

# Judicial Merit Selection Commission

## Report of Candidate Qualifications Spring 2012

Date Draft Report Issued: Thursday, May 3, 2012

Date and Time:

Final Report Issued: Noon, Tuesday, May 8, 2012

**Judicial candidates are not free to  
seek or accept commitments until  
Tuesday, May 8, 2012,  
at Noon.**

# Judicial Merit Selection Commission

---

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

Rep. Alan D. Clemmons  
John P. Freeman  
John Davis Harrell  
Sen. John M. "Jake" Knotts, Jr.  
Rep. David J. Mack, III  
Amy Johnson McLester  
Sen. Floyd Nicholson  
H. Donald Sellers



Post Office Box 142  
Columbia, South Carolina 29202  
(803) 212-6623

Jane O. Shuler, Chief Counsel

Patrick G. Dennis  
House Counsel

May 3, 2012

Dear Members of the General Assembly:

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

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

Judicial candidates are **prohibited** from asking for your commitment until **12:00 Noon on May 8, 2012.** **Members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, statements detailing a candidate's qualifications, or commitments to vote for a candidate until Tuesday, May 8, 2012.** 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,

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

# Judicial Merit Selection Commission

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

Rep. Alan D. Clemmons  
John P. Freeman  
John Davis Harrell  
Sen. John M. "Jake" Knotts, Jr.  
Rep. David J. Mack, III  
Amy Johnson McLester  
Sen. Floyd Nicholson  
H. Donald Sellers



Post Office Box 142  
Columbia, South Carolina 29202  
(803) 212-6623

May 3, 2012

Jane O. Shuler, Chief Counsel

Patrick G. Dennis  
House Counsel

Members of the South Carolina General Assembly  
South Carolina State House  
Columbia, South Carolina

Dear Fellow Members:

This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate's contact with members of the General Assembly, as well as third parties contacting members on a candidate's behalf. It is also to remind you of these issues for the Spring 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 (T-Th).

Sincerely,

F.G. Delleney, Jr.  
Chairman

Larry A. Martin  
Vice-Chairman

# TABLE OF CONTENTS

**INTRODUCTION** .....1

## **FAMILY COURT**

### **QUALIFIED AND NOMINATED**

Tenth Judicial Circuit, Seat 2      Karen F. Ballenger .....4

Tenth Judicial Circuit, Seat 2      R. Scott Sprouse.....14

Eleventh Judicial Circuit, Seat 3      Robert E. Newton .....21

**CONCLUSION** .....28

## INTRODUCTION

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

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

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

The Commission conducts a thorough investigation of each candidate's professional, personal, and financial affairs, and holds public hearings during which each candidate is questioned on a wide variety of issues. The Commission's investigation focuses on the following evaluative criteria: constitutional

qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental health, and judicial temperament. The Commission's investigation includes the following:

- (1) survey of the bench and bar;
- (2) SLED and FBI investigation;
- (3) credit investigation;
- (4) grievance investigation;
- (5) study of application materials;
- (6) verification of ethics compliance;
- (7) search of newspaper articles;
- (8) conflict of interest investigation;
- (9) court schedule study;
- (10) study of appellate record;
- (11) court observation; and
- (12) investigation of complaints.

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

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

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

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

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

This report conveys the Commission's findings as to the qualifications of all candidates currently offering for election to the Family Court.

# FAMILY COURT QUALIFIED AND NOMINATED

**Karen Ballenger**  
**Tenth Judicial Circuit, Seat 2**

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

### (1) Constitutional Qualifications:

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

Ms. Ballenger was born in 1957. She is 54 years old and a resident of Seneca, SC. Ms. Ballenger provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1987.

### (2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Ballenger.

Ms. Ballenger 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. Ballenger reported that she has made \$7.42 in campaign expenditures for a name badge.

Ms. Ballenger testified she has not:

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

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

### (3) Professional and Academic Ability:

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



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

- |     |  |             |
|-----|--|-------------|
| (a) | Legal Education Seminar                                    | 04/13/2012; |
| (b) | Family Court Bench/Bar                                     | 12/02/2011; |
| (c) | 2011 Family Law Intensive                                  | 10/06/2011; |
| (d) | Ethics Seminar   | 03/11/2011; |
| (e) | 2011 Guardian <i>Ad Litem</i>                              | 01/28/2011; |
| (f) | 2010 Hot Tips from the Coolest Domestic Law Practitioners; | 10/01/2010; |
| (g) | Legal Education Seminar                                    | 03/19/2010; |
| (h) | 2010 Guardian <i>Ad Litem</i> Update                       | 01/29/2010; |
| (i) | Hot Tips from the Coolest Domestic Law Practitioners       | 09/18/2009; |
| (j) | Legal Education Seminar                                    | 05/01/2009; |
| (k) | SCAC Local Government Attorneys                            | 12/12/2008; |
| (l) | SC Family Court Bench/Bar                                  | 12/05/2008; |
| (m) | Hot Tips from the Coolest Domestic Law Practitioners       | 09/19/2008; |
| (n) | Hot Tips   | 02/24/2008; |
| (o) | Side Bar SC Live   | 02/22/2008; |
| (p) | Legal Education Seminar                                    | 02/15/2008; |
| (q) | Side Bar: Family Law Update                                | 02/27/2007; |
| (r) | Family Court Bench/Bar                                     | 12/01/2006; |
| (s) | Legal Education Seminar                                    | 02/24/2006. |

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

- (a) I was an instructor in domestic law at Columbia Junior College in the paralegal program in the summer of 1988.
- (b) I was also a presenter at a conference held at the Sheraton in Columbia, SC. The subject matter of the conference was legal issues relating to child abuse and neglect. At the time of the presentation, I was the attorney for the Oconee County Guardian *ad Litem* program. The audience consisted of lay guardians, Department of Social Services workers, and attorneys. To the best of my recollection, the seminar was sponsored by the SC Children's Law Center. I have not been able to locate any information as to the date of the course. I contacted the Children's Law Center but was not able to get the information regarding the seminar since I could not give them the identifying information for the conference.

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

(4) Character:

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

The Commission also noted that Ms. Ballenger 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. Ballenger reported that her rating by a legal rating organization, Martindale-Hubbell, is BV Distinguished.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Ms. Ballenger was admitted to the SC Bar in 1987.

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

After graduation, I became an associate with the firm of Kennedy, Price & Dial, Columbia, SC. I was employed with Kennedy, Price & Dial until June of 1988. My duties included research and drafting of pleadings and other legal documents; assisting in trial preparation; maintaining client contact; and a limited amount of real estate work.

In June of 1988, Judge Carol Connor offered me a position as her law clerk. She had recently been elected as circuit court judge, and she needed a clerk for the summer. She was the resident judge of the Fifth Judicial Circuit. As Judge Connor's law clerk, my duties included overseeing the docket, performing legal research, reviewing orders, and order preparation.

After clerking for Judge Connor, Judge Marion H. Kinon asked me to serve as his law clerk for approximately 6 weeks while his law clerk was in training with the SC National Guard.

In October of 1988, the Honorable William Howard Ballenger, Resident Circuit Court Judge of the Tenth Judicial Circuit, offered me a position as his law clerk. During my time as Judge Ballenger's law clerk, he presided over two death penalty cases. I was employed as Judge Ballenger's law clerk until January of 1990.

In January of 1990, I became an associate with the law firm of Ross, Stoudemire & Awde, P.A., Seneca, SC. In July of 1992, I became a named partner in the firm – Ross, Stoudemire, Ballenger & Sprouse, P.A. I was with this firm until December 31, 1994. During this time, I had a general practice which included domestic; civil litigation; criminal (very limited); workers' compensation and social security. I would estimate that approximately 60% of my practice during this time was within the jurisdiction of the family court.

After leaving the above firm, I began a solo practice in Walhalla, SC. Very shortly thereafter, I became a principal/partner in the firm of Ballenger, Fedder, Cain & Norton, L.L.P. I was with this firm until June of 1998. My practice during this time included domestic; personal injury; workers' compensation; probate; social security; civil and a very limited amount of real estate.

From June of 1998 to 2001 (to the best of my recollection), I had a solo practice in Walhalla, SC. During this time, I maintained a general practice. However, the main focus of my practice was family court matters.

In 2001, I began practicing with the firm of Fedder, Norton, Ballenger and Enderlin, P.A. The area of my practice did not change. The majority of my practice was appearing in the family court and handling domestic issues. Subsequently, Derek Enderlin left the firm and accepted a

job as the Oconee County Public Defender, and Julie Mahon became a part of the firm. The firm's name changed to Norton, Ballenger and Mahon, P.A. on April 23, 2004 based on the records of the Secretary of State. Subsequently, Julie Mahon married and moved from Oconee County, SC. Brad Norton and I continued to practice in Walhalla, SC. Then on or about July 11, 2011, Keith Denny became a named partner in the firm. The name of the firm as of this date is Norton, Ballenger, and Denny, P.A.

In the past 10 or more years, I have limited my practice to primarily family law.

Ms. Ballenger further reported regarding her experience with the Family Court practice areas:

Divorce: Since primarily my entire practice is in family court, I have been involved in many divorce and separate maintenance cases, both contested and uncontested. In addition, I have been involved in cases involving common law marriage, and I have also been involved in a few annulment cases.

Equitable Division of marital property: I have litigated many equitable divisions of property and debt cases. I have been involved in cases where the issue was whether the property in question was marital property; whether a party's separate property had been transmuted into marital property; whether a party had a special equity in certain property; cases which involved the division of defined benefit and defined contribution retirement accounts; cases involving the valuation of a business and cases involving the division of marital debts. I have been involved in cases where property appraisers were retained and cases involving economists and certified accountants.

Child Custody: I have been involved in custody cases both as an attorney for one of the parents and also as a guardian *ad litem* for the minor child(ren). I have been involved in cases where experts were involved including counselors, psychologists, and psychiatrists.

Adoption: I have handled many adoption cases. I have been involved in family and step-parent adoptions. I have been involved in contested adoption cases. My role in these cases has been that of an attorney for a party and as a guardian *ad litem* for the child(ren).

Abuse and Neglect cases: I have been involved in these types of cases from every legal position involved. At one time in my practice, I was the contract attorney for the Oconee County Department of Social Services. At another time in my practice, I was the attorney for the Oconee County Guardian *ad Litem* program. As a private attorney, I have also represented the parents in these types of cases.

Juvenile Justice: Over the years, I have been appointed to represent juveniles in family court. There have been a few occasions where I was retained to represent juveniles in family court. Also, due to my proximity to the Court, I am often contacted by the Court to represent juveniles as his or her guardian *ad litem*. I am also the attorney for juveniles in the Oconee County Juvenile Drug Court.

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

- (a) Federal: none;
- (b) State: On average, I appear in family court at least 2 to 3 days a week.

Ms. Ballenger 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: 95%
- (d) Other: 5%.

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

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

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

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

- (a) Patricia A. Brunelle vs. Richard F. Brunelle, 2003-DR-37-80 and Richard F. Brunelle, Jr. and Patricia A. Brunelle, Case No. 2009-DR-37-449

The case in 2003 was a divorce action involving issues of alimony, equitable division of marital property and attorney fees. This was a 32 year marriage. The marital estate was over a million dollars. I was representing the Wife who was asking for alimony, attorney fees and 50% share of the marital estate. The Husband retained an economist who offered testimony that the Husband had contributed 69% of the direct and indirect contributions in the marriage and that the Wife had only contributed 31% of the direct and indirect contributions. The Husband also offered testimony from the economist suggesting that the Wife could annuitize her share of the marital estate (retirement funds) such that she would have income from the annuity which would negate her need for periodic alimony. I did not have an expert but I was successful in getting the Court not to accept the Husband's economist's expert opinions. After hearing the testimony, the Court granted the Wife periodic alimony in the amount of \$2,250.00 per month. The division of the marital property was basically a 50/50 division of the marital estate. The division of the retirement accounts required me to draft a Qualified Domestic Relations Order. The Court also awarded the Wife attorney fees. My client was very happy with the Court's ruling, and my service as her attorney.

The Husband filed a notice to appeal the case. I associated an attorney in Columbia to handle the appeal. Evidently, the Husband dismissed his appeal.

In 2009, Mr. Brunelle stopped paying his alimony payments. Ms. Brunelle retained me to represent her in the contempt action. After a hearing, the Court held Mr. Brunelle in contempt, and he was ordered to bring the alimony payments current. The Court also granted the Wife attorney fees and costs.

Mr. Brunelle then filed Case No. 2009-DR-37-449. In that action Mr. Brunelle was asking for his alimony payments to be terminated (or in the alternative, for his alimony payments to be reduced). At the first temporary hearing, the Court denied Mr. Brunelle's request for a reduction of his alimony payments. There was a final contested hearing held on March 3, 2011. After hearing all of the testimony, the Court denied Mr. Brunelle's request for a reduction of alimony. The Court granted the Wife attorney fees and costs. Again, my client was very happy with the Court's ruling.

This case is interesting because of the longevity of the case. Ms. Brunelle has been my client since 2003. It is my understanding that Mr. Brunelle is in the process of taking this matter back to Court again.

(b) Erby McCall vs. Carol A. McCall, Gary Gordon and Mark Kubinetz,  
Case No. 96-DR-37-662

This was a two day equitable division case. One of the interesting issues in this case was the status of the alleged marital property. The Wife had transferred all of the alleged marital property to her two sons (not the Husband's children) a year before the separation without the husband's knowledge. There were two legal arguments – whether there was a resulting trust and whether the Wife conveyed the property with a fraudulent intent to deprive the Husband of his equitable interest in the property. Other issues in the case included marital fault which affected the economic circumstances of the marriage and alleged marital debts. During the litigation, my client (the Husband) became terminally ill and there was a serious concern that he would die prior to the final hearing. In order to preserve his testimony, I took his deposition via video. The Husband was able to attend the final hearing. However, I presented a doctor's statement which stated that the Husband was too ill to testify. The Wife's attorney wanted to call the Husband as a witness. The family court judge contacted the Husband's doctor directly to determine if the Husband was physically able to testify. The doctor told the Judge that the Court would be putting the Husband's life in danger if she required him to testify. Based upon this information, the Judge allowed the video deposition in the record in lieu of the Husband's testimony. After the trial, the Judge issued an order setting aside the transfer of the property from the Wife to her sons. In the alternative, the Order provided that the Wife could pay to the Husband a lump sum amount for his interest in the property. The Wife did not comply with the terms of the Court Order, and I filed a rule to show cause against the Wife on behalf of my client. The Husband died the day before the contempt hearing. The contempt hearing was continued until a personal representative was appointed for the Husband. Ultimately, the Wife paid the money to the Husband's estate as ordered. She then filed a claim against the Husband's probate estate which was ultimately dismissed.

This case was very interesting because it involved a novel and interesting legal issue – i.e., trying to set aside a deed which transferred the property to the Wife's sons a year prior to the separation. This case took three years to complete because of the numerous complex issues involved and the trouble with service on the Wife's sons.

My client was very happy with the Court's ruling. It was sad that Mr. McCall died prior to being paid the money for his share of the marital estate. However, in the last days of his life, Mr. McCall was happy knowing that the money that he had been awarded would ultimately go to his loved ones in accordance with the terms of his Will.

(c) Janet Watkins vs. Ronald Richard Melter, Jr., Case No. 99-DR-37-308 and Case No. 2005-DR-37-243

This was a custody action. In Case No. 99-DR-37-308, I was appointed as Guardian *ad Litem* for the parties' minor child. At the conclusion of the case, the parties were granted joint custody with the Father being granted primary placement of the child, and the Mother being granted secondary placement of him. The Mother filed Case No. 2005-DR-37-243 when the Father was ordered to active duty for Operation Enduring Freedom. At a temporary hearing held on January 23, 2006, the Mother was granted primary physical placement of the child. I was appointed as the child's guardian. When serving as a guardian for an older child, I make it my

practice to give these children my home telephone number and my cell phone number in case they want to contact me directly. On January 1, 2007, I received a call from the minor child stating that the police were arresting his mother. He stated to me that his mother had struck his step-father and threatened to kill him with a knife. He told me that he had called 911. He stated that he was scared and that he wanted me to come and get him. I told him that it would be better if I called his father. At that point, the child became very upset and told me that he did not want his father coming to get him. He told me that he only wanted me to come and get him. I called the Father and told him about my conversation with the child. The Father consented to me going and getting the child which I did. After talking with him and calming him down, I took him to his father's home.

The next day I filed a motion in the case requesting an emergency hearing to get this matter back before the Court for a review of the custody/placement situation.

The reason that this case is significant to me is this case shows the relationship that is often formed between the child and the child's guardian in family court cases where guardians are appointed.

(d) James Canvin vs. Kathy Canvin, Case No. 2005-DR-37-788

This was a custody, child support, equitable division, alimony, and attorney fee case. It was a marriage of 22 years. I represented the Wife. During the marriage, the Wife suffered a brain stem hemorrhage resulting in her being totally disabled. One of the issues in the case was whether the Mother (my client) was physically able to take care of the children. However, after several temporary hearings and the appointment of the guardian, the parties were able to reach an agreement as to the issues of custody of the children.

At the end of the case, the main issue was the division of the marital estate which was approximately 2 million dollars.

The case lasted approximately four (4) years. There were five temporary hearings and one contempt action before the case was scheduled for a final hearing.

The day of the hearing, the parties were able to settle the case. However, in order to do this, the marital home which was lake front property had to be re-appraised to take advantage of the decline in property values due to the economy. My client was able to receive 50% of the marital assets. One of the main points of contention in the case is which party was going to retain ownership of the marital home. In the final settlement, my client was granted ownership of the home which made her very happy. The Husband was retired. Mrs. Canvin was awarded 50% of his retirement income.

The Wife and I had worked very hard in preparing this case for trial. There were numerous witnesses ready to testify. I feel that the pre-trial work that we had done was a strong factor in being able to negotiate a fair settlement in this matter.

(e) John Jeffery Isely vs. Cheryl Harris Isely, Case No. 2009-DR-39-1259

I represented the Wife in this case. It was a long term marriage. The Wife was a nurse. The Husband worked at Clemson University. The issues were alimony, equitable division of marital property and marital debts and attorney fees. Very early in the case, the Husband's attorney and I agreed to have a settlement conference in the hopes of settling the case. However, the settlement conference was not successful, and the parties were not able to reach an agreement. However, at the settlement conference, the attorneys were able to conduct some informal discovery which helped both parties prepare for mediation. At the settlement conference and the mediation conference, the Husband specifically denied that he had a pension

account. My client believed him and she was adamant that he did not have a pension account. However, due to his employment, I had strong suspicions that he had retirement benefits under the Federal Employees Retirement System (other than the Thrift Savings Plan that he was disclosing). The mediation was successful. (or at least, the parties left believing that there was an agreement). During the mediation conference, my client (the Wife) agreed to lump sum alimony instead of periodic alimony. At the mediation, I was very careful to make sure that the parties' agreement specifically stated that my client was entitled to 50% of any and all of the Husband's retirement and/or pension accounts. After the mediation, I continued to research the issue of the Husband's pension account and I discovered that I was correct and that the Husband had a FERS pension account that he had failed to disclose (to his Wife and his attorney). When the Husband learned that the Wife was now seeking 50% of his pension account in accordance with the mediation agreement, he withdrew his consent to the mediation agreement (which had never been signed). At that point, this was a contested hearing. While waiting for the hearing date, an issue came up about the marital home. The Husband was re-located with his job. The house did not sell as anticipated. The government ended up purchasing the home as part of the re-location package to the Husband. But, the purchase price was substantially less than what was anticipated at the mediation conference. This caused an issue with the payment of the lump sum alimony. After approximately 2 years, the case was set for a trial. Just days before the hearing date, the parties were able to reach an agreement. At the hearing, the attorneys had prepared all of the needed documents which included a signed separation agreement, a proposed divorce decree, COAP which divided the Husband's Thrift Savings Plan and the Husband's benefits with the Federal Employees' Retirement System and a QDRO dividing the Wife's state deferred benefit plan.

The reason that this case is significant to me is that I was able to get my client a portion of an asset that she did not know even existed. Even though this case was not the largest case that I have been involved in and it was also not one of the most interesting cases that I have been involved in, it was one of those cases where you felt that you were really able to help your client and make a difference in your client's life.

Note: Even though it was not a case which I litigated, I would like to bring to the Commission's attention that in a circuit court case I was qualified as an expert witness in family law.

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

(a) Larry D. Brown vs. Lois J. Orndorff and Catherine Ann Orndorff, 309 S.C. 320, 422 S.E.2d 151 (S.C. 1992). Mr. Ross was one of the attorneys in the firm of Ross, Stoudemire & Awde, P.A. Mr. Ross was the principal attorney in the case. I remember drafting one of the trial briefs for him. At the trial, I was there to assist him. However, to the best of my recollection, I did not actively participate in the trial of the case. I do not remember having any involvement in the appeal. But, if I did, it was only to support to Mr. Ross.

(b) Oconee County Department of Social Services vs. Brenda Guy. To the best of my recollection, this was a case before the SC Court of Appeals. I was the attorney for the guardian *ad litem*. The Case Number in Family Court was 96-DR-37-948. I could not locate the file on Casemaker or the judicial department web site.

(c) I handled an appeal very early in my practice. The attorney representing the appellant was Randy Chastain. The only thing that I can remember about the appeal was that the case was dismissed because the appellant did not comply with the appellant court rules.

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

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

“In 1999, I submitted an application for the Judge of the Family Court for the Tenth Judicial Circuit, Seat 2. I was found to be qualified for the position. I withdrew my application by letter dated January 21, 2000. The Honorable Timothy M. Cain was elected to the judicial office where he served admirably until he was elected to the federal bench.”

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Upstate Citizen’s Committee on Judicial Qualification found Ms. Ballenger to be “Well-qualified” in the evaluative criteria areas of constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.

Ms. Ballenger is not married. She has one child.

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

- (a) Oconee County Bar Association  
President in 1996  
I am a member of the family court bench-bar liaison committee;
- (b) SC Bar  
I am a member of the Family Law Section;
- (c) In the past, I have been a member of the SC Trial Lawyers’ Association.

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

- (a) Oconee County Drug Court (*Pro Bono*);
- (b) James M. Brown Parent Teacher Organization;
- (c) Walhalla Rotary Club;
- (d) Paul Hayne Circle (literary club);

In the past:

- (a) Member of Governor’s Youth Council (10<sup>th</sup> Judicial Circuit);
- (b) Oconee County Council for the Prevention of Child Abuse  
Offices held include director and president;
- (c) Family Friends  
Member of Advisory Board;
- (d) Oconee County Kid’s Do Count program;



- (e) Walhalla Elementary PTO;
- (f) Oconee Community Theater;
- (g) Bethesda Ministries.

Ms. Ballenger further reported:

I was fortunate to grow up in an environment in which I learned important values by following the examples set by my parents. These values have served me well as an attorney, and I feel that they will serve me well as a family court judge.

Becoming a family court judge would allow me to continue to grow and serve my community in a field about which I am very passionate. I have over 20 years of experience in family court issues. In looking back at my legal career, I firmly believe that there have been many opportunities and experiences that have unknowingly brought me to where I am today. When I graduated from law school, I had no idea that I would end up becoming a family law attorney. However, after several years of practicing, it became very clear to me that I enjoyed being a family court attorney. Also I was very fortunate that I gained a reputation in the community as a family court attorney so that area of my practice started to grow substantially. So, by choice and by fate, my practice's emphasis has increasingly focused on family law.

I can say without any doubt that my legal career as a family court attorney has been exciting and very rewarding. I have handled many complex cases involving novel legal issues and hotly contested and protracted custody litigation. But, as a domestic practitioner in a small county, I have also handled cases where the major marital asset is a mobile home. Regardless of the size of the marital estate, I have come to realize that the joy comes from helping my client through one of the most painful times in their lives and having their gratitude and thanks at the end of the case.

A successful family court judge that can best serve their community is one who is passionate for family law; understands the intricacies of domestic law and can handle the unique challenges that exist in family court. I believe that I embody all of these qualities.

(11) Commission Members' Comments:

The Commission commented that Ms. Ballenger has strong experience practicing in the family court and that she has limited her practice in the past ten years to family court. They noted that she would do an outstanding job as a family court jurist.

(12) Conclusion:

The Commission found Ms. Ballenger qualified and nominated her for election to the family court.

**R. Scott Sprouse**  
**Tenth Judicial Circuit, Seat 2**

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

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Sprouse meets the qualifications prescribed by law for judicial service as a family court judge.

Mr. Sprouse was born in 1964. He is 47 years old and a resident of Walhalla, SC. Mr. Sprouse provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

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

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

Mr. Sprouse testified he has not:

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

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

(3) Professional and Academic Ability:

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

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

- (a) The ABC’s of DUI - Critical Topics 05/16/2007;
- (b) Domestic Violence 08/23/2007;
- (c) Legal Education Seminar Oconee Bar 02/15/2008;
- (d) Prosecutorial Ethics in the Crosshairs 03/07/2008;
- (e) Prosecuting the Impaired Driver 05/15/2008;
- (f) Domestic Violence & Coordinated Community Response 11/13/2008;

(g)	SCAC Local Government Attorney's Institute	12/12/2008;
(h)	Legal Education Seminar	05/01/2009;
(i)	Prosecuting the Impaired Driver	05/27/2009;
(j)	Domestic Violence & Coordinated Community Response	11/12/2009;
(k)	SC Local Government Attorney's Institute	12/19/2009;
(l)	The Impaired Driver: Nuts & Bolts of DUI Prosecution	05/19/2010;
(m)	Victim's Advocate Training	05/22/2010;
(n)	Domestic Violence and the Criminal Justice System	04/19/2011;
(o)	Ethics of Email in Law Practice	06/10/2011;
(p)	The Ethics of Legal Writing	07/22/2011;
(q)	Handling Divorce Cases from Start to Finish	10/05/2011;
(r)	Legal Ethics of Attracting and Selecting Clients	12/8/2011.

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

"I have spoken at the public library in Westminster as part of the Bar's public education program. I spoke on domestic law. I cannot recall the exact date, but it was in the early 2000s."

"I spoke to a community group in Westminster on probate law in the early 2000s as well. Again, I cannot recall the exact date."

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

(4) Character:

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

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

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Sprouse was admitted to the SC Bar in 1990.

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

Barnes & Smith, P.A., Beaufort, SC

August 1989-March 1990

Associate for an insurance defense firm. I primarily did research and file management. This involved a large amount of discovery documents and briefs prepared for the partners.

Morgan Law Firm, Seneca, SC

April 1990-August 1991

Partner in a general practice. I began handling various general practice cases including domestic, criminal, real estate, bankruptcy and general litigation.

R. Scott Sprouse, Attorney at Law, Seneca, SC

August 1991-July 1992

I was a sole proprietor. I continued to handle the same types of cases but added social security and personal injury to my caseload. I also began sharing the City Attorney position for the City of Westminster in February of 1992.

Ross, Stoudemire, Ballenger & Sprouse, P.A.

July 1992-December 1994

Partner in general practice firm. My practice primarily involved domestic litigation, criminal cases, personal injury cases and City Attorney work for the City of Westminster. From the Fall of 1993 until early 1994, I served as a Hearing Officer for the ABC Commission.

Ross, Stoudemire & Sprouse, P.A.

January 1995-January 1997

My practice stayed virtually the same, but the name of the firm changed. I became the sole City Attorney for Westminster in January of 1995.

Stoudemire & Sprouse, P.A.

January 1997 to present

My practice is the same, but the name of the firm changed again.

City of Westminster, City Attorney

February 1992 to present

I am involved with the City Council meetings, litigation of civil cases involving the City, and have prosecuted of criminal cases.

City of Walhalla, Municipal Judge

February 1996 to present

I was appointed by the City Council of Walhalla. I hold court weekly, and I have general criminal jurisdiction of summary court matters inside the city limits of Walhalla, I also have jurisdiction to sign warrants for offenses committed inside the city limits of Walhalla and to issue bonds for all offenses except those punishable by life imprisonment or death. I do not have a supervisor, but answer directly to the City Council of Walhalla.

City of Seneca, Interim Municipal

I served as Interim Municipal Judge for the City Judge, fall 1998 of Seneca for several months in the fall 1998. Seneca was in the process of selecting a full time Municipal Judge. The City Council asked me to serve as Interim Judge while they were going through the hiring process. I performed all the duties of Municipal Court Judge during

this period. This job ended when the Honorable Danny Singleton was appointed full time Judge in December 1998.

City of West Union, Municipal Judge

July 2007-March 2008

The City of Walhalla and the City of West Union entered into a contract wherein Walhalla would provide police protection for West Union. Accordingly, I was sworn in and began holding court in West Union. This job ended when Walhalla terminated its contract with West Union, who resumed having the Oconee County Magistrate's office handle its cases.

Town of Salem, Municipal Judge

I serve in the same capacity for the Town of July 2011 to present Salem. I hold court once a month.

Mr. Sprouse further reported regarding his experience with the Family Court practice areas:

Divorce and equitable division of property

I have extensive experience in these matters. Divorce/separation cases are the majority of my practice. I have litigated many cases in which equitable division issues were contested. My experience ranges from cases in which the parties have negative equity in the marital estate all the way up to cases in which the parties have over \$1,000,000.00 in assets. Since January 1, 2007, I have handled 391 different domestic cases, the majority of which involved divorce. I also have litigated several common law marriage cases.

Child Custody

This issue exists in many of the divorce cases, although I have litigated many custody cases where the parties are already divorce or unmarried. I also have litigated a number of grandparental/third party custody actions in which the fitness of the parents is a main issue. I also have served a number of times as Guardian *ad litem* for minor children in contested Family Court cases. Since January 1, 2007, I have been appointed as Guardian *ad litem* in 5 contested custody cases.

Adoption

While this is not a large portion of my practice, I have handled several over the years and am aware of the proper procedure.

Child Abuse and Neglect

I have handled several abuse and neglect cases, some of which were "spin off" cases where I had been retained to represent a defendant in General Sessions Court who had been charged with criminal sexual conduct or lewd act on a minor. I have handled several private custody actions that actually began as Department of Social Services (DSS) matters. I have had DSS as a party in several private cases since they were involved by issuing safety plans or filing their own actions.

Juveniles

I only have handled a handful of juvenile cases, but I am very familiar with the procedures. I have handled a contested case. My experience as Municipal Judge gives me a unique perspective on these matters since I deal with quite a few young people with traffic tickets and other offenses. Many times, there are multiple teenagers involved in a particular incident. Some are juveniles and some are seventeen years of age who are sent to Municipal Court, where I deal with the same factual situation as the Family Court does.

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

- (a) Federal: 0;
- (b) State: I average 3-8 hearings in Family Court per week when we have terms of Family Court. I have tried Family Court cases from as little a time period as fifteen minutes up to multi-day contested trials. I have appearances in General Sessions about every other term, as cases that I am able to work out pleas in are dealt with on the same day. I have tried a multi-day drug trial in General Sessions, along with handling a Statewide Grand Jury case. I have served as co-counsel in three different murder trials and a high profile criminal sexual conduct with a minor trial. My appearances in Common Pleas are less frequent, although I have tried both jury and non-jury trials in Common Pleas during the last five years on a variety of issues. I have tried personal injury cases, contract disputes, property disputes, collection actions, mechanic's lien/construction cases and some litigation involving the City of Westminster. I handle several jury trials (usually DUIs) in Magistrate's Court during the course of each year. I hold Court in Walhalla and Salem presently as Municipal Judge of each respective Municipality. I have presided over a number of jury trials as Municipal Judge and preside over bench trials with regularity when defendants contest tickets.

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

- (a) Civil: 10%;
- (b) Criminal: 15%;
- (c) Domestic: 70%;
- (d) Other: 5%.

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

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

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

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

- (a) Steven Ray Hammond v. Ruia Boggs & Garland Brewer, d/b/a B & B Mobile Home Park. 93-CP-37-61.  
I represented the Plaintiff in an action for personal injuries brought under the SC Residential Landlord and Tenant Act. My client's leg was amputated as a result of the injuries that he sustained. I was able to settle this case for \$600,000 after mediation
- (b) James A. Turner, Jr. vs. Oconee County, Joseph M. Sylvester and Marjorie V. Sylvester, Jack C. Prescott, Doris Freeman Prescott, and Bayshore Association, Inc. 98-CP-37-77.  
This was a case involving a subdivision and litigation over an access road. The case was legally complicated and resulted in an appeal to the SC Court of Appeals.
- (c) The State v. Robert McClure. 94-DR-37-663, 94-GS-37-0986, 95-GS-37-0429.  
My client was charged with Criminal Sexual Conduct with a Minor First Degree. I tried the accompanying DSS case in the Oconee Family Court. The DSS case uncovered evidence that led the Oconee County Solicitor's Office to re-evaluate the case. After extensive negotiations, a plea to Lewd Act on a Minor was entered in General Sessions Court for a probationary sentence.
- (d) The State v. Robert Underwood.

This was a case where my client was charged with four counts of criminal sexual conduct with a minor first degree. This case involved a companion case in Family Court with the Department of Social Services. Through the litigation in Family Court, I was able to find inconsistencies in the allegations made by my client's stepdaughters to the point that the case was resolved in General Sessions. My client received a probationary sentence.

(e) Jackie L. Hunt v. Alfred Hunt. 97-DR-37-708.

I represented the Plaintiff initially in a separate maintenance action and the subsequent divorce. The parties had approximately one million in assets (over \$750,000 in undisputed marital property). The case also involved the issue of periodic alimony, which I was able to secure for my client, along with 45% percent of the marital property and attorney's fees. The Defendant filed a notice of intent to appeal, but dismissed the appeal after reviewing the transcript.

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

- (a) James A. Turner, Jr. vs. Oconee County, Joseph M. Sylvester and Marjorie V. Sylvester, Jack C. Prescott, Doris Freeman Prescott, and Bayshore Association, Inc. 98-CP-37-77. Court of Appeals opinion \_\_\_\_\_ issued \_\_\_\_\_, 2003.
- (b) Jesse Lee Crawford v. Sue Crawford 2006-DR-37-424  
Decided without oral argument in unpublished opinion.

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

Mr. Sprouse further reported the following regarding unsuccessful candidacies:

- (a) I ran for Family Court Seat 2 in 1999. I went through screening and was deemed qualified by the Judicial Merit Selection Commission in January 2000. I withdrew from the race prior to the election.
- (b) I filed for Family Court Seat 2 in 2009. I withdrew prior to appearing at any interviews or public hearings.

(9) Judicial Temperament:

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

(10) Miscellaneous:

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

Mr. Sprouse is married to Mary Stoudemire Sprouse. He has two children.

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

- (a) SC Bar;
- (b) Oconee County Bar Association 1990-present (President 1997). (Treasurer);
- (c) SC Trial Lawyers Association, 1993-present;

- (d) Association of Trial Lawyers of America 1993-present  
American Association for Justice;
- (e) SC Summary Court Judges' Association, 1998-present.

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

- (a) Seneca Sertoma Club, 1990-2009 (secretary 1991-92, Board member 1995-97);
- (b) St. John's Evangelical Lutheran Church 1997-present Church Council, 1998-2004, 2008-11);
- (c) IPTAY 1986-present (IPTAY Representative 1994-2005);
- (d) The Oconee Assembly 1994 to present;
- (e) City of Walhalla, Coach Boys' basketball, 1996-present  
Baseball, 2007-present;
- (f) City of Walhalla Recreational Advisory Board 2001-04;
- (g) Colonels Club, 2004-present.

Mr. Sprouse further reported:

I am a certified Family Court Mediator, having completed the training at the SC Bar and receiving my certification on August 22, 2006.

I am an Eagle Scout. I was a member of Troop 312 Boy Scouts of America in Piedmont, SC.

I feel that my service as a recreation coach has given me a unique perspective in dealing with children from various backgrounds. Many of the boys that I have coached come from divorced parents.

(11) Commission Members' Comments:

The Commission commented that that Mr. Sprouse has judicial experience and noted his able service as a municipal court judge. They also noted that he has a great understanding of judicial temperament which would serve him well on the family court bench.

(12) Conclusion:

The Commission found Mr. Sprouse qualified and nominated him for election to the family court.



**Robert E. Newton**  
**Eleventh Judicial Circuit, Seat 3**

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

(1) Constitutional Qualifications:

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

Mr. Newton was born in 1964. He is 48 years old and a resident of Lexington, SC. Mr. Newton provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989.

(2) Ethical Fitness:

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

Mr. Newton 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. Newton reported that he has made \$73.80 in campaign expenditures for postage.

Mr. Newton testified he has not:

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

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

(3) Professional and Academic Ability:

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

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

- (a) Dollars and Sense in Family Court 1/20/12;
- (b) SC Family Court Bench / Bar 12/2/11;
- (c) SC Family Court Bench / Bar 12/3/10;
- (d) Hot Tips from the Coolest Family Law Practitioners 10/1/10;
- (e) SC Family Court Bench / Bar 12/4/09;
- (f) Hot Tips from the Coolest Family Law Practitioners 9/18/09;
- (g) SC Family Court Bench / Bar 12/5/08;

- |     |  |           |
|-----|--|-----------|
| (h) | Advanced Family Mediation Skills                     | 10/10/08; |
| (i) | Lexington Bar Family Court CLE                       | 10/2/08;  |
| (j) | Hot Tips from the Coolest Domestic Law Practitioners | 9/19/08;  |
| (k) | SCTLA Annual Convention                              | 8/7/08;   |
| (l) | SC Family Court Bench / Bar                          | 12/7/07;  |
| (m) | Lexington Bar CLE                                    | 12/5/07;  |
| (n) | SCTLA Annual Convention                              | 8/02/07;  |
| (o) | Lexington Bar Ethics Update                          | 12/6/06;  |
| (p) | SC Family Court Bench / Bar                          | 12/1/06;  |
| (q) | Mandatory ADR Training                               | 8/10/06;  |
| (r) | SCTLA Annual Convention                              | 8/3/06.   |

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

- (a) I served as moderator and presenter with a panel of Family Court Judges at the Family Court Bench / Bar CLE in December 2011, on the topic of “How to settle cases in today's economy.”
- (b) I served as a panel member for a presentation at the Family Court Bench/Bar CLE in December 2008, on the topic of “Blended Mediation and Arbitration in Family Court.”

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

(4) Character:

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

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

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Mr. Newton was admitted to the SC Bar in 1989.

Mr. Newton gave the following account of his legal experience since graduation from law school:

(a) 1988-92 – Coleman, Sawyer, Breibart, & McCauley

I began working as a law clerk during law school for this firm and joined as an associate after graduation. I practiced with Billy Coleman, C. David Sawyer, Richard J. Breibart and John J. McCauley. Our firm had offices in Saluda, SC, and Lexington, SC. This was a litigation intensive firm where my practice was devoted to approximately 75% domestic / family court matters (including all aspects of divorce, child custody, visitation, child support, alimony, equitable division) 20% civil litigation (including personal injury), and 5% criminal defense (including juvenile matters).

(b) 1992-2003 – Breibart & McCauley, P.A. (subsequently Breibart, McCauley & Newton, P.A.)

The previously referenced firm dissolved its association when C. David Sawyer was elected to the Family Court in 1992. I continued my association with Richard Breibart and John McCauley until our firm dissolved its association in December 2003. My practice remained essentially as described above divided between domestic / family court (approximately 75%), civil litigation (20%), and criminal defense (5%).

(c) January 2004-present – The Dooley Law Firm, P.A.

My current firm is comprised of 3 other attorneys: Albert (“Bert”) J. Dooley, Jr., Sandra Dooley Parker, and Albert (“Trey”) J. Dooley, III. My practice remained devoted to the areas as described above until approximately 3 years ago when I began to cultivate a practice limited to Family Court Mediation and Arbitration. Currently, my practice is almost exclusively devoted to Family Court Mediation and Arbitration which I conduct statewide.

Mr. Newton further reported regarding his experience with the Family Court practice areas:

“During my legal career, my practice has had a primary emphasis on family court matters. I have represented husbands, wives, mothers, fathers, grandparents, adoptive parents, and children in the family court. I have represented juveniles charged with crimes and defendants in abuse and neglect cases, both retained and court appointed. I would respectfully submit that there is probably not a type of case that could arise in the family court that I have not had some experience with during my career.

I have handled divorces based on each of the statutory grounds and have tried cases involving all five grounds for divorce in contested matters. I have represented individuals in cases involving equitable division with marital estates ranging from a negative net worth (marital debts) to cases in which the marital estate exceeded one million dollars. I have represented the unemployed and the indigent as well as the entrepreneur and the professional.

I have litigated custody cases on behalf of the father and the mother. I have tried custody cases, done the discovery necessary for trial (to include depositions, interrogatories, etc.), met with and cross examined guardian ad litem and child psychologists, and prepared witnesses for both direct and cross examination. I have also tried cases involving visitation issues and all ancillary custody related issues. I have handled these cases in the context of divorces and in post divorce changed circumstance actions.

I have represented clients in abuse and neglect cases as both court appointed counsel and retained counsel. I have represented the alleged perpetrator and the other parent. I have also been guardian ad litem in abuse and neglect cases. I have represented foster parents in actions to intervene in abuse and neglect cases seeking termination of parental rights and, ultimately, adoption.

I have represented juvenile defendants on matters ranging from drug possession to criminal sexual conduct involving the solicitor's office and the Department of Juvenile Justice.

I believe I have a well rounded background of first hand case and trial experience for all matters that routinely arise in the family court. I would further submit that my most recent practice experience has made me uniquely qualified to serve as a Family Court Judge in that I mediate and / or arbitrate family court cases now exclusively and have done so for several years. I have mediated literally hundreds of different family court cases which has placed me in the unique position of serving as a neutral party who hears both sides of the issues presented. I am also routinely hired by some of the most experienced family law practitioners within our state to serve as the arbitrator in family court matters. I would respectfully submit that this has been invaluable and unique training for the position I am seeking."

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

- (a) Federal: None;
- (b) State: Probably averaged 1-2 times per month during past five years assuming the question means actual physical appearance and not an "appearance" through filings and notices of appearance. As noted, primary practice area within last three years has been family court mediation and arbitration.

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

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

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

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

- (a) The case of State v. Martin, 352 S.C. 32, 572 S.E. 2d 287 (2002), set forth in response to [the criminal appeals I have handled], was a very significant case for me. I represented Ms. Martin from the trial level to the Court of Appeals and, ultimately, to the Supreme Court on a Writ of Certiorari where we ultimately prevailed. While the underlying facts of this case were tragic and extremely unfortunate, the issues it presented regarding the magistrate court's handling of tickets and the judge's signature were unique. This case presented me an opportunity to argue before the Supreme Court on issues relating to Due Process and proper judicial procedure.
- (b) I have represented two different couples who were foster parents in actions to intervene as necessary parties in abuse and neglect cases. My clients in both cases wanted to be involved

in the judicial process involving their foster children and were seeking to initiate actions to terminate the parental rights of the children's biological parents and for adoption. We tried both of these cases and prevailed. The foster parents are now the adoptive parents of children that were removed from abusive and/or neglectful situations. The case was "significant" because of the personal satisfaction I received from helping these people help these children.

(c) In 1997, I was co-counsel with Attorney Charles Williams in a wreck case involving a collision of two tractor / trailers in the center of the roadway in Orangeburg County. Our client, the driver of one of the tractor/ trailers was significantly injured requiring many surgeries and an extended hospitalization. The case involved testimony of various experts, including experts in accident reconstruction and medical doctors. This case provided me an opportunity to work on a complex personal injury matter and try the case before a jury with a seasoned trial attorney. The offers prior to trial had been nominal and the matter settled on the third day of trial for \$750,000.00 giving our client some much needed financial help.

(d) Early in my career I represented a father in a bitter custody case. The mother was represented by Attorney Harvey Golden. Mr. Golden was an extremely experienced family law attorney with a statewide reputation. This case is significant to me because of the many lessons I learned from litigating a case against such a tenacious litigator. The case lasted for approximately two years and involved very serious allegations. Ultimately my client was sued by the Department of Social Services in an abuse action during the private action. The Department ultimately dismissed their action, and the custody case settled with my client receiving primary custody of the children after the abuse allegations were recanted and the parties had undergone psychological evaluations.

(e) I litigated several years ago the issue of jurisdiction of the family court in South Carolina to assume jurisdiction of a matter that was previously pending in Arkansas. The case was significant in that it involved complex issues of our court's authority pursuant to the Uniform Child Custody Jurisdiction Act to assume jurisdiction of a matter that was pending in Arkansas. I was required to brief and argue the case before the trial court. Ultimately the court ruled in favor of my client and dismissed the matter. However, the Arkansas court then determined on various grounds, including inconvenient forum, to transfer jurisdiction. Thereafter, we were able to settle the case.

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

Aviation Associates and Consultants, Inc. v. Jet Time, Inc.; Cobra Drilling Co. Inc.; and Cobra Drilling, Inc., as the successor corporation of the merger of the other named defendants, 303 S.C. 502, 402 S.E.2d 177(1991).

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

- (a) State v. Martin, 352 S.C. 32, 572 S.E.2d 287 (2002);
- (b) State v. Martin, 341 S.C. 480, 534 S.E.2d 292 (Ct. App. 2000).

Mr. Newton further reported the following regarding unsuccessful candidacies:

"In 1992 I ran unsuccessfully for the SC House of Representatives, House District 39 (Saluda and Lexington Counties). I ran unsuccessfully for the Lexington School District One School Board in 2002. In the fall of 2006 (election February 2007), I ran unsuccessfully for Family Court Judge, Eleventh Judicial Circuit."

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizen's Committee on Judicial Qualification found Mr. Newton to be "Well 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 they were "honored to interview Mr. Newton. We strongly believe that Mr. Newton is most eminently qualified to serve on the Family Court. We are most confident he would serve our state in an exemplary manner."

Mr. Newton is married to Caroline Steppe Newton. He has one child.

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

- (a) SC Bar;
- (b) Lexington County Bar Association – President, 2006; currently ADR/Mediation Committee Chair;
- (c) SC Bar Dispute Resolution Section Council Member (2009 - currently);
- (d) SC Bar Resolution of Fee Dispute Board (2007- currently) - currently serving as Co-Chair for Eleventh Judicial Circuit;
- (e) SC Trial Lawyers Association – served on the Board of Governors as the Eleventh Judicial Circuit Representative for 2000–03;
- (f) Association for Conflict Resolution.

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

- (a) Lexington High School Improvement Council (2009-10);
- (b) Lexington Middle School Improvement Council (2006-09) -Chairman for 2006-07;
- (c) Lexington Elementary School Improvement Council (2000-06) -Chairman for 2001-02;
- (d) Lexington School District One Citizens Putting Children First Committee. I co-chaired the speakers bureau regarding District Bond Referendum in 2004;
- (e) Lexington School District One Parent Advisory Committee (2004-05);
- (f) Member of the American Motorcyclist Association;
- (g) Member of the Harley Owners Group;
- (h) Member of the BMW Motorcycle Owners Association.

Mr. Newton further reported:

I sincerely believe that I have much to offer for this position. My experience as an attorney practicing primarily in the family court arena for almost 23 years has prepared me well.

I would respectfully submit that I am even more qualified now than I was when I was previously found "Qualified and Nominated" for the Family Court Bench in 2007. Since that time I have cultivated a practice limited to mediating and arbitrating family law matters. Some

of the premier family law practitioners within our state routinely select me to assist them and their clients in mediating their family law cases and, in some cases, I am retained to arbitrate the dispute if a settlement cannot be reached. This extensive practice as a "neutral" has given me invaluable training and has helped me develop strong skill sets of patience, compassion, civility, and reasoning that I believe will transition nicely to the position I am seeking.

I also believe my experience as a husband of over 25 years and as a father for 16 years will assist me in dealing with the unique area of family law. I believe all these experiences give me a necessary perspective, temperament, and demeanor well suited for this position and I truly look forward to the opportunity to serve the citizens of the State of South Carolina.

(11) Commission Members' Comments:

The Commission commented that Mr. Newton has an excellent background practicing before the family court, and that for the past three years he has limited his service to that of a family court mediator and arbitrator. They noted his direct and impressive answers at the public hearing.

(12) Conclusion:

The Commission found Mr. Newton qualified and nominated him for election to the family court.

## CONCLUSION

The Judicial Merit Selection Commission found the following candidates QUALIFIED AND NOMINATED:

### Family Court

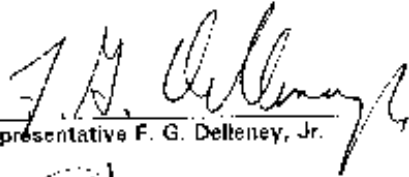
Tenth Judicial Circuit, Seat 2 ..... Karen Ballenger

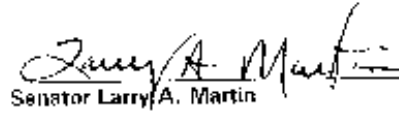
Tenth Judicial Circuit, Seat 2 ..... R. Scott Sprouse

Eleventh Judicial Circuit, Seat 3 ..... Robert E. Newton

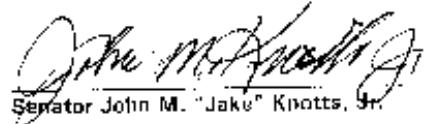


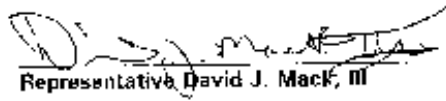
Respectfully submitted,

  
Representative F. G. Delleney, Jr.

  
Senator Larry A. Martin

  
Representative Alan D. Clemmons

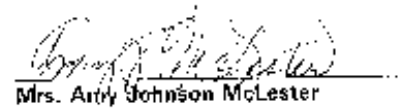
  
Senator John M. "Jaku" Knotts, Jr.

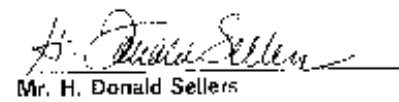
  
Representative David J. Mack, III

  
Senator Floyd Nicholson

  
Mr. John P. Freeman

  
Mr. John Davis Harrell

  
Mrs. Arly Johnson McLester

  
Mr. H. Donald Sellers