either sitting next to an innocent woman accused of the worst crime a person could commit, or a murderer who had taken people’s children from them. I had to accept that it wasn’t my job to figure out which one she was, but to make sure she had a fair trial and the best defense possible. Third, I learned that part of my job as an attorney is coping with pressure without letting it affect my performance. As stated earlier, this was a highly publicized case, and one of the first in SC where Court TV was filming the entire trial. During the third week of trial, while I was questioning a witness, she made a statement that the court had ruled she could not say. The State objected and the judge discussed whether he should grant a mistrial. I was sitting second chair to my boss, Doug Strickler, and had several witnesses who had been there for two days prior in order to testify. When the judge asked the witness if I had instructed her not to make the statement, she said I had not. I calmly explained to the judge what I had told the witness and silently prayed that not only would he not grant a mistrial, but that I would not be fired. He did not grant a mistrial but instead gave a curative instruction. We finished with the witness, but had to bring all the others back the next day to testify. I then had to explain to some very upset people why they would need to come back for a third day. All of this going on while cameras were focused on me and the Chief Public Defender of Richland County was standing right next to me. I dealt with it all, but I learned that no matter how bad it gets, never let them see you sweat.

(d) State v. Steven Kranendonk:

This case involved a boat wreck that occurred on Lake Murray. The defendant was accused of recklessly causing the death of two female passengers and injuring two male passengers of a boat that he collided with while driving his boat. Before, during, and after the trial, I had to deal with the victims, their families, and the families of the dead women, the Department of Natural Resources officers, and other law enforcement officials, explaining the law, the system, and the trial process. This case is significant for me because it was the first time that I realized how important trials are not only to the

victims, but also to law enforcement and the prosecutors. Because most of my legal experience involved defending people in criminal court, I viewed criminal trials as a time to ensure that the rights of the defendant were protected. I understood, of course, that victims also got to speak at trials and at pleas, but this was the first time that I ever realized how much that could affect not only the victims but the officers. The DNR officials were very involved in this case, worked very hard preparing it, and worked side by side with us during trial. I came to understand that a trial or plea is the only time that victims, families, and law enforcement have their opportunity to speak about not only how the crime affected them, but it also gives them their day in court. I learned that closure, for all those involved in the process, is necessary, and that it can only be done with a positive outcome at trial.

(e) State v. Quincy Allen:

This case involved the killing of two people and the shooting of a third. The defendant also killed two people in North Carolina. This case is significant to me for several reasons. First, I not only learned how to do a death penalty case first hand, but I also learned that it is very costly to pursue an execution. The trial was held in 2003, and the defendant is still appealing and filing post conviction relief hearings, which the citizens have to pay for. Second, it became clear to me that the way you treat people, especially children, has a profound effect on the adults they turn out to be. This defendant was horribly abused by his mother, who starved him, beat him, and forced him to sleep outside, beginning at the age of 3. When he was allowed to visit family, he would eat so much that he would get sick. This led to his developing an eating disorder called rumination, whereby when he eats, he vomits it back into his mouth and chews on it as a comforting mechanism. He still suffers from the disorder, which made it very unpleasant to sit next to him during trial. Eventually, he became schizophrenic, and due to the abuse he suffered, when his disease manifested, he believed he was the Grim Reaper sent to kill people. Furthermore, because all of the abuse he suffered was at the hands of African-American females, he would become very upset when I tried to speak with him, even though I had never done anything to him. It was very sad to watch. I also learned how polarizing the death penalty can be. Just like religion, people have strong beliefs about the death penalty, and it is not a topic to bring up unless you are prepared for any response, even when speaking with your own family.

Ms. Sampson reported she has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Sampson's temperament would be excellent.

(10) Miscellaneous

The Midlands Citizen's Committee found Ms. Sampson to be "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found her "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The committee stated that it "was honored to interview Ms. Sampson and we truly enjoyed our interview with her. She is an energetic, intelligent, well-rounded attorney who has outstanding experience and common sense beyond her years. Her energy and enthusiasm are contagious. We feel certain that she has the character, work ethic and experience to be an outstanding Circuit Court Judge and we feel that she is most highly qualified to serve on the Circuit Court."

A complaint was filed against Ms. Sampson by Dr. Marie-Therese H. Assa'ad-Faltas. Finding no

merit in the complaint as to the candidate's character, competency, or ethics, the Judicial Merit Selection Commission dismissed the complaint.

Ms. Sampson is married to Eric Sampson. She has two children.

Ms. Sampson reported that she is a member of the following bar and professional associations:

- (a) I am a member of the SC Bar Association;
- (b) I am a member of the Richland County Bar Association;
- (c) I am a member of the Black Lawyer's Association.

Ms. Sampson reported that she is not a member of any civic, charitable, educational, social, or fraternal organization.

Ms. Sampson further reported:

I grew up with two parents who were determined that I would have a better life than they had. To that end, they moved to a home in a predominantly white, middle income neighborhood in Knoxville, TN, when I was 2. They worked every day, sometimes 2 or 3 jobs, to make sure I had everything I could want or need, and still were my basketball and softball coaches, my Girl Scout troop leader and Do-Dad, and, quite honestly, two of the most dedicated parents you will ever meet. They taught me, not only through their words but also by their actions, that skin color is irrelevant; that it is the type of person you are and the work ethic you have that is important. Watching them, I learned that to get what you want, you must work at it, and work hard. It is because of that upbringing that I have a no nonsense approach when it comes to people expecting to get something for nothing. I do not believe the difference between races can be attributed to skin color, but instead to socio-economic differences. My parents never called someone black or white, so I didn't either. They did not want me to feel like I had something to prove because I am Black, or feel inferior to other races because I am Black. I believe that my upbringing will influence the type of judge I will be because I will be fair no matter the race, color, or economic background of the people before me. Also, my legal experience of having been a defense attorney before becoming a prosecutor puts me in a very unique position. As a defense attorney, you learn that defendants aren't necessarily evil people, just a person who has done some bad things. As a prosecutor, I have the power to ultimately decide whether someone will even face charges, and if so, what charges will be presented to the court. When you are a prosecutor who has never dealt with defendants, you get a skewed view of justice in that you are very aware of the desires of the victims and law enforcement, and taking into account the background and circumstances of the defendant is often not even in your realm of thought. However, having been a defense attorney, I know that many victims are just a step away from being a defendant, and that victims, law enforcement, and defendants can have beliefs and ideals about justice that just aren't realistic. As a judge, I would use my experiences to do what I feel is right, not what society, my friends, or the media thinks is right, but what will let me sleep at night.

(11) Commission Members' Comments

The Commission commented that Ms. Sampson has a commitment to public service as demonstrated by her working as both a public defender and an assistant solicitor at different times in her career.

(12) Conclusion:

The Commission found Ms. Sampson qualified, but not nominated, to serve as a Circuit Court judge.

Curtis Anthony Pauling, III
Circuit Court, At-Large, Seat 15

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Pauling meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Pauling was born in 1975. He is 37 years old and a resident of Irmo, SC. Mr. Pauling 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 2000.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Pauling.

Mr. Pauling 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. Pauling reported that he has not made any campaign expenditures.

Mr. Pauling 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.

Mr. Pauling 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 Mr. Pauling to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Pauling described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Solicitor’s Association Conference	09/25/11;
(b) Courtroom Technology Training	06/27/11;
(c) Following the Money	12/16/10;
(d) Practice in the Administrative Law Courts	10/15/10;
(e) With Great Power Comes Great Responsibility	09/26/10;
(f) Criminal Domestic Violence in SC	06/18/10;
(g) SC Solicitor’s Association Conference	09/28/09;
(h) Internet Crimes Against Children	08/14/09;
(i) Capital Litigation: Practice Tips	07/17/09;
(j) Criminal Domestic Violence Cases	10/29/08;
(k) SC Solicitor’s Association Conference	09/28/08;
(l) Westlaw	07/24/08;
(m) Prosecuting Adult and Child	06/26/08;

- | | | |
|-----|---------------------------------------|-----------|
| (n) | Ethics for Government Lawyers | 11/09/07; |
| (o) | Legal Writing | 10/18/07; |
| (p) | SC Solicitor's Association Conference | 09/23/07. |

Mr. Pauling reported that he has taught the following law-related courses:

- (a) I was an Adjunct Instructor at ITT Technical Institute (Columbia, SC) from June 2010 to December 2010. I taught students in the Criminal Justice program Constitutional law and substantive criminal law.
- (b) I was a speaker for a CLE entitled Introduction to the State Grand Jury (10/28/11). This CLE explained the functions, uses and procedures of the State Grand Jury system in SC.
- (c) I was a speaker for a legal education seminar for law enforcement officers entitled Basic Training for Street Gang Investigators (4/13/12). This course instructed law enforcement officers on investigative techniques as related to gang investigations. The portion I conducted involved legal updates and the explanation of the jurisdiction of the State Grand Jury as it relates to gang investigations.

Mr. Pauling reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Pauling did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Pauling did not indicate any evidence of a troubled financial status. Mr. Pauling has handled his financial affairs responsibly.

The Commission also noted that Mr. Pauling 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. Pauling reported that he is not rated by any legal rating organization.

(6) Physical Health:

Mr. Pauling appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Pauling appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Pauling was admitted to the SC Bar in 2000.

He gave the following account of his legal experience since graduation from law school:

Upon graduation from the USC School of Law in May 2000, I became employed as a judicial law clerk for the Honorable L. Casey Manning, Resident Judge for the Fifth Judicial Circuit. I assisted Judge Manning with the civil and criminal court docket by performing legal research and reviewing legal memoranda, motions and orders. My clerkship with Judge Manning afforded me the opportunity to gain insight into how both Common Pleas and General Sessions cases are handled in our court system. I was admitted to the SC Bar on November 13, 2000. After my clerkship with Judge Manning, I took a position as an Assistant Solicitor with the Fifth Judicial Circuit Solicitor's Office in August 2001. As a prosecutor I handled both magistrate level and General Sessions cases. I managed a docket of on average 300 to 350 cases. My cases ranged

from general property offenses to violent crimes. I gained valuable trial experience and handled several hundred guilty pleas. In June 2004 I was employed as an Assistant Solicitor with the SC Attorney General's Office. Initially I handled civil commitment matters pursuant to the Sexually Violent Predator Act. I soon became a member of the Prosecution Division in November 2004. I began handling cases ranging from insurance fraud to conflict cases ranging from official misconduct to murder. In August 2005 I became a member of the State Grand Jury Division. I began prosecuting multi-county drug trafficking organizations and public corruption matters. I also assisted in gang violence prosecutions and Internet Crimes Against Children (ICAC) matters. I am currently an Assistant Deputy Attorney General and supervise three prosecutors and five support staff members. I have tried several criminal cases and handled numerous other matters. In the State Grand Jury Division I have been lead attorney on ten State Grand Jury investigations ranging from multi-county drug trafficking conspiracies to public corruption to internet crimes. I have assisted on fourteen other SGJ investigations. I have also handled asset forfeiture matters as a result of the drug conspiracy investigations. My employment at the Attorney General's Office has allowed me to appear in court all across the state.

Mr. Pauling reported the frequency of his court appearances during the past five years as follows:

- (a) federal: none;
- (b) state: weekly.

Mr. Pauling 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%;
- (d) other: 0%.

Mr. Pauling reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 100%;
- (b) non-jury: 0%.

Mr. Pauling provided that he most often served as chief counsel.

The following is Mr. Pauling's account of his five most significant litigated matters:

- (a) State v. Ricky Brannon
This case involved a career criminal whose crime of choice was burglary and arson. This case was significant because he was served LWOP notice prior to trial. He then was a suspect in a courthouse fire that occurred shortly before his trial date. His case was transferred to the SC Attorney General's Office where my co-counsel and I successfully prosecuted him and he was subsequently sentenced to life in prison.
- (b) State v. Nicanor Rodriguez
This case stemmed from a multi-county drug conspiracy investigation through the State Grand Jury. This defendant was at the top of a drug trafficking organization distributing large scale quantities of methamphetamine, cocaine and marijuana. After jury trial this individual was convicted and sentenced to a 45 year prison term.
- (c) State v. Vander Simmons, Jr.
This case involved the death of a young woman at the hands of her husband, Vander Simmons, Jr. The unfortunate witnesses were the minor age children of the defendant and victim. This case had a series of unusual events. The children did not disclose what

they had seen until after the funeral at the request of their father. When they did disclose to their maternal grandmother an autopsy was requested. Unfortunately when the body was exhumed it was discovered that a considerable amount of water had breached the casket post burial. The water damage made performing an autopsy very difficult at best due to the damage to the corpse. This of course hampered the ability of the pathologist to make any finding of cause and manner of death. With other medical information that was available, Vander Simmons, Jr. was indicted for Voluntary Manslaughter. He was convicted of Involuntary Manslaughter after jury trial.

(d) In the Matter of the Care and Treatment of Kenneth Outen

This case involved the civil commitment of an individual pursuant to the Sexually Violent Predator Act. Kenneth Outen had two qualifying convictions.

In 1987 he pled guilty in North Carolina for molesting his thirteen year-old stepdaughter. In 2001 he pled guilty in York County for molesting an eleven -year-old girl. He had molested this particular child three to four years before being arrested. Mr. Outen was deemed to suffer from pedophilia by the State's expert Dr. Pamela Crawford. The defense expert witness Dr. Tom Martin agreed that Mr. Outen suffered from pedophilia but indicated he could be treated in Dr. Martin's outpatient treatment facility. The jury found Mr. Outen to be a sexually violent predator and committed him to the Department of Mental health for treatment.

(e) State v. Christopher Campbell and Tim Ford

This case involved public corruption and election fraud. I was co-counsel in this matter. This involved the Mayor of Eastover (Campbell) and the Chief of Police for Eastover (Ford) in a scheme to manipulate the town council elections. This involved a system of manipulating the absentee ballot option to stack votes for certain candidates. Christopher Campbell was convicted after jury trial.

Mr. Pauling reported that he has not personally handled any civil appeals.

The following is Mr. Pauling's account of the criminal appeal he has personally handled:

State v. Ramsey, SC Court of Appeals, June 6, 2012

*I did not prepare the brief. I only participated in the oral argument due to the fact that I handled the case at the trial level. One of our appellate attorneys wrote the brief.

(9) Judicial Temperament:

The Commission believes Mr. Pauling's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee Report found Mr. Pauling "Well qualified" with respect to the evaluative criteria: ethical fitness, professional and academic ability, character, and reputation. The Committee found him "Qualified" with respect to: constitutional qualifications, physical health, mental stability, and experience. In summary the Committee stated "[It] was very impressed with Mr. Pauling. We found him to be a sincere, serious candidate who is truly committed to public service. We are certain he is very well qualified to serve our State on the Circuit Court. We are certain he would serve in an outstanding manner."

Mr. Pauling is married to Noelle Elaine Pauling. He has three children.

Mr. Pauling reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar;

(b) SC Solicitor's Association.

Mr. Pauling reported that he was not a member of any civic, charitable, educational, social, or fraternal organization.

Mr. Pauling further reported:

My parents Curtis A. Pauling, Jr., and Mildred Glaze Pauling have had the greatest impact on my life. They both set high expectations and standards for me at an early age. My father was a career United States Marine and expected me to do things the right way. My mother was a public school teacher who instilled in me the value of an education and the necessity of an honest work ethic. My parents also illustrated to me the importance of maintaining proper balance and keeping the proper perspective. They both provided me stability and afforded me a variety of opportunities in my life. They have always empowered me to reach beyond limited expectations. They taught me the importance of integrity and fairness and treating others with both. I believe the value system they ingrained in me will serve me well if elected to the bench.

While in high school I was afforded the opportunity to work for and be mentored by a local attorney in my hometown. It was there where I received a genuine perspective of the day to day life of a lawyer. I gained valuable lessons during that time and the realization that the true success of lawyer is found in helping advocating for those who cannot speak for themselves.

I am a member of the Church of the Harvest in Lexington, SC. I dedicate a good portion of my time there in various ministries. A considerable amount of the charitable activities I take part in are through my church.

(11) Commission Members' Comments:

The Commission commented that Mr. Pauling is a fine young attorney with a respectable body of work as a prosecutor.

(12) Conclusion:

The Commission found Mr. Pauling qualified, but not nominated to serve as a Circuit Court judge.

**The Honorable Bentley Douglas Price
Circuit Court, At-Large, Seat 15**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Price meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Price was born in 1976. He is 36 years old and a resident of Charleston, SC. Judge Price 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 2002.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Price.

Judge Price 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 Price reported that he has not made any campaign expenditures.

Judge Price reported he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Price 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 Price to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Price described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SCCA Municipal Orientation School	07/23/07;
(b) SCJA Annual Convention & Seminar	09/03/08;
(c) SCJA Annual Legislative Seminar & Reception	03/04/09;
(d) SCJA Annual Convention	09/09/09;
(e) SC Commission on Prosecution Coordination: The Impaired Driver: Nuts & Bolts of DUI Prosecution	06/16/10;
(f) SCJA Annual Convention & Seminar	09/08/10;
(g) SC Bar Sporting Clays CLE	04/14/11;
(h) Annual Convention & Seminar	09/07/11;
(i) Sporting Clays CLE	10/13/11;
(j) Spring Sporting Clays	04/12/12.

Judge Price reported that he has taught or lectured at the following bar association conferences, educational institutions, or continuing legal or judicial education programs:

I have spoken at a graduate school class at The Citadel for criminal justice, and the presentation was titled, "How the Solicitor's Office Really Works."

Judge Price reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Price did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Price did not indicate any evidence of a troubled financial status. Judge Price has handled his financial affairs responsibly.

The Commission also noted that Judge Price 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 Price reported that he is not rated by any legal rating organization.
- (6) Physical Health:
Judge Price appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Price appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Price was admitted to the SC Bar in 2002.

He gave the following account of his legal experience since graduation from law school:

- (a) Assistant Solicitor, Ninth Judicial Circuit 2002-04. I prosecuted major violent crimes, white collar crimes, misdemeanors and drug crimes.
- (b) Query, Sautter, Price and Forsythe, 2004-present. Our firm is a general practice firm that handles complex criminal and civil cases with an entire sector also dedicated to domestic cases. I am the partner that oversees the criminal and civil sector practicing in state court, federal court and magistrate court on an almost daily basis. I work hand in hand with my partners on all civil matters and we emphasize plaintiff's work in personal injury and both plaintiff and defense work in business litigation.

Judge Price further reported regarding his experience with the Circuit Court practice area:

I began my criminal practice as an assistant solicitor from a federal grant titled "The Cease Fire Task Force." The task force was established to prosecute gun related cases more diligently and to allow for better communication between the state and federal levels. I met with United States Attorney's office regularly to assess cases that were currently being prosecuted on the state level and determine if there were stiffer penalties if the Federal government were to adopt the cases. This experience allowed me to handle gun related violent crimes and I prosecuted murders, arm robbery, major drug cases and even criminal sexual conduct. I handled hundreds of guilty pleas and motions during my employment at the Solicitor's Office. In my current practice, I have defended all levels of magistrate, state, and federal court crimes. My civil practice has been comprised of plaintiff and defense work. My firm emphasizes business litigation and has prosecuted and defended several large construction cases. I have handled cases from the pleading stage to motions to trials. I have successfully participated in mediation and arbitration of cases on both the defense and plaintiff's side. I am currently working on an extremely complex medical malpractice claim and will continue my efforts to grow my civil experience.

In 2007, I was appointed Associate Municipal Court Judge for the City of Folly Beach. In March of this year, I became the Chief Municipal Court Judge. I enjoy the challenges of crafting sentences, orders, and other dispositive actions in a fair and judicious manner. My time on the bench has served me well and taught me the humility required to maintain such a position. I have presided over numerous bench trials, multiple jury trials, and sentenced thousands of defendants.

Judge Price reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: Monthly;
- (b) State: Bi-Weekly.

Judge Price reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

- (a) Civil: 20%;
- (b) Criminal: 80%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Judge Price reported the percentage of his practice in trial court prior to his service on the bench as follows:

- (a) Jury: 99%;
- (b) Non-jury: 1%.

Judge Price provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Price's account of his five most significant litigated matters:

- (a) State v. Antoine Goodwin – In this trial in Charleston County Court of General Sessions, I was an assistant solicitor prosecuting Mr. Goodwin for murder. This case had a number of unique aspects. The case involved eye witness testimony that Mr. Goodwin was the shooter and we had a jury viewing at the scene of the crime to determine the angle of the witnesses' view. We were also successful in subpoenaing federal grand jury records in which the crime was discussed. There was a contempt hearing at trial and a witness changed his testimony mid-trial thus allowing us to have him declared a hostile witness and use his testimony to our advantage. Mr. Goodwin was found guilty and sentenced to life in prison.
- (b) State v. Jabez Batiste – The Charleston County Court of General Sessions appointed our managing partner, who had no criminal trial experience, to represent Mr. Batiste, who was charged with two counts of murder. My partner asked me to participate as lead counsel at trial while he sat second chair. At trial, I was able to get the lead detective to admit that law enforcement felt that the co-defendant was the shooter and therefore the most culpable. The State was then forced to proceed under the theory that the hand of one is the hand of all and obtained convictions.
- (c) State v. Donal Bryant – In this case I was retained by Mr. Bryant to defend him on his charge of Criminal Domestic Violence of a High and Aggravated Nature alleged by his Russian born wife. Mr. Bryant was seeking a divorce at the time the charges were filed and maintained his innocence throughout my representation. He always maintained his position that the alleged injuries were self inflicted. Upon continued research in preparation for trial it became evident that the victim's motive for maintaining her allegations was that she could circumvent the marriage requirement imposed by immigration laws. The trial was riddled with complicated legal issues involving admissibility of evidence and witnesses. The trial went to the jury and Mr. Bryant was convicted of Simple Assault and sentenced to time served.
- (d) Knowles v. Crawford – In this civil case Mr. Crawford shot Mr. Knowles in the abdomen from his boat and later utilized the Castle Doctrine as a defense to criminal liability. The Solicitor's Office reviewed SLED's finding and refused to prosecute. I brought a civil action for negligence under the theory that Mr. Crawford maintained throughout the case that it was an accident and that he was attempting to uncock the hammer when it discharged. Since the shooter claimed the shooting was accidental, the civil defense section of the Castle Doctrine statute was inapplicable. Therefore we were able to bring a suit for negligence and were successful.

- (e) Green v. Bauerle, et al – In this medical malpractice filed in Horry County Common Pleas, Mr. Green was taken to the emergency room with a severed artery in his arm. The doctors prepped him for surgery when a specialist intervened and requested more tests prior to surgery causing Mr. Green to bleed out and die. After they were able resuscitate him they discovered that the loss of blood to his spinal cord caused paralysis from the waist down. The issues are numerous ranging from who is responsible for assessing his condition to which doctor makes the immediate final decision on Mr. Greens care. The precedent for the case was set out by Justice Waller in the Tumey case where he seems to suggest in his decision that regardless of whether the doctors are considered agents or not, the hospital has the non-delegable duty to ensure that Mr. Green received the proper care. We are attempting to take the case one step farther and determine if the hospital has a non-delegable duty for the actions of the specialist that demanded the further testing, over-ruling the surgeon’s decision to treat the arm immediately. In light of the fact that Mr. Green did not request a specific doctor and accepted the specialist the hospital provided, it should be determined to constitute a non-delegable duty. The case is still pending.

Judge Price reported he has not personally handled any civil or criminal appeals.

Judge Price reported that he has held the following judicial office:

I am currently a Municipal Court Judge for the City of Folly Beach and have been employed in this capacity since 2007. Jurisdiction does not extend beyond the City of Folly Beach. The court is limited to handling cases in which the penalty does not exceed thirty days incarceration and/or a \$500 fine.

Judge Price provided the following list of his most significant orders or opinions:

I have not had an instance where my opinions or orders were published.

Judge Price reported the following regarding his employment while serving as a judge:

Attorney - Partner, Query, Sautter, Price & Forsythe, 2004-present

(9) Judicial Temperament:

The Commission believes that Judge Price’s temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizen’s Committee on Judicial Qualification found Judge Price to be “Well qualified” for the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found him to be qualified for constitutional qualifications, physical health, and mental stability.

Judge Price is married to Melissa Ann Price. He has one child.

Judge Price reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar;
- (b) Charleston County Bar;
- (c) Dorchester County Bar;
- (d) Berkeley County Bar;
- (e) SC Summary Court Judges Association.

Judge Price reported that he is a member of the following civic, charitable, educational, social or fraternal organization:
James Island Yacht Club.

Judge Price further reported:

My entire legal career has been devoted to the trial courts and my wide area of practice in criminal and civil cases at all levels of the court system will enable me to be a fair, courteous, and understanding judge. I understand what the litigants are facing with stressful schedules and deadlines and will do my very best to maintain the humility required to balance a fair but efficient courtroom.

(11) Commission Members' Comments:

The Commission commented that Judge Price's experience as a Municipal Court Judge for the City of Folly Beach would serve him well on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Price qualified but not nominated to serve as a Circuit Court judge.

**The Honorable Tracey Lynn Carroll
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Carroll meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Carroll was born in 1964. She is 48 years old and a resident of Aiken, SC. Judge Carroll 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 1990.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Carroll.

Judge Carroll 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 Carroll reported that she has not made any campaign expenditures.

Judge Carroll 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 Carroll 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 Carroll to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Carroll described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Annual Magistrate Convention	9/7/2011;
(b) Summary Court Judges Fall Program	11/4/2011; 12/13/00;
(c) SC Association of County Attorneys	8/1/2010;
(d) Annual Magistrate Convention	09/8/2010;
(e) Mandatory School for Magistrates	11/5/2010;
(f) Annual Magistrate Convention	9/9/2009;
(g) Mandatory School for Magistrates	10/30/2009;
(h) Annual Magistrate Convention	9/3/2008;
(i) Annual Magistrate Convention	11/6/2008;
(j) American Judges Association Conference	9/25/2007;
(k) Mandatory School for Magistrates	11/2/2007.

Judge Carroll reported that she has taught the following law-related courses:

- (a) SC Reserve Training: (1992-2012) I have taught the legal component of this training for the last 20 years. I have instructed on the subjects of search and seizure, constitutional law, ethics, courtroom procedure, evidence and the laws of arrest;
- (b) Southeast Regional Conference on Child Fatalities: (2000) presenter;
- (c) Lexington County Sheriff's Department Training: (2002) I lectured on the subjects of search and seizure, evidence, probable cause and the laws of arrest;
- (d) Criminal Domestic Violence Training: (2007-12) I have lectured yearly on the laws regarding criminal domestic violence;
- (e) Aiken Public Safety Cadet Training: (2007-12) I have instructed on the subjects of search and seizure, constitutional law, courtroom procedure, evidence, probable cause and the laws of arrest.

Judge Carroll reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Carroll did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Carroll did not indicate any evidence of a troubled financial status. Judge Carroll has handled her financial affairs responsibly.

The Commission also noted that Judge Carroll 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 Carroll reported that she is not rated by any legal rating organization due to the fact that she has never worked in private practice.

- (6) Physical Health:
Judge Carroll appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Carroll appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Carroll was admitted to the SC Bar in 1990.

She gave the following account of her legal experience since graduation from law school:

1990-95 Second Circuit Solicitors Office, Assistant Solicitor

My duties began as a Family Court prosecutor. I was responsible for handling all criminal juvenile cases for the 2nd circuit. Approximately one year later, I was promoted to General Sessions to prosecute drug cases, including civil forfeitures. In 1993, I was given the additional duties of prosecuting violent crimes.

1995-2002 Eleventh Circuit Solicitors Office, Assistant/Deputy Solicitor

I was hired as an assistant solicitor and was assigned to prosecute General Sessions cases with a concentration on criminal sexual conduct cases. I tried numerous cases requiring the testimony of young children as victims.

In 1999, I was promoted to Deputy Solicitor. I was given the additional responsibility of organizing court, as well as carrying a case load. I continued to try major crime cases while insuring that court ran smoothly. It was my responsibility to make sure the assistant solicitors had cases ready to try and that the judges had cases to hear.

Additional duties included participating as a member of the death penalty prosecution team. I also served as Chairperson of the Lexington County Child Fatality Team and Lexington County Children's Center.

2002- present Aiken Summary Court Judge

In 2002 I was given the opportunity to serve as a magistrate for Aiken County. I have the jurisdiction to hear criminal cases which carry the possible penalty of up to 30 days and/or a \$500.00 fine. Examples of such cases are criminal domestic violence, driving under the influence and shoplifting. I have the additional duties of presiding over Transfer and Fraudulent Check court. I routinely hold hearings to determine probable cause for arrest and search warrants, hold preliminary hearings and conduct bond hearings.

As a magistrate, I have the jurisdiction to hear civil cases when the matter in controversy is less than \$7500.00. I handle pleadings such as summons and complaints, claim and deliveries, distraints for rent, interpleader actions and evictions. I frequently hear causes of action based upon breach of contract, and negligence.

2006- present Aiken Municipal Court Judge

I have served as a municipal court judge since 2006. I was initially assigned to preside over jury trials but have since been given the additional duties to presiding over all matters on the docket. I hear cases each morning before I report to the County from approximately 7:45 to 9:00 a.m. The jurisdiction of Municipal Court is limited to criminal matters carrying the possible penalty of less than 30 days and/or \$500.00.

2010-present Second Circuit Drug Court Judge

I preside over the Second Circuit Adult Drug Court program. I have the jurisdiction to preside over general sessions guilty pleas, bond hearings, probation revocations or any other proceeding relating to the defendants participating in the program.

Judge Carroll further reported regarding her experience with the Circuit Court practice area:

The first twelve years of my law career were spent prosecuting criminal cases. I had the opportunity to handle a wide range of crimes from misdemeanors to death penalty cases. The majority of cases I handled were violent crimes and many involved preparing young victims to testify for trial. I commonly dealt with evidentiary issues such as witness qualification, hearsay exceptions and Lyle evidence. Due the lengthy jail sentences involved, many of the cases assigned to me resulted in a jury trial. Upon my promotion to Deputy Solicitor, I was assigned to work with a team of prosecutors who handled death penalty cases. I had the opportunity to work on several death penalty cases and assisted in the trial of one.

For the last 10 years, I have served as a magistrate in Summary Court. Approximately sixty percent of my caseload involves criminal matters. I preside over trials that deal with many of the same evidentiary issues that I dealt with in General Sessions.

The remaining forty percent of my docket involves civil matters. I was fairly new to this area of law when I was appointed but have gained experience by presiding over approximately 1100 civil cases a year. I commonly hear causes of action involving breach of contract and negligence. While I do not have the same amount of experience with civil matters as I do with criminal matters, I have advanced considerably in the civil area of law since becoming a magistrate.

Judge Carroll reported the frequency of her court appearances prior to her service on the bench as follows:

- (a) federal: never;
- (b) state: I have appeared in County and/or Municipal Court every work day, with the exception of vacation, for the past five years.

Judge Carroll reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench as follows:

- (a) Civil: 40%;
- (b) Criminal: 60%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Judge Carroll reported the percentage of her practice in trial court prior to her service on the bench as follows:

- (a) Jury: 30%;
- (b) Non-jury: 70%.

The following is Judge Carroll's account of her five most significant litigated matters:

- (a) State v Stevenson (1998): This case was one of the first murder cases prosecuted in SC without the victim's body. As a prosecutor, my co-counsel and I had to establish that the victim had been murdered by basically proving she wasn't currently alive anywhere else. Witnesses included governmental agencies who testified that she had not used her social security number to pay taxes or receive any benefits. Local utilities companies testified that she was not receiving services within the state. DNA evidence was used to link blood from the Defendant's trunk to the victim. Mr. Stevenson was convicted of murder.
- (b) State v. Haselden, 577 S.E. 2nd 445, 353 SC 190 (SC 2003): I participated in the trial of this death penalty case which involved the murder of Mr. Haselden's two year old son. The case involved the testimony of numerous medical professionals to establish a history abuse. On the night of the fatal beating, there were two possible suspects in the home with the victim and medical evidence was critical to establish the defendant's guilt. The jury convicted Mr. Haselden of murder in the guilt phase and returned a verdict of death

in the sentencing phase. On appeal, murder conviction was affirmed but the case was remanded for a new sentencing proceeding due to the Court's failure to instruct the jury that if sentenced to life imprisonment, Mr. Haselden would be ineligible for parole.

- (c) State v Forrest (1999): This case dealt with the issue of impairment while operating a water craft. The facts of the case dealt with an eleven year old boy named Drew Smith who was killed on Lake Murray while boating with his father. The defendant, Jill Forrest, was operating her boat after drinking at a local bar on the lake. After crashing into the Smith's boat, Ms. Forrest switched places with her husband, claiming that he was the person driving the boat. The case took approximately a year to prepare for trial. The Department of DNR recreated the entire scene of the accident. They were able to select a night with the same weather conditions and lighting, with the same types of boats involved in the accident. Both the State and the Defense had numerous expert witnesses that testified in pretrial hearings. On the day of trial, the defendant entered a guilty plea to Reckless Homicide and Obstruction of Justice. This horrible accident set the stage for the current boating under the influence penalties in SC.
- (d) State v Whetstone(1999): This case involved the prosecution of Mr. Whetstone for sexually abusing all three of his children. It was a very complex case that dealt with the admissibility of medical evidence, the qualification of very young children as witnesses, and the admissibility of the testimony of social workers and therapists. The jury convicted the defendant of all the charges involving all three children and the defendant was sentenced of 90 years.
- (e) State v Leroy Williams (1996) : Mr. Williams was charged with burglary first degree, kidnapping and criminal sexual conduct first degree. The victim was sexually assaulted in her apartment by a man wearing a mask. The only evidence that law enforcement could collect from the crime scene was a fingerprint left behind on a soda can and the rape kit collected from the victim. This evidence was compared to the defendant's fingerprints and DNA to obtain a match. At trial, the case depended upon the qualification of the expert witnesses and the admissibility of the evidence DNA. The jury convicted Mr. Williams on all counts and he received a life sentence.

Judge Carroll reported she has not personally handled any civil or criminal appeals.

Judge Carroll reported that she has held the following judicial offices:

Magistrate, Aiken Summary Court: I am currently appointed to serve as an Aiken County Magistrate. I was appointed on July 22, 2002 and have served continuously since that date. The jurisdiction of the Court is 30 days and/or \$500.00 in criminal matters and \$7500.00 in civil disputes.

Aiken Municipal Court Judge: I have been appointed to serve as the Aiken Municipal Court Judge since 2006. The jurisdiction of the Court is strictly criminal cases carrying the possible penalty of 30 days and/or \$500.00.

Second Circuit Drug Court Judge: I have been appointed by the SC Supreme Court to serve as a Drug Court Judge for the Second Judicial Circuit. I have the jurisdiction to accept guilty pleas, hold probation and bond revocations and hear motions pertaining to the case of any drug court participant.

Judge Carroll provided the following list of her most significant orders or opinions:

- (a) State v. Simmons (2007). In this case the State appealed the Court's ruling regarding the admissibility of Mr. Simmons' prior driving history. The State argued that the record was required to establish jurisdiction and lack of mistake. I ruled that a driving under suspension charge does not require proof of prior convictions as an element of the crime

and to publish it to the jury would be more prejudicial than probative. The ruling was upheld by the Circuit Court.

- (b) Chionakis v. Silver Bluff Road Associates (2012), The Plaintiff was suing the adjoining land owner for damages caused by falling trees. The Court ruled that while the property was located in a residential or urban area which could create the duty to others to exercise reasonable care to prevent an unreasonable risk of harm, that ultimately the Plaintiff could not prove that the Defendant knew or should have known, upon reasonable inspection, that the tree limbs were decayed or unsound.
- (c) Cushman v. S& R Auto Sales (2011), This case involved a breach of contract. The issue before the Court was to determine if there was a valid contract and if so, was it enforceable. The contract allowed the purchaser to pay for a car on layaway. The Plaintiff made all the required payments and went to pick up his vehicle but was told by the Defendant that he was not entitled to it because he did not have a valid driver's license. The Defendant refused to refund any prior payments. The Court ruled that the Plaintiff was entitled to the full reimbursement of the purchase price and the contract was not binding.
- (d) Sleister v. North Augusta Tire & Auto Center, Inc.(2007), In this case, the Court was presented the issue regarding liability in a bailment for mutual benefit situation. The Plaintiff hired the Defendant to work on her car. While the vehicle was in the Defendant's care, it was damaged by a third party. The Court found that the Defendant failed to exercise the ordinary care required and was liable for the damage.
- (e) Defeo v. Banks (2010), This matter was before the Court based upon a summons and complaint requesting payment for services provided by the Plaintiff. The Defendant filed motions have her name removed as a party to the case and to name her business as the sole Defendant. The Court ruled that the Defendant had entered into the agreement, negotiated the terms, sent all correspondence and identified herself as the only party to the contract and therefore responsible for the payment.

(9) Judicial Temperament:

The Commission believes that Judge Carroll's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Judge Carroll to be "Well qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The Committee found Judge Carroll "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. In summary, the Committee stated that it "was honored to interview Judge Carroll. She is by far, the most experienced and well-rounded candidate we interviewed this term. She is more than ready to serve on the Circuit Court. We strongly believe she is most eminently qualified to serve on the Circuit Court and we are confident she would serve our state in an outstanding manner."

Judge Carroll is married to Billy Dean Fleury. She has two children.

Judge Carroll reported that she was a member of the following bar associations and professional associations:

- (a) Aiken County Bar Association;
- (b) American Judges Association – SC Delegate (2007);
- (c) Summary Court Judges Association;
- (d) SC Bar Association.

Judge Carroll provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Board of Magistrate and Municipal Judge Certification (2010-13);
- (b) P.E.O., Chapter B;
- (c) Leadership Aiken County, class of 2006 and board member;
- (d) Girl Scout Leader – Brownie Troop 681;
- (e) Meals on Wheels volunteer.

Judge Carroll further reported:

When I was first appointed as a magistrate, I was honored and felt that I had a pretty good idea of what I could expect from the job. I had practiced law for twelve years and had spent thousands of hours in the courtroom trying cases or managing the docket. For the first six months, I was still enjoying the thrill of being called “Judge” and the excitement of making the final decision on the cases brought before me. I was pretty confident that I knew what I was doing.

After about five years as a magistrate, I looked back on my performance and while I don’t think I made any major mistakes, I realized that there is so much more to being a judge than what is on the surface. The parts of the job that I originally didn’t think were critical to being a good judge were becoming so much more important to me. I worked on becoming more patient and reminded myself daily of the importance of every case that appeared before me.

Now that I have served as a magistrate for ten years, I take pride in what I have learned. Regardless of the jurisdiction of the court, the basic principles of being a good judge are the same. I look forward to the opportunity to use this experience at the Circuit Court level.

(11) Commission Members’ Comments:

The Commission commented that they were impressed with Judge Carroll’s dedicated public service, first as an assistant solicitor and now as a summary court and municipal court judge.

(12) Conclusion:

The Commission found Judge Carroll qualified but not nominated to serve as a Circuit Court judge.

**Eric K. Englehardt
Circuit Court, At-Large, Seat 16**

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Englehardt meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Englehardt was born in 1964. He is 48 years old and a resident of Greenville, SC. Mr. Englehardt 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 1989. He was also admitted to the NC Bar in 1990.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Englehardt.

Mr. Englehardt 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. Englehardt reported that he has not made any campaign expenditures.

Mr. Englehardt 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.

Mr. Englehardt 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 Mr. Englehardt to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Englehardt described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Uni-State Lawyers	3/3/2007;
(b) NBI The Art of Settlement	4/24/2007;
(c) SCDTAA Trial Academy	6/6/2007;
(d) NBI Mediation A Valuable Tool	7/24/2007;
(e) SCDTAA Annual Meeting	11/1/2007;
(f) Ounce of Prevention is Worth a Pound of Cure	2/27/2008;
(g) SCDTAA Joint Meeting	7/24/2008;
(h) SCDTAA Annual Meeting	11/13/2008;
(i) TPGL Mandatory Insurer Reporting to Medicare	3/21/2009;
(j) SCDTAA Trial Academy	6/3/2009;
(k) SCDTAA Annual Meeting	11/05/2009;
(l) SCDTAA Corporate Counsel Seminar	04/21/2010;
(m) SCDTAA Joint Meeting	07/22/2010;
(n) Ethical Dilemmas in Negotiation	01/01/2011;
(o) SCDTAA Trial Academy	07/06/2011;
(p) SCDTAA Annual Meeting	11/3/2011;
(q) Managing Ethical Issues In Your Day To Day Practice	12/06/2011;
(r) Lawyer Mentoring Pilot Program	12/16/2011;
(s) Primer On Depressive Illness	1/1/2012;
(t) Spring Diversity Lunch	03/08/2012;
(u) Trial Superstars	04/13/2012;
(v) Worker's Compensation Boot Camp	05/24/2012.

Mr. Englehardt reported that he has taught the following law-related courses:

- (a) Opening and closing arguments, expert cross-examination as a group leader at the SCDTAA Trial Academy;
- (b) Instructor at NBI CLEs including "Mediation A Valuable Tool," "How to Litigate Your First Civil Trial" and "The Art of Settlement";

- (c) Judge at the 2009 SCDTAA Trial Academy, presiding over a civil case tried by young attorneys, and critiquing them during jury deliberations;
- (d) Speaker at the 2010 Greenville Bar year end CLE, on the topic of effective communication at mediation;
- (e) Speaker at the 2011 SCDTAA Joint Meeting, on the topic of effective communication at mediation; and
- (f) Instructor at Worker's Compensation Boot Camp on the proposed mediation rules and basic mediation techniques.

Mr. Englehardt reported that he has published the following:

- (a) Author of course materials for NBI Seminars "What to Expect in Your First Civil Trial in SC", December 2004 and "How a Mediator Can Help You";
- (b) Author of a chapter in course materials for NBI Course "Mediation, A Valuable Tool for Litigation", July 2007; and
- (c) Author of course materials for the February 2010, Greenville Bar CLE.

(4) Character:

The Commission's investigation of Mr. Englehardt did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Englehardt did not indicate any evidence of a troubled financial status. Mr. Englehardt has handled his financial affairs responsibly.

The Commission also noted that Mr. Englehardt 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. Englehardt reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

Mr. Englehardt appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Englehardt appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Englehardt was admitted to the SC Bar in 1989.

He gave the following account of his legal experience since graduation from law school:

Since I graduated from law school my legal practice has been with three law firms. I began as an associate at Haynsworth, Marion, McKay & Guerard, LLP, where I had served as a law clerk between my second and third year of law school. I started work in August 1989 and was admitted to the Bar in November of that year. I then was admitted to the North Carolina Bar after the February Bar Exam in 1990 and have been admitted to the United States District Court in SC and all three districts in North Carolina, as well as the Fourth Circuit Court of Appeals. As a result of having spent some time working in the defense of the asbestos cases I have practiced in all three federal districts in North Carolina as well as the district of SC on a variety of other cases as well. Additionally, I have tried cases in Superior Court of North Carolina as well as many cases in SC. In January of 1998 I became a shareholder at Haynsworth, Marion, McKay & Guerard, LLP, where I continued until January of 2001, shortly after the merger where that firm became known as

Haynsworth Sinkler Boyd. In January of 2001 I became a partner at Clarkson, Walsh, Rheney & Turner, P.A. I served as managing shareholder at that firm from July 1, 2004 through December 31, 2004. In September 2005 I became a shareholder at Turner, Padget, Graham & Laney, P.A., where I still practice. My practice has focused generally on the areas of insurance defense litigation, though I have handled a variety of plaintiff's cases as well as a small number of criminal/domestic matters. In 2000 I became certified as a mediator and have practiced as a mediator, mediating over 800 cases pending in both State and Federal Court. I am proud to have been listed in "Best Lawyers in America" since 2007 for my ADR practice. Also, I have served several times as an arbitrator, requiring me to make rulings and decisions in a quasi-judicial capacity, and was recently appointed as a Special Referee by the Circuit Court of Oconee County in a property line dispute. I have also been honored by my selection as a SC "Super Lawyer" in the General Litigation category.

Question 14 b) asked regarding my experience in criminal matters. My experience in criminal matters is admittedly limited. I have appeared in traffic court on a couple of occasions in the past for clients, but have never fully handled a significant criminal matter. I have also participated in Youth Court, presiding over misdemeanor criminal matters arising in the schools. This has given me some additional exposure to the criminal process in terms of the procedures and penalties, as well as interaction with members of law enforcement and members of the Criminal Defense Bar who oversee the program.

Additionally, each time I have determined to run for a position on the Circuit Court Bench I have made it a priority to make time attending General Sessions Court as an observer, trying to get a feel for the ebb and flow of criminal procedure. I have also taken time to question attorneys and judges regarding the procedures used in that court.

Obviously, I will need to overcome my lack of experience in criminal matters were I to be elected as a circuit judge, however, I have always prided myself as being a quick learner and, despite not having had a true criminal practice, I have always kept abreast of the case law involving criminal cases by reading the advanced sheets regularly. I regularly am exposed to areas of the law with which I am not familiar in my work as a mediatory or arbitrator, and believe my comfort with working through new areas will be an asset. Obviously, it will take some study as well as listening to become familiar with criminal procedure, however, I believe I have a good handle of the Rules of Evidence and would be able to overcome my lack of experience in criminal matters to be an effective Circuit Court judge.

Also, as a member of the SC Bar's Resolution of Fee Disputes Board, I regularly have to examine a set of facts, investigate and interview parties, and reach a resolution. In many ways this is similar to a non-jury trial or arbitration, with elements of mediation since we can try to work an agreement between the parties. I believe this experience will also be helpful to me if I am elected to the bench.

Mr. Englehardt reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 4-5 times, all in motions practice;
- (b) State: I have had 7 or so jury trials and many court appearances in State Court in this time period. As the practice has shifted toward more mediation, fewer cases have gone to trial in the Upstate. I would estimate that I have tried 75 trials before a jury in my career.

Mr. Englehardt reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 56%;
- (b) Criminal: 2%;
- (c) Domestic: 2%;

- (d) Other: 40% Mediation or Arbitration as a Neutral.

Mr. Englehardt reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 85%;
(b) Non-jury: 15% - Motion Hearings. I have not had any non-jury trials in that time period.

Mr. Englehardt provided that he most often served as sole counsel.

The following is Mr. Englehardt's account of his five most significant litigated matters:

- (a) SC Distributors and Livingston v. Livingston, et.al. This was a multimillion dollar case involving a breach of contract and probate dispute over a family business tried in Cherokee County.
- (b) Davis v. King Chris d/b/a McDonalds. This was a lawsuit against McDonalds Corporation over an injury which occurred in one of its parking lots. This case received much media exposure as at issue was the safety of the McDonalds playlands for children outside many of their restaurants. The case involved many complicated engineering and design issues.
- (c) Martha Knecht v. Linda Long, Melvin Dennis Long, Sherlon Tench, Dennis Tench, Cynthia Masters and David Masters. This was a lawsuit involving 8 separate causes of action for malicious prosecution, civil and criminal assault allegations, abuse of process, conversion, breach of fiduciary duties, financial exploitation, etc. It lasted for more than 3 years, and involved several criminal hearings, motion hearings and eventually a 3-day jury trial resulting in dismissal of all causes of action against 5 of my clients prior to trial and defense verdicts for my remaining client.
- (d) Alex Kirakides, III v. Peter D. Bylenga and Norma P. Bylenga. This case involved a substantial property dispute, trespass and the unlawful cutting of trees between next door neighbors on Paris Mountain in Greenville County. There were a variety of complicated damages issues, and the result obtained was a positive one for my clients.
- (e) Halbert H. Brockman and Diedra Brockman v. Melissa Ballard and Travis Abercrombie. This was a highly contested case in which I defended a woman who pled guilty to racing her vehicle against another vehicle, running from police, losing control and hitting and injuring the Plaintiffs. The jury verdict did not include punitive damages, and was substantially less than the amount offered. This case involved many evidentiary issues, including issues involving admissibility of police video, criminal charges, etc.

The following is Mr. Englehardt's account of five civil appeals he has personally handled:

- (a) Bear Enterprises v. County of Greenville, 319 SC 137, 459 S.E.2d 883 (Ct. App. 1995).
(b) Camlin v. Bilo, 311 SC 197, 428 S.E. 2d 6(Ct. App. 1993).
(c) Threatt Michael Construction Company v. C&G Electric, 305 SC 147, 406 S.E.2d 374 (Ct. App. 1991).
(d) Preckler v. Owens-Corning, 60 F.3d 824, 1995 WL 417731 (4th Cir. 1995).
(e) Lindsey v. Vann, 2004-UP-442 (Ct. App).

Mr. Englehardt reported he has not personally handled any criminal appeals.

Mr. Englehardt further reported the following regarding unsuccessful candidacies:

Thirteenth Judicial Circuit, Seat 4 in 2003. There were 7 candidates in that race, and I was found qualified and nominated by the Judicial Merit Screening Commission. I withdrew prior to the election in the General Assembly.

Thirteenth Judicial Circuit, Seat 3 in 2009, I was once again honored to have been found qualified and nominated, and withdrew prior to election.

At Large, Seat 8 in 2009, I was once again honored to have been found qualified, however, I was not nominated.

Thirteenth Judicial Circuit, Seat 2 in 2010, I was once again honored to have been found qualified and nominated, but withdrew prior to election.

(9) Judicial Temperament:

The Commission believes that Mr. Englehardt's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee found Mr. Englehardt to be "Qualified" in the areas of constitutional qualifications, physical health, and mental stability and "Well qualified" in the areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

George H. Brock filed a complaint with the Commission against Mr. Englehardt alleging that Mr. Englehardt was incompetent and less than impartial in serving as arbitrator between Mr. Brock and a certain Rick Erwin as to their falling out as business partners. Mr. Brock first alleged that Mr. Englehardt failed to act in an impartial manner during some of the arbitration hearings. Specifically, he refers to several separate instances of small-talk between Mr. Englehardt and Mr. Erwin as to Mr. Erwin's restaurant and their independent and coincidental attendance at the same Eagles concert in Greenville. Mr. Englehardt responded to this accusation by reporting that the conversations were mere pleasantries, were never questioned at any time during the arbitration, and that he was not in any way impartial to either party. He further responded that in his 13 years of handling arbitrations, this is the first time his independence or neutrality has ever been questioned.

The Commission determined that there was little evidence that these accusations reflected an issue with Mr. Englehardt's character or fitness to serve on the bench.

Mr. Brock also alleged that Mr. Englehardt overlooked certain allegedly pertinent statutes that Mr. Brock submits as requiring expert testimony in cases where, as in the case at issue, there is a question of whether accounting responsibilities agreed to by contract satisfied the contractual agreement.

Mr. Englehardt's written response to this allegation was a simple denial, and he opined that Mr. Brock's complaint is merely a misplaced attempt to re-hear the case. He asserted that he made fair ruling after each side presented their position and the law they believed supported their case. He submitted that the arbitration included two weeks of hearings over a one-year period and that there were hundreds of pages of documents and transcripts involved, including his own 45 pages of typewritten notes from the hearings.

Mr. Englehardt further responded in testimony before the Commission that while these statutes are applicable to a malpractice claim, they are not controlling in cases where, as in the instant case, there is an issue of breach of a contract between two parties as to responsibilities to be assumed by each in the operation of a business.

The Commission found that while subject to various interpretations, Mr. Englehardt's finding as to these statutes did not constitute a considerable issue as to Mr. Englehardt's character or fitness to serve on the bench.

As a part of this second allegation, Mr. Brock also complained that the Mr. Englehardt did not deliver a decision until 7 and 1/2 months after the final hearing.

The Commission determined that the only component of the complaint worthy of consideration was this delay in finalizing the arbitration award. Mr. Englehardt admitted that that

he could have rendered the award more timely, and produced a letter dated April 22, 2011, in which he apologized to the attorneys on both sides and established that as a result of the delay he would not be billing the parties the anticipated additional several thousand dollars for his preparation of the award.

Given this mitigating circumstance, and that much of the complaint appeared to more an attempt by Mr. Brock to re-hear his arbitration case rather than a credible indictment of Mr. Englehardt's overall character and fitness to serve on the bench, the Commission deemed the complaint insufficient as grounds for finding Mr. Englehardt not qualified for service on the bench.

Mr. Englehardt is married to Helen Elizabeth Burris. He has three children.

Mr. Englehardt reported that he was a member of the following bar associations and professional associations:

- (a) NC Bar;
- (b) SC Bar;
- (c) Greenville County Bar;
- (d) SCDTAA (Executive Committee Member since 2000);
- (e) NC Bar Association;
- (f) Upstate Mediation Network (Vice President 1999-2001); and
- (g) SC Bar Resolution of Fee Disputes Board (2008–present).

Mr. Englehardt provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) The Family Effect (Board Member);
- (b) Temple of Israel Board of Directors (2nd VP 2005-07, 2nd VP 2011, 1st VP present);
- (c) Greenville Little League (Coach);
- (d) PTAs of Stone Academy, League, Academy and Greenville High School;
- (e) Greenville High All-Star Booster Club;
- (f) Educational Foundation of the UNC (Upcountry Chapter Development Committee);
- (g) UNC and UNC School of Law Alumni Association;
- (h) Best Lawyer's in America (included from 2007 to the present);
- (i) SC "Super Lawyers" for General Litigation (2010-11);
- (j) National Academy of Distinguished Neutrals (2011-present); and
- (k) Upstate Community Mediation Center (Board 2011-present).

Mr. Englehardt further reported:

When I ran for a Circuit Court seat in 2003, I wrote about watching my parents work as volunteers as drug counselors while I was a child and how their experiences affected my views on equal justice under the law. While I still have those feelings, obviously a great deal has happened in my life since that time.

In 2005, my wife, sons and I made the decision to add the 13 year old daughter of a family friend who had passed away to our family. This child had been adopted by her grandmother (the family friend who died) at a young age after her birth parents lost their parental rights. This forced me to quickly learn to have a great deal of patience and to be firm with my judgments in dealing with not only the normal issues of a larger family but also with raising a teenager (now two teenagers and a 20 year old).

Additionally, obviously there are some special issues that arise in raising someone who has been through what my daughter has been through. Not only did her birth parents lose custody of her and both eventually ended up in prison, but also she had to deal with losing the only parent she ever

really knew to cancer. As a result I think I have had to develop a great deal of sensitivity and at the same time a toughness that I am not sure I had previously.

Moreover, I have been exposed to a different side of our legal system as I watched her birth parents work in and out of the criminal justice and prison systems. While I have only been an interested observer as to these machinations, I have found the actions of the solicitor's office, the appointed defense counsel, the parole officers, and even the sentencing judges to be quite educational, especially since that area of the law is the one I have had the least exposure to in my career. It also had a great deal to do with my decision to become involved with The Family Effect, on whose board I sit. This organization works to heal families affected by the trauma of drug and alcohol abuse, and as a result, every success we have tends to lessen the likelihood of adding to the ranks of those involved in the criminal side of our justice system.

As a result of all this, I believe I am better suited to sit on the Circuit Court bench in any of my previous runs (plus I also have even more gray hair, which certainly helps!). I also believe that the patience and friendships I have made during my previous runs for a seat on the Circuit Judge bench will serve me well if elected.

(11) Commission Members' Comments:

The Commission commented that Mr. Englehardt has excellent legal experience; including extensive alternative dispute resolution experience, and enjoys an exemplary reputation in the legal community.

(12) Conclusion:

The Commission found Mr. Englehardt qualified but not nominated to serve as a Circuit Court judge.

**Joey Randall Floyd
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Floyd meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Floyd was born in 1975. He is 37 years old and a resident of Columbia, SC. Mr. Floyd 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 Mr. Floyd.

Mr. Floyd 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. Floyd reported that he has not made any campaign expenditures.

Mr. Floyd 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.

Mr. Floyd 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 Mr. Floyd to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Floyd described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Annual Free CLE Ethics Seminar	11/3/06;
(b) 2006 Ultimate Trial Notebook	11/17/06;
(c) National Institute for Trial Advocacy – SE Regional	5/19/07 – 5/25/07;
(d) NC/SC Construction Law Section	9/14/07;
(e) 2008 Master In Equity Bench/Bar	10/10/08;
(f) Keeping the “Lawyer” in Lawyer	10/28/08;
(g) Annual Free CLE Ethics Seminar	11/7/08;
(h) 2009 Master In Equity Bench/Bar	10/9/09;
(i) 2010 Masters in Equity Bench/Bar (and make-up CLE)	10/8/10;
(j) Consumer Law Section (SC Bar Convention)	1/20/11;
(k) Administrative Regulatory Law Committee, Government Law Section (SC Bar Convention)	1/21/11;
(l) Corporate Banking & Securities Law Section (SC Bar Convention)	1/21/11;
(m) Law Firm Management Seminar (SC Bar Convention)	1/22/11;
(n) Judgment Collection in SC	8/12/11;
(o) Masters In Equity Seminar	10/14/11;
(p) Ethics Seminar	11/4/11;
(q) Consumer Law Section (SC Bar Convention)	1/19/12;
(r) Criminal Law Section, Part I (SC Bar Convention)	1/20/12;
(s) Criminal Law Section, Part II (SC Bar Convention)	1/20/12;
(t) Real Estate Practices Section (SC Bar Convention)	1/21/12.

Mr. Floyd reported that he has taught the following law-related course:

I was a speaker for the 2008 Master In Equity Bench/Bar CLE (October 2008) on the topic of Supplemental Proceedings and collecting on Judgments.

Mr. Floyd reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Floyd did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Floyd did not indicate any evidence of a troubled financial status. Mr. Floyd has handled his financial affairs responsibly.

The Commission also noted that Mr. Floyd 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. Floyd reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.
- (6) Physical Health:
Mr. Floyd appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Floyd appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Floyd was admitted to the SC Bar in 2001.

He gave the following account of his legal experience since graduation from law school:

My practice has been a heavy litigation practice, dating back to 2001. I have been involved in all sorts of litigation ranging from the simplest of issues to some of the most complicated/complex litigation. I have handled a number of legal malpractice matters which can be some of the most complex litigation because of the “case within the case” scenario presented in every legal malpractice action. Each legal malpractice action comes to us with its own unique issues. I have been involved in legal malpractice actions involving issues related to personal injury, worker’s compensation, probate, employment and real estate matters. I have exclusively represented the Defendant(s) in the legal malpractice actions, which has been exceptionally rewarding due to the fact that my “client” in legal malpractice actions are attorneys. I have also had the opportunity to represent appraisers in appraisal malpractice actions, which has been interesting over the past several years as the real estate market has had its own set of issues.

General litigation and business litigation matters are also rewarding to me because my clients and I have come to a mutual respect for one another. More specifically, I respect my client’s business decisions on certain matters and my clients respect my legal advice, even though they do not always follow all parts of my advice.

Another area of my practice would be collection matters, which has been rewarding to me in that most of my creditor clients have well-intentioned customers that seem to find themselves on hard times. I have enjoyed putting deals/repayment plans together that satisfy my client and my client’s customer that could lead to the rebuilding of a relationship between creditor and debtor.

Generally speaking, the more complex litigation tends to have more complex procedural histories, including second and third amended complaints, along with fourth party complaints, cross claims and counterclaims.

While I have limited experience in criminal matters, I am confident that I have the ability to rapidly learn the criminal system based on the fact that I have studied and learned numerous legal principles over the course of almost eleven years in my law practice. I will also take advantage of as many continuing legal education courses as possible to broaden my spectrum of knowledge in criminal matters. I would use all tools available to me as a circuit court judge to continuously educate myself on civil and criminal matters.

Mr. Floyd reported the frequency of his court appearances during the past five years as follows:

- (a) federal: I have handled and/or been involved in a number of federal court cases over the past five years. I would estimate that I have been involved in 5 – 10 federal court matters during the past five years. The federal court matters that I have been involved with over the past five years have primarily been disposed of by way of a summary judgment motion (where I/my firm represented the party moving for summary judgment), referred to arbitration or settled. As a result of the electronic case filing and electronic case

management, a number of federal court cases that I have been involved in have been disposed of and/or resolved through electronic filings. I am currently handling a pending matter in federal court and I recently settled a federal court action. I would estimate that the Federal Court portion of my practice would be approximately 5 - 10% of my practice.

- (b) state: I have handled numerous state court cases over the past five years and routinely appear in Circuit Court for motion hearings and roster meetings. I also frequently appear in the Equity Courts of SC as a part of my collection practice.

Mr. Floyd reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 99%;
- (b) criminal: 1%;
- (c) domestic: 0%.

Mr. Floyd reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 75%;
- (b) non-jury: 25%.

Mr. Floyd provided that he most often served as sole counsel.

Years one and two of the past 5 years, I would have been associate counsel; however, during the past 3 years, I have been serving primarily as sole counsel. I am also assisting other attorneys in my firm on various matters as associate counsel.

The following is Mr. Floyd's account of his five most significant litigated matters:

- (a) Mowrer v. Charleston County Parks and Recreation Commission, et.al., C/A No.: 2000-CP-10-2420. This case is a reported case, 361 S.C. 476, 605 S.E.2d 563. I, along with Hank Wall in my firm, represented the Defendants in this particular action against a Plaintiff's claim of, among other causes of action, inverse condemnation. This case provided the Court of Appeals with an opportunity to expand and clarify various issues relating to inverse condemnation. When this case was tried the first time (October 2002), the case law on inverse condemnation was far from clear. This is also the only trial that I have been involved in where the same case was tried twice as a result of the appeal.
- (b) Fortson v. Randy Skinner, Greenville County C/A No.: 08-CP-23-1124 and U.S. District Court C/A No.: 6:08-cv-01107. I represented Randy Skinner, a SC attorney and United States Bankruptcy Trustee, in an action filed by Major Fortson. Fortson claimed that Randy Skinner, while carrying out his duties as the United States Bankruptcy Trustee, failed to properly carry out his duties. The State Court action and the Federal Court action were ultimately dismissed on the basis of the Barton Doctrine. The Barton Doctrine basically states that before filing an action against a United States Trustee, a litigant must obtain permission from a United States District Court Judge. The Barton Doctrine provides a layer of insulation against frivolous filings by litigants who can be disgruntled debtors or creditors in the United States Bankruptcy Courts.
- (c) Blanchard Machinery Company v. L & L Construction, LLC, et.al., C/A No.: 05-CP-21-1531. This case began as a simple collection matter that had the potential to be an important case concerning the "diligent creditor rule." To some extent, the existing case law in SC is not clear on how "lazy" creditors should be treated when an aggressive creditor finds certain personal property of a common debtor. While there is some authority that tends to suggest that the Courts should only reward the efforts of the diligent creditor, the case law is not absolute and this particular case had the potential to

be a leading case as a result of my efforts in supplemental proceedings when I located over \$50,000.00 in a bank account that the debtors claimed was for the benefit of all creditors. Unfortunately, one of the debtors filed for bankruptcy and the appeal was ultimately dismissed by the Court of Appeals on the basis that the appeal became moot.

- (d) Ellison v. Heart Rate, Inc., et.al., C/A No.: 3:06-cv-1053. This case was a products liability action against, among others, an exercise machine manufacturer. I represented the machine manufacturer in this particular federal action. The Plaintiff failed to procure an expert to opine on the alleged defect(s) and the federal court dismissed the Plaintiff's action, relying in part on the Plaintiff's failure to procure an expert. This case illustrates the importance of adhering to the Court's Orders.
- (e) Carews v. RBC Centura Bank, et.al. C/A No.: 2010-CP-32-442. I represented the appraiser in this civil action. The Plaintiffs in this civil action were borrowers who were building a million dollar home and, during construction, their builder encountered financial problems so severe that it/he was unable to finish the home. The borrowers alleged that the appraiser was negligent in making her inspections during the construction of the home. The trial court recently granted the appraiser summary judgment on the basis that the appraiser did not owe any duties to the borrowers.

The following is Mr. Floyd's account of three civil appeals he has personally handled:

- (a) Mowrer v. Charleston County Parks and Recreation Commission, et.al., C/A No.: 2000-CP-10-2420. The case is reported at 361 S.C. 476, 605 S.E.2d 563.
- (b) Blanchard Machinery Company v. L & L Construction, LLC, et.al., C/A No.: 05-CP-21-1531. This appeal was not ruled upon by the Court of Appeals and was dismissed as moot as a result of the Defendant's/Debtor's bankruptcy filing.
- (c) I have assisted other attorneys in my firm on various civil appellate matters

Mr. Floyd reported he has not personally handled any criminal appeals.

Mr. Floyd further reported the following regarding unsuccessful candidacies:

I submitted an application for a United States Magistrate position in Florence, SC in, I believe, late 2009 or early 2010. I was not selected for the position.

I was also a candidate for the Fifth Judicial Circuit Court Judge, Seat 3 in the fall of 2011. I was found Qualified, but Not Nominated for Seat 3 by the Judicial Merit Selection Commission.

(9) Judicial Temperament:

The Commission believes that Mr. Floyd's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen's Committee found Mr. Floyd to be well-qualified in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament. The Committee found Mr. Floyd qualified in the evaluative criteria of constitutional qualifications, physical health, mental stability, and experience. The Committee stated in summary, "The committee once again enjoyed seeing Mr. Floyd. We think he is both a great attorney and a great person. He has integrity, energy and compassion, and we feel that he would make an excellent judge. We feel that he is well qualified to serve on the Circuit Court and we believe he would serve in an exemplary manner."

Mr. Floyd is married to Ellie Cavanaugh Floyd. He has two children.

Mr. Floyd reported that he was a member of the following bar associations and professional associations:

- (a) American Bar Association;
- (b) Richland County Bar Association.

Mr. Floyd provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Washington Street United Methodist Church Childcare Development Center, Current Board Member, Current Board Member, Former Board Member (2007–09) and Former Chairman of the Board (2009);
- (b) Washington Street United Methodist Church, Missions Committee, Former Member of the Committee.

Mr. Floyd further reported:

Growing up in Turbeville, SC provided me with a different perspective on life. I grew up in, and around, a farming community/lifestyle. Today, I have the privilege of serving as an attorney and interacting with professionals. To a certain extent, I have been able to draw on the benefits of both walks of life and I believe I have the ability to connect with a diverse group of people. Additionally, after appearing in Court on numerous occasions over the course of my law practice, I believe that I understand the traits and characteristics that make a good Judge

(11) Commission Members' Comments:

The Commission commented that Mr. Floyd has excellent experience handling civil cases and they were impressed with his demeanor at the Public Hearing.

(12) Conclusion:

The Commission found Mr. Floyd qualified but not nominated to serve as a Circuit Court judge.

**The Honorable Alex Kinlaw, Jr.
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Kinlaw meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Kinlaw was born in 1952. He is 60 years old and a resident of Greenville, SC. Judge Kinlaw 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 Kinlaw.

Judge Kinlaw demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Kinlaw reported that he has not made any campaign expenditures.

Judge Kinlaw reported he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Kinlaw 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 Kinlaw to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Kinlaw described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) D1-124 Sidebar SC: Trust Accounting	11/19/2007;
(b) DL-148 Authority for Lawyer Trust	11/20/2007;
(c) DL-10 The Attorney as Supervisor	11/20/2007;
(d) DL-150 How to Manage Lawyer	11/20/2007;
(e) Annual Summit and Retreat	10/30/2008;
(f) Ethics Judicial Panel Seminar III	12/06/2008;
(g) Family Court Judges' Conference	04/22/2009;
(h) Orientation School for New Family	06/03/2009;
(i) Annual Convention	08/06/2009;
(j) 2009 Annual Judicial Conference	08/19/2009;
(k) SCBLA Annual Retreat	10/01/2009;
(l) 2009 SC Family	12/04/2009;
(m) Family Law Update	01/22/2010;
(n) Family Court Judges Conference	04/22/2010;
(o) 2010 Judicial Conference	08/18/2010;
(p) Mini Summit on Justice for Children	12/02/2010;
(q) 2010 SC Family Court	12/03/2010;
(r) Family Law Section	01/21/2011;
(s) Family Court Judges Conference	06/01/2011;
(t) 2011 SCAJ Annual Convention	08/04/2011;
(u) 2011 Annual Judicial Conference	08/17/2011;
(v) SC Black Lawyer Annual Retreat	10/14/2011;
(w) 2011 SC Family	12/02/2011;
(x) Family Law Section	01/20/2012.

Judge Kinlaw reported that he has taught the following law-related courses:

- (a) 2006 – I gave a seminar on custody in the Family Court at the SC Black Lawyers Retreat;
- (b) I also spoke to the Greenville County Bar at a CLE on Alimony Issues in the Family Court - 2009.

Judge Kinlaw reported that he has not published any books or articles.

- (4) Character:
The Commission's investigation of Judge Kinlaw did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge Kinlaw did not indicate any evidence of a troubled financial status. Judge Kinlaw has handled his financial affairs responsibly.

The Commission also noted that Judge Kinlaw was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

- (5) Reputation:
Judge Kinlaw reported that he is not rated by any legal rating organization.

- (6) Physical Health:
Judge Kinlaw appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:
Judge Kinlaw appears to be mentally capable of performing the duties of the office he seeks.

- (8) Experience:
Judge Kinlaw was admitted to the SC Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

- (a) 1978-80 – I was employed as a staff attorney with the Legal Services Agency in Greenville County.
- (b) 1980-81 – I was employed with the Public Defender's Office in Greenville County.
- (c) 1982-2009 – I was engaged in the private practice of law.

Judge Kinlaw further reported regarding his experience with the Circuit Court practice area:

During my twenty-seven (27) years in private practice, I handled a multitude of matters, both criminal as well as civil. When I was employed with the Greenville County Public Defender's office I handled well over one hundred or so criminal offenses ranging from simple misdemeanors to burglary as well as felony murder. After leaving the Public Defender's office, I became Death Penalty certified by the SC Supreme Court. I was lead counsel in three (3) Death Penalty cases, the most significant one being State vs. Tommie Lee Davis (1989). This was a Greenwood County case in which the Defendant was charged with the abduction and murder of a Lander College female student. The case was significant for two reasons. This was the first case in the State to my knowledge where the defense pursuant to a change of venue motion was permitted to pick a jury from another county and seat that jury in the county where the offense occurred. Secondly, in this case the defense proved that the Defendant's IQ was so low that execution would be too severe of a punishment. The U.S. Supreme Court ultimately agreed with our argument.

In the civil arena I have represented numerous Plaintiffs in all kinds of personal injury matters in the Circuit Court. I also handled a significant third party tort claim involving a litigant whose leg was severely injured (Bayne vs. Brassfield and Gorrie Construction 1980). Lastly, I have litigated civil matters in at least ten of the current circuits. I also handled at least two Title VII matters in the Federal Court and represented numerous litigants in the United States Bankruptcy Court.

Judge Kinlaw reported the frequency of his court appearances prior to his service on the bench as follows:

- (a) Federal: 10%;
- (b) State: 90%.

Judge Kinlaw 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: 15%;
- (c) Domestic: 75%.

Judge Kinlaw reported the percentage of his practice in trial court prior to his service on the bench as follows:

- (a) Jury: 25%;
- (b) Non-jury: 15%.

Judge Kinlaw provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Kinlaw's account of his five most significant litigated matters:

- (a) I was lead counsel in the first capital case that permitted a jury to be chosen from another county and be transported to the county where the case was to be tried. This was pursuant to a change of venue motion;
- (b) I was involved in an adoption case where the issue was whether the adopting parents could change their mind after a hearing was held, but the Judge had not yet signed the order of adoption;
- (c) I was also involved in a Family Court matter that involved what was considered a domestic support obligation as defined by the Bankruptcy Court;
- (d) I litigated an issue in Family Court regarding whether a person's voluntary termination of employment affected his current obligation of support;
- (e) Lastly, I handled several matters in Magistrate Court regarding a landlord's duty to repair.

Judge Kinlaw reported he has not personally handled any civil or criminal appeals.

Judge Kinlaw reported that he has held the following judicial office:

Judge of the Greenville County Family Court Elected February 2009 Term ends February 2016.

Judge Kinlaw provided the following list of his most significant orders or opinions:

- (a) Jane Roe vs. Craig Reeves;
- (b) William Ponder vs. Linda Ponder;
- (c) Joleen Graham vs. Donald Graham;
- (d) Mark Mitchell Sweeney vs. Irene Sweeney;
- (e) Patricia Rushing vs. James Rushing.

No citations reported.

Judge Kinlaw further reported the following regarding an unsuccessful candidacy:

I ran for a seat on the Family Court in 2008 and lost. I was successful in 2009.

(9) Judicial Temperament:
The Commission believes that Judge Kinlaw’s temperament has been and would continue to be excellent.

(10) Miscellaneous:
The Upstate Citizen’s Committee found Judge Kinlaw 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 Kinlaw is married to Yvette Wiggins Kinlaw. He has two children.

Judge Kinlaw reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) National Bar Association;
- (c) SC Black Lawyers Association.

Judge Kinlaw provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Urban League of the Upstate;
- (b) Sigma Pi Phi Fraternity;
- (c) Alpha Phi Alpha Fraternity.

(11) Commission Members’ Comments:
The Commission commented that Judge Kinlaw is well-respected by the attorneys practicing before him in Family Court in Greenville County.

(12) Conclusion:
The Commission found Judge Kinlaw qualified, but not nominated, to serve as a Circuit Court judge.

**The Honorable John Reaves McLeod
Circuit Court, At-Large, Seat 16**

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:
Based on the Commission’s investigation, Judge McLeod meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge McLeod was born in 1973. He is 39 years old and a resident of Walterboro, SC. Judge McLeod 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 2002.

(2) Ethical Fitness:
The Commission’s investigation did not reveal any evidence of unethical conduct by Judge McLeod.

Judge McLeod demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge McLeod reported that he has made \$73.80 in campaign expenditures for mailing letters of introduction.

Judge McLeod reported he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge McLeod 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 McLeod to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge McLeod described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Harassment & Stalking; Intimate Partner Terrorism	6/8/2012;
(b) SC Bar Convention- Law Firm Management	1/21/2012;
(c) SC Bar Convention- Criminal Law Section-II	1/21/2012;
(d) SC Bar Convention- Dispute Resolution Section	1/19/2012;
(e) Summary Court Judges Fall Program	11/04/2011;
(f) Domestic Violence and the Criminal	4/19/2011;
(g) Magistrates Mandatory School	11/5/2010;
(h) 2010 SC Association for Justice Annual Convention	8/5-7/10;
(i) SC Bar Convention; Criminal Law Update	1/22/10;
(j) SC Bar Convention; ADR	1/21/10;
(k) SC Bar Convention; Torts and Insurance Sections	1/23/10;
(l) Sporting Clays; Ethics with Judges	4/29/10;
(m) 2009 SC Association for Justice Annual Convention	8/6-9/09;
(n) Magistrates Mandatory School	10/30/09;
(o) Sporting Clays; Ethics with Judges	10/22/09;
(p) Special Courts Jurisdiction; Advanced	6/8-18/2009;
(q) Hot Topics in Tax & Estate Planning	1/24/09;
(r) 7 th Annual Civil Law Update	1/23/09;
(s) Magistrates Mandatory School	11/07/08;
(t) 2008 SCTL A Annual Convention	8/7-10/08.

Judge McLeod reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge McLeod reported that he has not published any books or articles.

- (4) Character:
The Commission's investigation of Judge McLeod did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge McLeod did not indicate any evidence of a troubled financial status. Judge McLeod has handled his financial affairs responsibly.

The Commission also noted that Judge McLeod was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

- (5) Reputation:
Judge McLeod reported that he is not rated by any legal rating organization.

- (6) Physical Health:
Judge McLeod appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:
Judge McLeod appears to be mentally capable of performing the duties of the office he seeks.

- (8) Experience:
Judge McLeod was admitted to the SC Bar in 2002.

He gave the following account of his legal experience since graduation from law school:

August 2002 – August 2003

Law Clerk for SC Circuit Court Judge Jackson V. Gregory. Duties- research and scheduling for the Judge;

August 2003 – Present

Attorney, McLeod, Fraser, and Cone. Duties- general practice, civil, criminal, insurance defense, tort, wills, trust, estates;

August 2003 – August 2007

Prosecutor of the City of Walterboro. Duties- prosecuted all criminal trials for the City of Walterboro, prepared and interviewed officers, prepared and interviewed victims and witnesses;

August 2007 – Present

Magistrate for Colleton County. Duties- preside over jury and bench trials, preside over hearings for motions, evictions, claim and deliveries, traffic court, preliminary hearings, bond court, issue arrest and search warrants. Until the office was consolidated, presided over the Green Pond, SC office to which I was assigned. Recommended to Gov. by Senator Clementa Pinckney and Colleton County Senate Delegation, Appointed by Gov. Mark Sanford, Confirmed by the SC Senate.

Judge McLeod further reported regarding his experience with the Circuit Court practice area:

After completing the bar exam, I was hired to serve as a Law Clerk for Jackson V. Gregory, Circuit Court Judge for the 14th Judicial Circuit. During my year of service with Judge Gregory, I conducted research for all stages of litigation that was coming before Judge Gregory. Such research was done for summary judgment motions, motions to change venues, motions to dismiss, and all other types of pre-trial motions. Also research was conducted on trial rulings, jury charges, and post-trial motions such as Judgments Notwithstanding the Verdict, Motions for New Trials, and Motions to Alter and Amend. In addition, research and composition was performed on rulings and orders that were to be issued by Judge Gregory. I was present at all the motion and non-jury terms of court as well as the General Sessions and Common Pleas terms of

Court throughout the entire year, which obviously subjected me to many entire trials, many more than a practicing attorney would participate in over several years.

After completing my law clerkship with Judge Gregory, I was hired by McLeod, Fraser, and Cone, primarily as a trial attorney, and subsequently hired by the City of Walterboro to serve as its City Prosecutor. During this time as City Prosecutor, I was responsible for preparing and prosecuting all jury trials involving city charges. I also was called upon to present evidence for the City at preliminary hearings. When I was appointed as City Prosecutor, the backlog of jury trials in City Court was tremendous. Municipal Court Judge Ray Woodard and I worked at the direction of City Council to reduce the backlog of cases. Although most attorneys did not like the remedy, the day for jury trials was moved to Saturdays, thus limiting the conflicts, which defendants and their attorneys had with schedules and judicial matters in other courts, which took priority over Municipal Court. With cooperation between the Municipal Judge and myself, the backlog of cases was drastically reduced. During my three-year tenure as City Prosecutor, I was, not only handling matters for the City, but also actively engaged in private general practice with McLeod, Fraser, and Cone.

In August 2007, Governor Sanford appointed me as a Colleton County Magistrate. Senators Clementa Pinckney, John Matthews, and Larry Grooms, all of the Colleton County Senate Delegation, recommended my appointment to Governor Sanford. As a Magistrate, I have handled every stage of a criminal proceeding. I have issued arrest warrants and search warrants, issued bonds, held arraignments, and presided over preliminary hearings to decide whether to dismiss the criminal complaint or bind the matter over to the grand jury. Further, I have held bench trials as well as jury trials, with both pro se defendants and defendants represented by counsel. I have heard and ruled on procedural matters, evidentiary matters, and all other issues that are associated with criminal procedure and the protection of the rights of defendant as well as the rights of victims. At the end of each trial where guilt has been established, I, as the Judge, have the duty to decide on the penalty to impose, be it fine or jail time under the appropriate state statutes. I have tried, and always try to render justice to all persons involved. As a Magistrate, from my appointment through June 30, 2012, my service yields the following criminal docket statistics:

General Criminal Docket-matters disposed of:

Bench Trials- 723

Jury Trials- 11

DUI Docket-matters disposed of:

Bench Trials- 88

Jury Trials- 4

Traffic Docket-matters disposed of:

Bench Trials- 6,234

Jury Trials- 10

With respect to the cases assigned to me and disposed of on the Civil Docket (since my appointment date through June 30, 2012), the statistics show:

Civil Docket-

Cases/Matters Resolved- 1,967 via default, settlement, finding for plaintiff, finding for defendant, or dismissal.

Those cases would include both bench trials and jury trials. In addition to the general civil docket cases assigned to me, I am assigned to hear eviction matters. I have disposed of more than 1,589 eviction matters in the time frame from my appointment through June 30, 2012.

Currently, I am assigned to two full days each week of presiding at Magistrate's Court. The other three days of the week are dedicated to performing my duties in my current law practice. Because of my duties as a Magistrate Judge, I do not practice in General Sessions because of the obvious conflict of interest.

Using statistics from July 1, 2008, to June 30, 2009, there were a total of 955,535 cases disposed of by Magistrates like myself in the State of SC. Of that number 133,171 cases were on the criminal docket; 617,505 cases were on the Traffic Docket; 12,486 cases were on the DUI Docket; and 192,373 cases were on the Civil Docket.

For the same time period in the State's General Sessions, cases disposed of numbered 123,315. Out of that number 51% of the cases were ended Nol Pros, 40% were guilty pleas, 1% were trials where guilt was found, and less than 1% were trials where guilt was not found. The total conviction rate was 41% and the total non-conviction rate was 51%. For the same year, the State's Common Pleas Courts had a total of 15,031 jury cases pending; 44,061 non-jury cases pending; and 11,803 Master-in-Equity cases pending. This is a total of 70,895 cases. The SC Court Administration provided the above information via Internet.

My civil litigation experiences, in my private law practice, consist of mostly insurance defense matters. I handle private insurance companies but also handle insurance defense claims for state entities such as the Colleton County School District, Hampton County, the Town of Allendale and Allendale County to name a few. I have had experience in plaintiff tort actions as well.

Two civil matters (that need a special mention) that I have been involved with post verdict were Brewsdorf v. SC DOT and Colleton County and Padgett v. Colleton County. I represented Colleton County in both matters. In the latter, I represented Colleton County solely and in the former, my father, Peden B. McLeod and I represented Colleton County. In both case my client was granted a directed verdict. In the Brewersdorf case, a directed verdict was granted based on the Public Duty Doctrine and that there was no negligence on the part of the county. The Brewersdorf case was appealed to the Court of Appeals. I handled the appeal solely. The Court of Appeals up held the lower court's ruling pertaining to both defendants. The Appellant then asked for a writ of certiorari to the SC Supreme Court on the Court of Appeals' ruling in regards to the SC DOT only and did not ask for a writ of certiorari on the basis on the Court's ruling for my client.

In the Padgett case, the lower court granted a directed verdict to my client on the open and obvious condition of the area in which the plaintiff fell. The plaintiff appealed the directed verdict and such ruling was overturned. A writ of certiorari was denied and the case was settled prior to a retrial.

Other civil trials held have been as follows:

- (a) Fairchild v. SC DOT, Palmer, and Palmer Construction; I represented Defendant Palmer and Palmer Construction. Verdict for Plaintiff, Plaintiff appealed. SCSC reversed and remanded back for re-trial. Currently pending;
- (b) Bowers v. Taylor and All Coast Intermodal Services Inc.; I represented Defendants;
- (c) Jackson v. Town of Fairfax; I represented Defendant;
- (d) Williams v. Patrick; I represented Defendant;
- (e) Grant v. Guitierrez; I represented Defendant;
- (f) Maxwell v. SC DOT; I represented Defendant;
- (g) City of Walterboro v. Bennett, et al; I represented Plaintiff.

Judge McLeod reported the frequency of his court appearances during the past five years as follows:

- (a) federal: 5%;
- (b) state: 95% (both for my private or prosecutor positions, not magistrate position).

Judge McLeod reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 65%;
- (b) criminal: 10%;
- (c) domestic: 25% (all for my private or prosecutor positions, not magistrate position).

Judge McLeod reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 90% of my practice is civil litigation which appears on jury trial docket in the Court of Common Pleas. Of that amount, roughly 10% of those cases had a jury empanelled, with the most recent case being completed on October 10, 2012. Not included in the above, are the 25 jury trials that I presided over in Magistrate Court regarding the general criminal docket, the DUI docket, and the traffic docket from my appointment to June 30, 2012. Also not included are the numerous jury trials presided over in Magistrate Court regarding civil matters.
- (b) non-jury: None of my non-jury civil litigation matters which appeared on the non-jury docket in the court of Common Pleas were subsequently tried by a jury.

Judge McLeod provided that he most often served as sole counsel.

The following is Judge McLeod's account of his five most significant litigated matters:

- (a) Jorg Bewersdorf v. SC DOT and Colleton County and Evette Bewersdorf v. SC DOT and Colleton County, 2007-UP-063; Court upheld the directed verdict granted to my client, Colleton County. The directed verdict was based on the Public Duty doctrine and the fact that there was no actionable negligence on the part of the County. The Court of Appeals upheld the directed verdict granted to my client.
- (b) Padgett v. Colleton County. Opinion #4542,2009 WL1313240 (S.C.App.) Court reversed lower court's directed verdict for the County. A writ of certiorari was denied and the case settle prior to a retrial.
- (c) Carla Jackson v. Town of Fairfax. 2007-CP-03-114. Jury awarded plaintiff \$250,000.00 in a case in which the plaintiff only had \$2,500.00 in medical damages. The court did not agree with my argument the amount of the verdict was excessive and after researching the law, found that an appeal would have been fruitless.
- (d) City of Walterboro v. Leon Bennett d/b/a B & B Recreation Center. Case no. 01-CP-15-85. Case involved the City's attempts to have the Recreation Center shut down as a public nuisance due to the numerous criminal matters that originated from and around the Center, including but not limited to drugs and violence. The Center was blight on the community in which it was situated and most if not all the criminal matters were committed by those visiting the Center and not from the people that lived in the neighborhood. It was testified to that the police station responds to over fifty calls weekly to the Center. After two to three days in trial, the matter was settled out of court with the City taking control of the property on which the Center was located as well as some surrounding property. It is significant because, even today, the community have virtually been rid of the criminal element that was brought in by the Center. The police now receive a essentially no calls from the community.
- (e) Felicia Maxwell v. SC Department of Transportation, 2001-CP-15-287. In a wreck case, the jury found for the Plaintiff but found the Plaintiff more negligent than the SC DOT.

The Plaintiff had over \$150,000.00 in medical expenses. A jury issue was appealed by the Plaintiff, but such appeal did not succeed. The SC DOT was my firm's client.

The following is Judge McLeod's account of two civil appeals he has personally handled:

- (a) Bewersdorf v. SC DOT and Colleton County. 2007-UP-063; Court of Appeals;
- (b) Padgett v. Colleton County. Opinion #4542; Court of Appeals.

Judge McLeod reported he has not personally handled any criminal appeals due to his magistrate duties.

Judge McLeod reported that he has held the following judicial office:

Magistrate for Colleton County; August 2007-present

Jurisdiction- Countywide jurisdiction

Civil- Up to \$7,500.00

Criminal- Misdemeanors and other offenses with jail time no more than 30 days or fine of \$500.00

Appointed by Governor, Recommended by Senate County Legislative Delegation.

Judge McLeod further reported the following regarding unsuccessful candidacies:

Unsuccessful candidate of SC House of Representatives, District 121. June 2005, Special Election;

Candidate for Circuit Court At-Large Seat # 9, 2010; Found qualified, but not submitted to the General Assembly as one of the three candidates.

(9) Judicial Temperament:

The Commission believes that Judge McLeod's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Judge McLeod "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found him "Well qualified" in the evaluative criteria areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Judge McLeod is married to Danielle Whitacre McLeod. He has one step-child.

Judge McLeod reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar; House of Delegates, Delegate for 14th Circuit, 2009- present;
- (b) Colleton County Bar;
- (c) American Bar.

Judge McLeod provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Lions Club of Walterboro;
- (b) Dogwood Hills Country Club, past member of Board of Directors;
- (c) Colleton County Historical Society, past member of Board of Directors;
- (d) Colleton County Arts Council;
- (e) Coastal Conservation Association, ACE Basin Chapter;
- (f) Ducks Unlimited;
- (g) Sandlapper Society;

(h) Walterboro Elks Lodge.

Judge McLeod further reported:

Judicial experience as a Magistrate Judge has provided an excellent foundation for the position of Circuit Court Judge.

(11) Commission Members' Comments:

The Commission commented on Judge McLeod's dedicated involvement in his community and his service since 2007 as a Magistrate.

(12) Conclusion:

The Commission found Judge McLeod qualified but not nominated to serve as a Circuit Court judge.

**William Vickery Meetze
Circuit Court, At-Large, Seat 16**

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.

Mr. Meetze was born in 1968. He is 44 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 \$214.80 in campaign expenditures.

Mr. Meetze 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.

Mr. Meetze 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 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) SCACDL Spring Seminar	05/16/2007;
(b) Public Defender Conference	09/24/2007;
(c) Public Defender Conference	09/29/2008;
(d) SC Bar Criminal Law Update	01/23/2009;
(e) Public Defender Conference	09/28/2009;
(f) Public Defender Conference	09/27/2010;
(g) Omnibus Crime Reduction Act	11/22/2010;
(h) Capital Case Litigation Phase II	05/01/2011;
(i) Public Defender Conference	09/26/2011;
(j) Capital Case Litigation Initiative	04/30/2012.

Mr. Meetze reported that he has taught the following law-related courses:

As a member of the Staff of Palmetto Boys State I have been a Co-Dean of the Boys State Law School for the past ten years. During that time I have taught both Civil and Criminal Law to the boys who sign up for the law school in order to prepare them for the Boys State bar exam which is administered during the week.

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.

(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., August 1998-August 1999.
During my time as a Law Clerk, Judge Brogdon was Chief Administrative Judge in both the Twelfth Circuit and Third Circuit. He was assigned to some complex litigation civil cases while I was his law clerk. He was also assigned to numerous terms of Common Pleas Court both jury and non-jury. Along with the civil court, he also presided over

many terms of General Session Court. My experience with Judge Brogdon allowed me to see an outstanding Judge at work and the example he set was the perfect combination of judicial temperament and patience.

- (b) Sixteenth circuit Solicitor's Office—August 1999-June 2002
I served as an Assistant Solicitor in General Sessions Court and prosecuted non-drug related case ranging from the misdemeanor level up to felony cases that carried maximum terms of imprisonment of up to fifteen years. The cases I prosecuted included numerous DUI's, grand larceny, white collar crimes, strong arm robbery, violent and non-violent burglary in the second degree and many others. I gained great experience in trying cases and dealing with the victims of crime which helps develop the patience required to be a good Circuit Court Judge.
- (c) York County Public Defender's Office—June 2002-August 2006
I served as an Assistant Public Defender and represented criminal defendants in all levels of criminal offenses. I handled all kinds of drug cases anywhere from possession to trafficking. I also defended all types of violent and non-violent crimes including all degrees of burglary, lewd act with a minor, criminal sexual conduct, armed robbery and murder. During part of my time in the York County Public Defender's office I also worked in Magistrate's Court in Rock Hill as well as Fort Mill City Court.
- (d) Florence County/Twelfth Circuit Public Defender's Office—August 2006-Present.
In August of 2006 I got an opportunity to come back home and be with my family so I accepted the job as an Assistant Public Defender in the Florence County Public Defender's Office. In this office I continued the work I was doing in York County, however; I did expand my experience to a degree in that I began filling in every now and then defending juvenile's in Family Court. Also, I started handling a higher concentration of what I would consider more serious and violent crimes. I still have a wide ranging and large case load, but I, along with the Head Circuit Defender am handling a majority of the murder cases in our office. Also, Since August of 2011 I have expanded my responsibility to include public defender work in Marion County as well. My experience in both counties of the Twelfth Circuit have included jury trials in cases involving drugs, murder, csc with a minor and others and otherwise defending individuals charged with all levels of criminal offenses.

Mr. Meetze further reported the following regarding his experience with the Circuit Court practice:

I have not appeared in Federal Court in the last five years. I appeared in State Court an average of 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 months where we have three weeks of court where two of those weeks we will have two judges requiring that we run two separate court rooms. I currently appear in every term of General Session Court for both Florence and Marian counties and I am there for day of each term.

Mr. Meetze reported the frequency of his court appearances during the past five years as follows:

- (a) federal: 0%;
- (b) state: 100%.

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: >99%;
- (c) domestic: <1%;

(d) other: 0%.

Mr. Meetze reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 10%;
- (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.
- (b) State v. Tavarío Brunson
This was a very high profile case in Florence County that I tried along with another attorney. Mr. Brunson was convicted of murder and really had no defense. It is important because it illustrates everyone's right to a defense and I personally believe that we did a really great job trying the case in the face of overwhelming evidence.
- (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 sometime. The remaining forgery charges Mr. Thompson had were dismissed without having to go to trial.
- (d) State v. Robert Johnson
Mr. Johnson was charged with numerous counts of criminal sexual conduct with a minor 2nd 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 pending death penalty case in which I've been appointed lead counsel. It is important by the nature of the offense and the fact that a man's life is literally on the line. Obviously the case is still pending so it may not exactly qualify to be talked about in this section. However I have never been involved in a more important or serious case and felt like it would be appropriate to include it even though it is still pending.

Mr. Meetze reported he has not personally handled any civil or criminal appeals.

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 representing individuals charged with all different varieties of General Sessions

offenses. As an Assistant Public Defender I represented people charged with 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 individuals charged with all types of offenses, however; I have a much larger concentration of A,B, and C felonies at this point. I tried the case of State v. Syllester Taylor where my client was not present for his trial. He was being tried for possession with intent to distribute cocaine base 2nd offense. I made a motion to suppress the drugs which was denied at the trial level, however; on appeal, the Court of Appeals reversed that ruling.

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 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 much by way of experience practicing law in Common Pleas Court, I have no reservations regarding my ability to serve as a Circuit Court Judge and do so very well despite that inexperience. First of all, 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. Also, the fact that I don't have much experience in civil court also means that I don'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 am not arrogant or condescending. I treat people with the respect that we all deserve. Even though my legal experience is primarily 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 in spite of the fact that it takes a well honed variety of skills to perform it 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 a favorable verdict. That is hard to grasp and makes it very humbling. 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 further reported the following regarding unsuccessful candidacies:

I applied twice for the job of Head Circuit Defender for the Twelfth Circuit. It is a job that is earned through a process where candidates are interviewed by a circuit wide panel of local bar members. That panel will nominate a candidate to the SC Commission on Indigent Defense for their acceptance. I was not nominated for the position either time.

(9) Judicial Temperament:

The Commission believes that Mr. Meetze's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee reported that Mr. Meetze is "Qualified" in the evaluative criteria of constitutional qualifications, physical health and mental stability, ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament. The Committee noted that "Mr. Meetze's courtroom experience is heavily weighted on the criminal side with almost no civil court experience." The Committee clarified that in finding Mr.

Meetze “Qualified” rather than “Well qualified” in all areas, it was not expressing a “concern about his abilities,” but rather “his current level of experience.”

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 associations and professional associations:

- (a) SC bar;
- (b) Florence County Bar.

Mr. Meetze provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

I have been involved with Palmetto Boys State since 1986 and have been on the staff of Palmetto Boys State since 1991. In 1987 I was awarded by the staff the honor of being the outstanding junior counselor for that year and in 1995 I was honored as the recipient of the Page Nelson Keesee scholarship. During my time on the staff of Boys State I have served as a party advisor, a County advisor and I currently am one of the operations supervisors, the Co-dean of the Law School and starting in 2013 I will be Co-Program Coordinator.

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 grades 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.

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-seven 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 and am confident in my ability to serve with honor and integrity that the job requires.

(11) Commission Members' Comments:

The Commission commented that Mr. Meetze impressed them as a dedicated public defender, a good trial lawyer, and an easygoing individual.

(12) Conclusion:

The Commission found Mr. Meetze qualified but not nominated to serve as a Circuit Court judge.

**Jocelyn Newman
Circuit Court, At-Large, Seat 16**

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 35 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 has made \$72 in campaign expenditures for postage.

Ms. Newman 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.

Ms. Newman 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 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:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) The State of the Judiciary in SC	8/7/12;
(b) SCDTAA Trial Academy	6/7 – 6/8/12;
(c) Seminar on Depression and Substance Abuse	5/23/12;
(d) Trials of a Young Lawyer: Avoiding a Comedy of Errors	4/11/12;
(e) 2012 Bar Examiner Credit	3/1/12;
(f) SCDTAA Annual Meeting	11/3 – 11/6/11;
(g) SCIRF Law Enforcement Defense Seminar	10/7/11;
(h) Musical Chairs in the Jury Box	9/28/11;
(i) Ethics Case Law Review	2/16/11;
(j) 2010 Ethics Case Law Review	12/15/10;
(k) Authenticating Digital Evidence	10/27/10;
(l) SCIRF Law Enforcement Defense Seminar	10/1/10;
(m) Trial and Error: A Day of Litigation Skills	8/20/10;
(n) Ethics Seminar	2/24/10;
(o) Occupational Fraud by Dixon Hughes	12/16/09;
(p) Professionalism at the Movies	12/15/09;
(q) Ethics Seminar	11/18/09;
(r) SCDTAA Annual Meeting	11/5 – 11/8/09;
(s) SCBLA Annual Retreat	10/1 – 10/3/09;
(t) CLE – Outline for Medicare	6/24/09;
(u) SCDTAA Trial Academy	6/3/09;
(v) 2008 SC Tort Law Update	10/31/08;
(w) SCIRF Law Enforcement Defense Seminar	10/3/08;
(x) SCDTAA Trial Academy	6/18/08;
(y) NITA / SC Disability Program	3/27/08;
(z) It's All a Game – Top Trial Lawyers Tackle Evidence	2/8/08;
(aa) Responding to Grievances and Disciplinary Actions	1/23/08;
(bb) 2007 SC Local Government	12/7/07;
(cc) Advanced Discovery and Evidence	11/30/07;
(dd) Annual Free CLE Ethics Seminar	11/2/07;
(ee) First Mortgage Under the Consumer Protection Code	10/5/07.

Ms. Newman reported that she has taught the following law-related courses:

- (a) I have lectured at The Seibels Bruce Group, Inc., on behalf of the Claims and Litigation Management Alliance on the topic of fraudulent insurance claims.
- (b) I have instructed paralegal education courses at Central Carolina Technical College.
- (c) I was employed by Kaplan in approximately 2008 and 2009 as an instructor for review courses for the LSAT and the SAT.

Ms. Newman reported that she has published the following:

- (a) *C. Tyson Nettles, Unsung Hero*, S.C. Young Lawyer, Aug. 2011, at 13; and

(b) *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 a troubled financial status.

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.

(5) Reputation:

Ms. Newman reported a legal rating organization, Super Lawyers, in 2012 rated her as one of SC's "Rising Stars."

(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 became a judicial law clerk to the Honorable G. Thomas Cooper, Jr., 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 which practices primarily civil law. As an associate at Richardson Plowden, I first practiced in the Lobbying and 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. Finally, I serve 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 SC Tort Claims Act ("SCTCA"), comparative negligence and its application to judgments 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 past five years as follows:

- (a) federal: a few times a year;
- (b) state: weekly.

Ms. Newman reported the percentage of her practice involving civil, criminal, and domestic matters during the past 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 past five years as follows:

- (a) jury: 90%;
- (b) non-jury: 10%.

Ms. Newman provided that she most often served as associate counsel, but frequently served as 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 SC Department of Corrections ("SCDC"). Plaintiff, an inmate, filed this action pursuant to 14 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 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 SC v. Alphonso Simmons (not reported) – I represented the State of SC as an Assistant Solicitor in this action. The defendant was charged with 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, 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 SC, decided April 19, 2010, 387 S.C. 525 (2010).

The following is Ms. Newman’s account of criminal appeals she has personally handled:
As an Assistant Solicitor, I represented the State of SC in several criminal appeals from Magistrate’s Court to the Circuit Court. However, none of those decisions was reported, and none had any particular significance.

(9) Judicial Temperament:

The Commission believes that Ms. Newman’s temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee found Ms. Newman “Qualified” in the evaluative criteria of constitutional qualifications, mental stability, physical health, and experience. The Committee found her “Well qualified” in the evaluative criteria of ethical fitness, professional and academic

ability, character, reputation, and judicial temperament. In summary, the Committee reported, “Ms. Newman is an excellent candidate for the Circuit Court, and we feel that she is an outstanding young attorney who is committed to public service. She has the intellect, maturity, integrity and work ethic to be an outstanding judge. We feel that she is well qualified and we look forward to seeing her in the future.”

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) SC Bar;
- (b) Richland County Bar Association;
- (c) SC Board of Law Examiners – Associate Member, January 2012 – present;
- (d) SC Women Lawyers Association;
- (e) SC Defense Trial Attorneys’ Association;
- (f) Columbia Lawyers Association – President, 2012;
- (g) SC Black Lawyers Association;
- (h) SC 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) Ronald McDonald House Charities – Board Member, Friends Advisory Board, January 2011 – present;
- (d) I. DeQuincey Newman United Methodist Church – Chair, Council on Ministries, January 2011 – present.

(11) Commission Members’ Comments:

The Commission commented that Ms. Newman’s great intellect would serve her well on the Circuit Court bench.

(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 16

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 42 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.

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 not made any campaign expenditures.

Mr. Reibold 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.

Mr. Reibold 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 Mr. Reibold to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Reibold described his past continuing legal or judicial education during the past five 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 th 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;
(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) ADR Section Seminar, Bar Convention	1/19/2012;
(t) Trial and Appellate Section, Bar Convention	1/20/2012;
(u) Employment Law Section, Bar Convention	1/20/2012.

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; and
- (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) *SC Equity: A Practitioner's Guide* (SC Bar CLE 2010) (Co-Author);
- (b) *Hidden Danger of Using Private Detectives* (SC Lawyer, July 2005) (Author);
- (c) *Cutting the Fishing Trip Short: Protecting an Adjuster's Claim File* (SC Lawyer, July/August 2000) (Author);
- (d) *The Big Catch: An Adjuster's Claim File* (SC Lawyer, July/August 2005) (Author).

(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 BV.

(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-present, Walker & Reibold, LLC.

Mr. Reibold further reported regarding his experience with the Circuit Court practice area:

My experience in criminal matters has been limited. I had some exposure to General Sessions Court during my judicial clerkship. I have twice represented criminal defendants in Magistrate Court level offenses. I have also handled a post-conviction relief proceeding. However, my practice has otherwise been devoted to civil litigation. I have represented both plaintiffs and defendants in Magistrate's Court, Circuit Court, the SC Court of Appeals, and the SC Supreme Court. I have also represented both plaintiffs and defendants in the United States District Court for the District of SC. At least 95% of my practice has been devoted to litigation. The types of matters I have handled range from personal injury actions, to include 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 also regularly used the SC Rules of Evidence as a civil litigator, and these rules apply equally in criminal actions. As discussed above, I have some small experience in criminal matters. To compensate for my meager experience in criminal matters, I would 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 30 cases;
- (b) state: between 160 and 200 cases.

Mr. Reibold reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 99.5%;
- (b) criminal: 0.5%.

Mr. Reibold reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 97%;
- (b) non-jury: 3%.

Mr. Reibold provided that he “served as sole/chief counsel in 50% of these matters. For the remainder, [he] served as associate counsel.”

The following is Mr. Reibold’s account of his five most significant litigated matters:

- (a) 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 SC 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 SC;
- (b) 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.
- (c) Fournil v. Turbeville Insurance Agency. In this matter, I represented a small start up company. The founder of the company had split off from a larger insurance agency, which became involved in litigation with my client. If the larger company’s claims had been successful, the suit would crushed the new business. My clients were facing an adversary with much greater resources. To me this case is significant because its successful resolution was literally a question of the survival of my client.
- (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 SC. 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 SC. The federal district court predicted that SC 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 four civil appeals he has personally handled:

- (a) Brown v. Stewart, et al, November 19, 2001 (reported at 348 S.C. 33, 557 S.E.2d 676 (Ct.App. 2001) (brief and argument);
- (b) Hall v. Fedor, March 25, 2002 (reported at 349 S.C. 169, 561 S.E.2d 654 (Ct.App. 2002) (on brief);
- (c) OptimumPath, LLC v. Belkin International, et al. (brief and argument) (patent appeal argued before the United States Court of Appeals for the Federal Circuit) (decided on March 7, 2012);
- (d) Sign N Ryde, LLC v. Larry King Chevrolet, SC Court of Appeals, decided on December 9, 2011 (brief and argument).

Mr. Reibold reported that he has not personally handled any criminal appeals.

Mr. Reibold further reported the following regarding an unsuccessful candidacy:
I ran for circuit judge, 5th Judicial Circuit, Seat 3 in the Fall of 2011.

(9) Judicial Temperament:

The Commission believes that Mr. Reibold's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen Committee found Mr. Reibold "Well qualified" in the criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. They found him "Qualified" in the areas of constitutional qualifications, physical health, and mental stability. In summary, the Committee stated that they were "very impressed with Mr. Reibold. He is a determined and serious candidate with great experience in civil law. He shows outstanding common sense and judgment and he has an outstanding work ethic. We are very certain he is very well qualified to serve on the Circuit Court and we believe he would serve in an exemplary manner."

Mr. Reibold is married to Shealy Boland Reibold. He has one child.

Mr. Reibold reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association, *Member, House of Delegates* 2008-present;
- (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 SC
Keep America Beautiful Affiliates in 2005;
- (b) Appointed Member, City of Columbia Tree and Appearance Commission, 2007-present;
- (c) Advisory Board Member, Salvation Army Command of the Midlands;
- (d) Columbia Kiwanis Club (2005 -12).

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 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 currently serve 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 SC Bar Association. I have authored a number of articles and co-authored a legal text published by the SC Bar Association.

Service as a Circuit Court Judge is a natural outgrowth of this commitment to service and the legal profession.

(11) Commission Members' Comments:

The Commission commented on Mr. Reibold's dedicated service in the community and to the legal profession.

(12) Conclusion:

The Commission found Mr. Reibold qualified, but not nominated, to serve as a Circuit Court judge.

**Gregory Kenneth Voigt
Circuit Court, At-Large, Seat 16**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Voigt meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Voigt was born in 1966. He is 46 years old and a resident of Summerville, SC. Mr. Voigt 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 Louisiana Bar in 1994.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Voigt.

Mr. Voigt 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. Voigt reported that he has not made any campaign expenditures.

Mr. Voigt 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.

Mr. Voigt 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 Mr. Voigt to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Voigt described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) S.C. Solicitor's Assoc. Annual Conference	9/25/11;
(b) S.C. Solicitor's Assoc. Annual Conference	9/26/10;
(c) Forensic Science Series	5/29/09;
(d) S.C. Solicitor's Assoc. Annual Conference	9/28/08;
(e) Stewards of Children	5/12/08;
(f) S.C. Solicitor's Assoc. Annual Conference	9/23/07.

Mr. Voigt reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Voigt reported that he has not published any books or articles.

- (4) Character:
The Commission's investigation of Mr. Voigt did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Voigt did not indicate any evidence of a troubled financial status. Mr. Voigt has handled his financial affairs responsibly.

The Commission also noted that Mr. Voigt 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. Voigt reported that he is not rated by any legal rating organization.

- (6) Physical Health:
Mr. Voigt appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:
Mr. Voigt appears to be mentally capable of performing the duties of the office he seeks.

- (8) Experience:
Mr. Voigt was admitted to the SC Bar in 2006.

He gave the following account of his legal experience since graduation from law school:

After I graduated from law school I moved from Denver, where I had worked for an insurance defense firm that was in-house counsel for Traveler's Insurance Company, to New Orleans where I worked in a machine shop while studying for the bar exam. I volunteered at the Public Defender's Office and was later hired by one of the assistant public defenders to write briefs. After I passed the bar in 1994, this attorney, Gary Wainwright, hired me. I began to make court appearances and conduct motion hearings in criminal proceedings. I tried and won my first felony jury trial. Two years later, William Noland, who shared office space with Wainwright, also hired me to help him in domestic and criminal matters. Noland's practice also included civil

litigation related to the bail industry in Louisiana as well as some civil defense work for small businesses. I eventually handled civil and criminal hearings in 34 of Louisiana's 64 parishes. I also appeared at administrative hearings at the Department of Insurance for bail clients. In 1997 my practice became largely an appellate practice as we litigated hundreds of bail bond forfeiture cases in Louisiana. I wrote a brief to the United States Supreme Court on the Ranger Insurance case that I have listed below.

In 1999, with a newborn son, I became an assistant district attorney with the Orleans Parish District Attorney's Office. I rose quickly from Magistrate Court (non-jury misdemeanor trials) to the felony trial section. During my two years there I tried over seventy jury trials, more than half of those as lead counsel. I started with simple drug crimes and was trying murders in my last year. During that time I was made section leader of Section "B" (designating a criminal court division).

I was hired away from the district attorney's office by the law firm of Lawrence and Olinde, L.L.C. My practice there continued to consist of criminal and domestic matters. Additionally, approximately a third of my practice was personal injury cases, mostly automobile cases. I worked with Lawrence and Olinde for five years until 2005, litigating in both Federal and state courts.

In August 2005 Hurricane Katrina forced my family and I to evacuate. My home was in the hard-hit Gentilly neighborhood and received wind damage and over four feet of standing water. The city was closed and we could not return home. A former college roommate's family had an empty beach house on Sullivan's Island. My son could continue his interrupted first grade year on the island, so we came with the clothes on our backs to SC.

After a few weeks it was obvious that a return to Louisiana would be nearly impossible in the short term. I faxed my resume to the Solicitor's Office and the Public Defender's Office in Charleston County on the same day. The next day, Solicitor Ralph Hoisington called me, and I began working for the Solicitor's Office in Charleston the next week.

I initially handled white collar crimes. When it became clear that I was staying in SC, I began a caseload that involved more violent crimes. I became a team leader under Solicitor Scarlett Wilson. I currently train the new attorneys in areas that require monitoring: Rule 5 and Brady material. I maintain my caseload of violent crimes, including murder, criminal sexual conduct, armed robbery, and burglary.

Mr. Voigt further reported regarding his experience in the Circuit Court practice area:

In the last five years I have practiced exclusively criminal law as an assistant solicitor. I have tried between three and six jury trials a year in that span and have sat second chair on as many as twelve jury trials. Initially, I handled mostly white collar crimes. In 2006 my cases involved more violent crimes such as murders. I have tried two murders this year and three last year. I regularly have between three hundred and five hundred warrants assigned to me. The issues that I have encountered run the gamut from alleged discovery violations, insufficient search warrants, potential juror misconduct, to *Neil v. Biggers* and *Jackson v. Denno* hearings.

My civil experience dates from 1992-1999 and 2001-2005. I defended small businesses such as independent roofers from contract and products claims. I sued on behalf of bail insurance companies to invalidate forfeitures. Later, I handled automobile accident cases and other personal injury cases. I successfully pursued Section 1983 actions and sued the City of New Orleans on behalf of a client to set aside hundreds of thousands of dollars of improper tax adjudications. I have conducted civil trials, mediations, and my share of depositions.

Mr. Voigt reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: none;
- (b) State: 100%.

Mr. Voigt reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: none;
- (b) Criminal: 100%;
- (c) Domestic: none;
- (d) Other: none.

Mr. Voigt reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: approximately 10% of my cases go to trial or plead during a trial term;
- (b) Non-jury: approximately 90%.

Mr. Voigt provided, "I try approximately three to seven cases before a jury as lead counsel and an equal number as associate counsel."

The following is Mr. Voigt's account of his five most significant litigated matters:

- (a) State of Louisiana v. Donlyn Burns, 723 So.2d 1013, La. Ct. App. 4th Cir. (1998). In this case I had a life sentence on a habitual offender reversed for a non-violent drug crime using the Eighth Amendment ban on cruel and usual punishment under the United States and Louisiana Constitutions. This was the last in a series of *Dorthey* opinions in Louisiana jurisprudence before the Louisiana Supreme Court made such reversals nearly impossible. I spared a young man a life sentence just before the window closed.
- (b) State v. Jerome Campbell, Indictment No.2009-GS-10-6731 (currently on appeal). This is a murder prosecution from Charleston County. It was nearly an entirely circumstantial evidence case where I had to overcome a defense expert whose testimony, if believed, would have placed insurmountable obstacles to successful prosecution.
- (c) State v. Nathaniel McGee, Indictment No. 2006-GS-10-7192 (currently on appeal). In this murder prosecution I had to successfully overcome my only eye witness to the shooting identifying the perpetrator as a one of the sitting jurors. I also had to convince a very doubtful victim's family that assistant solicitors really do try to achieve justice for all members of the community.
- (d) State v. Oran Smith, Indictment No. 2007-GS-10-3172 (currently on appeal). I had to try this murder case twice before conviction. It is significant because I had such a long period of contact with the victim's family and it kept in the forefront for me how much victim's families rely upon prosecutors for a sense of peace and closure.
- (e) State v. Dung Tran, PCR hearing, Section "H", Orleans Parish Criminal Court. This was the last hearing that I conducted in New Orleans before Hurricane Katrina. The court ruled months after the storm. In this case I was hired by the family of a man convicted of murder when he was a teenager for a last shot at post-conviction relief. In my investigation I was contacted by an honest prosecutor who gave me a letter from the foreman of the jury written to the sitting judge some ten years before. This letter had been suppressed by a former assistant district attorney. The letter detailed jury misconduct during the deliberations in this death penalty case that the judge and prosecutor had decided not to disclose. This discovery, coupled with the forensic evidence that the victim had been shot from within his vehicle, allowed me to obtain a manslaughter conviction.

The following is Mr. Voigt's account of five civil appeals he has personally handled:

- (a) Ranger Insurance Company v. State of Louisiana, 98-206, La. Ct. App. 3rd Cir., 12/16/98

- (b) State of Louisiana v. Kyrus Norman (Amwest Ins. Co.), 672 So.2d 407, La. Ct. App. 1st Cir. (1996)
- (c) Bankers Insurance Company v. State, 97-578. La. Ct. App. 3rd Cir., 10/29/97
- (d) State v. Polk (Bankers Ins. Co.), 96-CA-1785 to 96-CA-1788, La. Ct. App. 4th Cir., 1/29/1997
- (e) State v. Royce Reed (National American Ins. Co.), 667 So.2d 586, La. Ct. App. 2nd Cir. (1996)

The following is Mr. Voigt's account of five criminal appeals he has personally handled:

- (a) State of Louisiana v. Donlyn Burns, 723 So.2d 1013, La. Ct. App. 4th Cir. (1998);
- (b) State of Louisiana v. Lester Denis, 96-K-0956, La. Ct. App. 4th Cir. (1997);
- (c) State of Louisiana v. Gregory Jones, 01-KA-177, La. Ct. App. 5th Cir. (2001);
- (d) State v. Darryl Luckett, 647 So.2d 1232, La. Ct. App. 4th Cir. (1994);
- (e) State v. Donald Brocato, 744 So.2d 178, La. Ct. App. 4th Cir. (1999).

Between 1996 and 2000, I wrote over 100 criminal and civil appellate briefs to Louisiana courts of appeal and the Louisiana Supreme Court. At last count, I had twenty-four reported cases in West's Southern Reporter 2nd.

Mr. Voigt further reported the following regarding an unsuccessful candidacy:

In 2003 I ran for the vacant judicial office of Section B of the Orleans Parish Criminal District Court. Louisiana holds an open Parish-wide primary. I did not make the run-off election.

(9) Judicial Temperament:

The Commission believes that Mr. Voigt's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizen's Committee on Judicial Qualification found Mr. Voigt 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, and judicial temperament. The Committee found him "Qualified with reservations" in the evaluative criteria of experience and commented that it had concerns about his lack of experience in civil court.

Mr. Voigt is married to Kellye Diane Voigt. He has two children.

Mr. Voigt reported that he was a member of the following bar associations and professional associations:

- (a) Louisiana State Bar Association, 1994 - present;
- (b) SC State Bar Association, 2006- present;
- (c) Charleston Bar Association, 2006-present.

Mr. Voigt provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Trident Tech Paralegal Education Advisory Board, 2008 - present;
- (b) Instructor, United States Naval Sea Cadet Corps, 2010 - present.

Mr. Voigt further reported:

I have spent nearly twenty years in the practice of law, and I still look forward to going to work in the morning and meeting the challenges that the profession lays before me. I was asked

once why I thought that so many people leave the practice of law, finding that it was not what they wanted out of life. I think that the answer is that as lawyers, in personal injury, criminal defense, bankruptcy, domestic law, and others, clients put all of their worry and sleepless nights on our shoulders. Their legal problems nag them until we take them and carry that burden. Every lawyer has a roomful of worries and heartaches in his briefcase that he must solve.

I have worked through school and through financial hardship. I have lost a houseful of material possessions and learned the value of being free from their bonds. I hope that this gives me empathy with those for whom the legal system is an impenetrable mystery.

(11) Commission Members' Comments:

The Commission commented that Mr. Voigt showed eagerness to serve on the Circuit Court bench and had an excellent demeanor, which would assist him as a jurist.

(12) Conclusion:

The Commission found Mr. Voigt qualified, but not nominated, to serve as a Circuit Court judge.

FAMILY COURT QUALIFIED, BUT NOT NOMINATED

The Honorable Robert Wallace Cone
Family Court, Eighth Judicial Circuit, Seat 3

Commission's Findings: **QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Cone meets the qualifications prescribed by law for judicial services a Family Court judge.

Judge Cone was born in 1971. He is 41 years old and a resident of Greenwood, SC. Judge Cone 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 Cone.

Judge Cone 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 Cone reported that he has made \$2.70 in campaign expenditures for postage.

Judge Cone reported he has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Cone 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 Cone to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Judge Cone described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Children's Issues in Family Court	03/23/2007;
(b) Local Government	12/07/2007;
(c) Guardian ad Litem Continuing Education	10/03/2008;
(d) Municipal Attorneys Association	03/16/2009;
(e) Judicial Ethics and Domestic Violence	06/17/2010;
(f) A Tangled Web: Case Study on Fed. Rules of Evidence	06/29/2010;

(g)	Mini Summit on Justice for Children	12/02/2010;
(h)	Summary Court Judges Annual Convention	09/12/2010;
(i)	Richland County Bar Ethics	06/30/2011;
(j)	SCDSS Attorney Training	12/09/2011;
(k)	Child Protection Services Boot Camp	01/20/2012;
(l)	Summary Court Judges Hickory Knob School	05/21/2012.

Judge Cone reported that he has taught the following law-related courses:

- (a) I have taught the course on “Consumer Law and Debt Collection in SC” for the SC Bar’s Law School for Nonlawyers at Piedmont Technical College in Greenwood, SC in 2007, 2008, and 2011.
- (b) I presented a seminar on “Mechanic’s Liens and Collections in SC,” Greenwood Home Builders Association. January, 2002
- (c) I presented a seminar on “The Church Under Fire, Youth Ministry and the Law” Greater Greenwood Youth Ministries (GYM), October, 2003.
- (d) I presented a seminar on “Sexual Harassment and Schools”, Ninety-Six Primary School Faculty, September, 2005.
- (e) I taught a class on Business Law at Lander University during the Fall Semester of 2000.

Judge Cone reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Cone did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Cone did not indicate any evidence of a troubled financial status. Judge Cone has handled his financial affairs responsibly.

The Commission also noted that Judge Cone 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 Cone reported that he is not rated by any legal rating organization.

Judge Cone reported that he has held the following public office:

I served as the Town Attorney for the Town of McCormick, SC from 1999 to 2008. I was appointed to that position by the town Council, and reappointed on an annual basis. I ended my service when I was appointed Municipal Court Judge for the Town of Ninety-Six, SC.

(6) Physical Health:

Judge Cone appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Cone appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Cone was admitted to the SC Bar in 1998.

He gave the following account of his legal experience since graduation from law school:

While in law school, from 1995 to 1998 I clerked for the SC Administrative Law Court, conducting legal research and drafting orders and opinions on behalf of the six judges who served on the court.

After law school I was employed by the law firm of Burns, McDonald, Bradford, Patrick and Tinsley, in Greenwood, SC. I worked with this firm from May, 1998 until November, 2005. During those years, my practice was a general civil practice, with an emphasis on personal injury litigation. Our firm represented insurance companies such as State Farm, Allstate, and the SC Insurance Reserve Fund. I also provided other legal services, such as estate planning, business formation and government work. It was during this time that I also served as the town attorney for the town of McCormick, SC.

While working for Burns, McDonald, as the new attorney, it became my job to handle all of the court appointments for the other attorneys in the firm. As all the lawyers in the firm were on the list to be appointed on civil cases, I began to handle a large number of Family Court cases. In these cases, I generally represented parents in cases of child abuse or child neglect brought by the Department of Social Services. Due to the number of cases I was handling, I discovered I had an interest in family law, and began developing a practice handling private family law cases such as divorces, custody disputes and adoptions. Burns, McDonald had not previously been involved in family law and I worked to develop this practice from the ground up.

In November, 2005, I made the decision to open my own law practice, and formed The Cone Law Firm, PC. I was the sole attorney and continued to develop my family law practice, although I continued to provide a wide range of non-criminal legal services to individual, business and government clients. In the early years of my solo practice, I continued to be appointed to represent parents in child abuse and child neglect cases brought by the Department of Social Services. Also, in 2008, I was appointed Municipal Judge of the Town of Ninety-Six, SC, which expanded my knowledge of criminal law and criminal procedure dealing with misdemeanor criminal and traffic offenses.

In 2008, I was asked by the attorney for the Greenwood County Department of Social Services, Scarlet Moore, to serve as her backup attorney, covering court when she was unavailable, or handling cases where she had a conflict of interest. In this capacity I began representing the Department of Social Services in its child abuse and neglect cases. In 2009, when Ms. Moore stopped handling cases for the Greenwood County Department of Social Services, I was asked to become the attorney for Greenwood County DSS. In 2010, I was retained to also serve as the attorney for Abbeville County DSS. In that capacity, I have prosecuted child abuse and neglect cases in the Family Court. In addition to representing Greenwood and Abbeville counties, I have represented other county offices of the Department of Social Services as a substitute attorney on a regular basis.

In the fall of 2011, I had discussions with the Department of Social Services about becoming a full-time employee attorney for the Department, and on April 1st, 2012, I was hired as the Managing Attorney for SCDSS for the Eighth Judicial Circuit.

Over the years, I have pursued a civil law practice, emphasizing litigation, particularly in the Family Court. While I have handled a wide variety of legal matters over my years of practice, including insurance defense, personal injury, debt collection, bankruptcy, construction litigation, estate planning and business formation, I find that the interest I developed more than 14 years ago in family law has grown and intensified over the years. For that reason, among others, I sought employment with the Department of Social Services, where I could focus my practice on Family Court matters.

Judge Cone further reported regarding his experience in the Family Court area:

In preparing my response to this question, I reviewed my case files going back to 1998. I found that since that time, I have handled more than 200 private Family Court cases, including

cases where I represented husbands, wives, mothers, fathers, and grandparents in cases involving divorce, equitable division of property, and child custody/child support. I have served as a private Guardian ad litem in more than 40 cases, representing the interests of children in contested custody matters. I have also been fortunate to represent nearly 20 families in private adoption cases. I have also been appointed to represent juveniles in a number of Juvenile Justice cases.

These numbers reflect my Family Court experience as a private attorney, and cases I was either hired or appointed to represent individuals. Since I began working with the Department of Social Services, I would estimate that I handle more than 100 cases of child abuse, child neglect, and termination of parental rights each year.

I believe that my experience as a private attorney, Guardian ad litem, appointed attorney, and now full-time government attorney have given me substantial experience in Family Court matters. In addition, my service as a Municipal Court judge has given me a great deal of insight into the proper role a judge must play in legal proceedings.

Judge Cone reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 5%;
- (b) State: 95%.

Judge Cone reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 15%;
- (b) Criminal: 10% (Service as Municipal Judge);
- (c) Domestic: 75%;
- (d) Other: none.

Judge Cone reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 10%;
- (b) Non-jury: 90%.

Judge Cone provided that he most often served as sole counsel.

The following is Judge Cone's account of his five most significant litigated matters:

- (a) Burton v. Molen, 2008-DR-01-35 (Abbeville County).
This is a case where I represented the biological father in a custody dispute. The child in question was three years old when the mother left SC without warning and took the child to Texas. Over a period of nearly 2 years, we engaged in a complex legal proceeding, with hearings in both SC and Texas to try and return the child to SC. While the case was on appeal, we were able to negotiate a settlement that resulted in joint custody for my client. This was one of the most challenging cases of my legal career, involving multiple hearings in more than one jurisdiction, and working with agencies such as the FBI, and the National Center for Missing and Exploited Children.
- (b) SCDSS v. Sharpe, et al. 2012-DR-01-46 (Abbeville County)
This was a contested termination of parental rights action where the minor children had been victims of sexual abuse, and because of many procedural delays, the minor children had been in foster care for nearly 5 years without a resolution. After a lengthy trial, we were successful in having the parents' rights to the children terminated, making them free for adoption.
- (c) Carter v. Hayford, 2006-DR-24-583 (Greenwood County).

This was a case where I served as the Guardian ad litem for a young girl whose parents had been divorced for several years. The mother had remarried, and was seeking to relocate with the child to the state of Kentucky. The father opposed the move and sought a change of custody. Ultimately, we were able to resolve the case on the eve of trial and established a visitation plan that allowed the child to move, but still gave father substantial visitation throughout the year. This case was significant to me because of the challenge involved in choosing between two good parents, both of whom were deeply involved in the child's life.

- (d) Meehan v. Meehan et al. 2005-CP-04-219; 2009-ES-04-854 (Anderson County)
These were a series of cases involving an inter-family dispute over real estate and personal property, as well as allegations of manipulation and undue influence between a woman and her adult children. I represented one of the siblings and his children in multiple legal proceedings, including the Circuit Court, Court of Appeals, and Probate Court of Anderson County. The case involved numerous, complex legal and financial issues. It was further complicated by deep emotional issues, as this was a dispute between brothers and sisters. After many trials and court proceedings, the matter was ultimately resolved through mediation. I found this case significant because it tested my legal and trial skills against very capable opposing counsel. It also taught me the importance of remaining objective and impartial in the face of deep emotional conflict.
- (e) Grand Remodeling v. Sorensen. 2007-CP-24-291 (Greenwood County).
While not a Family Court case, this is a significant case involving allegations of construction negligence and breach of contract regarding the construction of an addition to a home. I represented the defendant homeowners. The case was ultimately tried as a bench trial, and while the court found in favor of each side on certain claims, my clients were only required to pay a token amount to the plaintiff, and were not required to pay for the bulk of the defective work. This case is significant because it taught me a great deal about the importance of evidence, as this was a very document intensive case. It also involved the testimony of multiple expert witnesses, and I learned a great deal about the proper handling of expert testimony in trials.

The following is Judge Cone's account of five civil appeals he has personally handled:

- (a) Meehan v. Newton, 2011-UP-325, June 27, 2011 (Associate Counsel);
(b) Meehan v. Meehan, 2006-UP-088, February 10, 2006;
(c) Allegiant v. Emerald Inns, 2007-UP-325, June 15, 2007;
(d) Joubert v. SCDSS, 534 S.E.2d, 341 S.C. 176, (Ct. App. 2000), June 5, 2000;
(e) SCDSS v. Gary, 2006-UP-288, June 21, 2006.

Judge Cone reported that he has not personally handled any criminal appeals.

Judge Cone reported he has held the following judicial office:

I have served as Municipal Court Judge for the Town of Ninety-Six, SC, since October 2008 to the present. This is a part-time position. I was appointed by the Town Council and have been reappointed on an annual basis. The Municipal Court handles misdemeanor criminal and traffic offenses, as well as violations of town ordinances. More than 95% of the cases tried in our court are tried without a jury. As municipal judge, I also set bonds for all criminal defendants arrested by the town Police Department for misdemeanors and felonies. I also conduct preliminary hearings on felony cases that originate in the town.

Judge Cone reported the following regarding significant orders or opinions:

Municipal Courts are Summary Courts, and the only written orders we issue are custody or bond orders. Occasionally I will issue a form order committing someone to a diversion program, such as the Pre-Trial Intervention Program, but otherwise I do not issue written orders or opinions.

Judge Cone further reported the following regarding an unsuccessful candidacy:

In 2010, I ran for the office of Probate Judge for Greenwood County. After a contested primary in June, 2010, I was the Republican candidate for Probate Judge. I lost in the general election in November, 2010.

(9) Judicial Temperament:

The Commission believes that Judge Cone's temperament would be excellent.

(10) Miscellaneous:

The Piedmont Citizen's Committee on Judicial Qualification found Judge Cone 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 Cone is married to Emily Willard Cone. He has one child.

Judge Cone reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) Greenwood County Bar Association.

Judge Cone provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Greenwood County Library Board. I have served as Treasurer and am currently Chairman of the Board;
- (b) Greenwood County Chamber of Commerce. I served as General Counsel and Executive Committee member from 2003-05.

Judge Cone further reported:

Throughout my life, I have had a strong desire to serve and help people. I once considered a career in ministry and in medicine, but found that my skills and abilities were best suited for the practice of law. Over the years, I have seen the tremendous impact the court system can have on families. I think I was drawn to family law because you can have a real impact on the lives of families and individuals in the decisions you make in cases you pursue in Family Court. While family law has not been as financially rewarding as other areas of law can be, it has given me great personal satisfaction to help individuals and families deal with some of the most tumultuous events of their lives.

My experience as both a lawyer and a judge has taught me that, as a judge, it is crucial that you listen carefully to the evidence presented to you, consider the facts and the law, and then make a decision as quickly as possible. After 14 years of law practice, I believe more than ever in the old axiom, "Justice delayed is justice denied." Particularly in Family Court cases, it is crucial that children and families know what the outcome of their cases will be as quickly as possible, as uncertainty or delay only exacerbates the stresses caused by domestic litigation.

I would hope that my experience would allow me to resolve cases quickly, fairly, and with wisdom and courtesy for all the parties and attorneys. That is how I have tried to conduct myself in my practice, and how I plan to continue as a judge.

- (11) Commission Members' Comments:
The Commission commented that Judge Cone is very well respected within his community and noted his dedicated service as a municipal Court judge.
- (12) Conclusion:
The Commission found Judge Cone qualified, but not nominated, to serve as a Family Court judge.

Anthony Philip LaMantia, III
Family Court, At-Large, Seat 2

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. LaMantia meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. LaMantia was born in 1970. He is 42 years old and a resident of Charleston, SC. Mr. LaMantia 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 2005. He was also admitted to the New Jersey Bar in 1997 and the New York Bar in 1998.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Mr. LaMantia.

Mr. LaMantia 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. LaMantia reported that he has not made any campaign expenditures.

Mr. LaMantia 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.

Mr. LaMantia 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 Mr. LaMantia to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. LaMantia described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Family Court Bench Bar	12/02/11;

(b)	Interdisciplinary Family Collaborative Law	11/4/11;
(c)	2011 Hot Tips From the Coolest Family Lawyers	9/16/11;
(d)	Ethics CLE	8/12/11;
(e)	2010 SC Family Court Bench Bar	12/3/10;
(f)	2010 Hot Tips from the Coolest Practitioners	10/01/10;
(g)	What works for me	2/18/10;
(h)	The Ethics of Baseball	2/15/10;
(i)	Ethical Considerations in Marketing Your Law Firm	2/15/10;
(j)	Advanced Family Law	2/9/10;
(k)	Rules to Show Cause in Family Law	6/10/08.

Mr. LaMantia reported that he has taught the following law-related courses:

- (a) I lectured at the Hot Tips for the Coolest Practitioners in Family Law on October 1, 2010;
- (b) I taught a class in civil procedure for the paralegal program at Trident Technical College, Charleston SC in 2006.

Mr. LaMantia reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. LaMantia did not reveal evidence of any founded grievances or criminal allegations made against him.

The Commission also noted that Mr. LaMantia 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. LaMantia reported that his rating by a legal rating organization, Martindale Hubbell, is Highly Rated in Legal Ability and Ethical Standards.

(6) Physical Health:

Mr. LaMantia appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. LaMantia appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. LaMantia was admitted to the SC Bar in 2005.

He gave the following account of his legal experience since graduation from law school:

- (a) August 1997 – August 1998, Law Clerk to the Honorable Ira E. Kreizman, J.S.C., Family Court Judge, Monmouth Vicinage (County), New Jersey;
- (b) August 1998 – August 2000, Associate Attorney, Lomurro, Davison, Eastman & Munoz, Family Law and Personal Injury Law;
- (c) August 2000 – May 2001, Associate Attorney, Law office of Richard Braslow, Insurance Defense Law;
- (d) May 2001-August 2005, Associate Attorney (2001-03) Fox and Gemma, Partner (2003-05) Fox and LaMantia, Family Law;
- (e) August 2005- January 2006, Associate Attorney, Harrell Law Firm, Insurance Defense;
- (f) February 2006- present, Partner, LaMantia Law Firm, Family Law.

Mr. LaMantia further reported regarding his experience with the Family Court practice area: My fifteen years of experience has provided me with daily experience practicing family law in the areas of divorce, equitable division of property and child custody as they are the most commonly contested issues in Family Court. I have written numerous legal briefs as well as at least two appellate briefs specifically devoted to these topics and have represented over one thousand clients in these matters. Over the years, I have also handled adoptions and adoptions coupled with a termination of parental rights. I have also handled many cases of abuse and neglect and have a reported decision specifically dealing with the procedural safeguards provided a Defendant in a hearing for a protective order when defending a claim of abuse and neglect (Moore v. Moore). I have also been involved in numerous cases involving the Department of Social Services and claims of abuse and neglect. Finally, I have handled numerous cases representing juveniles for criminal offenses in the Family Court and was assigned many of these cases pro bono by the Assignment Judge in Berkeley County.

Mr. LaMantia reported the frequency of his court appearances during the past five years as follows:

- (a) federal: 0;
- (b) state: Nearly daily.

Mr. LaMantia reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 2%;
- (b) criminal: 3%;
- (c) domestic: 95%;
- (d) other: 0%.

Mr. LaMantia reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 1%;
- (b) non-jury: 99%.

Mr. LaMantia provided that he most often served as sole counsel.

The following is Mr. LaMantia's account of his five most significant litigated matters:

- (a) Moore v. Moore - 657 S.E.2d 743 (S.C. 2008) 376 S.C. 467. This matter was significant in that it defined a Defendant's right to due process when confronted with request for a protective order at an emergency hearing. The matter further defined whether the Court could make a final determination of abuse at an emergency temporary hearing for a protective order;
- (b) Reiss v. Reiss - 708 S.E.2d 799 (S.C.App. 2011) 392 S.C. 198. This matter was significant in that it further defines the scope of Appellate Review of the Judgment of the Family Court and further defines the standard relating to the Court's abuse of discretion;
- (c) State v. Marcus Gibbs - This matter was significant to me because it was one of the few criminal trials that I have tried in my career. The trial was a week long and resulted in a finding of not guilty on behalf of my client who was facing several felony charges;
- (d) Ramsdell v. Ramsdell - This matter was significant to me because it was one of the most difficult cases that I have been involved in. The issues of a contested divorce, a contested resolution of custody of special needs children and the discovering of and dividing contested marital property were all major components of this litigation;

- (e) DSS v. Bryant - This matter was significant to me because it was one of the first cases that I was assigned to represent a Defendant pro bono. My client was seeking to prevent DSS from taking her children from her care. I was successful in defeating DSS on both procedural and substantive grounds and believe that I earned the respect of DSS and the Court.

The following is Mr. LaMantia's account of five civil appeals he has personally handled:

- (a) Moore v. Moore - 657 S.E.2d 743 (S.C. 2008) 376 S.C. 467. SC Supreme Court,
- (b) Reiss v. Reiss - 708 S.E.2d 799 (S.C.App. 2011) 392 S.C. 198. SC Court of Appeals, February 23, 2011;
- (c) Ashburn v. Ashburn - SC Court of Appeals, Appeal withdrawn by appellant;
- (d) SCDMV v. Morales - SC Administrative Law Court, currently pending.
- (e) Home Properties of New York, L.P. v. Ocino, Inc. - 341 N.J.Super. 604 (App. Div. 2001), Decided July 2, 2001.

The following is Mr. LaMantia's account of the criminal appeal he has personally handled:
Eric Ancrum v. State - SC Supreme Court, Decided May 14, 2012.

Mr. LaMantia further reported the following regarding an unsuccessful candidacy:
I ran unsuccessfully for the office of SC State Representative District 116 in 2010. I lost in the Republican primary.

(9) Judicial Temperament:

The Commission believes that Mr. LaMantia's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee found Mr. LaMantia "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.

Mr. LaMantia is married to Allison Judith LaMantia. He has four children.

Mr. LaMantia reported that he was a member of the following bar associations:

- (a) Charleston County Bar Association;
- (b) American Bar Association.

Mr. LaMantia provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Member of the Board of Directors, Trinity Montessori School, Charleston SC 2008 – Present;
- (b) Old St. Andrew's Episcopal Church Men's Group, Secretary, 2010.

Mr. LaMantia further reported:

Since high school, I have always endeavored to become a public servant. It was for this reason that I attended the School of International Service at American University with the hope of working for the State Department. After graduating from college and Rutgers Law School, I was fortunate to be selected to serve as a law clerk to the Honorable Ira E. Kreizman, J.S.C. who sat on the Family Court Bench in Monmouth County, New Jersey. During my year-long clerkship with Judge Kreizman, not only did I learn the law and procedure of the Family Court, but I also learned

the lessons of humility, compassion and service to my community. I was taught the correct way to practice law and appear before a court so that I would earn the respect of the Court in the reciprocal manner that I respected the Court. Further, I learned the importance of being honorable, just and fair in my personal and professional life. Perhaps most importantly, I learned that, as an attorney and a judge, I could have a positive impact on litigants, children and my community, both as a role model and through a career in public service.

When I became a member of the SC Bar, I was fortunate to have appeared before the Honorable Wayne M. Creech. It is my belief that he embodies the same honor, courtesy and respect as a judge that Judge Kreizman did during my clerkship. Judge Creech has reinforced these lessons of humility, compassion and public service to my community in the low country and provided another excellent example of a humble public servant. If elected, it would be my personal and professional goal to live by the example these two judges have set for all other judges, attorneys and the public.

(11) Commission Members' Comments:

The Commission commented on Mr. LaMantia's legal experience in Family Court in SC and New Jersey, as well as the fact that he served as a law clerk for a N.J. Family Court judge.

(12) Conclusion:

The Commission found Mr. LaMantia qualified, but not nominated, to serve as a Family Court judge.

**Sean F. Keefer
Family Court, At Large, Seat 2**

Commission's Findings: QUALIFIED, 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 46-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 judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Keefer reported that he has not made any campaign expenditures.

Mr. Keefer 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.

Mr. Keefer 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 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>
Neutral Evaluation in Family Court	6/22/2102;
(b) SC Bar Convention DR Section Counsel Presenter	1/19/2012;
(c) Taking the Children Out of the Fire (Presented/Attended omitted inclusion on CLE report)	6/17/2011;
(d) Guardian ad Litem Program Workshop	6/2/2011;
(e) SC Bar Convention DR Section Counsel Presenter	1/20/2011;
(f) Family Mediation Training (Assistant Instructor)	1/3-1/7-2011;
(g) Mini Summit on Justice for Children	12/2/2010;
(h) SCDTAA Joint Meeting	7/22/2010;
(i) Representing the Volunteer	5/7/2010;
(j) Family Court Bench Bar	12/3/2009;
(k) Till Debt Do Us Part	11/4/2009;
(l) Collaborative Law Overview	3/27/2009;
(m) Training for Attorneys Appointed	8/1/2008;
(n) Charleston County Family Bar	11/16/2007;
(o) SCDTAA Annual Meeting	11/1/2007;
(p) Cool Tips – Family Court	8/2/2007;
(q) SC Circuit Court Arbitration Training	4/27/2007.

Mr. Keefer reported that he has taught the following law-related courses:

- (a) I presented at the last two SC Bar Conventions during the Dispute Resolution Section program. My topic was collaborative law in the Family Courts;
- (b) I have also guest lectured at the Charleston School of Law on the Department of Social Services abuse and neglect process and also 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 books or articles:

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.
- (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

The Mason Law Firm is a general practice firm. When I began my practice I handled the bulk of the firm's domestic practice. I was also involved in real estate work, criminal work, including juvenile justice, and some personal injury work.

During my first year in practice (1998) I was trained in Family Court mediation and added that as a component of my practice.

In the Family Courts I handled all aspects of cases preparing for numerous temporary hearings, defending and bringing Rules to Show Cause, and occasional trials. I also began to handle Department of Social Services cases during this time period;

(b) 2000-05 - Andrews & Shull

I accepted a job at Andrews & Shull, a firm with a focus on family law, in 2000. My mediation practice continued to grow and I also added private action Guardian *ad Litem* work during this time period. I phased out my general criminal practice, though occasionally continued to handle criminal matters in the Family Courts. During this period of employment, I was exposed to and involved in more complex family court litigation and was involved in the preparation for several trials and numerous contested temporary hearings. While I assisted two other attorneys with their cases, I continued to grow my practice initiating and having sole responsibility for cases of my own. It was during this time that I first began to conduct Family Court Arbitrations;

(c) 2006-10 - Sean F. Keefer, LLC

In 2006, I opened my own firm with a focus on domestic mediation and other forms of domestic alternate dispute resolution. In addition to this work, I continued to handle contested domestic matters though the number of trials in which I was involved decreased as I did not have the office resources to focus on this type of practice. During this time I also began to handle more Department of Social Services abuse and neglect cases as well as termination of parental rights cases. I continued my private Guardian *ad Litem* work and also began more work as a Guardian *ad Litem* in Department of Social Services cases through appointments I received in this capacity;

(d) 2010-Present - Keefer & Keefer, LLC

In 2010, my wife and I transitioned my practice to include her. My work continued though I ceased work in Department of Social Services cases after accepting the position of Contract Attorney with the SC Guardian *ad Litem* Program, where I served as the Contract Attorney for Berkeley County.

I continued my mediation practice as well as my private Guardian *ad Litem* work and also continued to take the occasional contested family court case.

In 2012, I left the position Berkeley County GAL contract attorney position and have focused my practice on primarily domestic mediation and private Guardian *ad Litem* work, though I occasionally handle contested family court cases. I also assist clients in resolving their disputes via agreement and also conduct domestic arbitrations.

Mr. Keefer further reported regarding his experience with the Family Court practice areas:

Divorce and equitable division of property.

Since my admission to practice this has been one of my primary areas of practice, handling cases involving these two issues on a regular basis. I have tried cases, prepared for and argued temporary hearings, filed and defended Rules to Show Cause and negotiated, both directly and via mediation, client agreements on the issues of equitable division.

The issue of equitable division is one of the more frequent areas in which I focus my efforts. Sometimes this issue is frequently present when I am assisting a client in resolving issues with a spouse via agreement. I have also dealt with the issue of equitable division in contested cases, though as of late I have been handling fewer such cases. When in contested cases the work on this issue will frequently require extensive discovery, valuation, asset identification and work in determining how the particular assets are to be allocated. Many times the issue is ultimately resolved in mediation where I represent clients, though in the past, trials have been necessary.

In my mediation practice I regularly deal with equitable distribution by regularly assisting parties divide and allocate assets and debts. Given some of the challenges facing our economy this has made some of the equitable division issues more novel and challenging in recent years.

As to the issue of divorce, the majority of the cases in which I have been involved, when it came time to ultimately have a divorce granted, the divorce was generally granted on the grounds of one year separation; however, through my time in practice I have been involved in cases where the divorce was obtained, either for my client, or by the opposing party, on a fault based ground;

Child Custody.

The pattern of my work in child custody cases is very similar to the work on equitable division cases from the perspective of representing clients and the frequency of my work in this area. The issue frequently presents itself in the context to being an issue for agreements, as well this issue frequently presents itself in the context of the contested cases in which I am still involved. Additionally, in child custody cases I have been involved, and continue to remain involved, in a number of cases since 2000 as a private Guardian *ad Litem* where I have conducted numerous investigations related to all aspects of custody cases. This has involved contact with the parties, teachers, relatives, medical providers, educators, and the children for whom I have served. I have also traveled when necessary. This work has included working with the attorneys for the parties, briefing mediators, participation in mediations, preparing interim and final reports and presenting testimony at hearings and trials.

As well, child custody cases are perhaps the most common issue that present in mediations where I serve as a mediator. In this context I deal with this issue in unique cases on a weekly basis;

Adoption.

I have handled several adoptions for clients during my time in practice though my main work in adoptions has been as a Guardian *ad Litem* for the child or children whom are being adopted. As a part of this I have conducted investigations, conducted home visits, met with children, prepared reports and appeared at hearings to provide testimony;

Abuse and Neglect.

From the time I began 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, and serving as counsel for

others appointed as the Guardians *ad Litem*. In 2006, I began to accept DSS appointment referrals and as a result of this took on a number of DSS cases, serving in one of the above-referenced roles. During this time, I attended numerous merits hearings, permanence planning hearings, the occasional probable cause hearing and frequent DSS mediations. It was also common for me to participate in trials defending my clients or being involved as the Guardian or counsel for the Guardian on cases where a settlement had not been reached.

In 2010, I ceased to take any new DSS cases and went to work as the contract GAL attorney for Berkeley County where I appeared in court generally twice a week for hearings and also regularly represented volunteer Guardians in contested merits, permanence and termination of parental rights trials. I also represented Guardians at numerous DSS mediations.

I have also conducted DSS mediations at the mediator.

Juvenile Justice.

During the first years of my practice I regularly represented juveniles in the family courts. None of these cases resulted in trials, all having been resolved by agreement. My recent practice in this area has been limited to perhaps two cases in the last several years where represented a juvenile and the matter was resolved via agreement. In another case I was appointed as the Guardian *ad Litem* for a minor child. Though I have not had extensive recent practice in this area, I feel I am sufficiently familiar with the process to allow me to preside over and conduct such proceedings.

Mr. Keefer reported the frequency of his court appearances during the past 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 past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 90% (to include representation of clients and an ADR Practice
- (d) Other: 10%. (primarily probate work involving the administration of estates and a small part general practice work).

Mr. Keefer reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. Keefer provided that he most often served as sole counsel.

The following is Mr. Keefer's account of his five most significant litigated matters:

- (a) Abraham Wigfall v. Corenda Wigfall – 1999-DR-10-4833
In this matter I represented the Defendant and the case involved children's issues, equitable distribution, transmutation of property, spousal support and attorneys' fees as contested issues. It is significant as it was the first case that I handled from intake to trial completely on my own;
- (b) Peter M. Evanciew v. Monica E. Goldberg – 2000-DR-10-5548
I represented the Plaintiff and assisted him in the filing of a Rule to Show Cause dealing with a number of alleged violations related to parental communication, communication with the child, parental cooperation, coast to coast travel, travel reimbursement and attorneys' fees. This case was significant for me as it involved a very convoluted set of facts, several years worth of expense and travel records and a large number of transcripts from phone

conversations, all of which had to be condensed and concisely presented to the Court in order to successfully prosecute my client's Rule to Show Cause. This was also one of the first Rules to Show Cause that I tried where the length of the trial was more than an hour, this trial going an entire day. While numerous attempts were made to resolve and settle the case the matter came to trial and was, ultimately, resolved in my client's favor;

- (c) Mark R. Edmondson v. Jeanine O. Edmondson – 2010-DR-10-2210

This involved a claim made by the Plaintiff against my client for the elimination or reduction of an amount of alimony that had been previously established via the parties' agreement. This case involved significant written discovery, a contested temporary hearing and extensive trial preparation. Ultimately with the assistance of the Court, on the day of trial, the case settled. This matter was significant as it involved litigation of an issue that originated from an agreement some years before in which I had also served as counsel for my client. The issues were also interesting as the case involved the termination/reduction of alimony and the issue of voluntary underemployment that could have worked to my client's detriment though ultimately worked in my client's benefit. This case also underscored how proper preparation for trial can often serve as a very effective tool for settlement;

- (d) DSS v. Bryant, Doe, Lee and Washington – 2008-DR-08-880, 2008-DR-08-1730, and 2008-DR-08-1142.

I represented a Defendant Father, Washington, in a Termination of Parental Rights action brought by the Department of Social Services. My client was an elderly gentleman who had been involved with the Mother though they were never married. He presented in such a fashion that I felt it necessary to have a Guardian *ad Litem* appointed for him. The Father did not want to have his parental rights terminated. Ultimately the case was tried.

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. This matter was perhaps most significant in that the Court denied the Department's request to terminate my client's parental rights;

- (e) DSS v. Miller, Sims, Scurry and Mayers – 2008-DR-08-1830 and 2008-DR-08-1656

This matter involved a contested permanency and treatment plan. While this case came into existence prior to my beginning to represent the Berkeley County volunteer Guardian *ad Litem* program all of the trial preparation and witness preparation was done by me.

This case was significant for me in that many times Guardians *ad Litem* testify in summary fashion as to interaction with children or conversations with parties, case workers, providers or the like. In this matter the Guardian *ad Litem* had, I believed, truly hoped the Mother would successfully complete a treatment plan and regain custody of her children. As a result of this the Guardian *ad Litem* challenged the Mother and held her accountable toward working towards the completion of her treatment plan (which had been previously ordered.) In doing this the Guardian *ad Litem* brought information and evidence that had to be presented through her that was beyond the normal testimony of a Guardian.

While the Department of Social Services had the burden of proof, I was able, through additional testimony, apart from what was offered by the Guardian *ad Litem*, provide evidence believe was critical for court's decision which was consistent with what the Guardian *ad Litem* had believed was best for the children.

Mr. Keefer reported he has not personally handled any civil or criminal appeals.

Mr. Keefer further reported the following regarding public offices he has held:

I was a member of the City of Charleston Board of Zoning Appeals – Site Design. I was a member from 2003 through 2005 and resigned from the board. I was appointed by the Mayor of the City of Charleston. I am not aware of a filing requirement with the State Ethics Commission and did not file anything with the Commission.

I was also a member of a citizens committee of the City of Charleston selected by the Mayor of the City of Charleston to study and make recommendations regarding a potential smoking ban in the City. I served on this Committee, acting as the Chairman of the committee in 2004. I did not make any filing with the State Ethics Commission.

(9) Judicial Temperament:

The Commission believes that Mr. Keefer’s temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee reported that Mr. Keefer is “Qualified” for the evaluative criteria: constitutional qualifications, physical health, mental stability, and reputation and experience. The Committee found him “Well qualified” in the evaluative criteria: ethical fitness, professional and academic ability, character, and judicial temperament. The Committee also made a note that they have concerns over Mr. Keefer’s lack of experience in handling juvenile delinquency cases through this court. In response, Mr. Keefer stated that he is aware that he lacks experience in this area of family law, and he said that, if elected to the family court bench, he would spend time before he takes the bench observing other family court judges and would focus specifically on juvenile delinquency cases.

Mr. Keefer is married to Wendy R.J. Keefer. He has no children.

Mr. Keefer reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
Member Ninth Circuit Resolution of Fee Dispute Board – 2007-09;
Member – SC Bar DR Council – 2009-Present;
Secretary – SC Bar DR Council – 2012-2013;
- (b) Charleston County Bar Association.

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
Board Member – 2008-Present
Board Treasurer – 2009-11
Vice-Chair – 2011-12;
- (b) SC Collaborative Law Institute
Board Member – 2007-09;
Treasurer – 2008-09.
- (c) Free and Accepted Masons – Oxford Lodge #67 – Oxford, Ohio.

Mr. Keefer further reported:

During my career I have had the privilege to appear before the Family Court many times. During this time I have seen judges faced with many, often difficult, decisions. While the job of a family court judge would likely never be described as easy, I believe that an effective family court judge is one who fairly and consistently applies the existing law to the case at hand.

My practice has been diverse and in addition to my Court appearances I have had a great deal of experience as a mediator, conducting hundreds of mediations. I have also served as an arbitrator. The totality of this experience created a personal philosophy that the decisions to be made in family court settings should be done with an even hand applying the law as it exists in SC. I do not believe that judges should be activists at the trial level, but should strive for the consistent application of existing law.

My experience as an attorney, mediator and as a Guardian *ad Litem* has also shown me that while a judge's docket may consist of hundreds of cases per month, each case is unique to the individual parties no matter how routine the individual issues may be. Accordingly, I believe that the totality of my experience in my legal career has postured me to be able to consistently apply existing law to the case at hand while being keenly aware that to the litigants in the individual cases that case is unique and individually important to them.

(11) Commission Members' Comments:

The Committee was impressed with his dedication to his local community and his 15 years of experience in family law.

(12) Conclusion:

The Commission found Mr. Keefer qualified and but did not nominate him for election to the family court.

**The Honorable Cely Anne Baker Brigman
Family Court, At-Large, Seat 4**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Brigman meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Brigman was born in 1961. She is 51 years old and a resident of Darlington, SC. Judge Brigman 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 1986.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Brigman.

Judge Brigman demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Brigman reported she has not:

- (a) sought or received the pledge of any legislator prior to screening;
- (b) sought or been offered a conditional pledge of support by a legislator;
- (c) asked third persons to contact members of the General Assembly prior to screening.

Judge Brigman 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 Brigman to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge Brigman described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Successful Financial Settlements - Your Divorce Client	05/11/07;
(b) Magistrate Training	05/14/07;
(c) Children's Issues in Family Court	05/23/07;
(d) Chief Magistrate Technology	07/19/07;
(e) Family Law: Helping Your Client	12/03/07;
(f) 2007 Family Court Bench/Bar	12/07/07;
(g) Bits, Bytes & Clips	01/25/08;
(h) Your Family Law Practice in the 21 st Century	03/31/08;
(i) Chief Magistrate Training	07/09/08;
(j) Judicial Selection in SC	09/17/08;
(k) Emerging Issues in Adoption	09/26/08;
(l) Family Law From A to Z	10/15/08;
(m) Mandatory School for Magistrates	11/07/08;
(n) Ethics Update	12/19/08;
(o) Sidebar – SC Criminal Law	04/26/09;
(p) Magistrate's and Municipal Courts	05/31/09;
(q) Chief Magistrate Training	06/23/09;
(r) Mandatory School for Magistrates	10/30/09;
(s) Staff/Judges Annual Training	02/02/10;
(t) Mandatory School for Magistrates	11/05/10;
(u) Annual Legislative Seminar	03/09/11;
(v) The Trial of a Criminal Domestic Violence Case	07/01/11;
(w) Family Law Section Seminar	01/21/12;
(x) Children's Law Committee Seminar	01/22/12;
(y) Annual Magistrate's Staff Seminar	02/08/12;
(z) Avoiding 20 Ethics Traps	07/13/12.

Judge Brigman reported that she has taught the following law-related courses:

- a) I made a presentation at a SC Women Lawyers Seminar on Criminal Domestic Violence in Magistrate Court in October 2006.
- b) I presented a case law up date at a National Business Institute Seminar Entitled Stay on Top of Family Law Developments in December 2007.
- c) I lectured on the topic of Marriage Dissolution, Process and Procedure at a National Business Institute Seminar in October 2009.

Judge Brigman reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Judge Brigman did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Brigman did not indicate any evidence of a troubled financial status. Judge Brigman has handled her financial affairs responsibly.

The Commission also noted that Judge Brigman was punctual and attentive in her dealings with the Commission, and the Commission's investigation did not reveal any problems with her diligence and industry.

- (5) Reputation:
Judge Brigman reported that she is not rated by any legal rating organization.
- (6) Physical Health:
Judge Brigman appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Brigman appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Brigman was admitted to the SC Bar in 1986.

She gave the following account of her legal experience since graduation from law school:

From August 1986 until May 1990, I practiced as an associate with Greene, Lockemy and Bailey in Dillon SC. My responsibilities involved Family Court litigation, civil litigation primarily representing plaintiffs in personal injury actions, and limited criminal defense. I also performed residential real estate closings.

From May 1990 until May 2004, I practiced as an associate with D. Kenneth Baker, P.A. in Darlington, SC. My responsibilities involved Family Court litigation, civil litigation primarily representing plaintiffs in personal injury actions, and residential real estate closings. I also handled cases in probate court.

In March 2004, I was appointed to fill a position as a part-time Magistrate for Darlington County. I still hold this position and have been serving as Chief Magistrate for Darlington County since 2004.

From May 2004 until November 2009, I practiced as an associate with McDougall and Self, L.L.P. in Florence, SC. My practice was limited to Family Court litigation.

From November 2009 until present, I have practiced with the Jebaily Law Firm, P.A. in Florence, SC. My practice is limited to Family Court litigation and some matters in Probate Court.

From June 2010 until June 2011, I was a part-time attorney for the Clarendon County Guardian ad Litem program. I represented lay guardians in matters involving the Department of Social Services.

Judge Brigman further reported regarding her experience with the Family Court practice area: My professional practice as an attorney has been devoted primarily to Family Court litigation for the past ten years. I have tried divorce, equitable division of property, child custody, adoption, abuse and neglect and juvenile cases during that time. I have not only tried cases but have participated in mediations and settlement negotiations on behalf of clients involved in Family Court actions. I have also served as a part-time Magistrate for the last eight years. Both my private practice and my service as a magistrate have prepared me to preside over cases in Family Court.

Judge Brigman reported the frequency of her court appearances prior to her service on the bench as follows:

- | | | |
|-----|----------|-------|
| (a) | Federal: | 0%; |
| (b) | State: | 100%. |

Judge Brigman reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench as follows:

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 99%;
- (d) Other: 1%.

Judge Brigman reported the percentage of her practice in trial court prior to her service on the bench as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Judge Brigman provided that she most often serves as sole counsel.

The following is Judge Brigman's account of her five most significant litigated matters:

- (a) Trey Gerald Smith v. Jennifer Erin Williamson, 07-DR-16-0071
This was a custody/visitation action brought pursuant to the Uniform Child Custody Jurisdiction Act (UCCJA) and the Parental Kidnapping Prevention Act (PKPA). I represented the Defendant mother in this action. My client and the minor child lived in Mississippi. In a previous action between these parties it was established that Mississippi was the home state of the minor child. After the Family Court of Mississippi had issued an order regarding custody, the father filed a second action in SC seeking to modify the Mississippi order. After a full hearing on the merits, the Family Court in SC dismissed the father's complaint. I was able to demonstrate that pursuant to the PKPA the Family Court in SC lacked jurisdiction and the father would have to pursue his claim in Mississippi, my client's home state.
- (b) Joseph Warren Sims v. Sarah Sims, 08-DR-21-1579
This was a divorce and custody action in which I represented the Defendant father. The parties were able to resolve the custody and visitation issues at mediation. The issue at trial was the divorce. The Plaintiff mother had filed seeking a divorce on the grounds of physical cruelty, which my client contested. I was able to demonstrate through the physical evidence and testimony at trial that the wife's allegations and proof did not rise to the level required under current case law in SC. After a full hearing on the merits, the trial court dismissed wife's complaint for divorce.
- (c) James Dustin Carnell v. Jessica Marie Carnell, Tonja Renee Carnell and minor children xxx and xxx, 09-DR-16-1107
This was an action for termination of parental rights and adoption. I represented the biological father and potential adoptive step-mother. We were seeking to terminate the parental rights of the biological mother and allow the step-mother to adopt the minor children. The biological mother contested both the termination of parental rights and the adoption. I was able to establish that the biological mother had failed to visit or support the minor children and that pursuant to the statute, her parental rights to the children should be terminated. Upon terminating the parental rights of the biological mother, the Court allowed the step-mother to adopt the children, over the objections of the biological mother.
- (d) Gerald v. Gerald, 09-DR-21-1372, 09-DR-21-1372
This was a Rule to Show Cause action filed during the pendency of a divorce. I represented the Plaintiff wife who alleged the Defendant had repeatedly violated a prior restraining order issued by the court. There were numerous instances of unwanted and intrusive contact which the Defendant denied. Through testimony and the introduction of

various exhibits I was able to demonstrate to the court that the Defendant had in fact violated the restraining order on numerous occasions, despite his adamant denials. The court found the Defendant to be in contempt of the prior order.

(e) Langston v. Langston, 2011-DR-21-758

This was an action for termination of alimony in which I represented the Plaintiff ex-husband. At the time of the parties' divorce, my client was ordered to pay permanent alimony. Several months after the divorce, the ex-wife began living with her paramour. The ex-wife denied that she and the paramour had cohabitated for the requisite 90 days as required by statute. Through extensive discovery, we were able to establish a time line demonstrating the 90 consecutive days. The case actually settled minutes before trial in my client's favor.

Judge Brigman reported that she has not personally handled any civil or criminal appeals.

Judge Brigman reported that she has held the following judicial offices:

March 2004-present, appointed to serve as part-time magistrate for Darlington County.

In 2004, I was appointed to serve as Chief Magistrate and still hold that position. I preside over Criminal Domestic Violence Court, civil matters in which the amount in controversy does not exceed \$7,500.00, and criminal matters that fall within the Magistrate's Court jurisdiction. I also preside over all jury trials held in the Hartsville area of Darlington County and conduct bond hearing.

Judge Brigman provided the following statement as to her most significant orders or opinions: The cases I preside over in Magistrate's Court do not require written orders.

Judge Brigman reported the following regarding her employment while serving as a judge:

From May 1990 until May 2004, I practiced as an associate with D. Kenneth Baker, P.A., in Darlington, SC. My responsibilities involved Family Court litigation, civil litigation primarily representing plaintiffs in personal injury actions, and residential real estate closings. I also handled cases in the probate court.

In March 2004, I was appointed to fill a position as a part-time Magistrate for Darlington County. I still hold this position and have been serving as Chief Magistrate for Darlington County since 2004.

From May 2004 until November 2009, I practiced as an associate with McDougall and Self, L.L.P. in Florence, SC. My practice was limited to Family Court litigation.

From November 2009 until present, I have practiced with the Jebaily Law Firm, P.A. in Florence, SC. I handle all Family Court matters and some matters in probate court.

From June 2010 until June 2011 I was a part-time attorney for the Clarendon County Guardian ad Litem program. I represented lay guardians in matters involving the Department of Social Services.

Judge Brigman further reported the following regarding an unsuccessful candidacy:

In 2011 I was a candidate for a Family Court judgeship for the Fourth Judicial Circuit. I came out of screening but withdrew before the election. The seat was filled by Hon. Salley H. McIntyre.

(9) Judicial Temperament:

The Commission believes that Judge Brigman's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizen's Committee reported that Judge Brigman is "Qualified" in the evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found Judge Brigman "Well qualified" in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament. The Committee stated in summary, "Judge Brigman is knowledgeable, qualified, and energetic. She will be an asset in Family Court."

Judge Brigman is married to Gregory W. Brigman. She has two children.

Judge Brigman reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar Association
Current Member, Family Law Council
Past Member, House of Delegates
Past Member, Board of Governors;
- (b) Darlington County Bar Association;
- (c) Florence County Bar Association;
- (d) SC Association for Justice;
Past Chairman, Family Law Section;
- (e) SC Womens Law Association;
Summary Court Judges Association.

Judge Brigman provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Award of Excellence, SC Coalition Against Domestic Violence, 2008;
- (b) American Heart Association.

Judge Brigman further reported:

For the last several years, my practice has been devoted primarily to the practice of family law. I have tried to increase my professional skills by attending educational family law seminars and by speaking at these seminars. My service as a Magistrate has taught me the importance of exercising patience, understanding and restraint with both litigants and lawyers. I believe I have the ability and temperament needed to serve on the Family Court bench.

(11) Commission Members' Comments:

The Commission commented that they were impressed by Judge Brigman's service as a Magistrate judge for the past eight years.

(12) Conclusion:

The Commission found Judge Brigman qualified, but not nominated, to serve as a Family Court judge.

Robert Allison Clark
Family Court, At-Large, Seat 4

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Clark meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Clark was born in 1969. He is 43 years old and a resident of Greenville, SC. Mr. Clark 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 2004.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Clark.

Mr. Clark 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. Clark 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.

Mr. Clark 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 Mr. Clark to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Clark described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Representing Volunteer Guardians ad Litem	03/14/2008;
(b) Reconceptualizing Child Custody	04/30/2008;
(c) Representing Volunteer Guardians ad Litem	06/20/2008;
(d) Hot Tips from the Coolest Domestic Practitioners	09/19/2008;
(e) Conservation Agreements	09/30/2008;
(f) Training for Attorneys Appointed in Abuse Cases	10/24/2008
(g) Assisting the Volunteer Guardian ad Litem	04/03/2009;
(h) Representing the Volunteer	05/07/2010;
(i) SCAJ 2010 Annual Convention (multiple classes)	08/05/2010;
(j) 2010 Hot Tips from the Coolest Domestic Prac.	10/01/2010;
(k) SC Adoption Law	10/29/2010;
(l) Mini Summitt on Justice for Children	12/02/2010;
(m) Representing the Volunteer GAL	04/15/2011;
(n) Guardian ad Litem Programs Workshop	06/02/2011;
(o) Training for New Attorneys	08/05/2011;

- | | | |
|-----|---|-------------|
| (p) | Children Cope with Divorce | 09/30/2011; |
| (q) | Expediting Permanency through Legal Avenues | 10/07/2011; |
| (r) | 2011 SC Family Law | 12/02/2011; |
| (s) | Family Court Mediation for Civil Mediators | 2011; |
| (t) | Statewide GAL Program Attorney Training | 05/18/2012. |

Mr. Clark reported that he has taught the following law-related courses:

- (a) As the contract attorney for the Guardian ad Litem Program in Greenville County, I taught the legal portion of the training for new Guardians every year or the past 7 years.
- (b) I taught the full new GAL training program to a group of Charleston Law Students in 2010.
- (c) I have given presentations at CLEs as listed below:
 - i. "Pilot Mediation Program for Abuse & Neglect Cases" at Training for Attorneys Appointed in Abuse and Neglect Cases in the 13th Judicial Circuit on 10/24/2008;
 - ii. "The Guardian ad Litem Tool Book" at Assisting the Volunteer GAL on 04/03/2009;
 - iii. "Toolkit Manual Review" at Representing the Volunteer Guardian ad Litem on 05/07/2010;
 - iv. "Family Court Mediation for Civil Mediators";
 - v. "Role of the Volunteer Guardian ad Litem" at Training for New Attorneys Subject to Appointments in Abuse and Neglect Cases in the 13th Judicial Circuit on 08/05/2011;
 - vi. "Expediting Permanency Through Legal Avenues" at Volunteer Guardian ad Litem Conference on 10/07/2011;
 - vii. "Online Case Management" at Statewide GAL Program Attorney Training on 05/18/2012.

Mr. Clark reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Clark did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Clark did not indicate any evidence of a troubled financial status. Mr. Clark has handled his financial affairs responsibly.

The Commission also noted that Mr. Clark 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. Clark reported that he is not rated by any legal rating organization.

(6) Physical Health:

Mr. Clark appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Clark appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Clark was admitted to the SC Bar in 2004.

He gave the following account of his legal experience since graduation from law school:

All of my legal career has concentrated in domestic practice:

- (a) Sole Practitioner, Robert A. Clark, Attorney at Law, 2004-present;
- (b) Contract Attorney for the SC Cass Elias McCarter Guardian ad Litem Program, June 2005–present;

Mr. Clark further reported regarding his experience in the Family Court practice area:

My experience in law has been almost completely in Family Court. I have represented women, men and children. I have handled over 650 Family Court cases as an attorney or a private Guardian ad Litem. I have handled over 6,000 hearings as the attorney for the Volunteer GAL in abuse and neglect cases. In my private cases, I have worked in the following areas extensively: separate maintenance and support; divorce; custody; equitable division of property; adoptions; adult name change; minor child name change; legal services clients; pro bono clients; mediation of Family Court cases; mediation of abuse and neglect cases; child support; alimony; grandparent custody/visitation; visitation issues; contempt; paternity; private guardian ad litem in custody cases; guardian for adults; termination of parental rights; QDRO orders; relinquishment of parental rights. Although I have interacted with DJJ a great deal as GAL Attorney, I have less experience in Juvenile cases than all others listed above. I will certainly learn with due speed any area that is needed. In question 19 below, I have listed some interesting cases I have handled.

Mr. Clark reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: None;
- (b) State: 3-4 days per week.

Mr. Clark reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 4%;
- (b) Criminal: 1%;
- (c) Domestic: 95%;
- (d) Other: 0%.

Mr. Clark reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 1%;
- (b) Non-jury: 99%.

Mr. Clark provided that he most often served as sole counsel.

The following is Mr. Clark's account of his five most significant litigated matters:

- (a) As a PAI (Private Attorney Involvement) attorney for SC Legal Services, I took on a client in an alimony reduction case. I represented the former wife who received alimony. The trial judge did not consider all of the required factors in making his determination and focused instead on the advanced age of the former husband. I proffered significant evidence to the court. Legal Services (Kirby Mitchell) appealed the case on behalf of my client and won the appeal. June T. Fuller v. James T. Fuller Op. No. 4931 (S.C. Ct. App. Filed January 25, 2012) (Shearouse Adv. Sh. No. 3 at 49).

- (b) As contract attorney for the Greenville County Guardian Ad Litem Program, I was the sole attorney representing volunteer GALs. I had court for DSS cases all day every Tuesday and Thursday. When a five day trial was scheduled for one DSS case, I hired another attorney to handle the trial so I would not have to get 25-30 cases continued in order for me to do the trial. I then motioned the court for GAL Attorney fees and was awarded those fees. This was appealed, along with other issues, and reversed. The court found I and the GAL program were responsible for payment, not the litigants. SCDSS v. Mary C., Op. No. 4891 (S.C. Ct. App. Filed Sept.21, 2011) (Shearouse Adv. Sh. No. 33 at 84).
- (c) I represented a grandfather who had custody of three grandchildren through a prior DSS action. He first wanted to terminate the parents' rights and adopt. The mother relinquished her rights. The father was incarcerated. The Grandfather later became ill and three different families each took a child. These families intervened and we prosecuted the TPR and won. The adoption took place on the same day. On appeal, the case was reversed. This is an interesting case due to the father being incarcerated and the issues of failure to support and failure to visit. It also shows how important wording is in the DSS closing orders and how they are interpreted in later cases. John and Jane Doe, Johnny and Janie Roe and Jonathan and Janet Moe v. Mother and Father, Unp. Op. No. 2009-UP-397 (S.C. Ct. App. Filed July 29, 2009).
- (d) I handled a custody action for a foreign child brought into America for medical needs. The party bringing the child into the USA then attempted to adopt the child out to my clients, who were hosting the child for the medical treatment. The parties did not agree on how things were to be handled and I helped the host family gain legal custody of the child until an adoption can be completed in Russia. I learned a great deal about international adoptions as well as state adoption laws.
- (e) As contract attorney for the GAL program in Greenville, I ultimately had to file several contempt actions against DSS for failing to file Termination of Parental Rights actions timely. The cases settled and DSS got back on track filing TPRs timely.

Mr. Clark reported he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Clark's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizen's Committee on Judicial Qualification found Mr. Clark to be "Qualified" in the areas of constitutional qualifications, physical health, and mental stability; and "Well qualified" in the areas of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Clark is married to Mary Fretwell Clark. He has three children.

Mr. Clark reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar since 2004;
- (b) Upstate Mediation Center, Board Member since 2009; Chairman of the Board since July 2012;
- (c) Family Court Bench-Bar Committee in Columbia since 2007;
- (d) Greenville County Bar since 2004;
- (e) American Bar Association since 2004;

- (f) National Council of Juvenile and Family Court Judges (NCJFCJ);
- (g) National Association of Counsel for Children (NACC).

Mr. Clark provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Poinsett Club of Greenville, SC;
- (b) Upstate Mediation Center – volunteer since 2007, board member since 2009 and Chairman of the board since 2012.

Mr. Clark further reported:

I have lived in Greenville my entire life. Both of my parents are from Abbeville and my mother lives in Greenville. I grew up in the Gower Estates area attending First Baptist Church, Sara Collins Elementary, Beck Middle and J.L. Mann High. I went on to attend the University of SC and graduated in 1991 with a Bachelor of Science in Business Administration. During college, I received a scholarship to attend one semester abroad in London, England. After college, I came back to Greenville to work in my family's heating and air conditioning business. I have two older brothers, so my father split the company. I took over the service and replacement company (General Air Conditioning Service Corp.) while my brothers ran the new construction company (General Hearing & Air Conditioning of Greenville, Inc.). Just a few short years later, my father passed away in 1995.

So far, I have led a remarkable life. I am grateful for the opportunities I have been given and the family and friends I have around me. I am married to Mary Fretwell Clark from both Anderson and Greenville and have three great kids: Mary Myers, Alex and Christopher. Christopher was our foster child whom we adopted in 2011. Our children also attended or will attend Sara Collins, Beck and J.L. Mann. As a family, we enjoy going to the mountains, going on RV trips across the United States, international travel, bike riding, and just hanging out together.

When I reached 30 years old, I had been successfully running the family business and decided I wanted to start giving back to our community that had been so giving to my family. I volunteered for the Greenville County Guardian Ad Litem Program to help abused and neglected children. I fell in love with my role and determined I could do more as attorney. So, I applied for and was accepted to the USC School of Law. I was accepted to the SC Bar in 2004 and the GAL Program hired me as the Greenville County Contract Attorney in 2005.

I again fell in love with the law and helping families in times of need. I believe I will be a compassionate judge who applies the law as written while being respectful of the litigants and attorneys. I have experience in business management, dealing with employees and customers and seeing life outside of being an attorney. I like using technology and automation and I am considered by many the Apple geek with the latest gadget.

I have successfully converted the legal files for the Guardian Program to paperless and utilize an online case management system to store virtual files, which the volunteer Guardians can access and collaborate with myself, my paralegal and the case manager at the Guardian Office. I now use an iPad from Apple in the court room to access case history and documents. These innovations have greatly improved communication, collaboration, efficiency and reduced costs. I would be eager to utilize technology more in and out of the court room to improve the judiciary.

Since becoming an attorney, I no longer have any day to day responsibilities in the heating and air conditioning company and have fully focused on being an attorney. I have also volunteered as a Judge in Youth Court; volunteered as a mediator; volunteered at Mock Trial; Pro-bono work with the Fatherhood Coalition; volunteered as a board member (Chairman) at Upstate Mediation Center; implemented the Pilot Mediation Program in Greenville for DSS

cases; and Volunteered training at CLEs and GAL programs. I am currently a member of the Family Court Bench Bar Committee in Columbia.

I will work hard and get the job done as I have done all of my life.

(11) Commission Members' Comments:

The Commission commented that Mr. Clark is known as a fine attorney and commended his work in the GAL program.

(12) Conclusion:

The Commission found Mr. Clark qualified, but not nominated, to serve as a Family Court judge.

**Kimaka Nichols-Graham
Family Court, At Large, Seat 4**

Commission's Findings: QUALIFIED, NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Nichols-Graham meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Nichols-Graham was born in 1972. She is 40-years old and a resident of Greenville, SC. Ms. Nichols-Graham 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 1998.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Nichols-Graham.

Ms. Nichols-Graham 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. Nichols-Graham reported that she has made \$90.91 in campaign expenditures.

Ms. Nichols-Graham 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.

Ms. Nichols-Graham 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 Ms. Nichols-Graham to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Nichols-Graham described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Connecting Students with Tools for School	3/9/2012;
(b) Managing Ethical Issues for Day to Day Practice	12/6/2011;
(c) SC Legal Services Statewide Meeting	11/8/2011;
(d) SC Black Lawyers Association Annual Retreat	10/4/2011;
(e) Children Coping with Divorce Trans-parenting for Professionals	9/30/2011;
(f) Judicial Ethics for Lawyers	8/17/2011;
(g) 2011 Due Process Hearing Officer Training	6/20/2011;
(h) Spring Special Education Administrators Training & Hearing Officer Update	3/23/2011;
(i) SC Black Lawyers Association Annual Retreat	10/01/2010;
(j) SC Legal Services Annual Conference	11/18/2010;
(k) Education Law Association Conference and Training	10/21/2009;
(l) 2009 Children's Law Center Conference	11/6/2009;
(m) Education Law Training	12/4/2009;
(n) SC Legal Services Statewide Conference	11/11/2009;
(o) Lexis Nexis Training	11/12/2009;
(p) 2007 Disproportionate Minority Contract Training CLO	9/28/2007;
(q) Education & Society: Accountability ELA Conference	11/15/2007;
(r) SC Legal Services Statewide Meeting	12/11/2007;
(s) SC Bar Convention	1/25/2007.

Ms. Nichols-Graham reported that she has taught the following law-related courses:

- (a) I presented a session on representing low income students and parents in school law to legal services agencies for SC Appleseed Legal Justice Center on October 11, 2001.
- (b) I presented a session on representing low income families in school law at the South Eastern Project Directors Association for directors of legal service agencies on July 15, 2002.
- (c) I presented a session on monitoring re-segregation and protecting the poor for legal service lawyers at the National Legal Aid and Public Defender Substantive Law Conference on July 25, 2002.
- (d) I presented a session on the overview of a school law practice to legal services and pro bono attorneys for SC Appleseed Legal Justice Center on August 12, 2004.
- (e) I presented a session on DSS Court Appointments and Defense Pointers to lawyers at the SC Black Lawyers Association Retreat on October 22, 2004.
- (f) I presented a session on parent rights in school discipline procedures to legal services and pro bono attorneys for SC Appleseed Legal Justice Center on February 24, 2006.
- (g) I presented a session on school discipline and special education discipline to lawyers in the Nelson Mullins Riley & Scarborough Education Pro Bono Project Training on August 10, 2006.
- (h) I presented a session on students still having due process rights to school administrators, professors, and attorneys at the Education Law Association's Annual Conference on October 22, 2009.
- (i) I have presented several sessions to attorneys and staff on education law at SC Legal Services' Statewide Meetings and in house education task force meetings.
- (j) I presented a session on working with students experiencing bullying to attorneys at the SC Appleseed Legal Justice Center's Education Law Training on March 9, 2012.

Ms. Nichols-Graham reported that she has not published any books or articles.

- (4) Character:

The Commission's investigation of Ms. Nichols-Graham did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Nichols-Graham did not indicate any evidence of a troubled financial status. Ms. Nichols-Graham has handled her financial affairs responsibly.

The Commission also noted that Ms. Nichols-Graham 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. Nichols-Graham reported that she did not have a Martindale-Hubbell or any other kind of legal rating.
- (6) Physical Health:
Ms. Nichols-Graham appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Ms. Nichols-Graham appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Ms. Nichols-Graham was admitted to the SC Bar in 1998.

She gave the following account of her legal experience since graduation from law school:

- (a) Legal Services Agency of Western Carolina, Inc., Greenville, SC.
Staff Attorney. Provided general law practice and community education in housing, probate, and family law cases. November 1998 to September 1999.
Children's Law Attorney. Practiced law for low income children by focusing primarily on adoptions, children's social security cases, special education advocacy, and school discipline cases. September 1999 until December 31, 2001.
- (b) SC Legal Services. Greenville, SC.
Staff Attorney II. Practices law in cases in Greenville County that includes divorce, custody, school discipline, special education, special needs relative adoptions, bankruptcy, credit card defense, and children social security appeals. Appears in Magistrate's Court, Family Court, the Court of Common Pleas, and the U. S. Bankruptcy Court in various cases. January 1, 2002 to present.
Education Unit Head. Leads the education unit, secures local funding, trains attorneys across the state on how to represent students in the public education system, teaches parents how to advocate for children, and operates the Greenville County United Way's Securing Public School Opportunities Program. Practices law in education cases in Greenville County and has practiced education law in Anderson, Spartanburg, Pickens, Oconee, Orangeburg, Horry, Richland, Charleston, Greenwood, York, and Clarendon counties in cases before hearing officers, School Boards, the Court of Common Pleas, and the SC Court of Appeals. March 2003 to present.
Acting Managing Attorney. Supervised six attorneys, two paralegals, and three support staff. Assigned cases, supervised legal work, handled personnel issues, and participated on management team while the Managing Attorney was on extended leave. September 24, 2007 through December 31, 2007.

Acting Managing Attorney. Supervised five full time attorneys, three contract attorneys, one volunteer attorney, three support staff employees, and a satellite office. Reviewed emergency intakes, assigned cases, supervised legal work, handled personnel issues, and provided other managerial duties while the Managing Attorney was on extended leave. August 26, 2009 through November 24, 2009.

Ms. Nichols-Graham further reported regarding her experience with the Family Court practice areas:

I have experience in handling divorces (physical cruelty, one year separation, and adultery defense), although my experience is primarily with physical cruelty divorces because of the legal services case acceptance policy. I have significant experience in handling custody and adoption cases. My custody cases involve disputes involving biological parents and non biological parents but usually when there is an allegation of abuse and DSS is not involved or custody is needed to secure some benefit on behalf of the child. My experience with adoption cases is primarily with relative special needs adoptions. I have experience representing defendants in abuse and neglect cases but lately due to limited resources we refer many of those cases to court appointed attorneys unless we are already representing a party in a divorce or custody case. I do not have significant experience handling juvenile justice cases but I believe the vast amount of work that I do for students in school discipline cases has more than prepared me to learn what I do not know in that area.

Ms. Nichols-Graham reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 5%;
- (b) State: 95%.

Ms. Nichols-Graham reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 20%;
- (b) Criminal: 0%;
- (c) Domestic: 80%
- (d) Other: 0%.

Ms. Nichols-Graham reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Ms. Nichols-Graham provided that she most often served as sole counsel.

The following is Ms. Nichols-Graham's account of her five most significant litigated matters:

- (a) Jane Doe, A High School Student in Richland County School District Two and her Parent, Mary Doe, vs. Richland County School District Two. Case Number: 2006-CP-40-6545. This case was significant to me because I represented a student that was expelled from school and accused of committing sexual offenses without evidence. The parent unsuccessfully appealed to the board after simply stating persuasive legal grounds but they needed legal services to appeal to the court system. We prevailed in circuit court but the school district appealed the decision to the court of appeals. This case is evidence that things do not always work themselves out and there are times that the indigent need civil legal services to secure basic opportunities.
- (b) Martha Sue Payne vs. Mary and Ray Patterson, William Scott McFadden.

Case Number 2005-DR-23-3223. This case was significant because I successfully defended a change of custody action among relatives for children that were previously abused and neglected. The court granted my motion an involuntary dismissal at the conclusion of the Plaintiff's case.

- (c) Martha Sue Payne vs. Mary Patterson. Case Number: 2006-DR-23-4112. This case is significant to me because I was unsuccessful in appealing a visitation contempt case.
- (d) Linda Elliott vs. Melinda Elliott and George Sijon. Case Number: 1999-DR-23-5640. This case was significant to me because I successfully defended a biological mother with very little means in a custody case against the maternal grandmother had great resources and the Guardian ad Litem's recommendation.
- (e) Darla Yates vs. Eddie Crooks. Case Number: 2005-DR-39-418. This case was significant to me because I represented my client in the visitation Rule to Show Cause this year. There was an allegation of a history of abuse in a prior case that prevented my client from being able to represent herself.

The following is Ms. Nichols-Graham's account of two civil appeals she has personally handled:

- (a) Jane Doe, A High School Student in Richland County School District Two and her Parent, Mary Doe, vs. Richland County School District Two. Decided March 25, 2009. 382 S.C. 656; 677 S.E.2d 610.
- (b) Unpublished Opinion. Martha Sue Payne vs. Mary Patterson. Decided April 26, 2010.

Ms. Nichols-Graham reported she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Nichols-Graham's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee reported that Ms. Nichols-Graham is "Qualified" for the nine evaluative criteria: constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Ms. Nichols-Graham is married to Hakim Rahman Graham. She has one child.

Ms. Nichols-Graham reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar, Young Lawyers Division, Executive Council 2002-2003;
- (b) SC Bar Children's Law Committee, Education Sub-Committee 2002 to 2011, 2012;
- (c) SC Supreme Court CLE & Specialization Commissioner, June 2003-July 2009;
- (d) Education Law Association;
- (d) Council of Parent Attorneys and Advocates;
- (e) SC Black Lawyers Association.

Ms. Nichols-Graham provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Joynng Lawyer of the Year Award, SC Bar 2001-02;
- (b) Center for Educational Equity, Advisory Board of Directors (2001-present) and Parent Reconnect Program Coordinator (2001-08);

- (c) Protection and Advocacy for People with Disabilities, Board of Directors, Grievance Committee (first term), Chair of the Personnel Committee (current term);
- (d) United Way of Greenville County. Graduate Greenville Student Enrichment Committee. (2006-07);
- (e) Bethlehem Baptist Church. Summer Bible Institute Instructor. June 2011.

Ms. Nichols-Graham further reported:

Family and school law have always been natural interests of mine. Family relationships and educational experiences play an important role in everyone’s development. My formal education was driven by a curiosity and desire to learn more about those relationships and to help others with those relationships and experiences. I blindly pursued a legal career to help and to serve the public. This does not mean that I am more susceptible to bribery than others. It is evidence to the contrary. Values like sound character, integrity, honesty, fairness, respect, and a dedication to public service are my family’s business and they shaped my life experiences well before I began expressing personal opinions.

As a child, my family attended Nazarene Baptist Church in Mullins, SC and everyone in my family was actively involved in our church. For me a large part of learning to read and reading comprehension was reading aloud in Sunday School and answering questions. It was important to sound the words out correctly and know what you were talking about when you answered questions or your peers might laugh, at your expense. I quickly learned the difference between good and evil and right and wrong. Of course, growing up in a safe rural community with relatively stable families also helped.

Many of my significant cases are confidential and closed matters to protect the identity of minor children but I have also achieved a lot in publicly reported cases. I have also had the privilege of consulting with many legal service attorneys in numerous cases, court appearances, and appellate work.

I believe my personal and professional experiences will continue to serve the public well if I am a successful candidate for Family Court, At Large, Seat 4.

(11) Commission Members’ Comments:

The Committee was impressed by Ms. Nichols-Graham's sharp demeanor and noted her dedicated public service.

(12) Conclusion:

The Commission found Ms. Nichols-Graham qualified, but not nominated, for election to the Family Court.

**The Honorable Erika Lanette McJimpsey
Family Court, At-Large, Seat 4**

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge McJimpsey meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge McJimpsey was born in 1970. She is 42 years old and a resident of Moore, SC, SC. Judge McJimpsey 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 1996.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge McJimpsey.

Judge McJimpsey 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 McJimpsey reported that she has made \$34.85 in campaign expenditures for postage and stationary.

Judge McJimpsey 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 McJimpsey 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 McJimpsey to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Judge McJimpsey described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Nuts and Bolts of Family Court	February 2005;
(b) Children's Law Conference	October 2005;
(c) JAG Reserve Component On-Site	May 2006;
(d) Disproportionate Minority Contact	October 2006;
(e) Children's Law Conference	October 2006;
(f) Ethics of Government Lawyers	November 2006;
(g) SC Professional Society of Abused Children	April 2007;
(h) Nuts and Bolts on Sexually Predator Act	July 2007;
(i) Children's Law Conference	October 2007;
(j) JAG Reserve CLE	November 2007;
(k) Diversity Matters	November 2007;
(l) Orientation School for Municipal Judges	November 2009;
(m) Domestic Violence a Coordinated Response	November 2009;
(n) JAG Legal Training	November 2010;
(o) Role of the Judge	May 2011;
(p) Writing Clear and Effective Sentences	May 2011;
(q) Trials of CDV Case	May 2011;
(r) Upstate Training Program	May 2011;
(s) Representing Parents in Maltreatment Cases	May 2011;
(t) Prosecuted the Impaired Driving	April 2012;
(u) Upstate Judicial Training	May 2012.

Judge McJimpsey reported that she has taught the following law-related courses:

- (a) I have lectured at the SC Public Defenders' Conference, on the topic of Jessica's Law and its impact on juvenile offenders, September 2005.
- (b) I made a presentation on legislation impacting juvenile justice to the Solicitor Victim Advocates and Pre-Trial Intervention Representatives at the Solicitor's Association Conference, September 2006.
- (c) I have lectured on behalf of the Department of Juvenile Justice at the Crime Victims' Ombudsman Best Practices Training; I discussed methods utilized in providing victim services and how the Department of Juvenile Justice deals with compliance issues, March 2007.
- (d) I have presented on behalf of the SC Bar's program entitled Law School for Non Lawyers in the areas of Juvenile Justice and Child Protection Hearings, August 2007.
- (e) I have presented on behalf of the SC Bar's Law School for Non Law Lawyers in the areas of Juvenile Justice and Child Protection Hearings, April 2008.
- (f) I have presented to the Old English Symposium, on issues related to Jessica's Law and confidentiality rules in regard to the release of juvenile records. The participants were public school teachers from Union and Chester counties, October 2008.
- (g) I have presented to the SC Public Records Association, on confidentiality as it relates to juvenile records, October 2008.
- (h) I was the featured speaker for the Martin Luther King, Jr. Holiday Celebration sponsored by Alpha Phi Alpha Fraternity, January 2009.
- (i) I was the featured speaker at Cherokee Trail Elementary School for Black History Month, February 2009.
- (j) I was the guest speaker for "Constitution Day" at Carver Junior High School, September 2009.
- (k) I was a guest speaker for Girls, Inc. sponsored by the SC Department of Juvenile Justice; I provided a motivational speech to at-risk girls, August 2010.
- (l) I was a guest speaker for Wofford College's Externship program; I discussed the role of the municipal court and its operations, February 2012.
- (m) I lectured to high school students chosen to participate in the Spartanburg Chamber of Commerce Junior Leadership Program. I discussed the role and jurisdiction of the municipal court, March 2012.

Judge McJimpsey reported that she has published the following:

- (a) Truancy Guide. A Training Resource Manual for Truancy Intervention; Editorial Advice (2008);
- (b) Juvenile Justice; Law School for Non Lawyers; Co-editor (2008);
- (c) Juvenile Justice; Law School for Non Lawyers; updated materials (2009);
- (d) Juvenile Justice; Law School for Non Lawyers; updated materials (2010);
- (e) Juvenile Justice; Legal Lessons: A Series for the Public; updated Materials (2011).

(4) Character:

The Commission's investigation of Judge McJimpsey did not reveal evidence of any founded grievances or criminal allegations made against her.

The Commission also noted that Judge McJimpsey 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 McJimpsey reported that she is not rated by any legal rating organization.

Judge McJimpsey reported the following military service:

I served in the US Army Reserves from February 1999-September 30, 2010. I obtained the rank of Captain and I was Honorably Discharged.

- (6) Physical Health:
Judge McJimpsey appears to be physically capable of performing the duties of the office she seeks.

- (7) Mental Stability:
Judge McJimpsey appears to be mentally capable of performing the duties of the office she seeks.

- (8) Experience:
Judge McJimpsey was admitted to the SC Bar in 1996.

She gave the following account of her legal experience since graduation from law school:

- (a) Pyatt Law Firm, Law Clerk(August 1996-November 1996). I worked as a law clerk prior to my admission to the SC Bar. I conducted client interviews and drafted pleadings under the supervision of an attorney.
- (b) Seventh Judicial Circuit Solicitor's Office, Assistant Solicitor (December 1996-June 2005). I was the first (1st) full-time Criminal Domestic Violence prosecutor in Spartanburg County. I served under a Violence Against Women Grant. I prosecuted all domestic cases to include Summary Court and the Court of General Session. I served in this capacity for almost 18 months. Thereafter for the next three years I prosecuted various kinds of cases ranging for violent crimes, drug offenses and property crimes, to sexual assaults. I also served as the Chief Family Court prosecutor from 2000-2005. I handled juvenile matters ranging from misdemeanor and status offenses to homicide and sexual assault cases. In addition, I handled several cases that were waived to the Court of General Sessions. I worked with several state and non-profit agencies including the Department of Social Services, Department of Mental Health, and the Spartanburg Children's Advocacy Center to name a few.
- (c) SC Department of Juvenile Justice, Assistant Legal Counsel (July 2005-July 2009). I served as an attorney representing the Department of Juvenile Justice. I provided legal advice to the county offices. The Department of Juvenile Justice has 46 offices throughout the State. In addition, I served as the liaison with the State Law Enforcement Division in regard to the issue of dealing with DNA samples. I also served as the Agency's liaison with Attorney General's Office in regard to juveniles required to be screened as Sexually Violent Predators. I represented the Agency in actions filed against the Agency with the State Office of Human Resources, SC Human Affairs Commission, and the Equal Employment Opportunity Commission. Many of these issues were resolved through mediation. In addition, I worked closely with lawyers hired by the SC Insurance Reserve Fund who represented the Agency in lawsuits filed based on alleged violations of state and federal laws. I assisted in compiling records, depositions, mediation hearings, and other pre-trial and trial matters.
- (d) Greenville Technical College, Instructor (July 2009-August 2011). I served as an instructor in the Paralegal and Criminal Justice Departments. In the paralegal department, I taught Legal Ethics and Legal Writing. I was the lead instructor for the Legal Ethics class. The primary focus of the class was the study and analysis of SC Appellate Court Rule 407. I also served as lead instructor for the following courses in the criminal justice department: criminal law, criminal evidence/procedure, and juvenile law.
- (e) City of Spartanburg, Municipal Court, Chief Municipal Judge(July 2012-present) I presently serve as the Chief Municipal Judge. I preside over the management of the court's docket. In addition, I

- handle misdemeanor criminal and traffic offenses, quality of life court, and jury trials which are held six times a month. I also determine probable cause for the issuance of arrest and search warrants.
- (f) Spartanburg Methodist College Paralegal Program, Adjunct Instructor, (January 2005-July 2005; May 2012-present). I have taught the following courses to students seeking a certificate in this program: juvenile law, family law, criminal law, and an independent study course analyzing recent cases.
 - (g) City of Spartanburg, Municipal Court, Associate Municipal Judge (July 2009-June 2011). I presided over criminal, traffic, and quality of life cases. In addition, I presided over jury trials held four times a month. I worked a minimum of fifteen hours per week.
 - (h) United States Army Reserves, Judge Advocate General (February 1999-September 2010). I served as a Judge Advocate for eleven years. In my part-time capacity, I have held a number of positions and served in many capacities. I conducted numerous administrative separation boards for Reserve soldiers who committed various acts of misconduct including illegal drug use and conviction of crimes in civilian courts. I have provided legal assistance to over one thousand soldiers and family members in the areas of estate planning, debtor/creditor law, family law, and administrative law.
 - (i) Greenville Technical College, Paralegal Department, Adjunct Instructor (January 2008-July 2009). I served as an instructor teaching legal ethics based on SC Appellate Court Rule 407.
 - (j) Converse College, Paralegal Certificate Program, Adjunct Instructor (October 2002-January 2003). I served as an instructor teaching legal writing and research to paralegal students.
 - (k) Spartanburg Methodist College, Adjunct Instructor (August 2001-May 2003). I served as an instructor in the Criminal Justice Department for the following courses: criminal law and criminal procedure.

Judge McJimpsey further reported regarding her experience with the Family Court practice area:

I have had the privilege of gaining experience in a variety of legal arenas.

The depth and the breadth of my professional experience make me uniquely qualified to serve on the Family Court Bench. As a prosecutor, I worked extensively on issues affecting families. I have extensive experience in the areas of domestic violence and child sexual assault cases. My role often extended beyond preparation for trial, to serving as a listening ear and as an advocate for resources and community services to assist victims of crime. In addition, I have worked closely with agencies such as the Department of Social Services, Department of Mental Health.

As a prosecutor, attorney for the Department of Juvenile Justice, therapeutic foster parent, college instructor, military attorney, and a municipal judge, I have gained and developed sensitivity to the needs of children and families and I have the ability to relate to people from all walks of life. While I have limited experience in matrimonial cases, with the exception of my military service drafting separation agreements and determining the financial responsibility of soldiers' to a spouse and or children during a divorce, I believe that the length of my experience as an attorney as well as my exposure to a variety of legal problems will assist me in gaining added competency in these areas. I am diligent and well-versed in fundamental legal principles and in procedural and evidentiary rules.

I have a reputation of honesty and integrity with my colleagues and the public. I am a committed public servant, and I look forward to continuing to serve the citizens of our great State.

Judge McJimpsey reported the frequency of her court appearances prior to her service on the bench as follows:

- (a) Federal: 2%;
- (b) State: 98%.

Judge McJimpsey reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench as follows:

- (a) Civil: 20%;
- (b) Criminal: 60%;
- (c) Other: 20%;
- (d) Domestic: 0%.

Judge McJimpsey reported the percentage of her practice in trial court prior to her service on the bench as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Judge McJimpsey provided that prior to her service on the bench she most often served as sole counsel.

The following is Judge McJimpsey's account of her five most significant litigated matters:

- (a) In the Matter of Shaquille O'Neal B(Opinion No. 26734)-I represented the Department of Juvenile Justice in the Family Court where the defendant, a minor, was seeking to remove his name from the sex offender registry. The family court ruled that he should be placed on the registry, but the Supreme Court reversed this decision. I did not represent the State in the appeal; it was handled by the Attorney General's Office. The defendant was registered as a sex offender in the State of North Carolina and the issue was whether the offense was comparable to an offense in SC which would require registry. Although, the Supreme Court reversed the lower court's ruling it was the first ruling to provide the State Law Enforcement Division and other state agencies with guidance regarding how to determine when an out-of-state resident juvenile should be subject to registration. Interestingly, Chief Justice Toal wrote a separate opinion concurring in part, and dissenting in part in which Justice Kittredge concurred.
- (b) In re: C.J.- I represented the State of SC in a waiver hearing where the juvenile was charged with Murder and Armed Robbery. The juvenile shot the victim while he was sitting in his car. Several days after the murder was committed, the juvenile robbed a pawn shop and stole four guns. This case is significant because it was my first waiver hearing and I had to establish through witnesses testimony whether the offender's charges should be waived to the Court of General Sessions based on the landmark Supreme Court case of Kent v.US.
- (c) In re: D.H.- I represented the State of SC in the Family Court case involving a fifteen year old boy who was charged with committing a sexual battery on his seven year old cousin. The victim went to the hospital after the assault because of vaginal bleeding. She had to have emergency surgery to repair a vaginal tear that was causing a significant amount of bleeding. The doctor who performed the surgery said it was one of the worst sexual assaults involving a child that he had ever seen. This made lasting impact on my life. It was the first sexual assault case that I prosecuted where the injuries were so violent. I spent several months preparing this child victim for trial. This offender was placed on the sex offender registry. In the end, I was pleased that justice was served, but I also faced the reality that nothing could restore this child's innocence. For several months after the trial, I maintained contact with this family. During this time period (2002-2003), there were 173 children reported as victims of sexual assault, 43 were assaulted by other children (Dean, Suellen 2003, April 27, Sexual Abuse: Juvenile offenders show increase, Spartanburg Herald Journal). I was the sole prosecutor assigned to the Family Court during this time period.
- (d) In re: Juvenile, minor under the age of 17- I represented the State of SC in a family court case where a fourteen year old boy, who was a client at a group home facilitated by the

Charles Lea Center(serves children and adults with mental and physical disabilities), was allowed in the community for a home visit. During this time, he went to a neighbor's house and asked for a drink of water, and later stabbed her in the back with a pair of scissors. The offender was dually evaluated by the Department of Mental Health and the Department of Disabilities and Special Needs (DDSN). He was ruled incompetent to stand trial. I filed the paperwork to have him judicially committed through the family court. The court committed him into the custody of DDSN. This case is noteworthy because less than a year later he was charged with sexually assaulting his caregiver while at the group home. A subsequent evaluation was conducted and he was deemed incompetent and a judicial admission hearing was conducted. He was, again, involuntarily committed to the custody of the DDSN. A guardian ad litem was appointed to this case, and upon the State's recommendation the family court judge ordered that he be committed to a secured facility and that he not be allowed home visits. He was committed until his twenty-first birthday. This case displays the intricacies in dealing with issues in family court. It is unusual to have a juvenile civilly committed twice. Unfortunately, it was only after the court order a high management facility that the public was kept safe from this juvenile.

- (e) State of SC v. Jeff Greer- I represented the State of SC in a magistrate court case where an off duty police officer was charged with an assault and battery against his former girlfriend. The defendant was found guilty and his employment was terminated. The victim in this case was hostile and did not want to go forward due to outside pressures. It showed how important it is to respect the feelings of domestic violence victims, but how it is equally important that the State hold offenders accountable. It reaffirmed the principle that no one is above or beyond the law regardless of his/her position. The Defendant appealed this case to the Circuit Court, but the appeal was later dismissed.

Judge McJimpsey reported she has not personally handled any civil or criminal appeals. She does report the following: I have worked closely with the Attorney General's Office in preparing for criminal appeals while I served as a prosecutor as well as an assistant legal counsel for the Department of Juvenile Justice.

Judge McJimpsey reported that she has held the following judicial offices:

I have served in a judicial capacity for the City of Spartanburg's Municipal Court. The Municipal Court has jurisdiction over cases arising under ordinances of the municipality, and over all offenses which are subject to a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both, and which occur within the municipality. I served during the following periods:

- (a) City of Spartanburg, Municipal Court, Associate Municipal Judge, (July 2009-June 2011);
(b) City of Spartanburg, Municipal Court, Chief Municipal Judge, (July 2011-present).

Judge McJimpsey provided the following list of her most significant orders or opinions:

As a Municipal Judge, most of my cases do not usually warrant a formal judicial opinions other than form orders. However, I recently issued the ruling that the city ordinance of possession of drug paraphernalia was unconstitutional. This ruling was not appealed. I also issued a ruling in March 2012, that the municipal court did not have jurisdiction to hear a shoplifting case written on a uniformed ticket where the offense was not committed in the officer's presence. The City made a motion to appeal the ruling. The motion was later withdrawn after the Court of Appeals ruling in State v. Ramsey that any UTT that was not based on a traffic offense, specifically enumerated in §56-7-10, or committed in the officer's presence should now be written on an arrest warrant. Essentially, the Court of Appeals ruling was consistent with my order.

Judge McJimpsey reported the following regarding her employment while serving as a judge: Greenville Technical College, Instructor, Criminal Justice and Paralegal Departments (July 2009-August 2011). I served as a full-time instructor for the College. I taught the following courses: criminal law, criminal procedure, juvenile law, legal writing, and legal ethics. In addition, I served as the academic coach for the College's Shining Star Merit Program which was designed to enhance the African American college experience by providing a comprehensive and focused program including, service learning, tutoring, and intrusive advising with an education plan. I met with students on a weekly basis. I was actively involved on several hiring committees.

Spartanburg Methodist College Paralegal Program, Instructor, (contractual position) (May 2012). I served on a contract basis. I taught Juvenile Law and an Independent study class.

Judge McJimpsey further reported the following regarding an unsuccessful candidacy: I was an unsuccessful candidate for the position of Municipal Judge for the City of Spartanburg in November 1999.

(9) Judicial Temperament:

The Commission believes that Judge McJimpsey's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Upstate Citizen's Committee on Judicial Qualification found Judge McJimpsey to be "Qualified" for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, experience, judicial temperament, physical health, and mental stability.

Judge McJimpsey is married to Ryan Valdez McJimpsey. She has two children.

Judge McJimpsey reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar(1996-Present);
- (b) SC Bar Speaker's Bureau (2007-09);
- (c) SC Bar Children's Law Committee(2007-09);
- (d) SC Upstate Paralegal Association(2009-11).

Judge McJimpsey provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Delta Sigma Theta Sorority, Inc(1990-Present);
- (b) Board of Directors, Girls Scouts Mountains to Midlands (January 2012- present);
- (c) Spartanburg Methodist College Paralegal Advisory Board Member (August 2004-September 2005; May 2012-present);
- (d) Anderson Mill Elementary School Improvement Council (August 2011-present).

Judge McJimpsey further reported:

I strongly believe in the importance of family. Growing up I was blessed with parents and extended family that made tremendous personal and financial sacrifices to help me achieve my goals. They taught me the value and the importance not only working hard, but also the importance of service to others. Service has always been an intricate part of my life beginning with my first experiences serving others in my local church, as a Girls Scout (first grade until high school) and my first job as a

Red Cross volunteer. I have never forgotten the importance of service to others. Being a family court judge would be a tremendous honor. I believe that I possess the requisite skill and knowledge as well as the patience and fairness to serve admirably on the Bench. I have always endeavored to use the opportunities that I have been giving to help others and to make sure that my conduct on and off bench will reflect positively on my family, community, and the legal profession.

(11) Commission Members' Comments:

The Commission commented on Judge McJimpsey's variety of legal experience and her able service as Chief Municipal Judge for the City of Spartanburg.

(12) Conclusion:

The Commission found Judge McJimpsey qualified, but not nominated, to serve as a Family Court judge.

Stevens B. Elliott
Family Court, At Large, Seat 5

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Elliott meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Elliott was born in 1952. He is 60 years old and a resident of Columbia, SC. Mr. Elliott 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.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Elliott.

Mr. Elliott 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. Elliott 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.

Mr. Elliott 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 Mr. Elliott to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Elliott described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Mediation and Arbitration – Three Perspectives	01/11/12;
(b) 21 st Annual Criminal Practice in S.C.	02/24/12;
(c) Intellectual Property and the General Practitioner	02/28/12;
(d) 2011 GAL Update	01/28/11;
(e) Top Trial Lawyers Tackle Civil Procedure	02/18/11;
(f) 2010 S.C. Tort Law Update	02/28/11;
(g) ABOTA Mastery in Opening Statements	02/12/10;
(h) 19 th Annual Criminal Practice in S.C.	02/26/10;
(i) Common Law Marriage in S.C.	02/28/10;
(j) ABOTA Masters of Cross Examination	02/06/09;
(k) Sidebar, SC Live	02/20/09;
(l) Family Law Update (Sept., '05 – Apr., '06)	02/29/08;
(m) Family Law Update (Apr., '06 – Oct., '07)	02/29/08;
(n) SCTLA 2007 Annual Convention	08/02/07.

Mr. Elliott reported that he has taught the following law-related courses:

- (a) I have taught Criminal Justice at Midland's Technical College;
- (b) I lectured a session on the Practice of Law and Humor at my 20th Law School Reunion in 2001.

Mr. Elliott reported that he has not published any books or articles.

(4) Character:

The Commission's investigation of Mr. Elliott did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Elliott did not indicate any evidence of a troubled financial status. Mr. Elliott has handled his financial affairs responsibly.

The Commission also noted that Mr. Elliott 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. Elliott reported that he is not rated by any legal rating organization. He further stated, "All of my business is by referral, and I have seen no need for it."

Mr. Elliott reported the following military service:

I served in the United States Army (1972-75) E-5. Not presently in military; Honorable Discharge.

(6) Physical Health:

Mr. Elliott appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Elliott appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Elliott was admitted to the SC Bar in 1981.

Mr. Elliott gave the following account of his legal experience since graduation from law school:

I have been in the private practice of law since 1981. I first practiced with my two brothers at the Elliott Law Firm until 1984. I went into practice for myself in 1984 and remained a sole practitioner until my eldest son Christopher came in with me in 2005. My son Reynolds came to practice with me in 2011. We have a general practice of law doing primarily domestic litigation. I have also been an attorney for indigents with the Department of Juvenile Justice Parole Board for 30 years. I have represented over 30,000 juveniles before that Board. I have also done part-time work for the Employment Security Commission and now the Department of Employment and Workforce since 1981.

Mr. Elliott further reported: My focus in practice has been in the Family Court area since 1981. In all areas described, I have vast experience in each one. I have tried numerous cases in all of the described areas and have taken cases to the Court of Appeals and the Supreme Court.

Mr. Elliott reported the frequency of his court appearances during the past five years as follows:

- (a) federal: seldom;
- (b) state: weekly.

Mr. Elliott reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 15%;
- (b) criminal: 10%;
- (c) domestic: 75%.

Mr. Elliott reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 25%;
- (b) non-jury: 75%.

Mr. Elliott provided that he most often served as sole counsel.

The following is Mr. Elliott's account of his five most significant litigated matters:

- (a) Rutherford v. Rutherford, 307 S.C. 199, 414 S.E.2d 157 (1992)
My client, the husband, was seeking a divorce on the grounds of adultery. I had testimony from a number of sources that clearly proved wife had committed adultery. The Defendant, wife, presented her psychiatrist who testified that wife had twenty two different personalities. Gypsy Rose, one of those personalities, revealed to him that the adultery was committed. However, both the psychiatrist and the trial court felt that Mrs. Rutherford was innocent of adultery due to her mental illness. I appealed this determination on behalf of my client. Due to the novelty of the issue, the case received world-wide attention. Eventually, the Supreme Court for SC held that a person must be able to know right from wrong before a wrong they committed would be used against them for a ground for divorce;
- (b) Gris McDonald and White Oak Properties, Inc. v. Shirley Griffin, et al.
This action involved the sale of a home in which the buyer became dissatisfied after the sale, claiming the seller had not informed her of certain defects. My client was the seller. The case was tried as a breach of contract action. At trial, the jury rescinded the contract, in that they required the seller to purchase the house back from the buyer at the original contract price with no award of damages. The opposing lawyer presented his time sheet accounting for hours he had spent on the case along with a fee agreement providing for his receiving a third of any damages received. By the jury requiring my client to buy

back the house, the trial court determined that he had breached the contract. Further, the trial court determined that this breach entitled the buyer to attorney's fees based upon the terms of the contract. The trial court awarded the opposing lawyer a third of the cost of the house, rather than the amount of hours he had worked at an hourly rate, which was less than a third of the cost of the house. I appealed the amount of attorney's fees on behalf of my client arguing that the opposing side had not received any beneficial results. The jury merely put the parties back to where they were before the sale of the home, giving the buyer back her money and the seller back his house – an even trade. The appellate court agreed, in that it reversed the trial court's award of attorney's fees based upon the contingency agreement. Instead, the appellate court significantly reduced the amount of attorney's fees based on a reasonableness standard. This case proved to be an in depth refresher on the law regarding the award of attorney's fees;

(c) _____ vs. S.C. Department of Mental Health.

(Names withheld due to confidentiality)

This case was a worker's compensation case in which my client, a nurse, was attacked by an inmate at a mental health facility where she suffered serious injuries. Under the policy of the S.C. Budget and Control Board, an employee injured by an inmate attack would receive full pay from their agency rather than the 66 2/3rds of their average weekly wage under worker's compensation. The case lasted for years, and due to my insisting my client be afforded all benefits to which she was entitled under the law and policy, the policy was subsequently changed to an employee being limited to six (6) months administrative leave rather than indefinitely;

(d) _____ vs. _____

This was a trial in the Family Court. My client revealed to me that her two year old child was not her husband's child, and that she wanted to tell him who the actual father was. Further, she wanted a divorce so that she could marry the actual father. I required her to do a DNA test before she told her husband. After the test revealed that her husband was not the father, she told him. I filed an action on her behalf, seeking custody of the child for my client so that the child could begin to be raised with its real father. To my surprise, the husband, who had a part in raising the child, challenged my client for custody of the child. The trial was both emotional and enlightening in regard to bonds that be formed with children, no matter what the relationship. The trial court awarded custody to the mother but did give the husband visitation with the child. The case was a reminder of the emotional turmoil caused by marital deceit;

(e) _____ vs. _____

As a young lawyer, I was appointed a Guardian ad Litem for a woman who was giving up her four year old little girl for adoption. The woman had suffered mental health issues and was also struggling with drug addiction. I interviewed the woman and asked her questions concerning her decision to allow her daughter to be adopted. She answered very coldly and matter of fact about her realization that she could not provide a future for her daughter, and that she felt it was in the best interest of the child to be adopted by a couple who really wanted a child. I was somewhat taken back by the lack of tears involved by this conversation which led me to her mental health professionals that were treating her. I talked to all of them and they assured me that she had the mental capacity to make such a decision, and that she was well aware of the finality of her decision. Based on these assurances, I was ready to tell the Court that I felt the mother was equipped to make the decision. There were Guardians appointed for the child, and home inspections done for the adopting couple out of Florida. I met them the day of the hearing. They were both very nice and very excited. Neither of us had seen the little girl. I saw the mother walking with the little girl down the hallway of the Courthouse. The

little girl looked like Shirley Temple. Her mother sat down on a bench in the Courthouse and started to explain what was going to happen. This was the first the little girl had heard of it. It was the most emotionally jarring scene I have ever witnessed. The little girl was crying and asking why she had to go with these strangers. Very stoically, the mother told her it was for her own good.

I could not stand it and I had to go somewhere else. I went into the room where the prospective parents were waiting. I told them what I had just seen. I was so emotionally charged at the time. I told them about the child they were going to receive and made them promise me they would take care of her. Honestly, I did not know what else to do. I am normally in control of my emotions, but this scene was too much for me. I have never been able to forget it. That experience spoke volumes to me about life, parenting, adoption, and the best interests of children.

The following is Mr. Elliott's account of five civil appeals he has personally handled:

- (a) Whyndham Enterprises, LLC and Rodney Whyndham, Individually v. The City of North Augusta and The City of North Augusta Board of Zoning Appeals, Case Number 2009-CP-02-02823 (currently awaiting decision from Court of Appeals);
- (b) Rutherford v. Rutherford, 307 S.C. 199, 414 S.E.2d 157 (1992);
- (c) Williams v. Williams, 374 S.C. 149, 647 S.E.2d 256 (Ct. App. 2007);
- (d) Rainwater v. Rainwater (Court of Appeals) Unpublished Opinion No. 2012-UP-286 (petition for rehearing pending);
- (e) Rouse v. Nauful (Court of Appeals). Unpublished opinion NO. 2012-UP-198.

Mr. Elliott reported he has not personally handled any criminal appeals.

Mr. Elliott further reported the following regarding unsuccessful candidacies:

"I ran for Family Court Judge in 2004. I was qualified but not nominated. Dorothy Mobley Jones was elected.

I ran for Family Court Judge in 2009. I was qualified and nominated, but Gwen Smalls was elected."

(9) Judicial Temperament:

The Commission believes that Mr. Elliott's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee reported that Mr. Elliot is "Qualified" in the evaluative criteria of constitutional qualifications, physical health and mental stability. The Committee found Mr. Elliot to be "Well qualified" in the remaining evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience and judicial temperament. The Committee stated in summary, "We were impressed by not only [Mr. Elliot's] extensive experience, but also his obvious integrity, common sense and humility. We interviewed no other candidate who has practiced law for 31 years. We believe he is most eminently qualified to serve on the Family Court and we are certain he would serve in an exemplary manner."

Mr. Elliott is married to Pamela Willis Elliott. He has three children.

Mr. Elliott reported that he was a member of the following bar associations and professional associations: The SC Bar Association

Mr. Elliott provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations: The Governor's Advisory Council on Juvenile Justice

Mr. Elliott further reported:

I will be married 40 years on August 24, 2012. My wife and I have raised three wonderful children. I believe I have a thorough understanding of the importance of the family unit. I have worked with youth in coaching baseball for 27 years and representing indigent juveniles before the Juvenile Parole Board for 30 years. My private practice has been predominately Family Court work, working in all facets. I have litigated and taken matters to the Appellate level in this area. I have performed part-time work for the Employment Security Commission, now the Department of Employment and Workforce, for over 30 years. I am an Army veteran. I believe my life's experiences, maturity, good judgment and positive demeanor will serve me well in adjudicating cases in the Family Court.

(11) Commission Members' Comments:

The Commission commented that Mr. Elliott is a very accomplished lawyer who understands the needs of the Family Court.

(12) Conclusion:

The Commission found Mr. Elliott qualified, but not nominated, to serve as a Family Court judge.

**Thomas Joseph Quinn
Family Court, At-Large, Seat 5**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Quinn meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Quinn was born in 1953. He is 59 years old and a resident of Greenville, SC. Mr. Quinn 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 Mr. Quinn.

Mr. Quinn demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Quinn reported that he has made \$296.48 in campaign expenditures for letterhead, stationary, envelopes, business cards, post cards, and badges.

Mr. Quinn 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.

Mr. Quinn 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 Mr. Quinn to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Quinn described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Federal Criminal Practice Seminar	04/05/12;
(b) 21st Annual Criminal Practice	03/21/12;-12/13/00;
(c) Everything You Need To Know About Ethics	01/16/12;
(d) Lawyer Depression and Mental Health	01/16/12;
(e) Ethical Issues Confronting Criminal Defense Attorneys	05/06/11;
(f) Supreme Court Update	05/06/11;
(g) Defending Drug Cases	11/18/10;
(h) SC Traffic and DUI Updates	09/17/10;
(i) Criminal Practice in SC	02/26/10;
(j) Family Law Ethics from the Preschool Perspective	02/09/10;
(k) Courtney, Jill and the Tips	02/08/10;
(l) The New and the Old DUI	02/08/10;
(m) Advanced DWI Seminar	11/13/09;
(n) Ethics and Alternative Dispute Resolution	03/27/09;
(o) New World DUI	08/22/08;
(p) The Criminal Trial	05/08/08;
(q) NACDL Fall Meeting and Seminar	10/20/07;
(r) Advanced DWI Seminar	11/03/07;
(s) Criminal Practice in SC	10/05/07;
(t) Federal Practice in SC	08/24/07;
(u) Defending Abuse and Neglect Cases	08/10/07;
(v) Mediation PowerPoint	07/02/07;
(w) Lawyers Communication – Family Court	07/02/07;
(x) Nuts and Bolts of Permanency Planning Hearings	07/01/07.

Mr. Quinn reported that he has taught the following law-related courses:

- (a) I lectured at an LEN (Law Enforcement Network) Meeting of upstate police agencies on issues in DUI prosecution on June 14, 2011.
- (b) I lectured at a National Business Institute Seminar; The Criminal Trial; Pre-Trial to Post-Verdict Motions on cross-examination and post-verdict motions.
- (c) I have taught cross-examination and trial technique at the National College of District Attorneys.
- (d) I have made presentations on Family Court criminal practice to judges and lawyers at an SC Bar seminar.
- (e) I am scheduled to teach 'How to Introduce Evidence in TPR Actions' in September to Rule 608 attorneys in the upstate.

Mr. Quinn reported that he has not published any books or articles.

- (4) Character:
The Commission's investigation of Mr. Quinn did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Mr. Quinn did not indicate any evidence of a troubled financial status. Mr. Quinn has handled his financial affairs responsibly.

The Commission also noted that Mr. Quinn was punctual and attentive in his dealings with the Commission, and the Commission's investigation did not reveal any problems with his diligence and industry.

- (5) Reputation:
Mr. Quinn reported that his rating by a legal rating organization, Martindale-Hubbell, is Distinguished.

- (6) Physical Health:
Mr. Quinn appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:
Mr. Quinn appears to be mentally capable of performing the duties of the office he seeks.

- (8) Experience:
Mr. Quinn was admitted to the SC Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

- (a) 1978-80, I was an assistant public defender in Richland County working in Family Court, Magistrate Court and General Sessions.
- (b) 1980-82, I was an assistant solicitor in Richland County in Family Court and General Sessions.
- (c) 1982-84, I was an assistant public defender in Richland County working in Family Court, Magistrate Court and General Sessions.
- (d) 1984-86, I was the public defender of Beaufort County practicing in Family Court and General Sessions.
- (e) 1986-87, I was an assistant solicitor in Greenville County practicing in General Sessions.
- (f) 1987-88, I was in private practice in Greenville County practicing in Family Court, Federal Court, General Sessions and Magistrate Court (Quinn Law Office.).
- (g) 1989-92, I was the public defender in Richland County practicing in General Sessions.
- (h) 1992-94, I was an associate with John Daus, Esquire, (Daus Law Firm) in Beaufort, SC practicing primarily in Family Court, Magistrate Court and General Sessions.
- (i) 1994-96, I was in private practice in Beaufort, SC (Quinn Law Office) practicing primarily in Family Court, Magistrate Court and General Sessions.
- (j) 1996-99, I was an associate in the firm of Moss and Kuhn in Beaufort, SC practicing primarily in Family Court, General Sessions and Common Pleas.
- (k) 1999-2002, I was an assistant solicitor in Greenville County practicing in General Sessions.
- (l) 2002-present, I have practiced in Greenville as the Quinn Law Office practicing in Family Court, General Sessions, Magistrate Court and Federal Court.

Mr. Quinn further reported regarding his experience with the Family Court practice area:

In private practice in Greenville and Beaufort I have represented people in divorce cases. At several points that was the main focus of my practice. Many of the cases involved the issues in most cases including division of property, custody, restraining orders, etc.

I have served as Guardian ad litem in private Family Court cases as well as guardian ad litem and attorney for lay guardians in DSS cases. Primarily guardians deal with the issues of custody and visitation.

As a mediator since 1994 I continue to deal each month with all the issues involved in separating and divorcing.

My practice now includes a number of DSS cases where I am counsel for the parties brought to court by DSS. Each of those cases deal with custody, visitation and support.

Some DSS cases are terminations of parental rights actions and in those cases adoptive parents are often joined as third parties so I have some familiarity with the law concerning adoptions through those actions.

During a third year internship and for the first several years of my practice I primarily was in Family Court defending, and then prosecuting, criminal cases. As the Public Defender in Beaufort I appeared to defend juveniles all day at least twice a month for three years. In my practice now I have several criminal cases pending in Family Court and have handled several others in the last year. I stay abreast of the criminal law as half of my practice is in adult criminal court.

Mr. Quinn reported the frequency of his court appearances during the past five years as follows:

- (a) federal: 6 times a year;
- (b) state: 6 times a week

Mr. Quinn reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 0%;
- (b) criminal: 50%;
- (c) domestic: 50%.

Mr. Quinn reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 60%;
- (b) non-jury: .

Mr. Quinn provided that he most often served as sole counsel.

The following is Mr. Quinn's account of his five most significant litigated matters:

- (a) State v. Richard Blackburn, 93-GS-27-657. Death penalty case;
- (b) State v. Mario Hinojos, 03-GS-23-2931/2944/2977. Death penalty case;
- (c) SCDSS v Rosemond, O'Neal, Singleton, 08-DR-23-5319. Safe haven case involving the issues of how safe haven had to be successfully accomplished by a parent and whether that parent could later seek custody of the child;
- (d) State v. Amos Mattison, 04-GS-23-1748/1740. Death penalty case;
- (e) State v Anderson, 312 S.C. 185, 439 S.E.2d 835 (1993). Changed grand jury procedure in SC.

The following is Mr. Quinn's account of three civil appeals he has personally handled:

- (a) John Roe, Respondent v. David J., Samuel T. a Minor under the age of eight (8) years, Alicia Roe, and John Doe, Defendants, of whom David J. is Appellant. Court of Appeals of SC. June 28, 2007. 2007-UP-339;
- (b) The State, Respondent, v. Rudolph Holden, Appellant. Court of Appeals of SC. December 15, 2009. 2009-UP-597;
- (c) Wilson A. Palacio, Respondent v. State of SC, Petitioner. Supreme Court of SC. January 18, 1999. 333 S.C. 506, 511 S.E.2d 62 (S.C. 1999).

The following is Mr. Quinn’s account of the criminal appeal he has personally handled: United States of America, Plaintiff, Appellee v. Benjamin Means, Jr., Defendant, Appellant. United States Court of Appeals for the Fourth Circuit. On July 21, 2010 the case was resolved by voluntary dismissal after Mr. Means was resentenced and so the case was not reported

Mr. Quinn further reported the following regarding an unsuccessful candidacy: Previously ran for Family Court, Thirteenth Circuit, Seat Three, in 2011. I withdrew as a candidate prior to voting by the legislature.

(9) Judicial Temperament:

The Commission believes that Mr. Quinn’s temperament would be excellent.

(10) Miscellaneous:

Prior to the commencement of his public hearing, Mr. Quinn alerted the Commission that a possible conflict-of-interest might exist as he handles appointed cases on a contractual basis for the law firm of Haynsworth Sinkler Boyd, P.A. A Commission member, Donald Sellers, Esq. is a shareholder of that firm. Mr. Sellers was not in attendance for Mr. Quinn's hearing as he assigned his proxy to Commission member John Harrell, Esq. It was decided by the Commission, with input from the proxy-holder, that no conflict exists that would warrant recusal by any member.

The Upstate Citizens Committee found Mr. Quinn “Qualified” in all nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, experience, judicial temperament, physical health, and mental stability.

Mr. Quinn is married to Joy Dean Bennett. He has two children.

Mr. Quinn reported that he was a member of the following bar associations and professional associations:

- (a) SC Bar Association;
- (b) Greenville County Bar Association;
- (c) Federal Bar Association;
- (d) National Association of Criminal Defense Lawyers;
- (e) SC Association of Criminal Defense Attorneys; and
- (f) National College for DUI Defense.

Mr. Quinn reported that he is not a member of any civic, charitable, educational, social, or fraternal organization.

Mr. Quinn further reported:

Because I have practiced in several areas of the State I have seen many judges’ demeanors and approaches to parties and issues. I have had the opportunity to learn what to do, and,

unfortunately, what not to do in different situations. That experience will be a benefit to me as a Judge.

(11) Commission Members' Comments:

The Commission commented that they are very impressed with Mr. Quinn's composure at the Public Hearing and noted he has an outstanding demeanor and is held in high esteem.

(12) Conclusion:

The Commission found Mr. Quinn qualified, but not nominated, to serve as a Family Court judge.

**Patricia L. Forbis
Family Court, At-Large, Seat 6**

Commission's Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Forbis meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Forbis was born in 1952. She is 60 years old and a resident of Columbia, SC. Ms. Forbis 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.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Forbis.

Ms. Forbis 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. Forbis reported that she has made \$330.50 in campaign expenditures for business cards, fingerprinting, and a name tag.

Ms. Forbis 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.

Ms. Forbis 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 Ms. Forbis to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Forbis described her past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) SC Bar Annual Meeting-Family Law Section	1/06;

- (b) Children's Issues in Family Court 3/06;
- (c) Family Court Bench/Bar 12/06;
- (d) Children's Issues in Family Court 3/07;
- (e) Training for Attys Appointed in DSS Cases 7/07;
- (f) 2007 Disproportional Minority Legal Issues 9/07;
- (g) Representing Volunteer GAL's 3/08;
- (h) Children's Issues in Family Court 3/08;
- (i) 2008 Disproportional Minority Legal Issues 9/08;
- (k) Guardian ad Litem Continuing Education 10/08;
- (l) Creating Families Forever 10/08;
- (m) 2008 Children's Law Conference 10/08;
- (n) Family Court Seminar-Procedural Issues 12/08;
- (o) Family Law Training 3/09;
- (p) Private GAL Continuing Education Training 10/09;
- (q) 2009 Children's Law Center Annual Conference 11/09;
- (r) Hot Tips for Domestic Practitioners 9/09;
- (s) Training for Attys Appointed in DSS cases 3/10;
- (t) Hot Tips for Domestic Practitioners 10/10.

Additional CLE's were completed in 2011 in the area of Family Law, those summary reports have not been scanned in by the Commission and may be provided at a later date.

Ms. Forbis reported that she has taught the following law-related courses:

- (a) I have spoken at Trial Lawyers on several occasions, of various issues found in family court such as relocation, how to work with Guardian ad Litem, and general caselaw;
- (b) I have made presentations on the topics of in family court at Hot Tips for Domestic Practitioners sponsored by the SC Bar to include locating parties when they have left the jurisdiction with the children, working with Guardian ad Litem and working with family counselors and family evaluators;
- (c) I have been the course planner and speaker at the annual Children's Issues in Family Court CLEs for the SC Bar;
- (d) I created the certification training for attorney and non-attorney Guardian ad Litem in private custody and visitation cases for the Children's Law Center of University of SC School of Law and then presented the two day training program around the state;
- (e) I planned the annual training for private Guardian ad Litem for the Children's Law Center and lectured at the seminar on advanced GAL topics.

Ms. Forbis reported that she has published the following:

- (a) As a member of the Family Law Council of the SC Bar, helped develop the Family Law Practitioners Tool Kit;
- (b) Marital Litigation in SC, Substantive Law, Third Edition Roy T. Stuckey (2001) - Editorial Board;
- (c) Developed the Private Guardian ad Litem Handbook for the Children's Law Center.

(4) Character:

The Commission's investigation of Ms. Forbis did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Forbis did not indicate any evidence of a troubled financial status. Ms. Forbis has handled her financial affairs responsibly.

The Commission also noted that Ms. Forbis 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. Forbis reported that she is not rated by any legal rating organization.

(6) Physical Health:

Ms. Forbis appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Forbis appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Forbis was admitted to the SC Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

- (a) 1995-2001-Associate and Partner with the domestic law firm of McDougall and Self; handled a wide range of family court matters and served as the contract TPR attorney for Sumter County DSS;
- (b) 2001-02- Solo Practice as a Guardian ad Litem-Florence, SC;
- (c) 2002-03-Child Support Enforcement Attorney for DSS-Florence, SC;
- (d) 2004-12-Solo Practice, private domestic cases, Guardian ad Litem, mediator, volunteer mediator for the Community Mediation Center in Richland County;
- (e) 2007-09-Resource Attorney for the Children's Law Center of the USC School of Law, developed the private Guardian ad Litem training for attorneys and non-attorneys in private custody and visitation cases.

Ms. Forbis further reported regarding her experience with the Family Court practice area:

Divorce:

I have handled a wide range of divorce cases including those that have serious fault grounds, marriages of limited duration, serious custody issues, and cases that involved severe mental illness. The domestic practice does provide one with the opportunity to handle a variety of people when they are not always at their best.

However, the most challenging cases occur when a fault ground, particularly adultery is involved. The emotions of the situation make it difficult for the parties to focus on the matter of resolving the marital issues. One of the most memorable cases I had involved a woman with three children whose husband fell in love with her best friend. These two women had been so close they had their children at the same time. The betrayal of her husband and her best friend was devastating.

However, she got through the process and the actual divorce hearing with the help of a compassionate judge.

Equitable Division:

Most divorces require some resolution of the assets and debts of the parties. Whether it be a house, extensive debt or various investments, I have handled all matter of issues and have found my background in business and real estate as well as my MBA have given me the confidence to handle such matters.

One of the most interesting cases that I had which I discuss in the next section involved the use of nonmarital funds to pay off marital debts and an expectation of repayment for the use of these marital funds at the time of the divorce. In most situations one does not have to pay back a soon to be former spouse for being married to him and this is how this case was decided.

Child Custody:

Both as the attorney for a party and as a private guardian ad litem, I have had extensive experience in the area of custody determination. I have worked with counselors, family evaluators and other professionals to help determine what will be in a child's best interest. I have had family court judge's say that being a guardian ad litem is like being a judge only we got to go see the home.

One of my most interesting cases, and one in which I did not prevail, involved a case where a man fathered a child out of wedlock. His wife, upon learning of the child's existence stayed with her husband and joined with him to seek custody of the child. There were indications that the child was not being appropriately cared for by the biological mother, or at least not cared for the way my clients thought the child should be.

The court ultimately found that the mother should retain custody. I believe the court was influenced by the husband's actions in fathering a child while married to someone else. The father did get visitation which was complicated by his being reassigned to Germany with the Air Force

Adoption:

I have spoken at seminars on adoption and trained guardians ad litem who would serve in adoption cases. I have done step-parent adoptions as well as more difficult cases including one where the child was a product of the father, and egg donor and a surrogate mother. The coming of assisted reproductive technology is an area where the Family Court will become even more involved in the future.

As an adjunct to the adoption process, I also served as the Sumter County TPR attorney, freeing children for the adoptive process

Abuse and Neglect:

As anyone who practices in a smaller county, I have represented parents, Guardians and dealt with foster parents and the foster care review board. On one occasion I represented a child who had been placed in foster care due to the abuse of her father. She was resisting being placed with an adoptive family as she preferred to remain with her foster family. Ultimately, the fourteen year old was not adopted and was allowed to remain where she wanted to be.

While with the Children's Law Center, I spent time with foster families discussing the needs of the children in their care and the challenges they face and educating these foster families on their responsibilities and limitations under the law.

Juvenile Justice:

Again, when one practices in a smaller county, one is appointed to these cases. I have represented juveniles of different ages. One child came into the system because he was at the wrong place with the wrong crowd. On another case I represented one of several children who had gone on a crime spree in Sumter, breaking into cars. This case involved a lengthy disposition of the matter before the court, the needs of the children and final restitution.

While at the Children's Law Center I worked on a project to determine how to improve the representation of juveniles in Family Court and had the opportunity to observe a variety of juvenile matters in several jurisdictions around the state.

Ms. Forbis reported the frequency of her court appearances during the past five years as follows:

- (a) State: 1-2 times a month;
- (b) Federal 0.

Ms. Forbis reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 0;
- (b) Criminal 0;
- (c) Domestic: 100% (Family Court);
- (d) Other: 0%.

Ms. Forbis reported the percentage of her practice in trial court during the past five years as follows:

- (a) Non-jury: 100%;
- (b) Jury: 0%.

Ms. Forbis provided that she most often served as sole counsel or Guardian ad litem.

The following is Ms. Forbis's account of her five most significant litigated matters:

- (a) Angelo v. Angelo: In this divorce matter, the husband, after over 20 years of marriage felt he was under no obligation to provide support for his wife who had not worked during the marriage. In fact there were allegations that husband had kept the wife somewhat sedated and unmotivated by medications he received from his physician brother. The husband had suffered a closed head injury some years earlier which called into question some of his actions. He was receiving disability for his injury but he did not want that to be included in his ability to care for his wife. Nor did he feel she was entitled to any equity in the marital home as it was built with money he had inherited

The court found that wife should receive alimony but it would automatically be reduced by the amount she would receive as social security once she reached age 62. She also received a portion of the family investments valued at the time of filing although economic downturns had reduced the net value of the investments. The equity in the marital home was equitably apportioned as the court found the inheritance had been transmuted into marital property. The court was asked to eliminate the alimony offset in a motion for reconsideration but the court denied the motion. This case was challenging due to the personalities and the recalcitrance of the husband to understand his obligation to care for his wife. The automatic offset of the alimony by social security was a novel decision for me.

- (b) Bethea v. Bethea: This matter involved post divorce litigation wherein the father was seeking custody his young daughters due to his growing concern over the mental disintegration of his former wife. The case took an ugly turn when the mother, after abandoning the children in a car while she was partying one night in the Vista was ordered to turn the children over to their father. Instead she took the children and ran. This started an all out effort to track her down. Her credit cards were monitored, her parents questioned, and her home watched. Ultimately, she was arrested in Las Vegas after a high speed chase. She was only being followed because one of the doors to the car was not completely shut. Custody of the children was awarded to the father and the mother has not seen her children since. The practice of family law is not always about going to court. Sometimes it involves all of one's life's experiences to reach the final goal.

- (c) Gordon v. Gordon: This matter involved a common law marriage and allegations of child abuse and domestic violence. One always hopes that when such grievous allegations are made, they will not be proven. Unfortunately, in this case, the common law aspect of the marriage was easily proven. It was the very daunting behavior of the husband/father that made the case difficult. The father had no regard for the truth and the well being of his son and wife. With a "no holds barred" approach, the father's appearance in court showed demonstrated a behavior of such certainty as to his position that the outcome of the case became a concern.

The Judge realizing that is what was being presented was not just two sides of the same story but a very real attempt to remold the clay of truth finally decided to have an in camera interview with the young son. This action, while not one that can cause problems for the child and parties, proved dispositive in this matter. Sometimes it is not always what you would like to do that helps you win a case, particularly if a different decision that could have proven fatal for the parties involved.

(d) Smith v. Turbeville: In this post divorce case litigation for visitation, the father had had limited to no contact with his nearly teenage daughter for years. The mother who had separated from the father before the child was born professed to hate and fear him. The daughter resisted all efforts to develop a relationship with her father. As the mother's representative, it became clear to me that there were many factors at work, including the influence of the maternal grandmother, who lived with the mother and daughter and loathed the father.

While the response of the daughter to the father might have been inappropriate, the fact was that the daughter would severely stressed if forced to visit the father. After the Temporary Hearing where the mother was ordered to take the daughter to visit her father, the child became hysterical to the point she threw up on the father's porch.

Unfortunately, father would not meet with the child's counselor who might have been able to work through some of these issues. Eventually, the father just walked away and agreed to exercise his visitation if and when the daughter might initiate contact.

There are those cases in Family Court where what a family might need is not readily available through our system. This is one of those cases that can haunt you.

(e) Hutcherson v. Heath: In this divorce matter which involved the issue of equitable distribution, the husband felt he should be reimbursed for his non marital retirement funds that had been used to pay off the marital debt shortly before the wife the marriage. The husband contended that the wife was planning to leave the marriage and convinced him to use his retirement monies to pay off the debt so she would not be saddled with any part of it through the equitable distribution process. The wife demonstrated to the court that her non marital asset (home equity) had been used for the furtherance of the marriage and too was gone. The Court found that wife was under no obligation to pay the husband back. This case does raise the argument as to whether there are situations where non marital funds used to satisfy marital debts could be a claim against the other party.

The following is Ms. Forbis's account of the civil appeal she personally handled:

SCDSS v. Pamela Connor, David Addison, Irvin McCray, Robert Brown and Johnny Lee Davis of whom David Addison is the Appellant

SC Court of Appeals, decided 1997. Unpublished.

The Court upheld the termination of Mr. Addison's parental rights. Mr. Addison was one of four defendant fathers and the only one who appealed the termination of his rights.

Ms. Forbis reported she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Forbis's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Ms. Forbis to be well-qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. She was found to be "qualified" for the constitutional qualifications, physical health, mental stability, In summary, the Committee stated the following: "The committee was honored to interview [Ms.] Forbis and we enjoyed our time with her. Her energy and enthusiasm is contagious and sincere. We feel certain that her character, work ethic, and experience will make her an outstanding Family Court judge. We believe she is most eminently qualified to serve on the Family Court."

Ms. Forbis is married to Joel Wesley Duncan. She has two step-children.

Ms. Forbis reported that she was a member of the following bar associations and professional associations:

- (a) SC Bar 1995-current, member of the Family Law Council, currently, immediate past chair;
- (b) 2007-Present, Member of Association of Family and Conciliation Courts;
- (c) 2001-Present- international Collaborative Law Association.

Ms. Forbis provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Planned Parenthood Health Systems-Secretary to the Board;
- (b) League of Women Voters-Board Member;
- (c) SC Coalition for Healthy Families;
- (d) Pee Dee Coalition Against Domestic Violence and Child Abuse-Board Member and President of the Board;
- (e) Florence Symphony Orchestra-Board member and Chair Elect.

Ms. Forbis further reported:

The most ongoing life experience that will impact me as a judge is the fact that I married a man who went through the divorce process in SC. In the interest of full disclosure, I should mention that I had joined the law firm of McDougall and Self as an associate during the time Mr. McDougall was handling my husband's case. The divorce took place in 1996 and we married in 2000. Unfortunately, this case became one of the "frequent flyers" of Family Court. Joel returned to court nearly every twelve to eighteen months to deal with some problem with his ex wife and her efforts to minimize his contact and relationship with his children.

It is this ongoing conflict and the impact on the parties and most certainly the children that I keep in mind when I serve as a Guardian ad litem or represent either party in a case concerning children. The impact this situation has on children cannot be minimized. I look back over the last fourteen years and I cannot help but wonder what I or the court could have done differently to make this situation better.

I will always be sensitive to the parties who find themselves in this situation and the impact it is having on the children. I believe that this experience will remind me that decisions that are made today can have far reaching impact and as such each decision is very important and must be made with care and deliberation.

(11) Commission Members' Comments:

The Commission commented on Ms. Forbis' wide range of Family Court experience and her active involvement on the Family Law Council.

(12) Conclusion:

The Commission found Ms. Forbis qualified, but not nominated, to serve as a Family Court judge.

Michael Todd Thigpen
Family Court, At-Large, Seat 6

Commission’s Findings: QUALIFIED, BUT NOT NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Thigpen meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Thigpen was born in 1970. He is 42 years old and a resident of Roebuck, SC. Mr. Thigpen 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 1996.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Thigpen.

Mr. Thigpen 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. Thigpen reported that he has not made any campaign expenditures.

Mr. Thigpen 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.

Mr. Thigpen 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 Mr. Thigpen to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Thigpen described his past continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Children’s Issues in Family Court	03/23/2007;
(b) SCTLA Annual Convention	08/02/2007;
© Representing Volunteer Guardians ad Litem in Family Court	03/14/2008;
(d) Representing Volunteer GALs in Abuse & Neglect Proceedings	06/20/2008;
(e) 2010 Guardian ad Litem Update	01/29/2010;
(f) Advance Family Law	02/08/2010;
(g) A Tricycle, a Marathon, Ethics, Stress Management . . .	02/26/2010;
(h) What Family Court Judges Want You to Know	11/12/2010;
(i) Mini Summit on Justice for Children	12/02/2010;
(j) The Eight Types of Clients and How to Survive Seven of Them	02/07/2011;
(k) Representing the Volunteer GAL	04/15/2011;
(l) Guardian ad Litem Program Workshop	06/02/2011;

- | | | |
|-----|---|-------------|
| (m) | What Family Court Judges Want You to Know | 02/16/2012; |
| (n) | ADR: An Ethical Perspective | 02/24/2012; |
| (o) | Program Attorney Training:
Information to Represent Volunteer Guardians ad Litem | 05/18/2011. |

Mr. Thigpen reported that he has taught the following law-related courses:

- (a) I co-presented and prepared the written materials for the Case Law Update: “Custody, Child Support and Visitation” at the 2007 SC Trial Lawyers Association Annual Convention;
- (b) In 2010, I lectured to a group of student therapists from Converse College about HIPAA, subpoenas, qualification as an expert witness, a therapist’s role in child custody cases, and other areas of family law;
- (c) I was a panel member for a panel discussion at the 2012 Program Attorney Training: Information to Represent Volunteer Guardians ad Litem; and
- (d) I have assisted in training Volunteer Guardians ad Litem for the Spartanburg County Volunteer Guardian ad Litem Program on four (4) or five (5) occasions in the last ten (10) years.

Mr. Thigpen reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Thigpen did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Thigpen did not indicate any evidence of a troubled financial status. Mr. Thigpen has handled his financial affairs responsibly.

The Commission also noted that Mr. Thigpen 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. Thigpen reported that his rating by a legal rating organization, Martindale-Hubbell, is BV.

(6) Physical Health:

Mr. Thigpen appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Thigpen appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Thigpen was admitted to the SC Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

I have been a sole practitioner in Spartanburg, SC since I was admitted to the SC Bar in 1996, and my practice has been devoted almost exclusively to Family Court matters. I handled cases for indigent Family Court clients through Piedmont Legal Services’ Private Bar Involvement Program from 1997 until 2004. In addition to representing clients in Family Court matters, I have served and continue to serve as the Guardian ad Litem in hundred of private cases involving the issues of child custody, visitation, adoption, termination of parental rights, etc. since I began

practicing law. I have also been a contract attorney for the Spartanburg County Volunteer Guardian ad Litem Program for over ten (10) years.

Mr. Thigpen further reported regarding his experience with the Family Court practice area:

- (1) Divorce and Equitable Division of Property – I have handled hundreds, if not over a thousand, divorce and decree of separate support and maintenance cases since I began practicing law, and many of those cases included the issue of equitable division of property. The equitable division of property cases I have handled have ranged anywhere from assisting a client with the division of personal property to assisting a client in dividing hundreds of thousands of dollars of marital assets. I have also successfully mediated cases involving the issue of equitable division of property, the most recent of which involved millions of dollars in assets.
- (2) Child Custody – I have served as the Guardian ad Litem or represented the mother, father, grandparents, or other relatives in hundreds of child custody cases since I began practicing law. Although the majority of the cases settled prior to trial, I have been involved in many child custody cases where the trial lasted anywhere from one (1) day to five (5) days. These cases included, but were not limited to, the issues of initial child custody determinations, modification actions, relocation cases, third party custody disputes, etc. In addition, I have successfully mediated child custody cases.
- (3) Adoption – Although I mostly represent clients in relative adoptions, I have also represented clients in a few non-relative adoptions. In addition to representing clients in adoptions, I have also served as the Guardian ad Litem in many contested and uncontested adoptions. The most significant adoption action I have been involved in as an attorney was a case where I successfully defended the biological mother and adoptive father/stepfather when the biological father was trying to overturn the adoption alleging fraud, etc. The most significant adoption action I have been involved in as a Guardian ad Litem was a case where the mother unsuccessfully tried to withdraw her consent.
- (4) Abuse and Neglect – Because I have been a contract attorney for the Spartanburg County Volunteer Guardian ad Litem for over ten (10) years, I have been involved in hundreds of DSS child abuse and neglect proceedings. Those cases included, but were not limited to, probable cause hearings, status hearings, motion hearings, removal hearings, intervention hearings, judicial review/permanency planning hearings, and termination of parental rights hearings.
- (5) Juvenile Justice – I have served as the Guardian ad Litem for a juvenile on a few occasions. In addition, I have represented adults in criminal cases in the past, and I believe I have a sufficient understanding of criminal law and procedure. In addition, because my mother was recently the victim of a crime where one of the co-defendants was a juvenile, I have witnessed firsthand how the DJJ system impacts the victim. However, if I am elected to the Family Court Bench, I intend to spend as much time as possible viewing DJJ cases before I take the bench; I will pay careful attention to this area of the law in Judge’s School; and I will ask to sit with a judge who is handling DJJ cases when I am in training.

Mr. Thigpen reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0% (none);
- (b) State: 100% (almost daily).

Mr. Thigpen reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 0%;

- (b) Criminal: 1%;
- (c) Domestic: 98%;
- (d) Other: 1%.

Mr. Thigpen reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. Thigpen provided that he most often served as sole counsel.

The following is Mr. Thigpen's account of his five most significant litigated matters:

- (a) Rollins v. Rollins was a divorce action wherein the primary issue was child custody and I represented the father. The mother, who initially moved to Tennessee to live with her family, was granted temporary custody of the parties' minor child, and we learned she moved to Georgia shortly before the final hearing. In preparing for trial, I was relying on the long-standing presumption against allowing a parent to relocate with a child out of state, as set forth in McAllister v. Patterson, 278 S.C. 481, 299 S.E.2d 332 (1982), but McAllister was overruled by Latimer v. Farmer, 2004 WL 1822753, (August 16, 2004), a few weeks before the final hearing. Fortunately, I was able to convince the Court that Davis v. Davis, 356 S.C. 132, 588 S.E.2d 102 (2003), allowed the Court to consider the mother's avowed desire to continue living out of state if she was awarded custody as a factor in determining which parent should be awarded custody because this was an initial custody determination, and the father was granted custody of the parties' minor child.
- (b) Husband v. Wife and Wife's Paramour (fictitious names because the file is sealed) was a divorce action wherein I represented Wife's Paramour, who was added as a party-Defendant in the divorce action between Husband and Wife because it was alleged that Wife's Paramour was the biological father of two (2) of the three (3) minor children born during Husband and Wife's marriage. Although we had a DNA test which reflected Wife's Paramour was in fact the biological father of the two (2) youngest children, the primary issue was whether or not the presumption of legitimacy would overcome the results of the DNA test. Another interesting issue in the case was whether or not Husband would be required to prove Wife unfit to be awarded custody of the two (2) youngest children because he was not their biological father. In addition, because S.C. Code Ann. § 63-7-2570(5) provides that a ground for termination of parental rights is "[t]he presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father," Husband argued that he had parental rights to the two (2) younger children and it would not be in the best interests of the children for his parental rights to be terminated. Although the case settled prior to trial, the case was particularly interesting to me because it involved complex constitutional issues in addition to the issues of divorce, child custody, visitation, child support, alimony, equitable distribution of property/debts, and attorney's fees and costs.
- (c) Simpson, et al. v. Pham, et al. was an action wherein the father sought to overturn his biological daughter's adoption by the stepfather almost two (2) years after the adoption was finalized and I represented the adoptive father and the biological mother. The case was interesting because the biological father and his mother sought to have the biological mother's marriage to the stepfather/adoptive father annulled; the biological father's mother sought to either directly or collaterally attack the adoption even though she was not a party to the adoption action; and the biological father and his mother also sought to

have the biological father's consent/relinquishment set aside even though a final decree of adoption had already been entered. Although the majority of those alleged causes of action were dismissed prior to trial, we were required to try the issue of whether or not the biological father could collaterally attack the adoption on the basis of "extrinsic fraud," and the Court found the biological father failed to prove "extrinsic fraud" by clear and convincing evidence and dismissed the case.

- (d) Wright v. Staggs, et al. was an action wherein I represented the maternal grandmother who sought to terminate the parental rights of the biological father in and to his two (2) minor children on the ground that the biological father was convicted of murdering the minor children's biological mother. S.C. Code Ann. § 63-7-2570(10). After hearing the testimony of the children's therapists and other witnesses, the Court ruled it was in the best interests of the minor children for the biological father's parental rights in and to his minor children to be forever terminated. In addition, the Court granted the maternal grandmother's request to change the children's surnames from their biological father's surname to the maternal grandmother's surname. Although the biological father appealed this case to the Court of Appeals, the Court of Appeals affirmed the trial court's decision in an unpublished opinion.
- (e) Brown v. Brown, 362 S.C. 85, 606 S.E.2d 785 (Ct. App. 2004), was an initial child custody determination wherein I served as the Guardian ad Litem for the parties' minor children. After the father was granted custody of the parties' minor children, the mother appealed to the Court of Appeals. In her appeal, the mother argued, among other things, that the trial court gave "de facto custody" to the paternal grandparents and failed to give sufficient weight to the parties' minor children's preference. Although the Court of Appeals affirmed, the decision is interesting to me, as a Guardian ad Litem and attorney, because it thoroughly discusses the issue of how much weight should be given to a child's preference at various ages in a child custody determination.

The following is Mr. Thigpen's account of the civil appeal he has personally handled:

Walters v. Pitts was a modification of child support action wherein I represented the mother. After the Family Court increased the father's child support obligation retroactive to January 1, 2002, required the father to pay his child support payments via wage withholding through the clerk of court's office, and awarded the mother attorney's fees and costs, the father appealed to the Court of Appeals. In his appeal, the father argued the Family Court erred in: (1) increasing his child support obligation retroactive to January 1, 2002, (2) requiring him to pay his child support payments via wage withholding through the clerk of court's office, and (3) awarding the mother attorney's fees and costs. In an unpublished decision, the Court of Appeals found the Family Court erred in retroactively increasing the father's child support obligation to January 1, 2002, but found the facts warranted a retroactive increase to December 29, 2003. In addition, the Court of Appeals upheld the Family Court's decision to require the father to pay his child support payments via wage withholding through the clerk of court's office and affirmed the Family Court's award of attorney's fees and costs to the mother.

The following is Mr. Thigpen's account of the criminal appeal he has personally handled:

State v. R.W.T. (initials are used for the defendant's name because the charge was later dismissed and expunged) was an appeal of a criminal domestic violence conviction from the Magistrate Court to the Circuit Court wherein I represented the defendant. On appeal, we argued the Magistrate had improperly instructed the jury on the law of self-defense where the defendant used non-deadly force in self-defense. Specifically, the Magistrate's charge to the jury indicated the defendant had a duty to retreat before using non-deadly force in self-defense, and the charge also indicated to the jury that the defendant had to be in fear of death or great bodily harm before he

could use non-deadly force in self-defense. The Circuit Court reversed the conviction and remanded the case to the Magistrate Court for a new trial, but the charge was later dismissed and expunged.

(9) Judicial Temperament:

The Commission believes that Mr. Thigpen's temperament has would be excellent.

(10) Miscellaneous:

The Upstate Citizen's Committee on Judicial Qualification found Mr. Thigpen to be "Qualified" in the areas of constitutional qualifications, physical health, mental stability, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament.

Mr. Thigpen is married to Laurie Lynn Ver-Cauteren Thigpen. He does not have any children.

Mr. Thigpen reported that he was a member of the following bar associations and professional associations:

- (a) Spartanburg County Bar (Spartanburg County Family Court Committee);
- (b) SC Bar (Family Law Section); and
- (c) American Bar Association (Family Law Section).

Mr. Thigpen provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Mr. Thigpen further reported:

As a sole practitioner, I have always taken pride in the quality of my work, which has often times caused me not to delegate as much work as I should to my legal assistant and others. Therefore, because I understand the duties of a Family Court Judge extend far beyond the courtroom, I believe it could reflect negatively on me if I do not learn how to delegate more responsibilities to my administrative assistant, the attorneys who appear before me (i.e. drafting Orders), and others as necessary.

On the other hand, because I have had family members involved in Family Court litigation, I have first-hand knowledge of the emotional and financial impact Family Court litigation has on the parties and children involved. In addition, I have handled thousands of Family Court cases since I began practicing law, and I believe that experience has provided me with the insight necessary to understand how Family Court litigation affects the parties and children involved. In short, I believe the fact that I have devoted the majority of my career to Family Court should reflect positively on me as a candidate for Family Court Judge.

(11) Commission Members' Comments:

The Commission commented that Mr. Thigpen is a good candidate for the Family Court bench as he has very extensive experience in most areas of family law.

(12) Conclusion:

The Commission found Mr. Thigpen qualified, but not nominated, to serve as a Family Court judge.

CONCLUSION

The Judicial Merit Screening Commission found the following candidates QUALIFIED AND NOMINATED:

Court of Appeals

Seat 3

The Honorable John D. Geathers

Seat 4

The Honorable Paula H. Thomas

Circuit Court

5th Circuit, Seat 1

The Honorable DeAndrea Gist Benjamin

7th Circuit, Seat 1

The Honorable Joseph Derham Cole

9th Circuit, Seat 1

Thomas R. Goldstein

The Honorable

Deadra L. Jefferson

10th Circuit, Seat 1

The Honorable Rivers Lawton McIntosh

At-Large, Seat 14

Jon René Josey

R. Keith Kelly

Clifford Scott

At-Large, Seat 15

Jerome P. Askins, III

The Honorable Marvin H. Dukes, III

The Honorable Maité Murphy

At-Large, Seat 16

Deborah B. Barbier

Daniel Dewitt Hall

The Honorable Donald Bruce Hocker

Family Court

1st Circuit, Seat 1

The Honorable Ann Gué Jones

2nd Circuit, Seat 2

The Honorable A. Dale Moore Gable

3rd Circuit, Seat 2

The Honorable Angela Renee Taylor

3rd Circuit, Seat 3

The Honorable Gordon B. Jenkinson

5th Circuit, Seat 2

The Honorable Michelle Manigault Hurley

Daniel Deeds Kienker

Robert Marshall Paul Masella

5th Circuit, Seat 3

The Honorable Dana A. Morris

6th Circuit, Seat 1

The Honorable Brian M. Gibbons

7th Circuit, Seat 1

The Honorable Phillip Kendall Sinclair

7th Circuit, Seat 2

The Honorable James F. Fraley, Jr.

8th Circuit, Seat 1

The Honorable Joseph Wilson McGowan, III

8th Circuit, Seat 3

Bradley W. Knott

Joseph Collins Smithdeal

Tommy L. Stanford

9th Circuit, Seat 2

The Honorable Paul Warren Garfinkel

9th Circuit, Seat 4

The Honorable Wayne Morris Creech

10th Circuit, Seat 1

The Honorable Edgar Henderson Long, Jr.

10th Circuit, Seat 3

The Honorable Tommy B. Edwards

11th Circuit, Seat 2

The Honorable Deborah Neese

12th Circuit, Seat 1

The Honorable Timothy Hick Pogue

12th Circuit, Seat 2

The Honorable A. Eugene "Gene" Morehead

13th Circuit, Seat 1

The Honorable Rochelle Y. Conits

13th Circuit, Seat 2	The Honorable William Marsh Robertson
14th Circuit, Seat 1	The Honorable Gerald C. Smoak, Jr.
15th Circuit, Seat 1	The Honorable Jan Benature Bromell Holmes
16th Circuit, Seat 2	The Honorable David Glenn Guyton
At-Large, Seat 1	Rosalyn Woodson Frierson
	Mary Jane Goodwin
	Kelly Pope
At-Large, Seat 2	Tony Miller Jones
	Samuel McGowan Price, Jr.
	William Gregory Seigler
At-Large, Seat 3	James G. McGee, III
At-Large, Seat 4	Monét S. Pincus
	The Honorable Caroline Whitehead Streater
	Katherine Joyce Hall Tiffany
At-Large, Seat 5	Martha McCright Rivers Davisson
	Melissa Johnson Emery
	Randall Edward McGee
At-Large, Seat 6	Thomas Tredway Hodges
	David Earl Phillips
	Paul Daniel Schwartz

Administrative Law Court

Seat 5	The Honorable Shirley Canty Robinson
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The Judicial Merit Screening Commission found the following candidates QUALIFIED, BUT NOT NOMINATED

Circuit Court, At-Large, Seat 14	Lucius Scott Harvin
	David Warren Miller
	Jared Sullivan Newman
	April Woodard Sampson
Circuit Court, At-Large, Seat 15	Curtis Anthony Pauling, III
	The Honorable Bentley Douglas Price
Circuit Court, At-Large, Seat 16	The Honorable Tracey Lynn Carroll
	Eric K. Englebardt
	Joey Randell Floyd
	The Honorable Alex Kinlaw, Jr.
	The Honorable John Reaves McLeod
	William Vickery Meetze
	Jocelyn Newman
	Robert L. Reibold
	Gregory Kenneth Voigt
Family Court, 8th Judicial Circuit Seat 3	The Honorable Robert Wallace Cone

Family Court, At-Large, Seat 2

Anthony Philip LaMantia, III
Sean F. Keefer

Family Court, At-Large, Seat 4

The Honorable Cely Anne Baker Brigman
Robert Allison Clark
Kimaka Nichols-Graham
The Honorable Erika L. McJimpsey

Family Court, At-Large, Seat 5

Stevens B. Elliot
Thomas Joseph Quinn

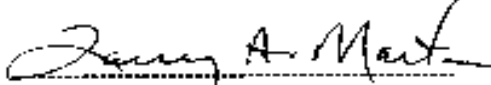
Family Court, At-Large, Seat 6

Patricia Lynn Forbis
Michael Todd Thigpen

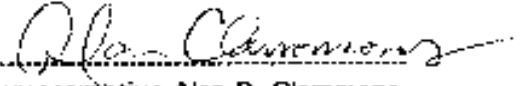
Respectfully submitted,



Representative F. G. Dalleney, Jr.



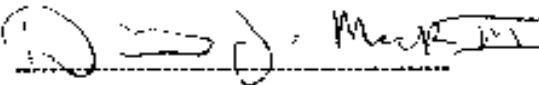
Senator Larry A. Martin



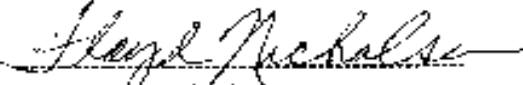
Representative Alan D. Clemmons



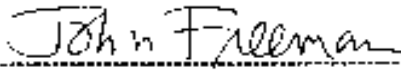
Senator George E. "Chip" Campsen, III



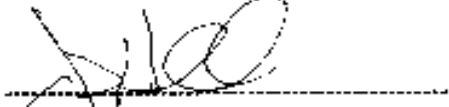
Representative David J. Mack, III




Senator Floyd Nicholson



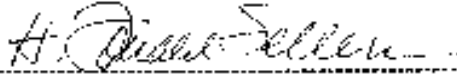
Mr. John P. Freeman



Mr. John Davis Harrell



Mrs. Amy Johnson McLester



Mr. H. Donald Sellers