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PUBLIC HEARINGS

November 17, 2020

Judicial Merit Selection Commission

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARINGS

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8 BEFORE: SENATOR LUKE A. RANKIN, CHAIRMAN

9 REPRESENTATIVE G. MURRELL SMITH, JR., V. CHAIRMAN

10 SENATOR RONNIE A. SABB

11 SENATOR SCOTT TALLEY

12 REPRESENTATIVE J. TODD RUTHERFORD

13 MS. HOPE BLACKLEY LOGAN

14 REPRESENTATIVE CHRIS MURPHY

15 MR. J.P. "PETE" STROM

16 MS. LUCY GREY MCIVER

17 MR. ANDREW N. SAFRAN

18 MS. ERIN CRAWFORD, CHIEF COUNSEL

19 * * * * *

20 DATE: November 17, 2020

21 TIME: 9:30 a.m.

22 LOCATION: Gressette Building

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

INDEX

PAGE:

HONORABLE ROBIN B. STILLWELL

- Examination by Ms. Crawford.....12

ROBERT BONDS

- Examination by Mr. Maldonado.....20

- Examination by Representative Smith.....28

- Examination by Mr. Safran.....32

- Examination by Mr. Strom.....35

TAMEAKA A. LEGETTE

- Examination by Mr. Pearce.....43

- Examination by Representative Smith.....51

- Examination by Representative Murphy.....62

ERIN B. BAILEY

- Examination by Ms. Mottle74

BRETT H. BAYNE

- Examination by Ms. Faulk.....88

- Examination by Representative Murphy.....103

- Examination by Mr. Safran.....109

- Examination by Representative Rutherford.....116

1 HONORABLE DANIEL MCLEOD COBLE

- 2 - Examination by Ms. Ross.....126
- 3 - Examination by Mr. Strom.....148
- 4 - Examination by Representative Murphy.....141

6 MEREDITH LONG COKER

- 7 - Examination by Ms. Baker.....152
- 8 - Examination by Chairman Rankin.....159
- 9 - Examination by Mr. Safran.....163

11 H. STEVEN DEBERRY

- 12 - Examination by Ms. Faulk.....171
- 13 - Examination by Chairman Rankin.....176
- 14 - Examination by Representative Smith.....182

16 B. ALEX HYMAN

- 17 - Examination by Ms. Wilkinson.....108
- 18 - Examination by Representative Smith.....194
- 19 - Examination by Chairman Rankin.....206

21 REGINA HOLLINS LEWIS

- 22 - Examination by Ms. Ross.....216
- 23 - Examination by Mr. Strom.....223
- 24 Certificate of Reporter.....239

* * * * *

EXHIBIT INDEX

EXHIBITS: PAGE:

EXHIBIT NO. 1.....11

- Personal Data Questionnaire for The Honorable Robin B.
Stillwell (5 pages)

EXHIBIT NO. 2.....11

- Sworn Statement of The Honorable Robin B. Stillwell (3
pages)

EXHIBIT NO. 3.....19

- Personal Data Questionnaire for Robert Bonds (17 pages)

EXHIBIT NO. 4.....19

- Sworn Statement of Robert Bonds (6 pages)

EXHIBIT NO. 5.....42

- Personal Data Questionnaire for Tameaka A. Legette (18
pages)

EXHIBIT NO. 6.....42

- Amendment to Personal Data Questionnaire for Tameaka A.
Legette (5 pages)

EXHIBIT NO. 7.....42

- Sworn Statement of Tameaka A. Legette (9 pages)

EXHIBIT NO. 8.....73

- Personal Data Questionnaire for Erin B. Bailey (17
pages)

EXHIBIT NO. 9.....73

1	- Amendment to Personal Data Questionnaire for Erin B.	
2	Bailey (1 page)	
3	EXHIBIT NO. 10.....	74
4	- Sworn Statement of Erin B. Bailey (9 pages)	
5	EXHIBIT NO. 11.....	87
6	- Personal Data Questionnaire for Brett H. Bayne (26	
7	pages)	
8	EXHIBIT NO. 12.....	87
9	- Sworn Statement of Brett H. Bayne (11 pages)	
10	EXHIBIT NO. 13.....	124
11	- Personal Data Questionnaire for The Honorable Daniel	
12	McLeod Coble (17 pages)	
13	EXHIBIT NO. 14.....	124
14	- Amendment to Personal Data Questionnaire for The	
15	Honorable Daniel McLeod Coble (2 pages)	
16	EXHIBIT NO. 15.....	125
17	- Sworn Statement of The Honorable Daniel McLeod Coble (7	
18	pages)	
19	EXHIBIT NO. 16.....	151
20	- Personal Data Questionnaire for Meredith Long Coker (18	
21	pages)	
22	EXHIBIT NO. 17.....	151
23	- Sworn Statement of Meredith Long Coker (8 pages)	
24	EXHIBIT NO. 18.....	169
25	- Personal Data Questionnaire for H. Steven DeBerry (16	

1	pages)	
2	EXHIBIT NO. 19.....	169
3	- Amendment to Personal Data Questionnaire for H. Steven	
4	DeBerry (1 page)	
5	EXHIBIT NO. 20.....	169
6	- Sworn Statement of H. Steven DeBerry (7 pages)	
7	EXHIBIT NO. 21.....	186
8	- Personal Data Questionnaire for B. Alex Hyman (15 pages)	
9	EXHIBIT NO. 22.....	186
10	- Amendment to Personal Data Questionnaire for B. Alex	
11	Hyman (1 page)	
12	EXHIBIT NO. 23.....	186
13	- Sworn Statement of B. Alex Hyman (6 pages)	
14	EXHIBIT NO. 24.....	214
15	- Personal Data Questionnaire for Regina Hollins Lewis (22	
16	pages)	
17	EXHIBIT NO. 25.....	214
18	- Sworn Statement of Regina Hollins Lewis (8 pages)	

1 VICE CHAIRMAN SMITH: We're going to call us to
2 session. We want to welcome everybody to the
3 Judicial Merit Select Commission, and we are
4 going to begin this morning. And first, Senator
5 Tally moves that we go in executive session. All
6 in favor say, aye.

7 (Ayes are heard.)

8 VICE CHAIRMAN SMITH: All opposed.

9 (No replies are heard.)

10 VICE CHAIRMAN SMITH: Ayes have it. We're in
11 executive session.

12 EXECUTIVE SESSION

13 VICE CHAIRMAN SMITH: All right. We're going to go
14 back on the record. Representative Murphy moves
15 that we lift the veil and come out of executive
16 session, seconded by Senator Tally. All in favor
17 say, aye.

18 (Ayes are heard.)

19 VICE CHAIRMAN SMITH: All opposed.

20 (No replies are heard.)

21 VICE CHAIRMAN SMITH: Ayes have it. Let me say while
22 we were in executive session there were no votes
23 taken and no decisions made during that time. We
24 were in there for the purposes of a legal
25 briefing. All right. We're going to move

1 forward with the schedule -- and Representative
2 Rutherford took my book. And so first we have,
3 via Zoom, the Honorable Robin B. Stillwell for --
4 screening for the active retired. Judge
5 Stillwell, can you -- have you been let in the
6 room? Can you hear us?

7 MS. CRAWFORD: It's loading right now.

8 VICE CHAIRMAN SMITH: All right. Judge Stillwell,
9 can you hear us? Can you hear us, Judge
10 Stillwell?

11 JUDGE STILLWELL: Yes, I can hear you. Can you hear
12 me?

13 VICE CHAIRMAN SMITH: Yes, we can hear you. All
14 right. Technology's an amazing thing. Tell us
15 where you are, Judge Stillwell.

16 JUDGE STILLWELL: I'm in Kuwait, Camp Arifjan. I
17 spent the last five days riding my bike around
18 post trying to figure the best WIFI spot on -- in
19 the entirety of Kuwait. I think I've found -- I
20 think I've found -- I hope we don't have any
21 issues.

22 VICE CHAIRMAN SMITH: Well, I hope so too. Thank you
23 for your service and appreciate you being with us
24 this morning. First, I presume under Zoom rules,
25 we're going to swear them in remotely. Judge

1 Stillwell, will you raise your right hand,
2 please, sir.

3 THE HONORABLE ROBIN B. STILLWELL having been duly
4 sworn, testifies as follows:

5 VICE CHAIRMAN SMITH: Hold one second, I need my
6 script.

7 JUDGE STILLWELL: Sure.

8 VICE CHAIRMAN SMITH: Sorry, I'm filling in for
9 Senator Rankin this morning, so I've got to go
10 borrow his book. All right. Judge Stillwell, we
11 have your Personal Data Questionnaire and Sworn
12 Statement before you. Are these documents --
13 well, I hope -- I presume they're before you, or
14 you're familiar with what you submitted to the
15 Commission. Are those documents that you've
16 submitted to us?

17 JUDGE STILLWELL: Yes, sir, they are.

18 VICE CHAIRMAN SMITH: Are they both correct?

19 JUDGE STILLWELL: Yes, sir, they are.

20 VICE CHAIRMAN SMITH: All right. Do you need to make
21 any changes or update them at this time?

22 JUDGE STILLWELL: Not that I'm aware of, sir.

23 VICE CHAIRMAN SMITH: Do you have any objection to us
24 making those documents, and any amendments that
25 were made, if applicable, as a part of the record

1 of your sworn testimony here today?

2 JUDGE STILLWELL: No, sir, I have no objections.

3 VICE CHAIRMAN SMITH: All right. So without objection
4 we'll mark his first one as the Personal Data
5 Questionnaire as exhibit to his testimony here
6 today. Judge, the Judicial Merit
7 Selection Commission has thoroughly investigated
8 your qualifications for the bench. Our inquiry
9 has focused on nine evaluative criteria, which
10 has included a ballot box survey, a thorough
11 study of your application materials, verification
12 of your compliance with state ethics laws, a
13 search of newspaper articles in which your name
14 appears, study of previous screenings and checks
15 for economic conflicts of interest. We received
16 no affidavits today in opposition to your
17 election. No witnesses are present to testify.
18 Do you need to make a brief opening statement at
19 this time?

20 (Exhibit Number 1 was marked for identification
21 purposes - (5 pages) Personal Data Questionnaire for
22 The Honorable Robin B. Stillwell.)

23 (Exhibit Number 2 was marked for identification
24 purposes - (3 pages) Sworn Statement of The Honorable
25 Robin B. Stillwell.)

1 JUDGE STILLWELL: I just want to tell you how much I
2 appreciate y'all giving me the opportunity to
3 appear remotely today. And more importantly, I
4 appreciate y'all giving me the opportunity to
5 continue to serve the state of South Carolina.

6 VICE CHAIRMAN SMITH: Thank you, Judge, I appreciate
7 it. I think Ms. Crawford's got your -- is your
8 screening attorney, so she's going to ask you
9 some questions, so will you answer her questions,
10 please, sir?

11 MS. CRAWFORD: Hi, Judge.

12 JUDGE STILLWELL: I will, sir.

13 JUDGE STILLWELL - EXAMINATION BY MS. CRAWFORD:

14 **Q. Good morning -- or what time is it there, Judge?**

15 **A.** It is 6:15 -- or 18:15 for you military types.

16 **Q. Okay. Can you tell the Commission why you would**
17 **like to continue or be considered to serve as an**
18 **active retired judge?**

19 **A.** Sure. You know, I have been serving as a circuit
20 judge for over eleven years now, since 2009.
21 Before that, I served as a municipal court judge
22 part-time for the county of Mauldin. And I
23 really enjoy it. It is a -- it is a privilege to
24 have the opportunity to serve. Even more so, it
25 is a privilege to have the opportunity to wear

1 the robe. I do enjoy it. I respect it. I think
2 that I have more to give to the state and to the
3 judiciary. Frankly, I retired a little bit more
4 quickly and sooner than I would have liked to, in
5 a perfect world. Therefore, I think I still
6 have more to give, and I look forward to doing
7 that.

8 **Q. Thank you, Judge. What do you think your**
9 **reputation is among attorneys that practice**
10 **before you?**

11 A. Well, you know, it's always hard to know exactly
12 what your reputation is because people will tell
13 you things to your face that they -- that they
14 may not mean. I hope that my reputation to the
15 Bar is that I'm respectful of everyone who comes
16 before the Bar and at all times practice the
17 Golden Rule, treat everyone how I would like to
18 be treated. And importantly, I hope that people
19 believe that I'm fair in all proceedings that
20 come before me.

21 **Q. Thank you, Judge.**

22 MS. CRAWFORD: Mr. Chairman, the Commission received
23 718 ballot box responses for Judge Stillwell.
24 There were 48 comments, and of the 48 comments
25 there was only one negative comment. All of the

1 -- well, the majority were obviously positive,
2 included the following: Judge Stillwell is one of
3 the finest judges in the state. We really
4 hate to lose Judge Stillwell. The military's
5 gain is our loss. Judge Stillwell is an
6 excellent judge, he has an outstanding character
7 and an excellent work ethic. I would note for
8 the record that the Upstate Citizens Committee
9 reported that Judge Stillwell was well qualified
10 in the evaluative criteria as for fitness,
11 professional and academic ability, character,
12 reputation, experience and judicial temperament
13 and qualified in the evaluative criteria of
14 constitutional qualifications, physical health
15 and mental stability. The Committee also noted,
16 I quote, "The Committee is humbled that Judge
17 Stillwell is still willing to serve in a retired
18 capacity, given his achievement in the United
19 States Army. We are thankful for his service on
20 the bench and to our country." Mr. Chairman, I
21 have no further questions or concerns.

22 VICE CHAIRMAN SMITH: All right. Any questions for
23 Judge Stillwell from any committee members --
24 commission members?

25 (No replies are heard.)

1 VICE CHAIRMAN SMITH: Judge Stillwell, let me conclude
2 this by, again, thanking you for your service and
3 obviously you've done a stellar job as a judge
4 over the years. To hear those type of comments,
5 that should make you feel good. And we've come a
6 long way since we were in law school together, I
7 believe. So I appreciate what you've done and
8 the career you've led. It's been much more
9 distinguished than mine, but that's okay. I
10 appreciate -- that's the way it should be. But I
11 appreciate what you've done. I appreciate you
12 attending remotely. More importantly, I know
13 you're serving, you're deployed and thank you for
14 offering to be a retired active judge. We
15 certainly need people like you and your caliber
16 to serve in that capacity. And so we hope to see
17 you over here soon. If you get transferred to
18 Shaw Air Force Base, like we talked, give me a
19 call.

20 JUDGE STILLWELL: I'll do it. I'll do it. Well,
21 thank you, Mr. Smith, and thank you to all of
22 you. I appreciate all of those kind words; I'm
23 humbled by the same. I just wish my mama could
24 have been here to hear it.

25 VICE CHAIRMAN SMITH: All right. Any further

1 questions?

2 (No replies are heard.)

3 VICE CHAIRMAN SMITH: With that being said, we're
4 going to sign off.

5 JUDGE STILLWELL: Thank you.

6 VICE CHAIRMAN SMITH: I'm glad you have -- glad you
7 found a WIFI spot. It all worked well, so good
8 job on doing that also.

9 MS. CRAWFORD: Thank you, Judge.

10 JUDGE STILLWELL: I appreciate it. Have a great day.

11 (Off the Record)

12 VICE CHAIRMAN SMITH: Mr. Bonds, good morning, sir.
13 How you doing?

14 MR. BONDS: Good morning.

15 VICE CHAIRMAN SMITH: We have -- I think we're doing -
16 - being seated up here. This is different --

17 MS. CRAWFORD: You need to swear --

18 VICE CHAIRMAN SMITH: Oh, to swear, okay. Well, I was
19 going to get him introduced as a guest first
20 before I swear, but I see you've got a guest with
21 you. Would you like to introduce them?

22 MR. BONDS: I do. I have my son Jack, and Jack is
23 with me. He's a third-year law student. We came
24 up, had dinner last night. He understood that
25 this was public and said could he come. And I

1 said why not. I've got a first-year law student,
2 but he's getting stressed out with exams right
3 now, and so he didn't want to take time to come.

4 VICE CHAIRMAN SMITH: So a third-year student's not
5 worried about exams, is it. Jack, appreciate you
6 being here. Welcome.

7 MR. BONDS: Thank you.

8 VICE CHAIRMAN SMITH: Get some experience on watching
9 the process work and seeing how some sausage is
10 made. I don't know if you'll be impressed when
11 you leave here, but nonetheless, glad you have
12 the opportunity to be a part of this.

13 MR. BONDS: Thank you.

14 VICE CHAIRMAN SMITH: All right. Mr. Bonds, will you
15 raise your right hand, please, sir.

16 MR. ROBERT BONDS having been duly sworn, testifies as
17 follows:

18 VICE CHAIRMAN SMITH: Mr. Bonds, before you, you have
19 your Personal Data Questionnaire and your Sworn
20 Statement. Are these both documents that you've
21 submitted to the Commission?

22 MR. BONDS: They are.

23 VICE CHAIRMAN SMITH: Are they both correct?

24 MR. BONDS: Yes. To the best of my knowledge, they
25 are correct.

1 VICE CHAIRMAN SMITH: Any changes that are going to
2 need to be made or updates at this time?

3 MR. BONDS: There is one change that Mr. Maldonado
4 brought to my attention concerning a tax lien in
5 the year 2000 that I didn't know about. I
6 think that maybe on question 34 or somewhere
7 around there. Do I need to -- I may need to
8 disclose that, but I think he's going to ask me
9 about it.

10 VICE CHAIRMAN SMITH: I think I saw that in your
11 briefing paper. I think you disclosed it to him.
12 And so I believe the Commission --

13 MR. MALDONADO: Yeah, we didn't find any --

14 VICE CHAIRMAN SMITH: Okay. And let me tell you, I
15 had that happen once too. It was my business,
16 our law firm, we missed a deadline or something
17 and they end up -- the DOR, imagine that, they
18 file a tax lien and don't even give you an
19 opportunity to pay your tax. So I empathize with
20 you on that. All right. Do you have any
21 objection to us making those two documents as
22 exhibits to your sworn testimony here today?

23 MR. BONDS: None.

24 VICE CHAIRMAN SMITH: All right. Without objection,
25 we'll make those documents exhibits. You can

1 have a seat, sir. Do you -- the Judicial Merit
2 Selection Commission has thoroughly investigated
3 your qualifications for the bench. Our inquiry
4 is focused on nine evaluative criteria and has
5 included a ballot box survey, a thorough study of
6 your application materials, verification of your
7 compliance with state ethics laws, a search of
8 newspaper articles in which your name appears,
9 study of previous screenings and checks for
10 economic conflicts of interest. We received no
11 affidavits filed in opposition to your election
12 today. There are no witnesses present to
13 testify. Do you wish to make a brief opening
14 statement to the Commission at this time?

15 (Exhibit Number 3 was marked for identification
16 purposes - (17 pages) Personal Data Questionnaire for
17 Robert Bonds.)

18 (Exhibit Number 4 was marked for identification
19 purposes - (6 pages) Sworn Statement of Robert Bonds.)

20 MR. BONDS: No, sir. I'll waive any opening
21 statement.

22 VICE CHAIRMAN SMITH: Okay. Then Mr. Maldonado is
23 your screening attorney, so will you answer
24 questions that he may have for you.

25 MR. BONDS: Yes, sir.

1 MR. MALDONADO: Thank you, Mr. Chairman. I note for
2 the record that based on the testimony contained
3 in the candidate's PDQ, which has been included
4 in the record with the candidate's consent,
5 Robert James Bonds meets the constitutional
6 and the statutory requirements for this position
7 regarding age, residence and years of practice.

8 MR. BONDS - EXAMINATION BY MR. MALDONADO:

9 Q. Mr. Bonds, how do you feel that your legal and
10 professional experience thus far renders you
11 qualified and will assist you to be an effective
12 circuit court judge?

13 A. I believe that my experience as a insurance
14 defense attorney, as a plaintiff's attorney and
15 as a criminal defense attorney, having tried
16 cases to verdict in all three of those areas of
17 practice, will assist me greatly in serving on
18 the bench and serving the citizens of the
19 Fourteenth Circuit. If I could go into a little
20 bit more explanation, I would say that for the
21 first six years of my practice I did almost
22 nothing but insurance defense litigation in
23 Colleton, Hampton, Beaufort and Jasper County. I
24 represented individuals who were alleged of
25 negligent actions, automobile cases, premises

1 liability cases. I represented insurance
2 companies in direct action suits against them.
3 And also did 1983 work representing a sheriff's
4 department, representing municipalities and
5 county governments. Also, did tort claims work
6 representing them. All of that work being done
7 through the IRF who had retained the firm that I
8 worked with the first six years. After that, I
9 went out on my own and, for the most part,
10 basically have had a general plaintiff's
11 practice. I've represented individuals who have
12 been injured by defective products, automobile
13 accidents, premises liability cases, nursing home
14 negligence cases, just to name a few. I have
15 tried cases to verdict as a plaintiff's attorney
16 on numerous occasions. And as a criminal defense
17 lawyer, I have basically started doing criminal
18 defense work back in the late '90s. I have
19 represented hundreds of people accused of crimes
20 from a traffic ticket, to attempted murder to
21 criminal sexual conduct cases, to trafficking in
22 various types of narcotics, failure to stop for a
23 blue light, burglary. And, in many cases, that
24 resulting in trial to verdict. And so I think
25 that having been in those trenches, having been

1 there and done those things, I think that's going
2 to assist me greatly as I serve.

3 **Q. Thank you, Mr. Bonds. The Commission received**
4 **177 ballot box surveys regarding you, with 31**
5 **additional comments. The ballot box survey, for**
6 **example, contained the positive comments: well**
7 **tempered, experienced in many areas of the law,**
8 **seasoned trial attorney, would make a fine**
9 **addition to the circuit court. Also, he has a**
10 **background that includes both civil and criminal**
11 **experience and would be a great asset to the**
12 **South Carolina Judiciary. I proudly endorse the**
13 **character, fitness, reputation and temperament to**
14 **serve. Two of the written comments express**
15 **concerns. One comment expressed the concern that**
16 **you may be too pro-plaintiff to be a fair judge.**
17 **How would you respond to this concern?**

18 **A. I submit that that is somebody who probably**
19 doesn't know me well, doesn't know my prior
20 history, as it relates to having experienced and
21 been a defense lawyer. I'd also submit that I
22 think something that's important is that a judge
23 is got to treat everybody with respect, with
24 dignity and listen. And if I walked into the
25 courtroom, am fortunate enough to become a judge,

1 if I didn't have an open mind, I would be falling
2 short of those goals. I don't think that would
3 be a problem and that's the best I can address
4 that question.

5 **Q. Thank you. Mr. Bonds, the second concern**
6 **indicated that you may have a bias where you**
7 **would be unwilling to rule against the quote**
8 **"establishment." What response would you offer**
9 **to this concern?**

10 A. Again, a little bit -- well, first of all,
11 I don't know what the "establishment" is.
12 I don't know if the "establishment" means the
13 solicitor's office or a particular defense firm
14 or particular plaintiff's attorney. I'm assuming
15 that's what they might mean. But what I would
16 say, again, I just think that I wouldn't be --
17 I'd be doing the judiciary a disservice. I
18 wouldn't be following the canons. I'd be doing
19 the Bar a disservice if I walked in the courtroom
20 and didn't treat people with respect, with
21 dignity and listen and did make a decision. I
22 also wouldn't be setting a good example for folks
23 who are sitting right behind me and even want to
24 be a lawyer. And that's the best I can
25 address that, Mr. Maldonado.

1 **Q. Thank you. Mr. Bonds, in 2012, while you were a**
2 **partner, your firm was sued by a Janice D.**
3 **Headen in Colleton County Circuit Court. Can you**
4 **tell the members the circumstances and the result**
5 **of that lawsuit?**

6 A. Janice Headen was her name. And she was a client
7 in a case that we were handling. And quite
8 frankly, it was a case that we missed a statute
9 on. And when I became aware of that, I
10 immediately informed Ms. Headen, directed her to
11 find another attorney and have that attorney
12 immediately contact me, and the same time I
13 contacted my carrier. And to that extent,
14 cooperated with my carrier and that case was
15 resolved. But it was a suit that arose out of
16 missing the statute of limitations.

17 **Q. If you were given an opportunity to serve, how**
18 **would you attempt to improve the docket backlogs?**

19 A. Docket backlogs, from a criminal perspective, in
20 the -- what we find is usually you have two cases
21 that are getting ready for court, it's been my
22 experience. I have not been on the solicitor's
23 side of things, but you find two cases that are
24 getting ready for court. And then what happens
25 is the first case ends up in a situation where

1 you have a witness who ends up not being
2 available, somebody who has mandatory training or
3 somebody who -- a chemist who can't come down to
4 Walterboro from Columbia. And so I think what
5 we've got to do a better job of is to try to have
6 some status conferences where we can make certain
7 that both the defense and the solicitor knows
8 that these witnesses are available. That's
9 one thing that I think we could work on. Because
10 what happens is we see that often times the first
11 case is continued for any numbers of reasons.
12 The second case that's been prepared pleads and
13 then all of sudden it's Tuesday morning and we've
14 got a situation where court is in a situation
15 where it could break down. But I think with the
16 use of status conferences from the criminal
17 perspective. From the civil perspective, I think
18 may be a better use of scheduling orders.
19 Sometimes I've found that a case kind of sits
20 around and then you go to a mediation and then it
21 doesn't get settled. And then you find yourself
22 needing to do discovery. And so I think if we
23 could have some better use of scheduling orders
24 it may help move things along and also avoid some
25 of the issues concerning -- concerning conflicts

1 and vacation, as I think those can be addressed
2 and wrapped around the scheduling orders.
3 Finally, in regard to the civil case, something
4 that I found recently and I've talked about is
5 mediations. Nowadays they seem to be more of a
6 check-the-box and not to the -- not what they
7 were years ago when mediation was a really big
8 day and big expectations and exciting. And I just
9 think that -- I think that we need to be
10 encouraged -- or the Bar needs to be encouraged
11 to treat mediations not as something that's
12 check-the-box, that is something that is
13 important. And I think that's important to your
14 plaintiffs because I think they feel like they
15 have their day in court. I think that's really
16 important. I think mediations are slipping away
17 from that. I'm sorry, I -- those are some ideas.

18 **Q. Thank you. I would note that the Lowcountry**
19 **Citizens Committee reported that Mr. Bonds is**
20 **well qualified as to ethical fitness,**
21 **professional and academic ability, character,**
22 **reputation, experience and judicial temperament.**
23 **The Lowcountry Citizens Committee reported Mr.**
24 **Bonds is qualified as to the constitutional**
25 **qualifications, physical health and mental**

1 stability. The Committee also commented that Mr.
2 Bonds has broad experience in civil and civil
3 work, nature -- natural judicial demeanor,
4 history of public service, gets along with
5 everyone, great foundation. I'll finish up with
6 some housekeeping questions. Mr. Bonds, are you
7 aware that as a judicial candidate you are bound
8 by the Code of Judicial Conduct as found in the
9 Rule 501 of the South Carolina Appellate Court
10 Rules?

11 A. I am.

12 Q. Since submitting your Letter of Intent, have you
13 contacted any members of the Commission about
14 your candidacy?

15 A. No, sir.

16 Q. Since submitting your Letter of Intent, have you
17 sought or received the pledge of any legislator,
18 either prior to this date or pending the outcome
19 of your screening?

20 A. No, sir.

21 Q. Are you familiar with § 2-19-70, including the
22 limitations on contacting members of the General
23 Assembly regarding your screening?

24 A. I am.

25 Q. Have you asked any third parties to contact

1 members of the General Assembly on your behalf or
2 are you aware of anyone attempting to intervene
3 in this process on your behalf?

4 A. No, sir.

5 Q. Have you reviewed and do you understand the
6 Commission's guidelines on pledging in SC Code §
7 2-19-70(E)?

8 A. Yes, sir.

9 MR. MALDONADO: Mr. Chairman, I would note for the
10 record that any concerns raised during the
11 investigation by staff regarding the candidate
12 were incorporated into the questioning of the
13 candidate today. I have no further questions.

14 VICE CHAIRMAN SMITH: Mr. Bonds, let me ask you a few
15 questions. I'll go first.

16 MR. BONDS: Yes, sir.

17 VICE CHAIRMAN SMITH: At one point I may have to leave
18 here.

19 MR. BONDS - EXAMINATION BY VICE CHAIRMAN SMITH:

20 Q. But looking through your experience, you've got a
21 breadth of experience, it appears to me. You've
22 done civil defense work. You've done plaintiff's
23 work. You've done criminal work. About
24 everything that's going to appear in front of a
25 circuit court judge; is that right?

1 A. Yes, sir. I think that's fairly accurate.
2 There's some transactional businesses and matters
3 that I have not had a lot of experience on, real
4 estate types of things, but I think most of
5 what's going to come before a circuit court judge
6 I've had experience.

7 Q. And in -- presuming if you've been a defense
8 lawyer doing tort claims act stuff and automobile
9 accidents and plaintiffs work, I presume you've
10 spent a lot of time in the courtrooms throughout
11 your area in the state?

12 A. I have.

13 Q. And you know, when you get there, I mean, part of
14 what I know it's important to me is the
15 temperament and the way some judges become
16 getting elected and all of a sudden they forget
17 what it's like to practice law. And you know, I
18 wonder just kind of you talk about your
19 philosophy in that regard that lawyers obviously
20 these days there's a push to get cases moved; I
21 understand that. I think COVID is going to make
22 it a hundred times worse because, you know, I
23 heard -- I remarked to the screening attorneys
24 over here how you going to cure a backlog in
25 courts. I think the first thing you got to do is

1 cure the COVID-19 infection rate -- the
2 infections around here because it's tough to get
3 juries and it's tough to get court moving these
4 days. But regardless of that, you know, what I'm
5 concerned about is, you know, if you do criminal
6 work like you've done in what I call the small
7 town practice, and you've got a little bit of
8 everything, and that's what you've got to do in
9 order to make a living in Colleton County or
10 Sumter County or Clarendon County are things like
11 that, how do you -- how are you going to balance
12 people who appear before you when you've got
13 pressure from court administration saying we've
14 got to get these cases moved but also have got
15 conflicts with other things, even may not be
16 court related. You know what it's like taking
17 discovery and depositions and mediations. Are
18 you going to yank people out of the mediations to
19 come try their cases? Talk to me a little bit
20 about how you'd handle that balance between
21 people who are busy as attorneys.

22 A. Well, I've been there. My wife is an attorney.
23 So to that extent, we have three children. And
24 at the time, there was less than three years
25 between all three of them. And so to that -- and

1 actually, I guess there still is less than three
2 years between them. But that having been said, I
3 understand those needs. I've been there to
4 request when the youngest comes home on a heart
5 monitor and you've got to run and go back forth
6 to the pediatric cardiologist at MUSC. I
7 understand those needs. I've been there. I will
8 tell you, I don't think I've ever been denied a
9 request by any judge as it relates to those
10 matters. And so again, having been there, I
11 understand. And I know that they're -- the court
12 administration and other folks breathing down
13 your neck try to move cases, but I also
14 understand what it's like. One of the most
15 frustrating things are implied consent hearings.
16 When you get the notice that you've got to appear
17 to have implied consent hearing, and, you know,
18 those are really important because you may end up
19 at that implied consent hearing getting the
20 entire case resolved. And that's one of the
21 lowest things on the totem pole. And you know, I
22 have a motion somewhere on a motion to compel
23 discovery and all of a sudden, you know, if we go
24 in the hierarchy range, the motion to compel is
25 higher than the implied consent. But when you

1 sit there and you look at how it's going to
2 affect an individual, I just think you've got to
3 be aware of that. I don't think I'm going to
4 forget that.

5 **Q. All right.**

6 VICE CHAIRMAN SMITH: Any other questions for Mr.
7 Bonds? Mr. Safran.

8 MR. BONDS - EXAMINATION BY MR. SAFRAN:

9 **Q. Very briefly. I don't think we know each other,**
10 **but I started practicing in the Fourteenth**
11 **Circuit when I began many, many years ago. And**
12 **it seems like what you're doing is in line with**
13 **the judges I remember down there. I think you**
14 **could go back 40 years and it seems like all the**
15 **judges, for the most part, have had that broad**
16 **experience: criminal, civil, you know, where**
17 **they've been in court. And I guess in your**
18 **experience there, having appeared in front of**
19 **them, do you think it kind of gives them a leg up**
20 **to have that kind of a broad type of background?**

21 **A. Well, absolutely. I think that it does. They're**
22 **able to -- again, you have an understanding and**
23 **you know what it's like. And I'll just tell you,**
24 **for me personally, I think having been an**
25 **insurance defense lawyer to know what goes on to**

1 know what it's like to have -- and reporting to
2 an adjuster and the pressures associated with
3 that, having been a plaintiff's lawyer, knowing
4 what it is to have a client who has unrealistic
5 expectations, having to deal with that, I
6 understand that. And also having
7 represented folks, Mr. Safran, in criminal
8 matters. You know, I've been there when the
9 cuffs have gone on after an adverse verdict, and
10 I understand what that is. And I think that's
11 very important.

12 Q. And I know we've talked about this in the last
13 several years. I mean, doesn't the Bar basically
14 benefit from having somebody who's been around
15 and knows these different areas maybe than
16 somebody who's got a more narrow scope of prior
17 practice?

18 A. I would certainly like to think so.

19 Q. Well, and I guess in your experience haven't you
20 felt more comfortable when you feel like the
21 judges have been there, when the judges have done
22 what you're doing and, as the chairman says, kind
23 of can empathize with you in terms of what the
24 day-to-day is, as far as demands of practice?

25 A. Yes, sir.

1 Q. And do you intend to continue to, I guess, with
2 that trend, that you're going to basically
3 recognize it being a lawyer you're getting pulled
4 in so many directions so often. And that, you
5 know, certainly you prioritize but you can't
6 always be everywhere you need to be.

7 A. I would -- I would agree that again I've been
8 there and it's just not something that I would
9 ever envision forgetting. And again, I just -- I
10 just can't -- I couldn't imagine doing that.

11 Q. Well, and I looked at some of the ballot box.
12 And frankly, for the most part, they're
13 excellent. And the one that stuck out with me
14 where it says extremely pro-plaintiff, well, for
15 the last 20 some odd years, hasn't that been your
16 job to be pro-plaintiff?

17 A. It has been. And I have done, for the most part,
18 exclusively plaintiff's litigation and also, of
19 course, criminal defense. But again, the first
20 six years of my practice I did exclusively
21 defense work. And so, again, I --

22 Q. And I see --

23 A. -- haven't forgotten that.

24 Q. -- it telling in here that there was a ballot box
25 that says they were an adjuster and that they

1 still basically feel like you were very fair even
2 though you're on the opposite side of them these
3 days. So, I mean, I'm assuming you've kept a
4 pretty good relationship with those that you're
5 kind of finding as your opponents to the extent
6 these type of comments are coming from both sides
7 of the aisle?

8 A. I try to be reasonable. And I think that
9 reasonable people can get along and that
10 sometimes you're going to have disagreements and
11 -- but I think that if you're reasonable and
12 folks are reasonable and, again, listen to each
13 other I think justice is going to be served.

14 Q. Thank you very much for your time and for
15 offering.

16 A. Yes, sir.

17 VICE CHAIRMAN SMITH: Pete. Mr. Strom.

18 MR. STROM: Thank you, Mr. Chairman.

19 MR. BONDS - EXAMINATION BY MR. STROM:

20 Q. Of course, I've known you, followed your career
21 and you enjoy an excellent reputation. And just
22 to follow up on what Mr. Safran was saying, I was
23 looking at your letters and I see the first
24 letter is from the Murdaugh Firm, obviously a
25 plaintiff's firm. And then the second letter is

1 from Mitch Griffith. And about every case I have
2 that's down there Mitch Griffith's on defense
3 side. He's a tenacious lawyer, tenacious trial
4 lawyer. So it tells me a lot when you got the
5 biggest plaintiff's firm and probably the best
6 civil defense lawyer both writing you letters of
7 recommendation. That goes a long way. And of
8 course, everybody on this Commission knows the
9 lawyers in the Fourteenth Circuit aren't shy.
10 And if they didn't want you as a judge, or didn't
11 think you were qualified, we'd have lots of
12 comments. So I'm completely satisfied and thank
13 you for offering and hope this all works out.

14 A. Thank you, Mr. Strom.

15 MR. STROM: Thank you, Mr. Chairman.

16 VICE CHAIRMAN SMITH: All right. Thank you, Mr.
17 Strom. Any further questions?

18 (No replies are heard.)

19 VICE CHAIRMAN SMITH: All right. Mr. Bonds, we need
20 to go into executive session real quick with you.
21 And Jack, you're going to have to leave the room.
22 Your daddy's not in trouble. Don't worry about
23 it. It's just some confidential thing that we're
24 required to go into executive session. So Mr. --
25 Representative Murphy moves we go into executive

1 session. Seconded by Senator Talley. All
2 in favor say aye.

3 (Ayes are heard.)

4 VICE CHAIRMAN SMITH: All opposed?

5 (No replies are heard.)

6 VICE CHAIRMAN SMITH: Ayes have it. We're in
7 executive session.

8 EXECUTIVE SESSION

9 VICE CHAIRMAN SMITH: Mr. Strom moves that we come out
10 of executive session. Seconded by Mr. Safran.
11 All in favor say aye.

12 (Ayes are heard.)

13 VICE CHAIRMAN SMITH: All opposed?

14 (No replies are heard.)

15 VICE CHAIRMAN SMITH: Ayes have it. So we're back on
16 the record. And let me state while in executive
17 session we had a confidential discussion with the
18 candidate concerning issues that are -- that
19 were, per the statute, are not to be disclosed
20 and on the record. And so we have done that,
21 discussed some financial issues. So any further
22 questions for Mr. Bonds?

23 (No replies are heard.)

24 VICE CHAIRMAN SMITH: Mr. Bonds, I don't think there
25 are any other questions. And let me state to you

1 I appreciate you being here. More importantly,
2 we appreciate you offering for this position.
3 Your breadth of experience in both criminal and
4 civil, it's nice to have people like you that
5 would offer for this position. And sometimes I'd
6 look at being a judge -- some people look at it
7 as a job and some people look at it as giving
8 back to the legal profession and something that
9 has richly blessed a lot of us around here, a lot
10 of lawyers across the state. So I see that as
11 the tack that you take, and I appreciate you.

12 MR. BONDS: Yes, sir.

13 VICE CHAIRMAN SMITH: The end of your career, I
14 wouldn't call it --

15 MR. BONDS: Thanks.

16 VICE CHAIRMAN SMITH: I'm sure you got a lot of years
17 behind you, but you got some kids in law school
18 and I presume they're getting off the payroll
19 sooner later. And so you're wanting to do what
20 when we start practicing law early on in the
21 1990s that most judges were winding their careers
22 down and then we saw that median age get
23 younger and younger, and it's nice to see people
24 who are the back end of their end career to bring
25 their wealth of experience to the bench. So I

1 thank you for offering for this position. Mr.
2 Bonds, this will conclude this portion of our
3 screening process. I want to take the
4 opportunity to remind you that pursuant to the
5 Commission's evaluative criteria, the Commission
6 expects candidates to follow the spirit, as well
7 as the letter of the ethics laws. And we will
8 view violations or an appearance of impropriety
9 as serious and potentially deserving of heavy
10 weight in the screening deliberations. On that
11 note, the record will remain open until the
12 formal release of the Report of Qualifications,
13 and you may be called back at such time if the
14 such need arises. So I thank you for your
15 offering for this position. I thank you for your
16 service to the state of South Carolina and good
17 luck to you, sir.

18 MR. BONDS: Thank you.

19 (Off the Record)

20 VICE CHAIRMAN SMITH: We're back on the record. Ms.
21 Legette, how you doing today?

22 MS. LEGETTE: I'm well. How are you, sir?

23 VICE CHAIRMAN SMITH: Doing well. I appreciate you
24 being here. And I think you brought some company
25 with you; is that correct?

1 MS. LEGETTE: I did, yes, sir.

2 VICE CHAIRMAN SMITH: Would you like to introduce them
3 to the Commission?

4 MS. LEGETTE: Certainly. Thank you. I have with me
5 my best friend, Denise Pinkney and her husband
6 Mr. Jonathan Pinkney.

7 VICE CHAIRMAN SMITH: Okay. Mr. and Mrs. Pinckney,
8 appreciate y'all being here. Welcome.

9 THE PINCKNEYS: Thank you.

10 VICE CHAIRMAN SMITH: You can take your mask off.

11 MS. LEGETTE: Thank you so much. My parents could not
12 be here -- I'm sorry. My parents couldn't be
13 here today. My mom had a procedure this morning,
14 so they could not make it.

15 VICE CHAIRMAN SMITH: Oh, I'm sorry. I hope all that
16 went well. We wish her well on that.

17 MS. LEGETTE: Thank you so very much.

18 VICE CHAIRMAN SMITH: Raise your right hand, please,
19 ma'am.

20 TAMEAKA A. LEGETTE having been duly sworn, testifies
21 as follows:

22 VICE CHAIRMAN SMITH: Ms. Legette, before you is your
23 Personal Data Questionnaire and your Sworn
24 Statement. Are these both documents that you've
25 submitted to the Commission?

1 MS. LEGETTE: Yes, sir, Your Honor. Yes, sir. Along
2 with the amendments as well as my sworn
3 statement, they are, yes.

4 VICE CHAIRMAN SMITH: And they're both correct?

5 MS. LEGETTE: I believe they are correct and do
6 reflect the amendments that I submitted, I
7 believe.

8 VICE CHAIRMAN SMITH: All right. And anything else
9 that you need to change or update at this time?

10 MS. LEGETTE: I don't -- I don't believe so.

11 VICE CHAIRMAN SMITH: Do you have any objection to
12 us making these documents and any amendments
13 thereto a part of the record of your sworn
14 testimony here today?

15 MS. LEGETTE: I have no objection.

16 VICE CHAIRMAN SMITH: You may be seated. This is not
17 a jury argument, so I'll let y'all have a seat
18 and get comfortable. Ms. Legette, the Judicial
19 Merit Selection Commission has thoroughly
20 investigated your qualifications for the bench.
21 Our inquiry is focused on nine evaluative
22 criteria and has included a ballot box survey, a
23 thorough study of your application materials,
24 verification of your compliance with state ethics
25 laws, a search of newspaper articles in which

1 your name appears, study of previous screenings
2 and checks for economic conflicts of interest.
3 We've received no affidavits filed today in --
4 filed in opposition to your election. There are
5 no witnesses present to testify. Do you have a
6 brief opening statement that you wish to make at
7 this time?

8 (Exhibit Number 5 was marked for identification
9 purposes - (18 pages) Personal Data Questionnaire for
10 Tameaka A. Legette.)

11 (Exhibit Number 6 was marked for identification
12 purposes - (5 pages) Amendment to Personal Data
13 Questionnaire for Tameaka A. Legette.)

14 (Exhibit Number 7 was marked for identification
15 purposes - (9 pages) Sworn Statement for Tameaka A.
16 Legette.)

17 MS. LEGETTE: Yes, thank you. I just wanted to say I
18 am so grateful to be here today. It is a
19 pleasure and an honor to sit before you. I thank
20 each of you for your service to our state and I
21 am thankful to God for allowing me to have this
22 opportunity today. Thank you so much.

23 VICE CHAIRMAN SMITH: All right. Thank you,
24 appreciate those words. Will you
25 answer questions that Mr. Pearce may have for

1 you, please, ma'am.

2 MS. LEGETTE: Yes.

3 MR. PEARCE: Thank you, Mr. Chairman and members of
4 the Commission. I note for the record that based
5 on the testimony contained in the candidate's PDQ
6 and amendments to the original PDQ, which have
7 been included in the record with the candidate's
8 consent, that Ms. Legette meets the
9 constitutional and statutory requirements for
10 this position regarding age, residence and years
11 of practice.

12 MS. LEGETTE - EXAMINATION BY MR. PEARCE:

13 **Q. Ms. Legette, good morning.**

14 A. Good morning, sir.

15 **Q. How do you feel that your legal and professional**
16 **experience thus far renders you qualified and**
17 **will assist you to be an effective circuit court**
18 **judge?**

19 A. Thank you for the question. I believe that for
20 the last 18 years I have served the state of
21 South Carolina and its citizens as a prosecutor
22 in the Court of General Sessions across the
23 Fourteenth Circuit. With that particular
24 experience, or those experiences, I've actually
25 tried numerous cases to jury trials and to

1 verdicts, whether they be guilty or not guilty.
2 I've also done -- I'm not certain how many plea
3 negotiations, motions, practiced in the Court of
4 General Sessions probably hundreds, maybe
5 thousands; I'm not really certain. Additionally,
6 I have reviewed enormous files. I have reviewed
7 files over and over again for purposes of either
8 throwing them out, dismissing them outright or to
9 present them to the grand jury. With these
10 experiences, I believe that I have gained a
11 wealth of knowledge, a wealth of experience in
12 the Court of General Sessions in the circuit
13 court which I believe will serve me well to be
14 able to serve the people of South Carolina as a
15 circuit court judge. Additionally, prior to
16 going to law school, I also worked in management.
17 And in management I also had to manage
18 personalities, I had to manage people and I had
19 to actually run the actual stores that I was a
20 manager at, a shift manager or either an
21 assistant manager. Given that as management,
22 basically I believe a circuit court judge is a
23 person who manages the courtroom. They manage
24 the docket. And so I think I'm well equipped to
25 be able to serve the people of South Carolina as

1 a circuit court judge in the capacity.

2 Q. The Commission has received 281 ballot box
3 surveys regarding you. Twenty-nine of those
4 responses had additional comments. The ballot
5 box survey, for example, contain the following
6 positive comments that included great person and
7 would be a great addition to the bench.
8 Excellent prosecutor. Has always treated me with
9 respect. Upstanding individual. Recognized by
10 her peers for her professionalism, legal
11 experience and selfless service to her community.
12 Eight of the written comments expressed some
13 concerns. Several of the concerns indicated that
14 you don't have experience in the practice of
15 civil law. What response would you offer to
16 those concerns?

17 A. Thank you for the question. I admit that I have
18 not practiced in the Court of Common Pleas.
19 However, since I filed my application to become a
20 circuit court judge, I actually have availed
21 myself of several CLEs. I've taken about five --
22 at least five CLEs that I believe reflect the
23 civil practice of law in our state, and even, I
24 guess, the civil practice of law across the
25 nation. Additionally, I have spoken to circuit

1 court judges regarding the civil practice of law.
2 I've also spoken to attorneys who actually
3 practice in civil law and have a civil practice.
4 I have also availed myself of reading some
5 pleadings, to review pleadings. I also attended
6 some non-jury hearings with several judges
7 advising for the WebEx benefit that we have now
8 by the Supreme Court. And so I try to avail
9 myself in these last several months to
10 bring myself up to speed. But I certainly
11 understand the concerns and I certainly would be
12 a person -- I have been a person who is a quick
13 study. My experience in the federal case, the
14 RICO case, something I have never actually done
15 before. I actually was a pretty quick study and
16 I actually was able to excel and to do well with
17 another attorney at my side who was my -- of
18 course, she was chief counsel, but I actually was
19 able to get up to speed rather quickly and go to
20 trial in a federal RICO case, which hadn't been
21 done in our state in numerous years. So I
22 believe -- and I'm not trying to pat myself on
23 the back, but I believe I'm a quick study. I
24 think I'm pretty smart, and I would be able to
25 learn. I've also been studying the Rules of

1 Civil Procedure. And so in an effort to
2 bring myself up to speed, I've done all these
3 things. So although I understand the concerns, I
4 certainly believe that I can be up to speed.

5 **Q. Another area of concern indicated you are pro-**
6 **law-enforcement and are someone who would have a**
7 **hard time ruling against the establishment. What**
8 **response would you offer to these concerns?**

9 A. Well, I would say that I'm sorry that someone
10 would feel that way, but I understand that they
11 might have only seen me in a capacity in the last
12 several years I have worked as a career criminal
13 prosecutor which meant that my role, more or
14 less, was to prosecute the worst offenders and
15 our career offenders in our circuit. So it might
16 have lent them to see me as a person who was
17 simply go, go get them. However, what they
18 didn't see behind the scenes was a painstaking
19 care I took to make certain that the case I had
20 was one that was prosecutable and that the case
21 itself would actually go to a verdict.
22 Additionally, they didn't see that -- the cases
23 that I had to throw out. Early in my practice, I
24 actually was responsible for running the dockets
25 of Hampton, Allendale and Jasper at one point,

1 sometimes alone. Which meant I had to run court
2 and be responsible for everything in the
3 courtroom, including the trial. And prior to me
4 going to court, I actually had to review the
5 files themselves. So in essence, I actually
6 threw out -- probably dismissed and threw out or
7 nolle prossed more cases than I prosecuted. So
8 someone probably never saw that. But I
9 understand their concerns, but I would tell them
10 this: I am pro-justice. I have never been pro-
11 money. I have never been pro-anything but
12 justice. I have never been, you know, pro-
13 myself. I have just been pro-justice. So I
14 believe in a constitution and the safeguards that
15 it provides for our citizens. And I would do my
16 best to uphold those safeguards for all people
17 who are accused or people who actually come into
18 the courtroom, plaintiffs and defendants.

19 MR. PEARCE: I would note that the Lowcountry Citizens
20 Committee reported that Ms. Legette is well
21 qualified in the evaluative criteria of ethical
22 fitness, professional and academic ability,
23 character, reputation, experience and judicial
24 temperament. They found her qualified in the
25 evaluative criteria of constitutional

1 qualifications, physical health and mental
2 stability. The Committee further commented
3 quote, "Extraordinary life experience. True
4 public servant. Charismatic and caring, dynamic,
5 humble, engaging, great temperament, effective
6 communicator, highly relational and smart.
7 Dedicated to service and people. She does not
8 have much civil experience. We are confident she
9 will quickly learn. Entire committee was blown
10 away by her story, her character, her integrity
11 and her skills and everything else."

12 **Q. Ms. Legette, we have some housekeeping questions**
13 **for you. Are you aware as a judicial candidate**
14 **you are bound by the code of judicial conduct as**
15 **found in Rule 501 of the South Carolina Appellate**
16 **Court Rules?**

17 A. Yes.

18 **Q. Since submitting your Letter of Intent, have you**
19 **contacted any members of the Commission about**
20 **your candidacy?**

21 A. I have not. However, prior to his appointment to
22 the Commission, I actually did send a letter of
23 introduction to Senator Talley. So that was a
24 letter to Senator Talley. But when I would --
25 I'm sorry, forgive me. So I sent a letter of

1 introduction to Senator Talley. However, since
2 he has been appointed to the Commission, I have
3 not spoken to him, nor have I spoken to any other
4 members of the Committee. However, I did
5 inadvertently run into a few of them, at which we
6 point we exchanged pleasantries, but we did not
7 discuss my candidacy.

8 **Q. Since submitting your Letter of Intent, have you**
9 **sought or received the pledge of any legislator,**
10 **either prior to this date or pending the outcome**
11 **of your screening?**

12 **A. No, I have not.**

13 **Q. Are you familiar with § 2-19-70 including the**
14 **limitations on contacting members of the General**
15 **Assembly regarding your screening?**

16 **A. Yes, I am.**

17 **Q. Have you asked any third parties to contact**
18 **members of the General Assembly on your behalf or**
19 **are you aware of anyone attempting to intervene**
20 **in this process on your behalf?**

21 **A. No.**

22 **Q. Have you reviewed and do you understand the**
23 **Commission's guidelines on pledging as well as SC**
24 **Code § 2-19-70(E)?**

25 **A. Yes.**

1 MR. PEARCE: Mr. Chairman, I would note for the record
2 that any concerns raised during the investigation
3 by me regarding this candidate were incorporated
4 into the questioning of the candidate today. And
5 Mr. Chairman, I have no further questions.

6 VICE CHAIRMAN SMITH: Thank you, Mr. Pearce. Let me
7 ask -- I've got to be somewhere at 11:30, so I'm
8 going to start off asking some questions, but
9 first let me remark about this.

10 MS. LEGETTE - EXAMINATION BY VICE CHAIRMAN SMITH:

11 Q. I've reviewed your information and I see you're a
12 Bar examiner?

13 A. Yes, I am. Yes.

14 Q. You've been appointed whether it be -- how long
15 have you done that?

16 A. Four years, since 2016.

17 Q. So what section do you normally deal with?

18 A. Well, actually, I've graded several different
19 sections. There was a -- I've graded -- it was
20 evidence. I also graded criminal law. I also
21 had a civil procedure question regarding The
22 Hague, a jurisdictional issue. And so they
23 actually just vary. They just -- it was an
24 agency question, so it just varies. It has not
25 been -- they try to give us our area where we

1 practice, but it does not always happen. And so
2 I've actually embraced not having a criminal law
3 section and able to think outside the box and do
4 something beyond what I normally do.

5 **Q. Fail a lot of people?**

6 A. No, no, no, no. No, no, no, no, no, no. I find
7 myself begging people please let me find
8 something here to pass you.

9 **Q. And the other thing that I was impressed with is**
10 **when I looked through this and, you know, we all**
11 **have our ways and, you know, humility is always**
12 **something that's good to somebody, but I noticed**
13 **in one of these complaints your response was that**
14 **you started your prosecution career as very**
15 **ardent. I would presume that meant you were --**
16 **believe what -- in your cases and you were --**
17 **everyone else on the other side was not not**
18 **worthy of any consideration or mercy, but it says**
19 **you've had lessons of humility.**

20 A. I have.

21 **Q. So can you kind of tell me -- obviously you've**
22 **spent your career and you're there now and it's**
23 **an adversarial position, but, you know, you see**
24 **the victim's side and the police side of the**
25 **cases. You don't see the human side of the**

1 defendant over there. You know, tell us how
2 you've kind of progressed in your views and how
3 you would handle that if you were a judge having
4 a criminal defendant up there either asking for
5 mercy upon, you know, the plea -- a guilty plea
6 or how you would rule in certain Jackson v. Denno
7 here.

8 A. Yes, sir. Certainly. Thank you for the
9 question. And so in the beginning of my career,
10 fresh out of law school, you know, we have
11 different things that we do, we're learning
12 obviously. I always -- I felt a very, very sense
13 of -- sense of, I guess, mercy towards children,
14 because I also was a juvenile prosecutor, and so
15 I wanted them to do better. There were times
16 where I might not have been the most merciful
17 prosecutor that there was. I will say this, that
18 I accredit an experience with Jesus Christ. And
19 that may not be the most popular thing to say
20 now, but I accredit experience with him that has
21 changed me. This woman here, Ms. Denise Pinkney,
22 I will credit with bringing me to the Lord. So
23 honestly, that experience with Jesus Christ I
24 have -- I've learned that there -- people are
25 human. We're all human. They're just two kinds

1 of people in the world, taught and the untaught.
2 I always knew that. I always try to employ it,
3 but I believe that as a prosecutor sometimes a
4 person might lose sight of it when looking at it
5 from the perspective of the victim and victim
6 wants vengeance; the defendant wants mercy. And
7 we're the people in the middle who are, you know,
8 telling the judge this is what's happened.
9 However, I have experienced also in, I believe it
10 was, 2013, I think it's in my packet, there was a
11 case that I had. And that case, although it was
12 a very -- I would say the evidence was strong in
13 that case, however, the evidence being strong, we
14 were in a jurisdiction, a venue, where no matter
15 how strong your case is, they will hand you your
16 head, whether you be a defense attorney or
17 whether you be prosecutor. And so that
18 experience with that particular victim and being
19 not guilty, in my heart of hearts, having to
20 watch that victim go through the pain and
21 suffering of not only having been violated in
22 such an inhumane way and then having to turn and
23 look at the jury who found the offender not-
24 guilty for what he had done, she was irrevocably,
25 I believe, changed. She tried to commit suicide.

1 I found myself having to, you know, just be a
2 shoulder for her to cry on and try to be a
3 leaning post for her. It was a very, very
4 humiliating experience. It brought humility to
5 my life in ways that I don't think I ever, ever
6 experienced. By that time, I -- sometimes, you
7 know, in my experience I have been promoted in
8 our office. And so I was led to believe that
9 possibly, hey, I thought I knew what I was doing.
10 And so with that experience, despite the evidence
11 itself and despite how strong the evidence was
12 and the passion that I had for the case, it was
13 not guilty. And so I had to reflect. And it's
14 good. Sometimes it's very, very good for us to
15 be, you know, brought down to our knees. It's
16 very good. It's very good. It was good
17 experience for me because I learned then that,
18 you know what, there is more life than this. And
19 you know, you have to see the other side. I've
20 also, in recent months, I have actually had the
21 opportunity to get to know some family members of
22 some persons that I had prosecuted. That too was
23 a humbling experience because I got to look into
24 the eyes of the mother who sons -- albeit they
25 pled guilty, I had to look into her eyes and have

1 her tell me how angry she had been with me and
2 how much she wanted to hate me. And I had to
3 look at her and come to understand these cases
4 affect people, they affect real people. And real
5 people go to jail and real people lose their
6 freedom, something that is very, very dear to
7 them. More dear probably -- more precious than
8 money. And so I believe that these experiences
9 have humbled me to a point where absolutely I
10 would see the other side of someone. I will see
11 their humanity because you know what, we're all
12 human. And like I said, we -- you know, it was
13 just the taught and the untaught. We've all done
14 things that we probably -- something could have
15 happened to us. So I'm no longer the prosecutor
16 that I might have been years and years ago, and I
17 credit Jesus Christ for that change. Did I
18 answer your question?

19 **Q. Yeah, that answered it very well, and I**
20 **appreciate that. The one thing I've learned is,**
21 **and I think all of us up here who practice law**
22 **learn that, you know, is you win some and you**
23 **lose some and you're always going to be humbled.**
24 **Don't ever get arrogant in your power as an**
25 **attorney because the case that you think never**

1 can lose is the one you always lose. So it's --
2 that's the good thing. It keeps a check on our
3 egos sometimes, practicing law. You mentioned
4 earlier and, you know, when I think about this
5 and issues we always talk about when people are
6 career prosecutors, and that's what you've been -
7 -

8 A. Yes.

9 Q. -- for the most part throughout your career is,
10 you know, when you talked a little bit about the
11 human element and, you know, I always said I was
12 a public defender for three years on a part-time
13 basis in Sumter County, and I always go back no
14 matter how heinous a crime was or how hardened
15 that person was, they had a mother or they had a
16 grandmother, they had somebody that loved them
17 and cared about them. And you know, you see that
18 human element even with how bad the crime is.
19 And, you know, part of what we are balancing and
20 we're working through as members of the General
21 Assembly is, you know, are there alternative ways
22 to handle cases. People deserve a second chance.
23 Is prison the right answer for everybody?
24 Because my experience has been -- and I've turned
25 around, I'm doing 1983 actions and my experience

1 is now that prisons are filled with gangs and it
2 makes people more hardened when they come back
3 out. And that's the only way you can survive is
4 to participate in that system, and I wish there
5 was a way we could change it and we certainly are
6 trying, but it's difficult. So what, you know, I
7 ask people about this is you have concerns
8 obviously that people mention it, and your ballot
9 surveys and we see people who are career public
10 defenders. They -- it flips to the side of, you
11 know, we think they're going to be too lenient on
12 criminals. How do you find that balance to
13 determine -- sentence this person to prison or
14 not prison or do I do some type of diversion or
15 give them a second chance? What would be your
16 guiding process in there?

17 A. Well, honestly, as I worded, I believe, my sworn
18 statement, my philosophy would be I would, of
19 course, listen to the victims. If it was a
20 victim crime, I would listen to the victim impact
21 statements. I would listen to the prosecutor. I
22 would listen to the attorney for the defendant.
23 But I would also want to hear from the defendant,
24 especially if it was a guilty plea. I was
25 thinking about this last night. And as I was

1 sitting there, I was thinking if I were the judge
2 what I would ask the defendant. And, you know, I
3 want to know, I want to see into this person. I
4 want to see a window into you and tell me, you
5 know, if I give you another chance will you take
6 advantage of that second chance. Because I
7 believe that the God we serve, the God I serve,
8 he's a God of another chance. And so what I
9 would employ would be obviously prayer. And I
10 would be very reflective and very thoughtful and
11 sentencing anyone, especially a younger person.
12 Especially with a younger person, someone who is
13 waived up from the through the court of -- you
14 know, family court or to general sessions as an
15 adult. As you mentioned, our prisons are overrun
16 and there must be -- there has to be a better way
17 to rehabilitate the persons around us. There has
18 to be. I've seen it. I actually also in recent
19 past, I met another young man who I had to look
20 into his eyes. We had a case -- I didn't
21 prosecute the case, but I was a part of the
22 prosecution team that prosecuted him. And when
23 he got back home from prison, you know, he was
24 telling the church that, you know, he had been
25 there, he'd been gone and now he'd been back out

1 a year and he's changed. And you know, people
2 change. And I want to see people change. I want
3 them to have second chances. And so what I would
4 employ is, you know, a second chance. Judge
5 Buckner, one of our resident judges -- well, he
6 just retired. Obviously this was his seat. He
7 often tried to give second chances to people.
8 When he gave them probation, he talked about his
9 -- when he was adopt-a-highway or adopt Colleton
10 County to actually, you know, use some -- utilize
11 -- pick up litter. So I think that there are
12 other ways for us to be able to deal with
13 punishment, yes. Rehabilitation, yes. But can
14 we save the humanity among us because we are
15 humans. They are humans. We call them inmates,
16 but they are humans also. They have mothers and
17 fathers and grandmothers and siblings, and so
18 we've got to find another way. And as a judge,
19 yes, I would be looking for alternatives to
20 sentencing, alternatives to life sentences. I
21 heard Judge Mullen once say, you know, when there
22 was a death penalty case going on she said death
23 is different, and it is. So there are other
24 ways. And I'd be certain in trying to find those
25 other ways.

1 **Q. All right. Any other questions for Ms. Legette?**
2 **Ms. McIver and then Representative Murphy.**

3 MS. MCIVER: Thank you, Mr. Chairman. I don't have a
4 question. I just have a comment. Ms. Legette
5 and I were in law school together. And in law
6 school I certainly knew you to be a leader. You
7 had a very calm demeanor. You were very ethical
8 and hardworking. And while Mr. Pearce has
9 already pointed out some of these comments that
10 the Lowcountry Citizens Committee reported, I
11 just wanted to reemphasize to you how impressive
12 that I thought that was. I'm sure other
13 Commission members saw that as well. The
14 Committee does not always go to such lengths to
15 point out a candidate's qualifications. And I
16 was blown away and really excited for you. I've
17 been on the civil side, so I haven't had an
18 opportunity to follow your career as closely as I
19 would have liked. And I was super excited to see
20 all of your accomplishments and to read all of
21 the comments in the ballot box. It looked like
22 most of the negatives were something that you
23 can't necessarily help, your lack of civil
24 experience, but that you have tried to make up
25 for that by participating in CLEs. I read the

1 letter of reference from the federal attorney you
2 talked about who talked about your performance in
3 the RICO case, and I just wanted to commend
4 you for your outstanding career. There was one
5 comment that I thought I would end with, "Ms.
6 Legette has a strong sense of community, having
7 passed down multiple promotion offers so that she
8 may continue to serve the citizens in the rural
9 community she so loves." And everything that
10 you've said today and everything that's been
11 written about you has certainly supported that
12 particular comment. And I just wanted to tell
13 you congratulations on an outstanding career.
14 And thank you for offering to serve.

15 MS. LEGETTE: Thank you so much.

16 VICE CHAIRMAN SMITH: All right. Representative
17 Murphy.

18 REPRESENTATIVE MURPHY: Thank you, Mr. Chairman.

19 MS. LEGETTE - EXAMINATION BY REPRESENTATIVE MURPHY:

20 Q. Ms. Legette, I would just kind of reiterate that.
21 I was looking through your letters of reference.
22 I've practiced Summerville. I've done a lot of
23 work in Colleton County with you and a lot of the
24 other solicitors there. And one thing that we've
25 kind of hit on but nobody's asked about is your

1 entire practice, and there's nothing career to
2 this point, has been as a -- as Mr. Smith said,
3 as a career prosecutor, and there's no shame in
4 that. I was assistant solicitor for Walter
5 Bailey for a number of years. But one thing that
6 we found is that judges that haven't managed a
7 small law firm, that haven't had to endure the
8 stress of the business aspect of running that law
9 firm and scheduling where you'll -- on a Monday
10 you'll have -- you're supposed to be in three
11 different courtrooms, three different counties,
12 three -- you know, at three different times. And
13 how would you manage that if you're having in
14 Colleton County or if you're in Hampton County,
15 whatever county, Beaufort and an attorney calls
16 you and says, judge, I'm supposed to be in front
17 of you at 10:00 o'clock for a motions hearing in
18 Beaufort, but I'm supposed to be in Dorchester
19 County on -- and it may be a DUI case that I have
20 to work out. And the hierarchy allows the common
21 pleas to take priority, but how would you -- what
22 is your philosophy on managing and on helping the
23 Bar members, particularly the small practice, the
24 solo practitioners that don't have the -- someone
25 that would be able to fill in for them, an

1 **associate? How would you manage that conflict**
2 **for members of the bar?**

3 A. Thank you, sir. Thank you for the question. I
4 believe we have a very collegial atmosphere in
5 the Fourteenth Circuit and we always try to
6 accommodate our private Bar. We do our best to
7 make certain they go first whenever they come to
8 court or give them a set time, if possible. I
9 know Judge Buckner often said that you don't give
10 appointments, however, our office has always
11 tried to accommodate and as close as possible
12 give appointments to private members of the Bar.
13 With that said, I honestly believe that a lot --
14 we actually have -- our Supreme Court obviously
15 has recognized that attorneys suffer from
16 substance abuse, mental health issues, just like
17 any other profession. So I believe it's very
18 important for our attorneys, private members of
19 the Bar, prosecutors, public defenders, all of us
20 to be able to get some time away, whether that
21 means vacation, whether that means, you know,
22 just take a leave of absence or whatever it
23 means. And certainly if someone has --
24 obviously, you know, rule number one, we have to
25 get paid. So your case is up for trial, wherever

1 it is, even if it's in magistrate's court, even
2 it's a DUI, I believe that the attorneys that I
3 have worked with, with the exception of only
4 maybe one or two, when they tell me they have to
5 be some place else, I can believe that, I can
6 trust that. And so I would give great deference
7 to attorneys who have conflicts, especially the
8 solo practitioner who tells me, look, I have to
9 be here. Well, certainly we can accommodate you
10 on a different date or maybe we can get a
11 continuance. So I certainly would have an open
12 door, an open ear to hear any of those concerns
13 and to make certain that they are not scheduled -
14 - over-scheduled or conflicted out, that they
15 would not be able to get to our courtroom. So
16 certainly I believe in accommodating anyone and
17 everyone who has those kinds of issues.

18 **Q. Well, I appreciate that, and hopefully I guess**
19 **the silver lining for this pandemic that we're in**
20 **is the use of WebEx and scheduling a lot of these**
21 **status conferences and motions and everything via**
22 **WebEx to where particularly solo practitioners**
23 **can have the -- conduct the motion and then turn**
24 **off the computer and be able to get to a court in**
25 **a different courtroom that -- that being said,**

1 but I appreciate your answers. And I have to
2 just echo what everybody else said. Your -- the
3 comments that were made, seldom do we have as Ms.
4 McIver said, a citizens committee handwrite a
5 good paragraph of praises for an individual
6 candidate. And I think that in and of itself
7 speaks fairly highly of you. So thank you for
8 your willingness to serve.

9 A. Thank you, sir.

10 Q. Yes, ma'am.

11 VICE CHAIRMAN SMITH: Senator Sabb.

12 SENATOR SABB: Thank you, Mr. Chairman. Thank you,
13 Ms. Legette. I -- just say how proud I am of
14 you. I love the story of your life. And I love
15 the way you've evolved. I mean, I think it
16 typifies this notion that in America it doesn't
17 matter how you grew up, what you grew up with.
18 The fundamental question continues to be whether
19 or not one is willing to work hard and sacrifice.
20 And if you are, then you're able to, you know, to
21 do whatever you set your mind to. And so -- so I
22 just wanted to let you know that I'm extremely
23 proud. I have prosecuted cases for 20 years and,
24 you know, a lot of things that you said sort of
25 brought back some old memories. I'm going to

1 quickly tell a Judge Newman story. Of course,
2 Judge Newman was my law partner for years, but
3 there are two things about him that was amazing.
4 One of the things was that he could prosecute
5 guys, they would go to prison and then when they
6 come out and they had a wreck case they would
7 come see him. And what that meant to me, and
8 what I learned from that is people know when
9 they've done wrong. All they want you to do is
10 treat them fair. You know, don't take away their
11 humanity and then, you know, they'll do what's
12 right when they're in there and then they'll come
13 and they try to do what's right after that. The
14 other Judge Newman story was when he was a
15 criminal defense lawyer and was approached after
16 Wade Kolb saw his trial skills and asked him
17 whether or not he wanted to be an assistant
18 solicitor, and his knee-jerk response was no, you
19 know, I need to be fighting for the little guy
20 that's, you know, charged wrongly and all of
21 that. And this really goes to a comment that you
22 made. You talked about something being
23 prosecutable. And what Solicitor Kolb told Judge
24 Newman was, look, if a defendant has been
25 wrongfully charged, and you're representing them,

1 you got to fight like the dickens to see that
2 justice is served. But if you're a prosecutor
3 your only interested in the administration of
4 justice. And so if a person's been wrongfully
5 charged and evidence doesn't, you know,
6 hold water, then you can just, with the power of
7 the pen, administer justice. And I can tell from
8 some of what you shared that that's what you've
9 evolved and that's what you try to do. And so I
10 really appreciate you offering. I think that the
11 comments were made and written in extraordinary
12 fashion, I think. I support the notion that you
13 are smart enough and tenacious enough to make up
14 for whatever lack of experience you have in the
15 civil realm. And so good luck to you.

16 MS. LEGETTE: Thank you, sir.

17 VICE CHAIRMAN SMITH: Thank you very much, Senator
18 Sabb. And I think that concludes the questions.
19 Let me wind this up. I'll reiterate what Senator
20 Sabb says. You have a very impressive resume,
21 but more importantly you made an impressive
22 presentation. And I tell you, it is -- I
23 appreciate your service to the state of South
24 Carolina. I've talked to the other candidate
25 when we -- that was in the race before, but it's

1 nice to see someone with a wealth of experience
2 that wants to give back to the legal profession
3 that's given so much to them. And that's the
4 type of judges that we need on the bench, not
5 people who are starting their career off, but
6 people who are on the back end of it. And you've
7 worked for 18 years, practicing law it appears,
8 and you've had a distinguished career. And we
9 really appreciate you offering for this position.
10 All right. Ms. Legette, with that, this will
11 conclude this portion of your screening process.
12 I want to take this opportunity to remind you
13 that pursuant to the Commission's evaluative
14 criteria, the Commission expects candidates to
15 follow the spirit as well as the letter of the
16 ethics laws. And we will view violations or the
17 appearance of impropriety as serious and
18 potentially deserving of heavy weight in the
19 screening deliberations. On that note, the
20 record will remain open until the formal release
21 of the Report of Qualifications, and you may be
22 called back at such time if the need arises. I
23 thank you for your offering and I thank you for
24 your service to the state of South Carolina.
25 MS. LEGETTE: Thank you, sir.

1 VICE CHAIRMAN SMITH: I want to make one more
2 observation. I meant to tell you earlier. It's
3 been ironic that the two candidates from the --
4 from this circuit, both of them had a comment
5 that they're going to be with the establishment.
6 So somebody over there doesn't like the
7 establishment in the Fourteenth Circuit.

8 MR. SAFRAN: If you look at those comments, I
9 think they were from people outside the circuit.

10 VICE CHAIRMAN SMITH: Oh, okay. Maybe people don't
11 like the Fourteenth Circuit. All right. Well,
12 thank you. I wish you safe travels back. Mr.
13 and Mrs. Pinkney, appreciate y'all for being here
14 and I thank you for attending. All right. With
15 that being said, I think that concludes us for
16 lunch. So we'll stand adjourned. Representative
17 Murphy moves that we proceed for lunch. All in
18 favor say, aye.

19 (Ayes are heard.)

20 REPRESENTATIVE SMITH: All opposed.

21 (No replies are heard.)

22 REPRESENTATIVE SMITH: So we stand at recess.

23 (The Commission breaks for lunch at this time.)

24 VICE CHAIRMAN SMITH: Mr. Safran moves that we go into
25 executive session, seconded by Representative

1 Rutherford. All in favor say, aye.

2 (Ayes are heard.)

3 VICE CHAIRMAN SMITH: All opposed.

4 (No replies are heard.)

5 VICE CHAIRMAN SMITH: Ayes have it. We are now in
6 executive session.

7 EXECUTIVE SESSION

8 VICE CHAIRMAN SMITH: We're going to call the
9 Commission back to order and the meeting back to
10 Order. Senator Talley moves that we come out of
11 executive session. Mr. Safran seconds. All in
12 favor say, aye.

13 (Ayes are heard.)

14 VICE CHAIRMAN SMITH: All opposed.

15 (No replies are heard.)

16 VICE CHAIRMAN SMITH: Ayes have it. We are out of
17 executive session. Let me state while we were in
18 executive session we received a legal briefing
19 and we -- there were no decisions made or
20 discussions had about the candidates'
21 qualifications. All right. Erin Bailey, are we
22 going to -- she's going to appear by Zoom. If we
23 could get her in the room. Hey, Ms. Bailey. How
24 you doing? Can you hear us?

25 MS. BAILEY: I'm good. How are you?

1 VICE CHAIRMAN SMITH: Oh, we're well. Technology is
2 working today. Sorry to hear you have been
3 exposed to COVID. I hope you are negative, but I
4 certainly appreciate you advising the Commission
5 of that and being able to join us remotely. All
6 right. Ms. Bailey, if you will raise your right
7 hand for me, please, ma'am.

8 MS. ERIN B. BAILEY having been duly sworn, testifies
9 as follows:

10 VICE CHAIRMAN SMITH: This is a little bit different
11 because we're doing this via Zoom, but you have
12 submitted to us your Personal Data Questionnaire
13 and your Sworn Statement. Are both of these
14 correct?

15 MS. BAILEY: Yes. I did submit some amendments to the
16 Commission. And so with the amendments, yes,
17 sir, correct.

18 VICE CHAIRMAN SMITH: All right. So is there anything
19 else that's going to need to be changed or
20 updated at this time?

21 MS. BAILEY: No.

22 VICE CHAIRMAN SMITH: All right. Do you have any
23 objection to us making those documents and your
24 amendments a part of the record of your sworn
25 testimony?

1 MS. BAILEY: No.

2 VICE CHAIRMAN SMITH: All right. So without objection
3 we're going to make those -- the PDQ and the
4 sworn statement part an exhibit to your sworn
5 testimony. Ms. Bailey, the Judicial Merit
6 Selection Commission has thoroughly investigated
7 your qualifications for the bench. Our inquiry
8 is focused on nine evaluative criteria and have
9 included a ballot box survey, a thorough study of
10 your application materials, verification of your
11 compliance with state ethics laws, a search of
12 newspaper articles in which your name appears, a
13 study of previous screenings and checks for
14 economic conflicts of interest. We have not
15 received any affidavits in opposition to your
16 election nor have we -- nor are any witnesses
17 present to testify. Do you wish to make a brief
18 opening statement to the Commission before we
19 begin?

20 (Exhibit Number 8 was marked for identification
21 purposes - (17 pages) Personal Data Questionnaire for
22 Erin B. Bailey.)

23 (Exhibit Number 9 was marked for identification
24 purposes - (1 page) Amendment to Personal Data
25 Questionnaire for Erin B. Bailey.)

1 (Exhibit Number 10 was marked for identification
2 purposes - (9 pages) Sworn Statement for Erin B.
3 Bailey.)

4 MS. BAILEY: I'm just thankful for the Commission's
5 time and grateful to be here.

6 VICE CHAIRMAN SMITH: All right. Thank you. Also,
7 let me thank you for being prepared early so it
8 helps us move our schedule up some so maybe we
9 can get out of here quicker. Ms. Mottel -- no,
10 you're not Mottel anymore, are you?

11 MS. MOTTEL: Symmes.

12 VICE CHAIRMAN SMITH: Ms. Symmes. Mrs. Symmes has the
13 questions. All right.

14 MS. MOTTEL: Thank you.

15 VICE CHAIRMAN SMITH: Hard habit -- old habits are
16 hard to break.

17 MS. SYMMES: Thank you, Mr. Chairman. And I do note
18 for the record that based on the testimony
19 contained in the candidate's PDQ, which has been
20 included in the record with the candidate's
21 consent, that Ms. Bailey meets the constitutional
22 and statutory requirements for this position
23 regarding age, residence and years of practice.

24 MS. BAILEY - EXAMINATION BY HALEY MOTTLE:

25 Q. Ms. Bailey, good afternoon. How do you feel your

1 legal and professional experience thus far
2 renders you qualified and will assist you to be
3 an effective circuit court judge?

4 A. Thank you for that question. So above all, I'm a
5 trial lawyer and I love trying cases. I have
6 enjoyed trying cases more than anything else I've
7 done in my legal career. And I've tried 23 cases
8 in general sessions court. I have had a couple
9 of bench trials in common pleas court. I have
10 tried multiple cases with the magistrate in
11 municipal court. And being in front of the jury,
12 working through the rules of evidence in real
13 time, I just delight in that work. And I think
14 that knowing the rules of evidence as well as I
15 do and enjoying that kind of atmosphere would
16 make me an excellent judge. I think that I have
17 sought after trial experience. Whenever I've
18 been able to get it, I have actually sought it
19 out. And so I think, you know, between that, I
20 work on both sides of the criminal Bar. I've
21 been a solicitor for many years, a senior
22 assistant solicitor, I've tried murder cases on
23 both sides. I think that gives me a really
24 balanced view that would benefit -- that I would
25 be able to use on the bench.

1 Q. Thank you, Ms. Bailey. Additionally, the
2 Commission received 188 ballot box surveys
3 regarding you, with 25 additional comments. The
4 ballot box survey, for example, contained the
5 following positive comments that I'll highlight.
6 Ms. Bailey is one of the hardest working lawyers
7 I've had the pleasure to know. She will be a
8 real asset to the bench. She has excellent
9 experience, trial skills, high character,
10 judicial temperament, fair and polite to all
11 litigants. And finally, Erin is unique in having
12 -- in having experience in both sides of the
13 criminal justice field as well as a good bit of
14 civil and litigation exposure. She would be an
15 asset to the judiciary and to lawyers and to
16 clients because she has practical experience on
17 all sides. Ms. Bailey, two of the written
18 comments expressed concerns, both regarding your
19 experience in civil matters and overall trial
20 work. What response would you offer to this
21 concern?

22 A. Well, as to the concern about my trial work, I've
23 tried a lot of cases, especially for
24 somebody who's been a lawyer as long as I have.
25 And so, you know, I think that my record speaks

1 for itself as far as trial work. You know, 23
2 general sessions cases, these were not little
3 drug cases. There was a drug case in there every
4 now and then, but violent felonies, murders, you
5 know, all of these to verdict. I think that I
6 have the requisite trial experience necessary. I
7 understand -- you know, it's interesting, last
8 time I went through this, I didn't have any
9 negative comments, which is fine. I think that
10 maybe people are taking me more seriously now.
11 And you know, I do civil work. I do some general
12 litigation. I do some plaintiff's personal
13 injury work. I have a brain injury case. I have
14 litigated -- in the past, I've -- I think people
15 send me cases that are not easy. They send me
16 cases that don't quite fit in the box because
17 they know that I'll be able to figure them out.
18 So I have litigated a claim and delivery between
19 family members for some guns and fishing rods. I
20 have litigated -- I'm currently working -- I am
21 defending a case that has been referred to the
22 Master for special proceeding with the collection
23 of the judgment. These things that, you know, in
24 a small town you end up with. But a lot of
25 people would turn down because they don't have

1 the forms written, because it's not easy. And
2 people send those cases to me because they know
3 that I'm going to be able to figure it out. And
4 as a judge, even if something presents itself to
5 me that I don't have the kind of experience with,
6 I'm going to be able to figure it out.

7 **Q. Thank you. And in that same line, what would you**
8 **do if you had to master an unfamiliar area of the**
9 **law in a relatively short amount of time?**

10 A. Absolutely. So when I am faced with having to
11 master an unfamiliar area, I think they usually
12 start with treatises. The Bar has excellent
13 treatises. For instance, I've done some PCR work
14 and the Bar publishes a PCR manual that is
15 incredibly useful. Usually the folks who write
16 those things for the Bar are the people who do
17 that area of practice all the time. So I start
18 with the treatise, read the pleadings, pull the
19 cases and go from there.

20 **Q. Thank you. Ms. Bailey, if you could identify one**
21 **state court judge, living or dead, whom you**
22 **admire the most, who would that be and why?**

23 A. Thank you. So Judge Tommy Cooper, who's now
24 retired -- mostly retired, I think. I have
25 enjoyed appearing in front of him so much. He

1 has -- what I most admire about him is his
2 judicial temperament. He has such a quiet, calm
3 but firm presence from the bench. And that is
4 something that I would seek to emulate a judge.
5 I think that when someone runs for judge they
6 cede floor to the lawyers in the courtroom.
7 They're not -- you know, nobody's -- the jury,
8 the litigants, they don't want to hear the judge
9 talk. They're there to hear the lawyers talk.
10 And I think the judge is there simply to be
11 umpire, to call the balls, to call the strikes,
12 and I think that Judge Cooper does an excellent
13 job of that.

14 **Q. Thank you so much. Ms. Bailey, your SLED report**
15 **indicated that there were two prisoner lawsuits**
16 **filed against you. One was filed in June 2015 in**
17 **US District Court by Dwaine Lamark Johnson, Jr.,**
18 **a prisoner. It was dismissed without prejudice**
19 **and without service of process in October of**
20 **2015. The other two prisoner lawsuits were**
21 **in the US District Court were filed by the same**
22 **plaintiff, Terron Gerhard Dizzley. The first one**
23 **was filed in March 2020 and terminated in April**
24 **2020, and the second lawsuit was filed in July**
25 **2020. You were not served in either of these**

1 matters and you were not aware that you were a
2 named defendant until your candidate interview;
3 is that correct?

4 A. That is correct. The first one I had heard that
5 the litigant had evolved.

6 Q. Thank you. And do you have any additional
7 information that you'd like to share with the
8 Commission about either of these issues?

9 A. You know, when you spend several years putting
10 people in prison for a long time, those are going
11 to happen; but I think y'all know that.

12 Q. Thank you, Ms. Bailey.

13 MS. MOTTLE: I would note for the record that the
14 Lowcountry Citizens Committee reported that Ms.
15 Bailey is qualified in the evaluative criteria of
16 constitutional qualifications, physical health,
17 mental stability and experience and well
18 qualified in the criteria of ethical fitness,
19 professional and academic ability, character,
20 reputation and judicial temperament.
21 The Committee provided additional comment about
22 Ms. Bailey stating, "Excellent criminal trial
23 experience, levelheaded, committed. Not too much
24 civil -- not much civil experience, but
25 passionate about the law."

1 Q. Ms. Bailey, I have a number of housekeeping
2 questions for you. Ms. Bailey, are you aware
3 that as a judicial candidate you are bound by the
4 Code of Judicial Conduct as found in Rule 501 of
5 the South Carolina Appellate Court Rules?

6 A. Yes.

7 Q. Since submitting your Letter of Intent, have you
8 contacted any members of the Commission about
9 your candidacy?

10 A. No.

11 Q. Since submitting your Letter of Intent, have you
12 sought or received the pledge of any legislator,
13 either prior to this date or pending the outcome
14 of your screening?

15 A. No.

16 Q. Are you familiar with South Carolina Code § 2-19-
17 70, including the limitations on contact
18 regarding members of the General Assembly
19 regarding your screening?

20 A. Yes.

21 Q. Have you asked any third parties to contact
22 members of the General Assembly on your behalf or
23 are you aware of anyone attempting to intervene
24 in this process on your behalf?

25 A. No.

1 Q. Have you reviewed and do you understand the
2 Commission's guidelines on pledging in South
3 Carolina Code § 2-19-70(E)?

4 A. Yes.

5 MS. SYMMES: Mr. Chairman, I would note for the record
6 that any concerns raised during the investigation
7 by staff regarding Ms. Bailey were incorporated
8 into the questioning today. And Mr. Chairman, I
9 have no further questions.

10 VICE CHAIRMAN SMITH: All right. Thank you very much.
11 Any questions for Ms. Bailey?

12 (No replies are heard.)

13 VICE CHAIRMAN SMITH: Ms. Bailey, you were with us
14 last year, weren't you?

15 MS. BAILEY: I was.

16 VICE CHAIRMAN SMITH: All right.

17 MS. BAILEY: And I'm happy to be back here again.

18 VICE CHAIRMAN SMITH: I appreciate it. I think that
19 may shorten a lot of questions. All but one of
20 us are on this committee, so is there anyone who
21 has any questions?

22 (No replies are heard.)

23 VICE CHAIRMAN SMITH: Two things that have been proven
24 beneficial to the Zoom participants is that the
25 hearings tend to be shorter. So you're no

1 exception to that. But, Ms. Bailey, we
2 appreciate you being here, especially under the
3 circumstances to which it is. And I know most
4 everybody remember your screening, and really
5 appreciate your service and your willingness to
6 apply for this position. You have a wealth of
7 experience on both the criminal and civil side.
8 And that is what we are looking for, for judges,
9 as we go through this. And, you know,
10 unfortunately not a whole lot of people are able
11 to get both of them these days, as the law allows
12 it specialized. So it's a real -- it is a
13 special thing for us to be able to have somebody
14 that has both criminal and civil experience. So
15 what that being said, I want to thank you and
16 this will conclude this portion of our screening
17 process. I want to take this opportunity to
18 remind you that pursuant to the Commission's
19 evaluative criteria, the Commission expects
20 candidates to follow the spirit as well as the
21 letter of the ethics law. And we will view
22 violations or the appearance of impropriety as
23 serious and potentially deserving of heavy weight
24 in the screening deliberations. On that note,
25 the record will remain open until the formal

1 release of the Report of Qualifications, and you
2 may be called back at such time if the need
3 arises. I thank you for offering. I thank you
4 for your service to the state of South Carolina.

5 MS. BAILEY: Thank you very much.

6 (Off the Record)

7 VICE CHAIRMAN SMITH: Mr. Bayne, we've all got
8 commitments up here, unfortunately.

9 MR. BAYNE: Yes, sir.

10 VICE CHAIRMAN SMITH: And so Mr. Sabb -- Senator
11 Sabb's got to leave for a committment and then
12 I've got to go to the freshmen orientation and
13 give the ethics update.

14 MR. BAYNE: Yes, sir.

15 REPRESENTATIVE SMITH: So don't take that as any
16 disrespect to your candidacy. It's just we try
17 to juggle a number of things up here at one time.

18 MR. BAYNE: I have tried a case with Senator Sabb --
19 well, been involved in a case with him, so I know
20 Senator well.

21 VICE CHAIRMAN SMITH: You have somebody with you here
22 today?

23 MR. BAYNE: I do. I do.

24 VICE CHAIRMAN SMITH: Okay. You want to introduce
25 her?

1 MR. BAYNE: I would. First is my wife Laura Bayne.

2 Laura is the director of vehicle services at the
3 Department of Motor Vehicles. And our tenth
4 anniversary is on Friday, so we're getting --
5 we're gearing up for that, although with the
6 pandemic not much -- not much trip is going to
7 happen.

8 VICE CHAIRMAN SMITH: I've just been through that.

9 I'm going to tell you you're stuck. That was my
10 excuse, so do not give -- do not tell anybody
11 otherwise.

12 MR. BAYNE: Absolutely. We'll make it up in 2021.

13 VICE CHAIRMAN SMITH: That's what I told her, too.

14 MR. BAYNE: And my second guest is Ms. Sheila Willis.

15 Sheila is an attorney at Fisher & Phillips. She
16 is one of my oldest friends in South Carolina,
17 one of my best friends. Sheila's the past
18 president of the South Carolina Women's Lawyers
19 Association and the YLD. She won the Complete
20 Silver Award last year, that I was very honored
21 to nominate her for. She's one of my letters of
22 recommendation for this. So I wanted her to be
23 present here today.

24 VICE CHAIRMAN SMITH: All right. Well, Sheila, Laura,
25 thank y'all for coming. Appreciate you being

1 here. Mr. Bayne, raise your right hand, please,
2 sir.

3 BRETT R. BAYNE having been duly sworn, testifies as
4 follows:

5 VICE CHAIRMAN SMITH: You can have a seat. And we
6 have before you your Personal Data Questionnaire
7 and your Sworn Statement. Are these both
8 documents that you have submitted to the
9 Commission?

10 MR. BAYNE: They are.

11 VICE CHAIRMAN SMITH: All right. Any amendments or
12 updates that you need to make at this time?

13 MR. BAYNE: The only thing that I noticed that is out
14 of date is that my three-year-old daughter is now
15 four years old. That occurred in between the
16 submission. But other than that, everything is
17 still fair and accurate on this.

18 VICE CHAIRMAN SMITH: All right. Well, we'll note
19 that in the record that you have now got a four-
20 year-old daughter. They grow up quick.

21 MR. BAYNE: They do.

22 VICE CHAIRMAN SMITH: The Judicial Merit
23 Selection Commission, Mr. Bayne, has thoroughly
24 investigated your qualifications for the bench.
25 Our inquiry is focused on nine evaluative

1 criteria, and has included a ballot box survey, a
2 thorough study of your application materials,
3 verification of your compliance with state ethics
4 laws, a search of newspaper articles in which
5 your name appears, study of previous screenings
6 and checks for economic conflicts of interest.
7 We've received no affidavits in opposition to
8 your candidacy and there are no witnesses here
9 today to testify. Do you wish to make a brief
10 opening statement before we begin?

11 (Exhibit Number 11 was marked for identification
12 purposes - (26 pages) Personal Data Questionnaire for
13 Brett H. Bayne.)

14 (Exhibit Number 12 was marked for identification
15 purposes - (11 pages) Sworn Statement of Brett H.
16 Bayne.)

17 MR. BAYNE: No, sir. I just want to thank everyone
18 for their time being here. I know --

19 VICE CHAIRMAN SMITH: Okay. Well, answer any --

20 MR. BAYNE: -- it takes a lot of your day.

21 VICE CHAIRMAN SMITH: Okay. Thank you. Answer any
22 questions that counsel may have. And as I told
23 you, I'm going to have to step out, so
24 I apologize for that. But I leave it in the able
25 hands of Mr. Rutherford. So he's got a cross

1 examination for you.

2 MR. BAYNE: Yes, sir.

3 (Representative Rutherford takes over as Chair at this
4 time.)

5 MS. FAULK: Thank you, Mr. Chairman. I note for the
6 record that based on the testimony contained in
7 the candidate's PDQ, which has been included in
8 the record with the candidate's consent, Mr.
9 Bayne meets the constitutional and statutory
10 requirements for this position regarding age,
11 residence and years of practice.

12 MR. BAYNE - EXAMINATION BY MS. FAULK:

13 **Q. Good afternoon, Mr. Bayne.**

14 A. Good afternoon.

15 **Q. How do you feel that your legal and professional**
16 **experience thus far renders you qualified and**
17 **will assist you to be an effective circuit court**
18 **judge?**

19 A. Thank you. So I have spent my career focused in
20 two areas. One is litigation and the other is in
21 the betterment of the legal field and profession.
22 I teach at the University of South Carolina.
23 I teach trial advocacy and I coach the mock trial
24 team, and I know that there will be some stuff
25 about that later. But I spend a significant

1 amount of time each year working towards
2 bettering our legal profession training lawyers
3 to go out in the field and do that. And I think
4 that an election to the bench will result in
5 expanding that field. Because when you become a
6 judge your goal -- your responsibility, in my
7 opinion, leads to service to the Bar. When
8 you're serving the Bar, you serve the community
9 that it supports. I believe that my experience
10 both in extensive litigation and trial
11 litigation, I've been in the trenches there.
12 It's proper to give me the experience to be a
13 circuit court judge, and I believe that the work
14 and experience that I've had training and
15 teaching and giving back to our legal community
16 is commensurate with what we're looking for in
17 our circuit court judges.

18 **Q. Thank you, sir. Are there any additional**
19 **steps that you feel that you may need to take in**
20 **order to be prepared to serve as a circuit court**
21 **judge?**

22 **A.** I don't think there's anything substantively
23 that's needed. The one area that I lack
24 significant practical sort of granular experience
25 in is criminal law, and I'll be happy to address

1 that here or if I need to later. But
2 essentially, I have never practiced in the area
3 of criminal law. I've tried a criminal case. I
4 have sat on a bench with Judge Cooper where we
5 were the chief admin for general sessions.
6 Through the law school, a majority of what I
7 teach is criminal law. About 75 percent each
8 year is spent teaching and training law students
9 in the art and practice of criminal trial
10 advocacy. So it's sort of I don't do, but I
11 teach, in that regard. And I understand kind of
12 start to finish how the criminal trial process
13 works. The area where I would need probably just
14 a refresher is sentencing when it comes to that
15 on the criminal side, given the significant
16 nuances that exist in what a proper sentence is.
17 And not a proper sentence but what you can't
18 sentence. In other words, what are the
19 alternative sentencing arrangements, what are the
20 reductions, what are the suspensions. And
21 getting up to speed on that is something that I
22 would absolutely go through before ever taking
23 the bench. But I think that's the area where, if
24 anything was needed, it would fall into that.

25 **Q. Thank you, Mr. Bayne. The Commission received**

1 242 ballot box surveys regarding you, with an
2 additional 99 comments. The ballot box survey,
3 for example, contained the following positive
4 comments: Very bright person. Energetic and
5 personable. Able to see all issues in a case,
6 would make an excellent judge. Extremely smart
7 with an exceptional amount of trial experience.
8 A positive force in the legal community where he
9 is very active. A phenomenal attorney and
10 mentor. Not only does Mr. Bayne have a wonderful
11 composure in a courtroom, but his knowledge and
12 instincts are top tier. Twenty-two of the
13 written comments expressed concerns. Of those
14 negative comments, eight reflected concerns
15 regarding your use of social media to discuss
16 current cases and opposing counsel. How would
17 you address such concerns, Mr. Bayne?

18 A. Sure. So as an initial point, I don't think
19 that's accurate; I don't that think that I've
20 done that. I've gone back and looked at
21 everything after we spoke previously, and I
22 haven't identified what that may be referring to.
23 For the Commission's reference, dealing with
24 social media, I know that that has been an issue
25 in the past with certain candidates or with

1 certain judges. I have three social media
2 accounts. I have a Facebook account that is
3 mostly dormant. My wife posts pictures of our
4 children on it, and I get tagged. The extent of
5 the posting I do largely on that is either a mock
6 trial program. When someone wins a competition,
7 I'll post a congratulatory message. And then
8 I'll re-post things from the University. For
9 example, when Dean Nelson received UConn
10 deanship, I re-posted that to my account. Beyond
11 that, there's very little that occurs on my
12 Facebook account. My Instagram account that I
13 have is extensively -- it's pictures of meat that
14 I've smoked, because I'm a barbecue fanatic, and
15 it's pictures of my kids. And that's essentially
16 all that's on there. And then I have a Twitter
17 account. And the Twitter account is, I believe,
18 probably where those comments, at least, would
19 generate from. My Twitter account is used --
20 it's a professional account, identifying myself
21 as an attorney and a professor and a coach. It
22 is used most exclusively to communicate with
23 other judges, other lawyers, other colleagues in
24 the profession relating to legal issues. I also
25 post about Carolina football, Baylor football,

1 Baylor basketball, Carolina basketball, because I
2 went to Baylor for undergrad. And then I also
3 will re-tweet comments or posts from our mock
4 trial official account where, for example, if we
5 win a competition, it gets posted there and then
6 I'll post that. All that to say, I don't
7 actively post about ongoing cases. I don't have
8 intentions of doing that. If there was a post
9 related to anything going on, it may have been
10 something like, you know, we had a good verdict
11 today or had a long deposition, but never
12 anything directly on point to a case. I
13 don't recall doing that, but certainly someone
14 could have seen something like that and perceived
15 it to be about an active case.

16 **Q. Ten comments also listed concerns regarding your**
17 **candor to the court. How would you address such**
18 **allegations of dishonesty before the court?**

19 A. Sure. I have never lied to a court. I will
20 never lie to a court. That will never occur
21 here, now or ever. Candor is the single most
22 important component of a lawyer when it comes to
23 dealing with a court. The second that you give
24 that up, it doesn't hurt you, it doesn't hurt the
25 client, it hurts everything you have past and

1 future. I think candor, as well -- and just to
2 kind of give some examples -- isn't just what you
3 tell the court, it isn't just the statements that
4 you make. It's the filings that you make, but
5 it's also the recognition of defects in a case.
6 It's a recognition of defective case law that
7 goes against whatever point you were making.
8 We're taught that in law school, that as you
9 prepare memorandums of briefing when you come
10 across something that is against your issue, you
11 need to raise it and you need to address it, and,
12 if you can, distinguish it. You can raise an
13 issue as to why this exists, but it's
14 distinguishable, that's what you do. I had, in
15 fact, this exact issue yesterday in a hearing
16 where I had -- there was a motion and we met
17 every element except there's a very bad case for
18 us that is distinguishable but would indicate
19 that we would lose. And I included that in my
20 memorandum. I included that to the court, and I
21 acknowledge that this case exists. And if the
22 court takes that set of facts and applies it to
23 this case, then we should -- our motion should be
24 denied, and then explained why I think it doesn't
25 apply. I think that's also true when it comes to

1 just the nature of litigation. Candor in civil
2 litigation is an interesting term because
3 typically, between plaintiff and defendant, you
4 have two very different truths in a case. One
5 says the light is red and one says the light is
6 green. And that can't both be true. And my goal
7 in representing clients is to go and find the
8 evidence, find the facts, take the depositions
9 and have a good faith basis for asserting that
10 fact. If I don't have it, it doesn't happen.
11 I've had to have that difficult conversation with
12 clients in the past is we're not presenting that
13 evidence, we're not making that argument and I'm
14 not putting you on the stand to testify to that
15 because we don't have a good faith basis for it.
16 And so I can say without question that everything
17 I've ever done in a court, every argument I've
18 advanced, every memorandum I've put forward has a
19 good faith basis for it and I can support it with
20 the evidence and the testimony in the
21 depositions.

22 **Q. Thank you. Ten comments also listed concerns**
23 **regarding your temperament. How would you**
24 **address these concerns?**

25 **A.** So as to temperament, I think I have the proper

1 temperament to sit on the bench. Certainly,
2 you've got 99 comments there that don't reflect
3 that same issue and you have a handful that do.
4 In the nature of litigation I'm involved in, I'm
5 typically our trial lawyer in a lot of cases. So
6 I get into cases that are more complex, more
7 heated, more contested. And in those situations,
8 you run into conflicts between parties that
9 require resolution and that can result in sort of
10 a heated exchange at times. But what I can say
11 is that by in large, I've been in those moments
12 in courtrooms in trials where we butt heads, but
13 it's professional and it's within the walls of
14 the courtroom, and then we finish the trial and
15 go get a beer. That's the nature of the
16 practice. I was recently -- or last year elected
17 to ABOTA. And one of the main mission statements
18 of ABOTA is the integrity, the professionalism,
19 the collegiality of the Bar. That's one of the
20 statements they give at the beginning of the
21 Masters in Trial every year is that we have
22 lawyers presenting here today who are on two
23 opposite sides of the spectrum and they're going
24 to go at it and then we're going to get dinner
25 afterwards. So I think temperament, there -- are

1 there times where, with an opposing counsel,
2 we've gotten after each other, sure. But by and
3 large, that's born out of the nature of
4 litigation and not a trait issue. And I would
5 add, through my work at USC, every year we have
6 40 to 50 second and third-year law students that
7 we trained. I get 20 to 25 new ones each year --
8 there's two of us. So each year I'm training and
9 repeating the same stuff, the very basic trial
10 stuff year over year, which over the last almost
11 decade has really improved my patience overall
12 because we have to go through that process. But
13 to a person, what you'll find if you ever were to
14 come to one of those practices or talk to them is
15 I am happy to be wrong about something, and it's
16 a temperament I'll take to the bench which is if
17 I'm wrong about a fact, if I'm wrong about a law,
18 if I'm wrong about an application of a statute,
19 tell me that. There's no love lost, there's no
20 harm, there's no negative, and justify why. And
21 if we can do that, we work together. Because
22 that's what a judge should be doing is working
23 together with both parties to reach that happy
24 medium of what is the answer and how do I solve
25 your problem here today. That naturally makes me

1 a curious person. And I think we talked about
2 this, my biggest fear of getting on the bench, if
3 that happens, is that I'll hearings go too long
4 because I typically want to know -- tell me your
5 side, tell me your side and what about this, what
6 about this, and I'm going to have lawyers in the
7 back going (noise effect) let's wrap this up.
8 It's a motion to compel, why are we still here.
9 And so I'll have to learn that process. But I
10 think generally that my demeanor is perfectly set
11 for that and I'm happy to display that if the
12 time comes.

13 **Q. Some comments listed additional concerns**
14 **regarding your alleged unequal treatment of**
15 **female attorneys. How would you address this?**

16 A. Sure. That was the one that caught me the most
17 off guard. I have three daughters. They're very
18 precocious, very rambunctious. But I know that
19 the issues they're going to experience one day
20 being females, that they're going to have a
21 harder road to go when the time comes. We have
22 one who is a master negotiator, and I'm
23 certain that at some point a legal career might
24 be something she looks at. And I know if she
25 does that, that there are significant hurdles

1 that female attorneys face in our legal field. I
2 can say without question that that is just not an
3 accurate statement. Through, again, returning to
4 the law school more than half of my students in a
5 given year are female attorneys, they're female
6 advocates. My very best advocates I've ever had
7 have been female advocates. But knowing that the
8 uphill road they face, just being good at going
9 into the courtroom and knocking it out cold
10 sometimes isn't enough. And so I do my best at
11 all times to actively promote them to the
12 positions. I recommend, particularly my female
13 advocates, to clerkships. In a given year, about
14 half of our students get judicial clerkships
15 through our program. Whenever I get a call from
16 a judge or an alumni or a law firm, I recommend -
17 - usually send two or three people, but I always
18 make sure that I recommend one of our female
19 alumni to them because they don't need my help,
20 but it doesn't hurt to say here's a job, they are
21 highly qualified for this, you need to give them
22 a look, where it may not have happened otherwise.
23 So again, is it possible that there was a comment
24 or an action. And the way I took that comment
25 was that perhaps I didn't, for example, grant a

1 continuance where it was perceived I would have
2 with a male attorney. And that's just not the
3 case. But is it possible someone perceived it
4 that way, sure. And I know this is going to be
5 public record. Whoever felt that way, I'd be
6 more than happy to talk to them about it and
7 clear that air because certainly that's not who I
8 am.

9 **Q. Thank you very much. You indicate in your PDQ**
10 **that you have been the defendant in eight suits,**
11 **all filed against you by Marie Assaad-Faltas.**

12 A. Yes.

13 **Q. Please explain the nature and disposition of**
14 **these lawsuits, and please note that I've lumped**
15 **them altogether into one question.**

16 A. So I -- I'll be candid. I don't know the nature
17 of all of them because I haven't read all of them
18 because none of them have ever been served on me.
19 I -- when I initially started my PDQ, I went to
20 Westlaw to find out because I knew there were
21 four, and I learned there had been four more
22 filed that I had no knowledge of in this process.
23 But generally speaking, I was a law clerk for
24 Judge Cooper in Richland County, shortly after
25 Judge Cooper issued the order that barred Ms.

1 Faltas from the courthouse during certain windows
2 of time. So I came in right on the heels of that
3 and kind of got the brunt of that issue. And at
4 the same time, Ms. Faltas had a lawsuit going on
5 against McAngus, Goudelock & Courie where I'm an
6 attorney now. And I went from Judge Cooper to
7 MGC. And in at least one of those suits I'm the
8 link in the conspiracy between the judiciary and
9 MGC. So that's why I keep getting lumped into
10 the suits with Ms. Faltas. But I put in my PDQ I
11 obviously deny any allegations raised therein.
12 And to my knowledge, they've all been dismissed
13 prior to service by the court. So I don't
14 believe there's anything pending currently.

15 **Q. Thank you very much. I will note for the record**
16 **now that the Midlands Citizens Committee reported**
17 **Mr. Bayne is qualified in the evaluative criteria**
18 **of constitutional qualifications, physical health**
19 **and mental stability. The Committee also found**
20 **Mr. Bayne to be qualified in the evaluative**
21 **criteria of experience and well qualified in the**
22 **evaluative criteria of ethical fitness,**
23 **professional and academic ability, character,**
24 **reputation and judicial temperament. The**
25 **Midlands Citizen Committee commented as follows,**

1 "Young and needs more experience. Very pleasant
2 with good temperament." And now we'll just move
3 on to the last couple of housekeeping questions.

4 A. Okay.

5 Q. Mr. Bayne, are you aware that as a judicial
6 candidate you are bound by the Code of Judicial
7 Conduct that's found in Rule 501 of the South
8 Carolina Appellate Court Rules?

9 A. Yes, ma'am.

10 Q. Mr. Bayne, since submitting your Letter of
11 Intent, have you contacted any members of the
12 Commission about your candidacy?

13 A. The only issue -- I know we spoke about this. I
14 sent Senator Talley a letter prior to his
15 appointment. It was a form letter that I sent to
16 each of the non-commission members. But beyond
17 that, no, there has been no communication.

18 Q. Since submitting your Letter of Intent, have you
19 sought or received the pledge of any legislator,
20 either prior to this date or pending the outcome
21 of your screening?

22 A. No.

23 Q. Are you familiar with § 2-19-70, including the
24 limitations on contacting members of the General
25 Assembly regarding your screening?

1 A. Yes, ma'am.

2 Q. Have you asked any third parties to contact
3 members of the General Assembly on your behalf or
4 are you aware of anyone attempting to intervene
5 in this process on your behalf?

6 A. No, ma'am.

7 Q. Have you reviewed and do you understand the
8 Commission's guidelines on pledging in South
9 Carolina Code § 2-19-70(E)?

10 A. Yes, ma'am.

11 MS. FAULK: Mr. Chairman, I would note for the record
12 that any concerns raised during the investigation
13 by staff regarding the candidate were
14 incorporated into the questioning of the
15 candidate today. Mr. Chairman, I have no further
16 questions. Thank you.

17 REPRESENTATIVE RUTHERFORD: Thank you. Does member of
18 the Committee have any questions, comments? Mr.
19 Murphy.

20 MR. MURPHY: Thank you, Mr. Rutherford.

21 MR. BAYNE - EXAMINATION BY REPRESENTATIVE MURPHY:

22 Q. Mr. Bayne, you had -- reviewing your -- the
23 information included in your packet, you alluded
24 to this, is your lack of criminal experience. So
25 what -- what would you do to get yourself

1 prepared -- if you're fortunate to be elected to
2 this position, what would you do to prepare
3 yourself to be able to preside over the Court of
4 General Sessions?

5 A. Yes, sir. And so briefly, if I may, kind of go
6 through my criminal -- miniature criminal
7 experience.

8 **Q. Yes, sir.**

9 A. So in law school I did try a criminal case
10 through our clinical program, so I've been sort
11 of in that minor -- it was a misdemeanor city
12 court case, but I haven't obviously sat in
13 general sessions representing a victim's family
14 or representing a defendant that's been
15 overcharged or is innocent in that line of fire.
16 I sat on the bench with Judge Cooper for a year
17 where he was the admin for general sessions. So
18 in that time, I worked day to day with the
19 solicitors and public defenders on their dockets,
20 on their motions, on their bond revocations and
21 hearings and got sort of the immersive experience
22 in that. Since that time, as I said, I teach at
23 the law school. I spend about 1200 hours a year
24 teaching law students in the art of trial
25 advocacy. So we do everything from the pleading

1 stage all the way through jury trial, and
2 obviously culminates with competitions with a
3 series of jury trials. About 75 percent of that
4 each year is about 900 hours is criminal trial.
5 So I spend about 900 hours a year training law
6 students in how to try criminal cases, how to
7 advocate for criminal defendants or how to
8 prosecute because we do both sides of the case.
9 All of that said, my preparation for the bench,
10 especially general sessions, I've started taking
11 CLEs. Once COVID started, I kind of said, well,
12 let's buy the big ticket, the CLE package. And I
13 plan to sort of take every criminal CLE that
14 exists in our Bar. And I've gotten through a
15 number of them, not close to finishing them yet.

16 **Q. That's the online?**

17 A. That's the online. There haven't been any in-
18 person recently.

19 **Q. Right.**

20 A. The other thing I do is I read, when it comes to
21 law. And so any -- I actually own one of the
22 criminal -- the South Carolina Bar criminal text
23 books. And will go back through and sort of re-
24 read it to have that. I noted in my PDQ a
25 trademark case that I was involved in, that I had

1 a client who was being sued for infringement and
2 for trademark issues, and they wanted me to
3 handle the case. And I understood sort of the
4 basics of trademark. And I said let me get you
5 an IP firm that can handle this because this is
6 what they do. And they said, no, we want you to
7 do it. So I went and bought a trademark text
8 book. I bought it. I shipped it by Amazon. It
9 arrived. And I read it twice in about four days,
10 cover to cover, tabbed everything, marked
11 everything, and handled that case start to
12 finish. We ended up getting it dismissed and
13 paying nothing out of it. But it's that kind of
14 approach that I take with anything that I don't
15 know or that I need to refresh on is I'm going to
16 immerse into it and learn it and then go from
17 there. So in terms of criminal, that's what I
18 would do, I would go through the CLEs and
19 continue those. I'd get every book we've got on
20 it and continue reading those. And then I'd have
21 the parties educate me, just like I would in the
22 civil case. If it's an area for some reason I
23 didn't know well or I didn't know enough about,
24 I'd have the parties educate me on those issues
25 in chambers or on a conference call and get up to

1 speed on them.

2 Q. So in addition to practicing law, you do twelve -
3 - average about 1200 hours --

4 A. Yes, sir.

5 Q. -- a year?

6 A. I don't sleep much.

7 Q. Well, I was going to ask you if you've ever done
8 any pro se representation in general sessions or
9 have you been appointed on a criminal case?

10 A. I have not been appointed on one. I have not
11 done any sole pro se representation. What I have
12 done is, through my alumni. I've got about three
13 dozen that have gone on to solicitors and public
14 defenders and attorney general. And my public
15 defender alumni in particular, I assist with them
16 sort of not publicly, not in the courtroom, but
17 prepping them for their cases. When they have a
18 trial coming up, we'll go sit down, go through
19 the whole case. We'll go through their opening.
20 We'll go through their closing, how they want to
21 cross-examine the officer, for example. So I've
22 never made an appearance as an attorney of record
23 for a criminal defendant other than the one I did
24 in law school, but I have involved myself where I
25 can with particularly my public defender

1 alumni in assisting them and sort of getting
2 through their evidentiary issues, getting through
3 how are we going to get this into evidence and
4 how are we going to cross-examine this officer.
5 What are the points of attack that we can make to
6 help improve our case and secure the right
7 verdict.

8 **Q. So you practice law and then you teach at the law**
9 **school?**

10 A. Yes, sir.

11 **Q. And part of that is running the mock trial**
12 **program?**

13 A. Yes, sir. So I practice law and then I teach
14 trial advocacy. I teach two classes of trial
15 advocacy.

16 **Q. Is that in the evening?**

17 A. It's in the evening in the spring. I don't teach
18 a course in the fall. And then I coach the mock
19 trial team. We do about ten competitions a year.
20 Each competition is about six weeks of prep.
21 They receive a trial packet with everything in
22 it. We break it down. We prepare all the
23 materials, we scrimmage and then they go compete.
24 Usually, they're traveling. They go to Houston,
25 Denver, New York. This year that's all been on

1 Zoom, so it's been a new experience. But yes, we
2 do that. And we'll work well into the night
3 because they're in class during the day.

4 **Q. Right.**

5 A. So we work into the night. And that lasts mid
6 August through about mid April. So I have the
7 summers off to catch up on the emails at work
8 from McAngus that I haven't gotten to in that
9 period of time.

10 **Q. Thank you.**

11 A. Thank you.

12 REPRESENTATIVE RUTHERFORD: Mr. Safran.

13 MR. BAYNE - EXAMINATION BY MR. SAFRAN:

14 **Q. Mr. Bayne, first, thank you for being here.**

15 A. Thank you.

16 **Q. I can tell you, just having watched this process**
17 **for several years, that it takes a lot of courage**
18 **to be here in the first place. It is not a**
19 **comfortable situation. It is something that I**
20 **think, frankly, takes a lot of character just to**
21 **offer because, effectively, you're running**
22 **several levels of the gauntlet if this works.**
23 **Let me say this: I mean, in looking at your**
24 **record, you've got some outstanding**
25 **recommendations. You have letters that come from**

1 people I respect, and I don't think they just do
2 it for the sake of accommodating your request.
3 So by all measures, I don't think that there's
4 any doubt that in a relatively short time you
5 have accomplished a tremendous amount in terms of
6 success. And it's based on ability, it's based
7 on hard work. So I will not take anything away
8 from you. We get these ballot box surveys and,
9 you know, we have to always look at them with a
10 grain of salt because, look, people are going to
11 -- depending on their circumstance, they're going
12 to probably remember the worst situation. And
13 it's easy to throw that rock when nobody knows
14 where it's coming from. So understand that, that
15 everything that we do in terms of this process is
16 one that has to be balanced because, again, I'm
17 not anywhere near cognizant of all the
18 circumstances that may give rise. I'll tell you
19 something else. I mean, you and I have never
20 dealt much. I think you and I had one encounter
21 --

22 A. Yes, sir.

23 Q. -- many years ago, and -- so you and I haven't,
24 but I'd be the first to admit I don't look at
25 things about people saying folks lose their

1 temper or if they get angry with me or whatever
2 because I've been there. They could say thing
3 about me. So I don't basically throw stones in
4 that circumstance because unless I can tell you I
5 was perfect, and I can't, then I don't criticize
6 people for that. We have moments, we all do.
7 We're all human. So suffice it to say that
8 there's a lot of what I'm seeing here in terms of
9 some of the stuff you were asked about that I
10 would never hold against you and I just don't
11 think it would be fair or appropriate. Two
12 things that stand out, and I want you to have an
13 opportunity to address them because I think we
14 talk about it because we get a whole gamut of
15 things that we're supposed to consider in making
16 a decision on ultimately as to whether somebody
17 should be offered as a judge. The two things are
18 -- and this is a hot button thing for me.
19 I don't care if it was my brother. When people
20 say that there's a lack of candor with the court
21 that is my one thing that I don't care what
22 somebody does. If they're misrepresenting to the
23 court, to me, that's just -- it's really -- it's
24 unpardonable. And I know you've mentioned it a
25 little bit, and what I'm asking is this: there

1 are several instances. And again, we don't know
2 where they come from, but we look in these
3 circumstances, and I know this is several years
4 we've been doing this, for a common theme. If we
5 see it once or twice, hey, it just is what it is.
6 If we see it multiple times you start wondering
7 and going is there something there. And I think
8 in fairness to you, I want to know basically are
9 these all sour grapes or are these basically
10 situations where, you know, somebody is just
11 trying to take advantage of an opportunity of
12 anonymity to go take a pot shot at you.

13 A. Sure. And if I may, I have an idea of where it
14 comes from. And I obviously don't know who
15 wrote the comments, I don't think y'all do either.
16 But my suspicion is it comes from one case that's
17 currently on appeal in front of the Court of
18 Appeals where a judge issued -- a judge in
19 Richland County issued sanctions and dismissed a
20 case against basically against an entire law firm
21 out of Charleston. And there were a number
22 of representations in the judge's order that the
23 judge wrote based on his review. I think he took
24 maybe 90 days to literally read every document in
25 the case, every transcript, every prior judge's

1 order, because there had been multiple judges'
2 orders relating to these attorneys and that firm.
3 And ultimately determined that they had -- I don't
4 want to say lied to the court, but they had lacked
5 candor with the court, that they had grossly
6 abused discovery, that they had hidden and
7 concealed -- the phrase that was used in the final
8 order from the judge against this firm was a
9 willful and intentional concealment of material
10 facts. On appeal, that issue was sort of huh-uh,
11 it's not me, it's you, is what the tact has taken,
12 which is not true and is not true as reflected in
13 those orders and the multiple -- there were five
14 judges that actually laid hands on that case.
15 Three or four that issued orders, all very similar
16 in nature relating to the same issues. It was my
17 suspicion that all of those comments come out of
18 that one case, out of that one firm, because it
19 was such a broad and sweeping sanction that was
20 issued by a court against them. That would be my
21 expectation as to where that comes from. It goes
22 back to sort of what I was saying when candor
23 initially is -- the presentation of facts, in that
24 case in particular, come exclusively out of
25 discovery responses, the pleadings and the

1 deposition testimony. So it's all documented in
2 black and white text. And that's what the circuit
3 court who judge read it all, and wrote and issued
4 his order on it, determined. And so, you know,
5 it's hard in the abstract to say that that is what
6 it is, but that makes the most sense to me is that
7 it comes from that group of attorneys, given that
8 there is a consistent number of the candor and
9 demeanor comments that they mirror each other,
10 essentially..

11 Q. Well --

12 A. That's my expectation of that.

13 Q. And certainly I could tell you that when I read
14 something that says I heard he lied, you know, I
15 dismiss that right out of the --

16 A. Yes, sir.

17 Q. Because we're not basically pounding hearsay on
18 top of hearsay here. But the other thing that
19 caused me some concern, and again, you know, I
20 think you tried to address it earlier, I'm not
21 going to any way blame somebody for being happy or
22 proud or in any way jubilant for success, but
23 there's a measure in terms of how you handle it.
24 What these things say is it effectively, whether
25 it be during or after some kind of litigation,

1 that's it's all being, kind of, just broadcast on
2 social media. And, you know, I think I heard you
3 say, look, I don't do that. I mean, so what I'm
4 hearing from you this stuff is just not accurate.

5 A. Yes.

6 Q. Okay. I mean --

7 A. I apologize. To my knowledge, it's not accurate.
8 I went back and looked and I didn't see what they
9 were talking about. So it's either an
10 interpretation of something or it's just not
11 accurate.

12 Q. Okay. All right. Well, thank you very much for
13 the explanation.

14 A. Thank you, sir.

15 REPRESENTATIVE RUTHERFORD: All right. Mr. Murphy.

16 REPRESENTATIVE MURPHY: And I forgot to mention when
17 you were discussing that, and to Mr. Safran's
18 point, I'm not on Instagram, but I did go through
19 your Twitter feeds.

20 MR. BAYNE: Yes, sir.

21 REPRESENTATIVE MURPHY: And how you explained what you
22 used Twitter for. It was backed up on what I was
23 able to view, so --

24 MR. BAYNE: Okay.

25 REPRESENTATIVE MURPHY: -- I just wanted to make that

1 part of the record.

2 MR. BAYNE - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

3 Q. Mr. Bayne, we get a number of people that come in
4 and lack experience in the criminal field. And
5 one of the things -- response to questioning by
6 Mr. Murphy, I would suggest is talking to private
7 lawyers that do criminal work and asking them if
8 they have a case or two or three or four or 15
9 that you could assist with. Public defenders
10 maybe not so much because their job is to do that,
11 and it's hard to pass that off. And obviously I
12 would not be a good candidate, but I got ten cases
13 in my office that will come up in the next two
14 weeks that someone could come in and grab and go
15 because it's not just sentencing, which you talked
16 about, it's bond hearings, it's begging the
17 solicitor to answer the phone and give you a
18 hearing date and knowing that they're not
19 responding for two weeks on a bond motion and
20 having to go to the judge and what that feels like
21 to have opposing counsel just ignore you when
22 you've got somebody's life in your hands. So I
23 would just encourage you to get as much experience
24 with it as possible. Because unlike a wreck case
25 or a med mal case, getting criminal experience is

1 probably the easiest thing you can do; You can do
2 it in an afternoon just by showing up to court and
3 seeing who doesn't have a lawyer and standing in
4 an representing somebody, because it happens on a
5 daily basis. I, too, was concerned about the
6 candor comments, but I could see how if you were
7 in litigation with a law firm that it could
8 conceivably be possible that they would team up
9 and say the same things, because it was a lot of
10 them. And so either you were a bad liar or this
11 was a concerted effort to make you look bad. And
12 if they want to throw rocks at you later on, they
13 should have come to this hearing if they really
14 had bad things to say about you, because we'd be
15 willing to listen and it would give you a chance
16 to answer to them as well rather than throwing
17 rocks through the ballot box survey. So that
18 being said, I do appreciate you coming forward and
19 I, at least, feel a little bit better after
20 hearing you say that that was the case.

21 A. And I -- you know, I'll note, if -- my view on it
22 was if that were true, I'd be in a different
23 hearing right now with ODC and not with y'all.
24 It's just not something that is accurate or true.
25 And in fact, it's the opposite of that. I mean,

1 I do my very best at every turn to -- even to my
2 client's detriment, if it is, because that's what
3 we're supposed to do, to find the truth and
4 justice of things, is to represent those facts
5 that don't help us because they are part of
6 the case. So it's just not something that's
7 accurate.

8 Q. Well, if you were a family court lawyer, I'd
9 expect to see it. And if you were a criminal
10 lawyer and, you know, Chris Murphy's a great guy,
11 judge, don't sentence him, everybody knows you're
12 not telling the truth in that scenario. So it's
13 one of those things where those two make sense,
14 but with what you do, I couldn't figure out why
15 that many people would be saying that, so I
16 appreciate that.

17 A. And I'll note too, as to your point with --

18 Q. That Mr. Murphy's not a good guy?

19 A. No. I'm not going to touch that.

20 Q. Okay. You could have.

21 A. Not on the record. You know, you mentioned
22 having trouble getting in touch, for example,
23 with solicitors and you've got liberty at stake
24 with your clients or other clients. And it's
25 something that if I were lucky enough to be

1 elected and I were on the bench, I can tell you
2 I would take a very dim view of specifically
3 solicitors where that is a problem, because we
4 have -- we have such a backlog in general with
5 our general sessions dockets in a lot of
6 counties. But where you've got legitimate
7 concerns where it's a bond reduction or it's a
8 revocation or whatever it is and liberty is at
9 stake, and especially today with COVID going on,
10 but even generally, I can tell you I'd probably
11 take a dim view of the solicitor not calling
12 back, not saying I'm not going to deal with Mr.
13 Rutherford on this issue. And yeah, I don't
14 mean that to say I would welcome everyone
15 running to me every time there was an issue.
16 But I would want to hear it because it's
17 something that materially affects the life of
18 that criminal defendant. You know, even a day
19 or two being held, they can lose their job, they
20 can lose their apartment, they can lose their
21 home and their family, and that's not the
22 purpose of our criminal justice system. It's
23 not to punish in that manner where it's not
24 needed. You know, and so when we've got
25 especially presumed innocent and we've got

1 issues where we've got legitimate reasons to
2 hear those motions and potentially release
3 somebody or resolve that issue, it would be an
4 issue for me where the solicitor is stonewalling
5 that and refusing to be involved in that. So I
6 just wanted to state that in response.

7 **Q. To that end, if you were a judge and you have a**
8 **lawyer that says, you know, judge, my son's**
9 **baseball game is today at and I need a**
10 **continuance or I need you to allow me to go, how**
11 **would you deal with that if you were a judge?**

12 **A.** Sure. So barring a situation where it's a
13 habitual -- you know, there's an issue where
14 it's every time there's a hearing this has to be
15 continued, my answer is that the focus on the
16 Bar, especially lately, has been and needs to be
17 on the mental health of attorneys, that we need
18 to move forward out of the 90 hours a week of
19 work and towards that. My answer would be go to
20 your son's baseball game. I'd have the
21 conversation with the other side. We'd get on
22 the phone and talk about it. But barring there
23 being some significant reason why this hearing
24 had to happen at 3:00 p.m. today, it couldn't
25 happen at nine a.m. tomorrow or 9:30 a.m.

1 tomorrow or seven a.m, or whatever it is --
2 because, like I said, my position and my view of
3 being a judge would be I'm here to serve the
4 Bar. I'm here to move things forward and
5 resolve your differences. So if you tell me
6 you've got a baseball game at 3:00 for your son
7 but everyone's available at 8:00 a.m. tomorrow
8 to have a phone call, let's have a phone call at
9 8:00 a.m. tomorrow and let's solve this problem.
10 So that would be my answer to that generally as
11 it comes across the board. And I think it's
12 particularly true for solo and small firm
13 attorneys too. They have an entirely unique set
14 of practice areas that I don't experience in a
15 large firm. I worked in a small firm in law
16 school, a one-attorney firm with two paralegals
17 and three law clerks. And I can tell you
18 firsthand seeing that, this sort of hair on fire
19 that occurs when things get booked one on top of
20 the other on top of the other to the point where
21 if we didn't get this far but close to, you
22 know, practicing law as law clerks where you're
23 sitting there drafting and you're writing and
24 you're having things signed off. And that's a
25 particularly unique situation that occurs for a

1 lot of lawyers in this state because we have a
2 lot of very small firm or solo firm lawyers who
3 just need help. They need a break and they need
4 assistance from the court in scheduling those.
5 And so my general view is barring some truly
6 habitual every time it comes up I need a
7 continuance, is let's continue it and let's
8 solve it tomorrow or the next day and let's move
9 on.

10 Q. I appreciate your comments and the Bar giving us
11 mental health counseling on how to deal with the
12 pressure that they put on us.

13 A. Yes, sir.

14 Q. It's very odd. And to that end, even dealing in
15 criminal court with the fact that if I file a
16 civil case I have three years to file it. And
17 that point in Richland County is probably a year
18 from file to trial. And at that point if I need
19 a continuance I can talk to the judge about it.
20 But a criminal case comes up and a year later
21 everybody's going why haven't you tried it.
22 Well, maybe it's not ready yet. Then it always
23 amazed me why we expect that a criminal case is
24 always ready to go a year out and sometimes
25 judges, who have never done criminal work, don't

1 understand, that the evidence continues to come
2 in, officers may have some conduct that comes up
3 that you don't find out until later on. So
4 things that continue to exist, I appreciate you
5 mentioning both of those. Are there any other
6 questions or comments?

7 (No replies are heard.)

8 REPRESENTATIVE RUTHERFORD: Mr. Bayne, thank you so
9 much. And that concludes this portion of our
10 screening process. I want to take this
11 opportunity to remind you that pursuant to the
12 Commission's evaluative criteria, the Commission
13 expects candidates to follow the spirit as well
14 as the letter of the ethics laws, and we will
15 view violations or the appearance of impropriety
16 as serious and potentially deserving of heavy
17 weight in screening deliberations. On that
18 note, as you know, the record will remain open
19 until the formal release of the Report of
20 Qualifications and you may be called back at
21 such time as the need arises. I thank you for
22 being here today and I thank you for your
23 service to South Carolina.

24 MR. BAYNE: Thank you very much. Thank you,
25 everybody.

1 THE HONORABLE DANIEL MCLEOD COBLE, having been duly
2 sworn, testifies as follows:

3 REPRESENTATIVE RUTHERFORD: Are the Personal Data
4 Questionnaire and the Sworn Statement before
5 you, the documents that you submitted to the
6 Commission?

7 JUDGE COBLE: Those are.

8 REPRESENTATIVE RUTHERFORD: Are they both correct?

9 JUDGE COBLE: Yes, sir.

10 REPRESENTATIVE RUTHERFORD: Does anything need to be
11 changed or updated at this time?

12 JUDGE COBLE: No, sir.

13 REPRESENTATIVE RUTHERFORD: Do you object on making
14 these documents and any amendments, if
15 applicable, part of the record of your sworn
16 testimony?

17 JUDGE COBLE: No objection.

18 REPRESENTATIVE RUTHERFORD: It will be done at this
19 point in the transcript.

20 (Exhibit Number 13 was marked for identification
21 purposes - (17 pages) Personal Data Questionnaire for
22 The Honorable Daniel McLeod Coble.)

23 (Exhibit Number 14 was marked for identification
24 purposes - (2 pages) Amendment to the Personal Data
25 Questionnaire for The Honorable Daniel McLeod Coble.)

1 (Exhibit Number 15 was marked for identification
2 purposes - (7 pages) Sworn Statement for The
3 Honorable Daniel McLeod Coble.)

4 REPRESENTATIVE RUTHERFORD: The Judicial Merit
5 Selection has thoroughly investigated your
6 qualifications for the bench. Our inquiry is
7 focused on nine evaluative criteria and has
8 included a ballot box survey, a through study of
9 your application materials, verification of your
10 compliance with state ethics laws, search of
11 newspaper articles in which your name appears, a
12 study of previous screenings, check for economic
13 conflicts of interest. We have received no
14 affidavits filed in opposition to your election,
15 no witnesses are present to testify. If you
16 have a brief opening statement you would like to
17 make at this time?

18 JUDGE COBLE: At this point, with everything going
19 on, I'll waive that, but just say thank you all
20 for giving me the opportunity to speak and
21 introduce myself.

22 REPRESENTATIVE RUTHERFORD: Please answer counsel's
23 questions.

24 MS. ROSS: Thank you, Mr. Chairman. Good afternoon,
25 Judge Coble.

1 JUDGE COBLE: It's good to see you in person.

2 MS. ROSS: You as well. I note for the record that
3 based on the testimony contained in the
4 candidate's PDQ, which has been included in the
5 record with the candidate's consent, the
6 Honorable Daniel Coble meets the constitutional
7 and statutory requirements for this position
8 regarding age, residence and years of practice.

9 JUDGE COBLE - EXAMINATION BY MS. ROSS:

10 **Q. Judge Coble, you've been a magistrate judge for**
11 **three years. How do you feel your legal and**
12 **professional experience thus far renders you**
13 **qualified and will assist you to be an effective**
14 **circuit court judge?**

15 **A.** Thank you, Meredith. In just over three and
16 half years, I'm rounding up, I've been sitting
17 on the bench as a full-time magistrate here in
18 Richland County for three and a half years, just
19 about. In this experience I get to preside over
20 jury trials, both civil and criminal. I've
21 presided over dozens of these jury trials with
22 attorneys on both sides to a verdict. On the
23 criminal side I've presided over -- I handle all
24 of the public defender cases, so I see a lot of
25 jury trials on that end as well, with attorney's

1 on both sides. On the criminal and civil, you
2 see a lot of the same issues you see in general
3 sessions and common pleas. The civil side, it
4 is a jurisdictional limit, obviously of \$7,500,
5 but that doesn't change the seriousness that I
6 take with these cases. Seventy-five hundred
7 dollars, while it might not seem like a lot of
8 money, especially in the Court of Common Pleas,
9 to a lot of the folks I see, these pro se
10 litigants or just an attorney with a car
11 accident case, you know, \$5,000 for someone with
12 nothing in their bank account is just as serious
13 as a \$500,000 verdict to, you know, an insurance
14 company. So the level of seriousness I take
15 with these cases has been eye opening. And it's
16 been a great experience to preside over jury
17 trials, interacting with some of the best
18 attorneys, getting to know jurors and how they
19 think, how they act. I've not only presided
20 over jury trials, but I handle motions. So
21 there's a motions practice. It's probably not
22 as thorough as it is in the Court of Common
23 Pleas. However, I do handle -- somehow I got
24 stuck handling all the legal issues at central
25 court. I think that's because my predecessor,

1 Judge Kirby Shealy, did it so they assumed I
2 would do it as well. So I handle -- whether
3 it's a motion for summary judgment, Rule 56,
4 12(b)(6), motion for clarification, a whole wide
5 range of civil motions that we all know can get
6 very complicated and cumbersome. They all
7 somehow find their way to me. Also in 2018, I
8 was appointed as the Associate Chief Judge for
9 Richland County by Chief Justice Beaty. I've
10 been reappointed, I believe, three or four
11 times, and I'm still the Associate Chief. In
12 that capacity, I get a lot more work with no
13 extra pay, which includes administrative duties.
14 So I'm in charge of every single continuance
15 request that comes through Richland County. So
16 I see firsthand what attorneys are going
17 through, whether it's a private practice, public
18 defender, sole practitioner. I'm on the end
19 making those decisions when it comes to
20 continuance requests. I have an understanding
21 of what folks are going through. So long story
22 short, I believe my experience as a full-time
23 magistrate in Richland County -- and just one
24 thing to add, sometimes I talk to my friends who
25 practice in front of me or Richland County, and

1 they talk about magistrate court, municipal
2 court, and obviously there are 46 different
3 magistrates -- there's hundreds in municipal
4 courts, and everyone is different. And so the
5 way I run my courtroom might not be the same as
6 another one around the state, but I run it like
7 the Court of Common Pleas. We follow the rules
8 of evidence. We follow the rules of civil
9 procedure where it's applicable, the rules of
10 professional conduct. And we take it seriously,
11 whether it's pro se litigants or attorneys on
12 both sides. So it's been a great experience.
13 Most importantly, it's the confidence that you
14 have of going from being in front of a judge,
15 which I was as an assistant solicitor, to being
16 on the other side of that bench where it's --
17 you're the conductor. You know, the train can't
18 stop because you have to think about something.
19 And it's a whole different experience having to
20 rule on a motion than just making a motion. And
21 I applaud the attorneys. They make some of the
22 best motions I see and it stumps me a lot of
23 time. And so -- but you've got to know how to
24 move on and make those efficient and competent
25 decisions. And so it's been a great experience

1 as a magistrate for the past three and half
2 years presiding over jury trials and non-jury
3 trial motions.

4 **Q. Thank you. Is there any further training or**
5 **preparation you think you'd need before taking**
6 **the circuit court bench?**

7 A. For the rest of my life I'm always going to need
8 more training or experience, and that's the
9 great thing about being an attorney. I was
10 taught, even before law school, your reputation
11 is the most important thing you'll have if you
12 want to practice until you're 72 or older. And
13 so every day I'm learning and always trying to
14 improve. I'm always training, essentially, to
15 be the best I can be. I never will be better
16 than some out there, but that's my goal.
17 Because I wake every morning with the number
18 10,000. There are 10,000 attorneys out there,
19 so what makes me different. And I see it even
20 more in magistrate court. I see new attorneys
21 every day that I've never seen before, and then
22 they do something really good, and I think, wow,
23 they're better than me. So it motivates you to
24 be better. So generally the answer is I'm
25 always going to be training. Specifically if I

1 am ever elected to the circuit court bench, one
2 specific area I do need to focus on will be,
3 under the rules of civil procedure, the
4 discovery rules. In magistrate's court on the
5 civil side, there are no -- there is no
6 discovery. I am familiar, obviously, with
7 discovery and the process and how it works. And
8 I'm very familiar with motions to compel on the
9 criminal side. I handled that under Rule 5 as
10 an assistant solicitor, and I handle it more
11 than you can imagine with public defender's
12 court on the criminal side. So specifically I
13 would always try to focus on that. And the best
14 way to do that, from my experience, is talking
15 with seasoned attorneys. Seasoned attorneys
16 like to tell war stories and they're always
17 interesting. And I always like to hear them,
18 because I can read the -- you know, the Rules of
19 Civil Procedure, but I don't know anything until
20 you see it in application and you hear a good
21 story or, you know, something of that nature,
22 and it kind of sticks with you. And you hear --
23 you know, I like to see what other judges do.
24 I've been in front of judges who don't treat you
25 so well. And I've been on the opposite of where

1 they treat you great. And that's the type of
2 stuff that, you know, I'm always on the lookout
3 for, how to improve and get criticism. I mean,
4 criticism is the best thing to happen to you, so
5 I'm always trying to improve, if that answers
6 your question.

7 **Q.** Thank you. Judge Coble, the Commission received
8 208 ballot box surveys regarding you with 57
9 additional comments. The ballot box survey, for
10 example, contained the following positive
11 comments: Judge Coble is hard working,
12 responsive, firm, fair, intellectually curious,
13 always a good trait for a judge and deserving of
14 a circuit court seat. Judge Coble is an
15 outstanding magistrate in Richland County and
16 would be a wonderful asset to the circuit court
17 bench. Judge Coble is the best magistrate in
18 Richland County. He's a hard worker, very
19 intelligent and has an excellent judicial
20 temperament. He's definitely wise beyond his
21 years. Eleven of the written comments expressed
22 concerns. Several comments indicated concern
23 with your level of experience. I know you
24 touched on this in your -- what we discussed
25 before, but what response would you offer to

1 **this concern?**

2 A. I think just focusing on, after three and a half
3 -- I was -- before I was sworn in July of 2017,
4 as a full-time magistrate, I think those
5 concerns are raised -- I believe I was 30 at the
6 time. I might have been a little bit too young,
7 and I was replacing Judge Kirby Shealy, who was
8 one of the best if not the best magistrate. So
9 -- and what I did then was I tried to work as
10 hard as I could. And the first thing that
11 happened to me -- I thought I knew the rules of
12 evidence, and I didn't. And I was embarrassed
13 by an attorney. It wasn't their fault, it was,
14 you know, my fault. And so I worked hard to
15 learn the rules of evidence because I believe
16 those are the most important for a trial judge.
17 And I worked as hard as I can to learn from
18 those experiences, from my mistakes, to be as
19 good as I could be so I would always be in
20 control of my courtroom. And when it comes to
21 experience, I think I would just rest on the --
22 whether it's these anonymous comments or just
23 reputation in general, which I don't know
24 exactly what it is, but if it's good, I would
25 rest on that. That's what it takes. It takes

1 that experience of being a full-time magistrate
2 -- I think has given me the insight on how to
3 run a courtroom, how to run a jury trial, how to
4 move a motions docket, how to always be in
5 control. I see it -- I'm a mentor to three new
6 magistrate judges. And the first thing I tell
7 them is that they have to control their
8 courtroom, and they do that through confidence.
9 And a confident judge doesn't mean they're
10 arrogant. It doesn't mean they don't change
11 their mind. It means they're open to be
12 persuaded. And it also means they'll stand firm
13 in a decision when an attorney gets upset with
14 them or a pro se litigant gets upset. And so
15 that experience I didn't have before as an
16 assistant solicitor, but over three and a half
17 years on sitting on that side of the bench has
18 really opened my eyes to being a trial judge.

19 **Q. Thank you. And how would you respond to a**
20 **concern that you shy away from ruling on legal**
21 **motions in an attempt to pass them on to other**
22 **judges?**

23 **A. That one I would respectfully disagree with it.**
24 I think if you could ask -- I wish I did shy
25 away from more, but I seem to be getting all the

1 tough cases of central court. Our chief judge,
2 I was just covering his court last week, and I
3 would just respectfully disagree with that.
4 And, you know, it's -- I enjoy kind of making
5 those tough decisions after my first -- you
6 know, it was hard to -- I had a stop sign case
7 in front of me, and it was probably the toughest
8 thing to say guilty or not guilty, you know,
9 right there in front of everybody. But you
10 learn from it; you learn how to make tough
11 decisions. And after a while you just get used
12 to it. That's just part of the job. You know,
13 if you feel like you're making the right
14 decision, you'll always -- you'll never make
15 always the right decision, but as you get -- you
16 know, handle these cases more and more and you
17 get confident, and you don't shy away, and I
18 hope I never would. And just to follow up on
19 that, there was an answer in my Sworn Statement
20 about recusals. And recusals obviously come up,
21 and a lot of times we get judges who will -- you
22 know, they recuse pretty quickly because there
23 appears to be a conflict. And that should be
24 done but you also have to think about the other
25 judge taking that case. So I get a lot of

1 recusal cases and I don't mind it. You know,
2 that's part of the job. But I'm always very
3 aware, if I'm recusing myself, where that case
4 is getting passed to and especially if it's a
5 tough case. So that's just something to keep in
6 mind and I always do. And I'll always keep that
7 in mind. If I feel like I'm passing the buck
8 and I shouldn't, I'll always keep that in mind.

9 **Q. Thank you.**

10 MS. ROSS: I would note that the Midlands Citizens
11 Committee reported that Judge Coble is qualified
12 in the evaluative criteria of constitutional
13 qualifications, physical health, experience and
14 mental stability and well qualified in the
15 evaluative criteria of ethical fitness,
16 professional and academic ability, character,
17 reputation and judicial temperament. The
18 Committee stated in summary that Judge Coble is
19 well qualified but young, with limited
20 experience and a good work ethic.

21 **Q. Judge, just a few housekeeping things now.**
22 **Judge Coble, are you aware that as a judicial**
23 **candidate you are bound by the Code of Judicial**
24 **Conduct as found in Rule 501 of the South**
25 **Carolina Appellate Court Rules?**

1 A. I am.

2 Q. Judge Coble, since submitting your Letter of
3 Intent, have you contacted any members of the
4 Commission about your candidacy?

5 A. I have not.

6 Q. Since submitting your Letter of Intent, have you
7 sought or received the pledge of any legislator,
8 either prior to this date or pending the outcome
9 of your screening?

10 A. I have not.

11 Q. Are you familiar with Section 2-19-70, including
12 the limitations on contacting members of the
13 General Assembly regarding your screening?

14 A. I am.

15 Q. Have you asked any third parties to contact
16 members of the General Assembly on your behalf,
17 or are you aware of anyone attempting to
18 intervene in this process on your behalf?

19 A. I have not and I am not.

20 Q. Have you reviewed and do you understand, the
21 Commission's guidelines on pledging and S.C.
22 Code Section 2-19-70(E)?

23 A. I do.

24 MS. ROSS: Mr. Chairman, I would note for the record
25 that any concerns raised during the

1 investigation by staff regarding the candidate
2 were incorporated into the questioning of the
3 candidate today and I have no further questions.

4 REPRESENTATIVE RUTHERFORD: Any questions by any
5 members? Mr. Strom.

6 JUDGE COBLE - EXAMINATION BY MR. STROM:

7 **Q. Mr. Coble, would you tell us a little bit about**
8 **your writings? I note that you've written a**
9 **good bit, and tell the Commission about that.**

10 A. Yes, sir. It started when I briefly spoke on
11 the first jury trial I had where I was
12 embarrassed by -- I thought I knew the rules of
13 evidence. And until you, you know, start
14 hearing objections left and right, you might not
15 know them as well. So I vowed then that I would
16 never been caught, you know, flatfooted. And so
17 I studied the rules of evidence and I started
18 writing. And I hated writing in law school. I
19 never liked writing in college. But then I
20 guess I found something as boring as the rules
21 of evidence, I found it interesting, and so I
22 started writing on it. I enjoyed it and I used
23 to write down -- I had this spiral bound
24 journal, which I think I have somewhere still,
25 where I wrote down -- after each -- you know,

1 I'd have a case and I'd remember some law, and
2 I'd write it down. But of course, I forget it
3 right away. So I started writing it down by
4 hand. And I realized that I'm too young for
5 this; I need to start typing this down. So I
6 started typing it. I turned it into a blog.
7 And the point of how I write -- there are great
8 books out there. They're better than I could
9 ever do, Justin Kahn's Rules of Evidence book.
10 But what I try to do with these publications is
11 give something that you can pick up in court,
12 you can flip to real quick, and have an answer,
13 nothing too in depth. If you want to go write a
14 Law Review article, well, you mind need to find
15 something more in depth. But the writings I try
16 to do to help attorneys, help pro se litigants.
17 I turned the blog -- I use it now. I also use
18 Twitter in conjunction with that. Now if I'm
19 ever on the circuit court, I would stop using
20 Twitter and the blog. I would do any writings
21 through the South Carolina Bar just to be as
22 overly cautious as possible. But as a
23 magistrate we have a lot of pro se litigants, a
24 lot of attorneys who aren't normally in jury
25 trials so much. And so I try to treat my

1 Twitter and the blog as a 24/7 CLE. It's
2 something that's always there, that helps
3 explain these convoluted rules that often get
4 confusing that I'm constantly learning from
5 other attorneys, the application. And so with
6 these publications, I enjoyed writing. I was
7 fortunate enough to have a book published. I've
8 had several self published, and I've published
9 some Law Review articles. And so I've just been
10 fortunate to have some of those make it through
11 the screening process, on the editorial side.

12 Q. Well, you know, I've obviously known you a long
13 time, and I can tell you you're doing an
14 outstanding job as a magistrate. And just
15 looking at your numbers, I mean, there are
16 somewhere between 145 and 165 people writing
17 about you, and you've only made two of them
18 really mad. And, you know, that's actually
19 saying something. Because you have to make
20 decisions every day without the benefit of a law
21 clerk and unsophisticated litigants sometimes,
22 and, you know -- and so I commend you on that.
23 You know, I'll say this, and you know it, you
24 know, obviously you're a little young. And
25 we've got about a dozen people in this race and

1 a lot of people who have run before. And so
2 don't know how this particular race turns out
3 for you but I would not take -- if it doesn't
4 turn out well, I would not take that as a
5 negative. I would keep doing what you're doing,
6 and, you know, we hope to see you back. You
7 know, we've got Judge Manning retiring this
8 year. And if Judge Benjamin's fortunate to go
9 to the Court of Appeals, there would be two
10 Richland County seats coming open. So we'll see
11 how that plays out but thank you for what you're
12 doing. And you're the kind of young man we need
13 as a judge.

14 A. Thank you, I appreciate that. I really do,
15 thank you.

16 REPRESENTATIVE RUTHERFORD: Mr. Murphy.

17 REPRESENTATIVE MURPHY: Thank you, Mr. Chairman

18 JUDGE COBLE - EXAMINATION BY REPRESENTATIVE MURPHY:

19 Q. Judge Coble, thank you for offering to serve.

20 A. Yes, sir.

21 Q. My concern is when I -- you've spent your entire
22 legal career in public service, correct?

23 A. Yes, sir.

24 Q. And I looked at your Sworn Statement, answer
25 number three: "I have worked my entire career

1 in public service, would like to continue that
2 for the rest of my career." And there's nothing
3 wrong with that. My concern is that, as a solo
4 practitioner as myself and serving in the
5 General Assembly and family obligations, you
6 juggle many duties, and we're being pulled in a
7 number of different directions. At any given
8 time you could be scheduled to be in three
9 different courtrooms at one time. How would you
10 address the concerns of solo practitioners of
11 myself that, well, Judge Coble doesn't
12 understand what it's like to practice law and to
13 have all these obligations and to be pulled in
14 so many different directions. And he wouldn't
15 grant me a continuance because I had to be in
16 his courtroom in Richland County at the same
17 time I had to be in Kershaw County. How would
18 you address those concerns?

19 A. Well -- and you're absolutely right, some of my
20 best friends are solo practitioners. And I hear
21 from them every day about issues with clients,
22 client families and running a small business,
23 you know, paying taxes. You're absolutely
24 right. Being either a small or solo
25 practitioner you're pulled all across the state.

1 And so most importantly is -- my favorite quote
2 from Chief Justice Pleicones -- he said he
3 always had a little note pad that said, never
4 forget what it's like to be a lawyer. And I
5 think it's absolutely critical and important to
6 be empathetic and to understand what attorneys
7 are going through. Because just dealing with
8 legal issues alone can be enough stress,
9 emotional stress, to do you in. And the last
10 thing an attorney needs is a judge who thinks
11 they know more than that attorney, who thinks
12 they are right, you know, who is arrogant. And
13 the last thing they need is added stress. And
14 so the way that I try to understand and always
15 be aware of that is by having good mentors. One
16 of my closest friends, a good mentor is Leigh
17 Leventis, who's always tried to guide me in the
18 right way by understanding what it's like for
19 private attorneys, solo practitioners, all the
20 struggles they go through and that you never
21 forget, you know, where you came from. And as
22 an Assistant Solicitor, it's nothing like being
23 a solo practitioner. You're only in one
24 courtroom in one circuit. I understand what
25 it's like in front of judges who are very

1 strict, overly strict, for no particular reason.
2 And so the best learning experience I've had as
3 the Associate Chief Judge is dealing with every
4 single continuance request. I see firsthand
5 what you alluded to, a sick child, a sick
6 parent. And I get more often than not is which
7 court if you have to be in multiple courts. And
8 so you'll see you have the pecking order. But
9 in reality if you're in the municipal court or
10 if I was in circuit court and you had to be in
11 municipal court, you know, we work with you,
12 especially if you have -- let's say you had a
13 plea deal set up. And you finally got the
14 officer to show up, and you need to work it out,
15 there's no reason to bring you into general
16 sessions if that case can wait. And the way I
17 do that is is letting you work with the parties.
18 The parties work together. And if there's an
19 issue, to bring it to my attention. I'm always
20 responsive as can be, return every email, every
21 phone call as long as it complies with the
22 judicial canons so that if an issue arises where
23 you're called into another court and for some
24 reason the other party's being, you know, a jerk
25 and they're not being -- not working with you,

1 then I'm always responsive. And if I had law
2 clerk, we'd be extremely responsive to
3 understand all those issues. So I think, to
4 answer your question, I have strong mentors who
5 would never lead me astray. Some of my best
6 friends who I hear about -- I was just talking
7 with a judge I worked with who -- he was a solo
8 practitioner and a public defender. And
9 whenever I come in with a question he always --
10 he's said, always my advice, never, ever, ever
11 embarrass an attorney in front of the client.
12 You know, hold him to high standards, but never
13 do that. And if you can make him look good,
14 make him look good if you comply with the rules.
15 And so that's something, always having mentors
16 who understand what you've been through, what
17 you're going through. And some of my friends,
18 as I've said, are solo practitioners and I hear
19 their stories about the struggle. But it's
20 something I'm always attuned to. And so if I'm
21 ever on the circuit court, you won't see me just
22 once every six years. You'll always -- I'm
23 always reachable. I like criticism,
24 constructive criticism, if I'm doing something
25 wrong, so that I'm attuned to what's going on on

1 the ground and make sure I'm being a good judge.

2 **Q. And I notice one of your letters of reference is**
3 **William Crantford.**

4 A. Yes, sir.

5 **Q. Did you and William grow up together?**

6 A. William Crantford and I have been best friends
7 since sixth grade. And he never practiced in
8 front of me, so I have other solo practitioners,
9 but William somehow has done so well.

10 **Q. Right.**

11 A. Yes, sir.

12 **Q. I associate a lot of cases with William.**

13 A. Well, he's a great friend, and he was down in
14 Charleston, so that's why -- I have other
15 friends who are in Columbia, but I didn't want
16 to use them, but --

17 **Q. Yes.**

18 A. And then William is somehow -- I won't talk
19 about middle school and high school, but somehow
20 he's the most successful out of all of us. I'll
21 never know.

22 **Q. Thank you.**

23 A. Yes, sir.

24 REPRESENTATIVE RUTHERFORD: Any other questions,
25 comments? Well Judge, let me tell you. I have

1 known you since you were a solicitor. And I've
2 always said that if you want to be able to judge
3 somebody, give them power. And you had it as a
4 solicitor, you continue to have it as a judge.
5 And I can tell you that if everybody that goes
6 in front of you or has dealt with you has very -
7 - holds you in very high regard, as do I. I
8 have been pleasantly surprised as you've moved
9 through the process, watched you grow and
10 watched you learn. And I think just because
11 you're a judge people are using that to judge
12 how much experience you have. And they forget
13 about the fact that you were once a solicitor
14 and dealt with that as well. And so I just want
15 to thank you again, not only for your continued
16 public service but somebody that is dedicated to
17 the cause and wants to continue down that
18 pathway of public service. And notably, I
19 believe, you'd probably be the chief judge in
20 Richland County if we didn't already have one
21 that was so awesome that everybody holds in high
22 regard. He's not even a lawyer, but I mean,
23 just we have a great court in Richland County,
24 and you are certainly a large part of that, so
25 thank you for that.

1 JUDGE COBLE: Thank you.

2 REPRESENTATIVE RUTHERFORD: Any other questions?

3 Judge Coble, thank you so much, and that
4 concludes this portion of our screening process.
5 I want to take this opportunity to remind you
6 that pursuant to the Commission's evaluative
7 criteria the Commission expects candidates to
8 follow the spirit as well as the letter of the
9 ethics laws. And we will view violations of the
10 appearance of impropriety as serious and
11 potentially deserving of heavy weight in
12 screening deliberations. On that note, as you
13 know, the record will remain open until the
14 formal release of the Report of Qualifications,
15 and you may be called back at such time if the
16 need arises. I thank you for offering, and I
17 thank you for your service to South Carolina.

18 JUDGE COBLE: Thank you.

19 (Off the Record)

20 (Senator Rankin resumes role of chair at this time.)

21 CHAIRMAN RANKIN: Chairman Rutherford, thank you for
22 subbing so well. Ms. Coker --

23 MS. COKER: Yes.

24 CHAIRMAN RANKIN: Welcome. If you will, not because
25 we want to see your beautiful face more clearly,

1 but because the court reporter cannot hear,
2 we'll ask you to take your mask off. Thank you.

3 MS. COKER: Just waiting for instructions.

4 CHAIRMAN RANKIN: Thank you, and welcome back. New
5 little room just so we can Zoom for some of our
6 staff returning.

7 MS. COKER: Okay.

8 CHAIRMAN RANKIN: If you will, raise your right hand.

9 MEREDITH LONG COKER, having been duly sworn,
10 testifies as follows:

11 CHAIRMAN RANKIN: Good afternoon. Have a seat there
12 if you will.

13 MS. COKER: Thank you.

14 CHAIRMAN RANKIN: Make sure you tap on that mike,
15 make sure we can hear you. It was working
16 earlier.

17 MS. COKER: Can you hear me?

18 CHAIRMAN RANKIN: Yes, thank you. All right. Before
19 you is your PDQ and your Sworn Statement.

20 MS. COKER: Yes, sir.

21 CHAIRMAN RANKIN: Do we need -- or do you need to
22 change those before we put them into the record?

23 MS. COKER: I am -- my business address is pending.
24 I'm meeting with Comcast for the third time on
25 Friday to try to get that up and running. I've

1 been working with Lindi or Maura to make sure
2 that that's up to date, and whatever they need
3 done will be done.

4 CHAIRMAN RANKIN: Never in my history of JMSC has the
5 cable man made the record as it has today. You
6 are waiting on the cable man to clarify your
7 business agreement; is that right?

8 MS. COKER: With phones and internet. I don't have a
9 typewriter anymore so --

10 CHAIRMAN RANKIN: Other than that, it's ready to go,
11 and you don't object to them being made a part
12 of the record?

13 MS. COKER: Verifying with that one exception.

14 CHAIRMAN RANKIN: Very good. You are familiar with
15 this process. We met last year?

16 MS. COKER: Two years ago.

17 CHAIRMAN RANKIN: Two years.

18 MS. COKER: Yes, sir.

19 CHAIRMAN RANKIN: So just for the record, you know
20 that we are looking at nine particular things
21 within our evaluative criteria, and those
22 include the ballot box survey, a thorough study
23 of your application materials, verification of
24 your compliance with state ethics laws, search
25 of newspaper articles in which your name

1 appears, a study of previous screenings and a
2 check for economic conflicts of interest. No
3 affidavits have been filed in opposition to your
4 election, and no witnesses are present to
5 testify. That's my little spiel. You have the
6 opportunity to like make your own little spiel
7 before questions are posed to you by Maura, so
8 you're welcome to make an opening statement if
9 you like.

10 (Exhibit Number 16 was marked for identification
11 purposes - (18 pages) Personal Data Questionnaire for
12 Meredith Long Coker.)

13 (Exhibit Number 17 was marked for identification
14 purposes - (8 pages) Sworn Statement of Meredith Long
15 Coker.)

16 MS. COKER: I am going to defer an opening statement
17 just to say that I'm so impressed with how
18 efficient y'all are being today. It's more than
19 an hour early in getting a phone call of "Where
20 are you?" So I don't want to slow you down.

21 CHAIRMAN RANKIN: Well, that's all to Todd

22 Rutherford's credit and Murrell Smith. Maura.

23 MS. BAKER: Thank you, Mr. Chairman. I note for the
24 record that based on the testimony contained in
25 the candidate's PDQ, which has been included in

1 the record with the candidate's consent,
2 Meredith Coker meets the constitutional and
3 statutory requirements for this position
4 regarding age, residence and years of practice.

5 MS. COKER - EXAMINATION BY MS. BAKER:

6 **Q. Good afternoon, Ms. Coker. How do you feel your**
7 **legal and professional experience thus far**
8 **renders you qualified and will assist you to be**
9 **an effective circuit court judge?**

10 A. Well, as I've testified previously, I've had a
11 fairly diverse background. I originally started
12 my legal career in the appellate court in the
13 Commonwealth of Virginia where, because of the
14 way their court system is set up, about 95% of
15 the work we did was criminal. Every criminal
16 case except for death penalty cases, which went
17 directly to the Supreme Court. I then practiced
18 in the District of Columbia for a while at a
19 civil litigation firm doing a variety of
20 corporate litigation, collective bargaining,
21 property disputes. You know, you name it, we
22 did high end work, but a lot of different
23 things, and I think, different things well.
24 When I moved to South Carolina, I originally
25 practiced with Finkel and Altman and did civil

1 litigation work for them and then went out on my
2 own and was joined by Charlie thereafter. And
3 in the last few years I have been expanding my
4 litigation practice. I do a significant amount
5 of transactional work, both contract and
6 property. And I also have been assisting folks
7 in picking up some criminal work in terms of
8 basically assisting and second chairing on some
9 criminal matters. I think that my transactional
10 background helps as a member of the judiciary,
11 because I know where these disputes arise from.
12 I think that I've litigated everything from \$100
13 security deposit issue to a literally billion
14 dollar multinational issue. I have successfully
15 defended somebody in liability court for a dog
16 walking ticket, and I've argued motions
17 successfully at a murder trial. So I think that
18 I have kind of a strange background. And I
19 think that that combined with my personal
20 experiences would help me work with different
21 attorneys, work with different litigants and to
22 focus on the process and the law.

23 **Q. Thank you, Ms. Coker. What would you do if you**
24 **had to master an unfamiliar area of the law in a**
25 **relatively short period of time?**

1 A. Well, luckily, these last several months have
2 really gotten my speed reading up to par. I
3 love to read. I love to learn new things. And
4 I think there's no part of the law that
5 particularly the judiciary shouldn't be always
6 be keeping abreast of ahead of. Certainly from
7 -- there's the intellectual standpoint, reading
8 books, taking an honest academic approach to it,
9 but I also prefer a very practical approach.
10 Before all of this happened, my plan in the
11 spring and summer was to set up my new office,
12 get rolling and then start attending various
13 different criminal procedural days. You know,
14 just go sit in a day of PCRs. Go sit in on a
15 day of, you know, a robbery trial from start to
16 finish. Almost doing what we used to have to do
17 in the Bridge the Gap hours, but unfortunately
18 because of public not being around that has been
19 difficult to do. But even from my civil
20 standpoint, if I don't know a judge, I go find -
21 - if I've got a trial or a hearing in front of a
22 judge, I go find somebody who's been in front of
23 them. I go sit in hearings before them. I want
24 to know what they like and what they don't. So
25 I would do that as well.

1 **Q. Thank you. And Ms. Coker, why do you want to**
2 **serve as a circuit court judge?**

3 A. Well, I think that, again, my different levels
4 of experience and different facets of the law
5 would be helpful. I think that, again -- I
6 think we're heading into a -- particularly now -
7 - an up-in-the air economic environment. And I
8 was practicing, doing a tremendous amount of
9 landlord/tenant property disputes, real estate
10 disputes, partnership dissolutions back in 2009,
11 2010, 2011. When nobody's making money they
12 start getting mad at each other. So I certainly
13 have a depth of experience in those areas. And
14 I thing I could be successful in efficiently
15 moving those civil matters along. Moreover, I
16 have a very deep regard for the institution and
17 the rule of law. And I would just like to do
18 whatever I can to make sure that our
19 institutions, our legal system and our societal
20 norms are respected and quite frankly, that
21 people respects them and -- I'm trying to find
22 the word, but, you know, believe in them, I
23 guess, for lack of a better term.

24 **Q. Thank you. Ms. Coker, the Commission received**
25 **49 ballot box surveys regarding you with five**

1 additional comments. The ballot box survey, for
2 example, contained the following positive
3 comments: "Ms. Coker is extremely qualified to
4 be a judge. She's highly intelligent, has a
5 good command of the law and is always prepared.
6 She has a calm demeanor and is quite respectful
7 to everyone." Two of the written comments
8 expressed concerns regarding anger management or
9 lack of judicial temperament. What response
10 would you offer to that concern?

11 A. Well, I was thinking about that in the car ride
12 up today. And I jokingly told you that if I had
13 an anger management problem, I probably wouldn't
14 be waiting on Comcast anymore. But I was
15 surprised by those comments. Certainly I've
16 done this before, and have not received those
17 types of comments. And in fact, usually it's
18 the flip side; I'm too calm. I might be meek.
19 I might not, you know, push forward hard enough.
20 But I believe that I can be forceful without
21 being angry. I'm never angry so I can't surmise
22 where those are coming from without being a
23 hypocrite and saying, "Oh, that person just has
24 sour grapes" or whatnot. I honestly don't know
25 where those are coming from.

1 MS. BAKER: I would note that the Lowcountry Citizens
2 Committee reported that Ms. Coker is well
3 qualified in the evaluative criteria of ethical
4 fitness, professional and academic ability,
5 character, reputation and judicial temperament
6 and qualified in the evaluative criteria of
7 constitutional qualifications, physical health,
8 mental stability and experience. In related
9 comments, the Committee stated that Ms. Coker
10 has, "Broad civil experience, has handled
11 complex civil cases; smart; able; not much
12 criminal experience; intellectual approach."

13 **Q. I have a few housekeeping matters, Ms. Coker.**
14 **Ms. Coker, are you aware that as a judicial**
15 **candidate, you are bound by the code of judicial**
16 **conduct as found in Rule 501 of the South**
17 **Carolina Appellate Court Rules?**

18 A. I am so aware.

19 **Q. Ms. Coker, since submitting your Letter of**
20 **Intent, have you contacted any members of the**
21 **Commission about your candidacy?**

22 A. I have not.

23 **Q. Since submitting your Letter of Intent, have you**
24 **sought or received the pledge of any legislator,**
25 **either prior to this date or pending the outcome**

1 of your screening?

2 A. I have not.

3 Q. Are you familiar with Section 2-19-70, including
4 the limitations on contacting members of the
5 General Assembly regarding your screening?

6 A. I am.

7 Q. Have you asked any third parties to contact
8 members of the General Assembly on your behalf,
9 or are you aware of anyone attempting to
10 intervene in this process on your behalf?

11 A. I have not asked anyone to do so, and I'm not
12 aware of anyone doing so.

13 Q. Have you reviewed and do you understand the
14 Commission's guidelines on pledging in South
15 Carolina Code § 2-19-70(E)?

16 A. Yes.

17 MS. BAKER: Mr. Chairman, I would note for the record
18 that any concerns raised during the
19 investigation by staff regarding the candidate
20 were incorporated into the questioning of the
21 candidate today. Mr. Chairman, I have no
22 further questions.

23 CHAIRMAN RANKIN: Okay, thank you. Questions of Ms.
24 Coker by members of the Commission. I will
25 start unless there are others right off the bat.

1 MS. COKER - EXAMINATION BY CHAIRMAN RANKIN:

2 Q. And I remember meeting you before. My time runs
3 together. So it seemed like it was last year
4 but it was two years ago when you were before
5 us; is that correct?

6 A. Yes, sir.

7 Q. In that race, you were running -- what seat was
8 that?

9 A. It was the Ninth Circuit seat where I was
10 nominated.

11 Q. All right. And that was to succeed what judge?

12 A. Judge Harrington.

13 Q. That was your first time running, or had you run
14 before?

15 A. I had run before as a toe in the water a couple
16 of years ago on an at-large seat against, I
17 think, 28 people or so, just to get a feel for
18 the process.

19 Q. You do have a way of picking popular seats.

20 A. Well, maybe everybody just wants to hang out
21 with me.

22 Q. That's fine. Good begets good, right --

23 A. Exactly.

24 Q. -- so they are following your lead. In the two
25 years that you've had to process this screening

1 effort and the steps required of you, the work,
2 the papers, the blood tests effectively, you
3 might suggest we do everything but, do you have
4 an appreciation more or less of this process
5 itself?

6 A. I definitely have a stronger appreciation for
7 this process. I certainly -- while it's one
8 thing to be on this side of the table for
9 everything that you all do and the time you put
10 in, I mean, I have a good feel after speaking --
11 Maura and I are now in our second trip around.
12 And, you know, she's so fastidious and works so
13 hard. And so I have a very strong appreciation
14 for what y'all do. I also understand more fully
15 the -- what I need to be doing going forward.

16 Q. And in that regard, there was one comment in --
17 anonymous, but that you may lack criminal
18 experience. In the Goldilocks vernacular, it's
19 either one too little, the other too much. Is
20 that a fair assessment and have you done more in
21 the criminal field since?

22 A. Well, I again, as I was moving through having
23 not run last summer, because I -- honestly I had
24 promised my daughter I would spend more time
25 with her last summer. And I didn't want to go

1 back on that word. But I have worked with
2 several people that -- again, come this spring,
3 certain things got put on hold, you know, both
4 from a civil and a criminal aspect. You know,
5 I've been working out of my house for several
6 months because I couldn't find the right rental
7 unit that I was comfortable with, and, you know,
8 picking up my kid after school or whatnot. So I
9 certainly have not done everything I aspired to
10 do this time last year, but I'm not sure that
11 any of us have checked off every box. And I
12 certainly am in the current process of moving
13 forward with working with some more of those
14 folks.

15 Q. Well, and as you put in your statement, why do
16 you want to serve as a circuit court judge, the
17 phrase unprecedented times can virtually not be
18 overused. That certainly applies in your own
19 walk, as you've just testified to or mentioned
20 twice. So the ripples of that have not left
21 anyone untouched, you particularly in this
22 context. In terms of the temperament that you
23 see in the judges that you've appeared before,
24 if you were successful, who would you want to be
25 most favorably compared to, as exhibiting the

1 **right temperament?**

2 A. Well, I think that different judges have
3 different facets of their personality that I
4 really look to. For instance, now Senior Judge
5 Dennis works with jurors and makes them feel
6 like they truly are the most important part of
7 any case, and he does an amazing job with that.
8 Judge Newman, I think, is such an intellect,
9 always knows exactly what he's talking about and
10 is always on the ball and knows to ask the right
11 questions and doesn't step on lawyer's toes. I
12 think that you don't have to prove to the
13 lawyers that you know everything all the time.
14 I really admit to being a little jealous of -- I
15 love Judge Goodstein's ability to take over a
16 courtroom almost in a maternal way. It's
17 almost, "I'm disappointed you," and "You can do
18 better", rather than getting angry. Those are
19 three people that just popped into my head,
20 which are all three different jurists but have
21 aspects of their personalities that really stand
22 out to me.

23 **Q. Very well.**

24 CHAIRMAN RANKIN: All right. Questions of Ms. -- Mr.
25 Safran.

1 MS. COKER - EXAMINATION BY MR. SAFRAN:

2 Q. Just briefly, Ms. Coker. Thanks again for
3 coming back. And I do remember from when you
4 were here the last -- the last both times. I
5 know what we've made a point of in the past when
6 we've run into situations where we have people
7 with good, strong credentials in one area, but
8 maybe lacking elsewhere. I know we encourage
9 people to go and maybe fill in some of the
10 deficits. It seems like what I'm seeing is is
11 that you've tried to do that by going and asking
12 for criminal work with people you know.

13 A. Yes, sir. And I've been questioned in the past.
14 I believe that, first of all, a lot of criminal
15 defense attorneys, particularly who represent
16 indigent defendants, are more than happy to take
17 as much help as you can give them, and I think
18 that they're entitled to that. On the other
19 hand, I have not -- since it's a learning
20 process for me, I think it's also been helpful
21 to be a second chair in that environment because
22 I'm able to see what everybody's doing in the
23 room, and I don't have to worry about nothing
24 but what's going on in the defendant chair. And
25 so that's the path I have taken. If y'all have

1 other suggestions, let me know. But I feel like
2 that's been giving me more of a practical
3 experience with regard to when criminal defense
4 attorneys and solicitors come into the room what
5 they're expecting.

6 Q. Right. Well, certainly I think you want to kind
7 of get a sense of how to try to do it the right
8 way, although there's not just one right way.
9 The only thing that could be suggested is this:
10 obviously there are different tiers of criminal
11 cases, and many of us -- I consider myself a
12 young person but now I'm kind of wondering about
13 that in terms of tenure. We're kind of thrown
14 into the frying pan at one point and just more
15 or less told go do it.

16 A. Yes, sir.

17 Q. I still think "Go do it" is one of those
18 situations where it's like somebody dropped you
19 in the middle of the ocean. You've got nowhere
20 to go, up or down, so that might be a good idea.
21 Because I think at least there's some levels of
22 those cases that you could probably take and
23 just -- do minimal harm going in and just kind
24 of seeing what you could do. And I know right
25 now these last number of months the

1 opportunities have been minimal. I'm hopeful
2 that's going to change but, you know, you're
3 still doing the other things. And so I'm sure
4 your skills are remaining honed in that respect.
5 If there's anything that we look at is when they
6 bring out these issues about maybe really strong
7 one way and maybe not quite as experienced the
8 other, and that's a good way to kind of answer
9 that question and then put it to rest. Thank
10 you.

11 A. Thank you.

12 CHAIRMAN RANKIN: All right. Others? Ms. Coker,
13 thank you, and I want to harken back to Maura's
14 comments by the Lowcountry Citizens Committee
15 and that you can't get any better, I guess, save
16 that little criminal trial exposure, which,
17 again, you're endeavoring to do. It's a tough
18 Citizens Committee down there, as they all are
19 becoming more and more -- I think maybe now are
20 all equally acutely aware of what we're looking
21 for here, and so kudos to you that you have
22 gotten their high remarks. And thank you for
23 coming back and being persistent. Your
24 daughter, Eliza --

25 MS. COKER: Yes, sir.

1 CHAIRMAN RANKIN: -- is nine now, maybe ten?

2 MS. COKER: She is nine and just recently gone back
3 to full-time fourth grade. I will have to say
4 she begged me to spend more time at home. After
5 the last several months, she looked at me this
6 summer, after she couldn't go to camp and said,
7 "We're good now."

8 CHAIRMAN RANKIN: Somebody's going to camp, you or
9 Eliza, right?

10 MS. COKER: Exactly. So hopefully everything will be
11 great come spring.

12 CHAIRMAN RANKIN: In the realm of the waves of Covid
13 and how it's affected everyone, the stay-at-home
14 moms and/or students and the ever too present
15 dynamic is yet another test to many.

16 MS. COKER: Well, and I will say, I never aspired to
17 be that mom. It's just my husband is a property
18 manager downtown and has to -- can't call in,
19 you know, changing a light bulb in a college
20 kid's apartment. So we've been very -- and I
21 can make phone calls and type from just about
22 anywhere. So I've gotten a lot of mothering in,
23 in the last several months.

24 CHAIRMAN RANKIN: Well, on a personal note, in your
25 role as a mother, we have heard another

1 candidate for reelection just express such pride
2 in his daughter. You, on behalf of your nine-
3 year-old daughter, that you were committed to
4 spending more time before is a testament to you
5 as well, balancing all that you are doing and
6 trying to do. Eliza scores points for you, and
7 you're scoring a lot of points for her, so thank
8 you.

9 MS. COKER: Thank you.

10 CHAIRMAN RANKIN: Unless there's anything else, Ms.
11 Coker, again thank you for being here. This
12 will close this portion of the screening
13 process. And you are reminded and know it well,
14 our very serious focus on both the spirit and
15 the letter of the law and any violation of the
16 South Carolina ethics laws, any violation of the
17 appearance of impropriety will be deemed very
18 serious and given heavy deliberation or heavy
19 weight in our screening process. Remember that
20 this record will remain open until the final and
21 formal release of the Report of Qualifications.
22 Again, in the unlikely event we would have to
23 call you back, you know that we can do that,
24 correct?

25 MS. COKER: Yes, sir.

1 CHAIRMAN RANKIN: All right. Thank you again,
2 and tell Eliza you done good.

3 MS. COKER: I'll do that.

4 CHAIRMAN RANKIN: Take care.

5 MS. COKER: Thank all of you for your time today.

6 CHAIRMAN RANKIN: How are we doing, sir?

7 (Off the Record)

8 MR. DEBERRY: Good afternoon. How are you doing?

9 CHAIRMAN RANKIN: Doing great, doing great.

10 H. STEVEN DEBERRY, having been duly sworn, testifies
11 as follows:

12 CHAIRMAN RANKIN: Welcome back, Steve. You are H.
13 Steven DeBerry IV, correct?

14 MR. DEBERRY: Yes, sir.

15 CHAIRMAN RANKIN: What is the H for?

16 MR. DEBERRY: Harry Steven Deberry, IV. It's a
17 family name.

18 CHAIRMAN RANKIN: Is there a fifth?

19 MR. DEBERRY: Unfortunately I had two girls, and I
20 think that's over with.

21 CHAIRMAN RANKIN: Well, not --

22 MR. DEBERRY: But not unfortunately.

23 CHAIRMAN RANKIN: I've never heard of Harry the
24 fifth. Henry VII. All right. As soon as that
25 siren clears, we will start. All right. And

1 that's been a running ambient noise over the
2 last two days. Mr. DeBerry, you have before you
3 your PDQ and your Sworn Statement; is that
4 right?

5 MR. DEBERRY: Yes, sir.

6 CHAIRMAN RANKIN: Any changes that you want to make
7 to those before we put them in the record.

8 MR. DEBERRY: No, sir.

9 CHAIRMAN RANKIN: All right. If you'll hand those
10 over, we'll put them in the record. And you are
11 well familiar. You screened last year, or was
12 it two years ago?

13 (Exhibit Number 18 was marked for identification
14 purposes - (15 pages) Personal Data Questionnaire for
15 H. Steven DeBerry.)

16 (Exhibit Number 19 was marked for identification
17 purposes - (1 page) Amendment to Personal Data
18 Questionnaire for H. Steven DeBerry.)

19 (Exhibit Number 20 was marked for identification
20 purposes - (7 pages) Sworn Statement for H. Steven
21 DeBerry.)

22 MR. DEBERRY: Last year.

23 CHAIRMAN RANKIN: Okay. And had you screened before
24 that?

25 MR. DEBERRY: No, sir.

1 CHAIRMAN RANKIN: All right. You know what we're
2 looking for here in terms of the evaluative
3 criteria, of which there are nine. You know
4 that that includes a ballot box survey, a
5 thorough study of your application materials, a
6 study of previous screenings, search of
7 newspaper articles in which your name appears,
8 verification for your compliance with the state
9 ethic laws, and finally, a check for economic
10 conflicts of interest. Fortunately no
11 affidavits had been offered or filed in
12 opposition to your campaign and election, and no
13 witnesses have asked to testify. You now have
14 the opportunity to make a brief opening
15 statement if you'd like before Madison starts
16 her questions.

17 MR. DEBERRY: Thank you, Mr. Chairman. I'd just like
18 to introduce myself briefly. I'm Steven
19 DeBerry, a lifelong resident of Florence County,
20 married to my wife, Jessica. We've been married
21 for ten years, and she works for the United
22 States Department of Agriculture. We have two
23 children, Katherine and Josie. They're eight
24 and two, and we love them very much. They're
25 doing real well. I've been practicing law for

1 nearly 15 years now. I have a solo firm. I
2 practice by myself. I have a very diverse firm,
3 experienced in a lot of areas of the law. I do
4 most everything other than family law. So I've
5 practiced in many areas. I was elected in 2014
6 to Florence County Council. I still currently
7 serve there today as vice chairman. And I want
8 to thank each and every one of you for your
9 service to this State and for the opportunity
10 for me to be here today. Thank you.

11 CHAIRMAN RANKIN: Great. All right. Madison.

12 MS. FAULK: Thank you, Mr. Chairman. I would note
13 for the record that based on the testimony
14 contained in the candidate's PDQ, which has been
15 included in the record with the candidate's
16 consent, Mr. DeBerry meets the constitutional
17 and statutory requirements for this position
18 regarding age, residence and years of practice.

19 MR. DEBERRY - EXAMINATION BY MS. FAULK:

20 **Q. Good afternoon, sir. How do you feel your legal**
21 **and professional experience thus far renders you**
22 **qualified and will assist you to be an effective**
23 **circuit court judge?**

24 **A.** Well, I think most importantly is my
25 understanding of our judicial system, of our --

1 the way that our court systems operate and run.
2 I've been on both sides of the bar. I've worked
3 as an assistant solicitor, and also in private
4 practice I've handled civil and criminal and a
5 wide array of other types of cases. I
6 understand the importance of judicial
7 temperament. I understand the importance of a
8 judge being able to -- having the quality to
9 listen to all the litigants and act like they're
10 really being heard and to really hear them and
11 understand the issues. I understand how
12 important it is for a judge to be available and
13 accommodating. Throughout my career and
14 throughout my private practice, it's just been
15 very helpful to have judges who are willing to
16 hear, whether it be settlements or put something
17 on the record for one reason or another, that
18 may not have time to be scheduled or to just
19 really accommodate attorneys and their schedules
20 to the extent that everybody can keep moving
21 forward. And I think that's very important.
22 And I understand those things and I wish to
23 bring those to the bench.

24 **Q. Thank you, Mr. DeBerry. Are there any**
25 **additional steps that you feel that you may need**

1 to take in order to be prepared to serve as a
2 circuit court judge?

3 A. I think I'm very well qualified to serve as a
4 circuit court judge. I'm very confident in my
5 abilities, but I'm also very willing and eager
6 to continue to learn and to continue to hone my
7 skills and my knowledge of the law and just
8 excited for the opportunity, if it becomes
9 available. Because, as we know, practicing law
10 comes with many other challenges like operating
11 and owning your own business and employees and
12 payroll. And sometimes it's just difficult to
13 really get down to the law. That's what I'm
14 looking forward to, if I can be elected.

15 Q. Thank you. The Commission received 113 ballot
16 box surveys regarding you with 17 additional
17 comments. The ballot box survey, for example,
18 contained the following positive comments:
19 Steven DeBerry would be an excellent circuit
20 court judge. He has a calm demeanor that serves
21 well in court. He is conscientious and has an
22 excellent judicial temperament. Sharp, hard
23 working, and would make a valuable addition to
24 the S.C. judiciary. Has a great temperament and
25 would be asset to the judiciary. Seven of the

1 written comments express concerns. Several
2 comments indicated concerns regarding the
3 sufficiency of your experience. What response
4 would you offer to these concerns?

5 A. I would just say that my experience -- I believe
6 it really speaks for itself. I've got a lot of
7 experience in a wide array of the law. I've
8 tried cases in civil court and criminal court,
9 probate court, magistrate's court, general
10 sessions, common pleas. You know, I've been
11 practicing for nearly 15 years coming up here in
12 a few months, and it's just been very action
13 packed. So I would think that my experience
14 would bode well for me on the bench, if I could
15 get there.

16 **Q. Thank you.**

17 MS. FAULK: I would note that the Pee Dee Citizens
18 Committee reported Mr. DeBerry to be well
19 qualified as to the evaluative criteria of
20 ethical fitness, professional and academic
21 ability, character, reputation, experience and
22 judicial temperament and qualified in the
23 evaluative criteria of constitutional
24 qualifications, physical health and mental
25 stability. The Committee had no related

1 comments.

2 Q. And now, sir, we'll just move on to a couple of
3 final housekeeping questions. Mr. DeBerry, are
4 you aware that as a judicial candidate you are
5 bound by the Code of Judicial Conduct as found
6 in Rule 501 of the South Caroling Appellate
7 Court Rules?

8 A. I am.

9 Q. Since submitting your Letter of Intent, have you
10 contacted any member of the Commission about
11 your candidacy?

12 A. I have not.

13 Q. Since submitting your Letter of Intent, have you
14 sought or received the pledge of any legislator,
15 either prior to this date or pending the outcome
16 of your screening?

17 A. I have not.

18 Q. Are you familiar with Section 2-19-70, including
19 the limitations on contacting members of the
20 General Assembly regarding your screening?

21 A. I am.

22 Q. Have you asked any third parties to contact
23 members of the General Assembly on your behalf,
24 or are you aware of anyone attempting to
25 intervene in this process on your behalf.

1 A. I have not, and I'm not aware.

2 Q. Have you reviewed, and do you understand, the
3 Commission's guidelines on pledging in South
4 Carolina Code § 2-19-70(E)?

5 A. Yes, ma'am, I understand.

6 Q. Thank you.

7 MS. FALK: Mr. Chairman, I would note for the record
8 that any concerns raised during the
9 investigation by staff regarding the candidate
10 were incorporated into the questioning of the
11 candidate today. Mr. Chairman, I have no
12 further questions.

13 MR. DEBERRY - EXAMINATION BY CHAIRMAN RANKIN:

14 CHAIRMAN RANKIN: Okay. I'm going to start by asking
15 you a little bit, and I remember you very well.
16 Mr. DeBerry, I remember you from last year and
17 the particular memory involves your -- what
18 you've touched on just a touch today and that
19 being the good and the bad of solo practitioner.
20 You do and have done both criminal and civil.

21 A. I have, Your Honor -- or Mr. Chairman. I'm
22 sorry.

23 Q. Yeah. And you have tried, to verdict, both
24 criminal and civil trials?

25 A. I have, yes, sir.

1 Q. And I'm not looking -- to refresh my memory on
2 the split between the civil and criminal
3 practice; what would that be?

4 A. You know, just off the top of my head, I would
5 say it's probably 70/30 and the more criminal,
6 yes, sir.

7 Q. Seventy percent criminal, 30 percent civil?

8 A. Yes, sir, I would say.

9 Q. Okay. And you don't do work with public
10 defender, contract work?

11 A. Yes, sir.

12 Q. You do?

13 A. I do. I have a contract with the state for
14 indigent defense where the public defender's
15 office may have a conflict with a criminal case.

16 Q. All right. And in the year that it's been,
17 which it seems like a lot longer than a year,
18 but what have you done more of or less of as you
19 prepared for this second run?

20 A. Well, I've recently filed several civil cases
21 just because the Covid situation has been such
22 that I haven't been able to get much movement
23 from insurance companies or anything like that.
24 I have been active in the criminal court. I've
25 got several cases that are up for trial, and

1 we'll just kind of have to see how it goes as
2 far as the jury trials. We've tried one or two
3 in Florence County so far. And I just don't
4 know, you know, how that's going to continue to
5 progress, hopefully well. But my practice has
6 remained steady, you know, and I would say it's
7 generally more criminal work that comes in than
8 civil work, but there's been a mix of both and
9 some other matters as well. For whatever
10 reason, it's been -- I've had a lot of probate
11 work come in this year, and I just -- you know,
12 honestly I just kind of take what I'm
13 comfortable with and what I can do. And that's
14 -- I don't know if that has anything to do with
15 Covid or what, but it's just kind of been what
16 kind of year it's been.

17 **Q. The type judge that you would want to be,**
18 **temperament, demeanor, interaction with the**
19 **public, give me a name or five. Who would you**
20 **hope to be considered similar to favorably?**

21 **A.** Well, I'm very close with Judge Nettles. Judge
22 Cothran's a great friend of mine. I clerked for
23 him, and we speak on a regular basis. Judge
24 Duane Shuler, I know is retired now, but he's
25 always been somebody that I really enjoyed being

1 around and learned a lot from and just enjoy the
2 way he always carried himself and -- you know,
3 in the courtroom and also in the public. And so
4 I understand that that's important, you know. I
5 have a good, even temperament. I'm not easily
6 excited or angered. I think that all of these
7 aspects and attributes will serve me well if I
8 can make it to the bench.

9 **Q. Either the rap or the compliment, you are**
10 **seeking this, in some camps, at a relatively**
11 **young age. Speak to those folks who might say,**
12 **ah, he's a little young versus Rankin, ah, he's**
13 **a little old.**

14 **A.** Well, I think that youth on our judiciary and on
15 our benches is a good thing. I think we just
16 need to be as diverse as we can be, you know.
17 Obviously, we have some that are younger and
18 some that are older. I think that bringing new
19 perspectives or a new perspective with a younger
20 aged person is a quality attribute to our
21 judiciary. I really do. You know, I understand
22 that, you know, I may be viewed as young and 40
23 years old. You know, I think sometimes if we
24 elect judges that are too close to the
25 retirement age then we just don't have them

1 around long enough in some respects. But, you
2 know, I just think there's some value in
3 electing younger -- you know, some younger
4 judges.

5 **Q. In terms of your temperament, obviously you have**
6 **stood for election in county politics. You've**
7 **been reelected how many times?**

8 A. One time.

9 **Q. Well, and you chose to run for reelection,**
10 **correct?**

11 A. That's right, yes, sir.

12 **Q. So they didn't tire of you and you didn't tire**
13 **of them, at least in one term, correct?**

14 A. That's right. And it's been a positive
15 experience on my life. I've really enjoyed
16 public service. I look at this opportunity as
17 public service. I like making our state a
18 better place. I like for our environment to be
19 fair for everybody, and that's really my goal
20 that I've tried to carry out on county council
21 is just to represent the people of the county in
22 a way that treats them fairly and make sure
23 things go, you know, above bar.

24 **Q. If you are successful in this process, and**
25 **moving on further down the road now or in the**

1 future, what would you want the public -- and
2 maybe let's go to those who say, well, maybe
3 he's too young -- what would you want them to
4 say about you after you were successful and
5 began your service and that term had ended?

6 A. Well, if they're doubtful now, I would want them
7 to say, you know, that maybe he's wise well
8 beyond his years, or he's done a great job.
9 We're very proud to have him. You know, I've
10 got a lot of local support from my friends and
11 family and people that know me and members of
12 the bar. I just think that, you know, I'm well
13 qualified for this position, and I hope that at
14 the end of the term I feel confident that people
15 would have even greater confidence in me at that
16 time.

17 **Q. Anything you think you lack to be equipped to be**
18 **a judge, a circuit court judge?**

19 A. Well, certainly I'm not perfect, but, you know,
20 anything that I lack I feel like I'm well
21 capable of trying to catch up on and figure out
22 and learn. I think we all need to learn every
23 day. I tell my children that. I asked them
24 what they learned today, and I think that's
25 important for all the days that we live. And I

1 will just be committed to trying to be better
2 and better and better at my job.

3 CHAIRMAN RANKIN: All right. Other questions by
4 other Commission members?

5 REPRESENTATIVE SMITH: Mr. DeBerry, I apologize for
6 missing some of your portion of it. I was still
7 trying to recover from surgery and not going too
8 well, so this is my first day out of a boot. I
9 just want to put on the record, you and I are
10 first cousins, right?

11 MR. DEBERRY: That's right.

12 REPRESENTATIVE SMITH: All right. So I just gave an
13 ethics speech to the freshmen over there, and
14 you're not my grandparent or my parents nor my
15 in-laws or anything like that.

16 MR. DEBERRY: No, sir.

17 REPRESENTATIVE SMITH:
:

18 All right. And I presume you
19 think like the rest of my family, I'm not a
20 really nice guy, and you really don't like me,
21 do you? You're under oath, so I'd really to
22 know what you might say about me. So I'd like
23 to know those Thanksgivings I don't show up
what's said about me there, Cousin DeBerry.

24 MR. DEBERRY: Well, I understand they canceled it
25 this year.

1 REPRESENTATIVE SMITH: They sure did, so you're lucky
2 but I appreciate you offering. Again, I just
3 wanted to put on the record that you are my
4 first cousin. I don't see anything, for our
5 ethics attorneys, where I have to recuse myself.
6 But I certainly know you, have known you since
7 you were a little kid. And you've grown up to
8 be a fine man and appreciate your work over in
9 Florence and more importantly, your work on
10 Florence County Council. I got to watch you in
11 action a couple of days when y'all invite me
12 over to explain my position on the local
13 government fund. I really appreciate those
14 invitations, but we handled it pretty well. You
15 did much better than my council does when they
16 invite me over for those discussions.

17 MR. DEBERRY: Well, thank you. Thank you for coming.

18 MR. STROM: I do have a comment. I think it says a
19 lot about you that your community has elected
20 you to county council and vice chair of county
21 council. And we talk about this age issue,
22 you're right. I mean, a lot of us like gray
23 hair on the bench, somebody at the end of their
24 career. But what I see with the federal
25 judiciary, they're wanting younger and younger

1 people so they can stay longer. And, you know,
2 looking at your resume and your work as an
3 assistant solicitor. You've been in private
4 practice -- not just private practice but
5 private practice on your own, solo practice, and
6 you know what it's like to run a little business
7 and have a family and go to different courts and
8 make the payroll and do all the things that a
9 lot of people on this Committee does. So, you
10 know, I think you meet the requirements as far
11 as I'm concerned, and I think you'd make an
12 excellent judge.

13 MR. DEBERRY: Thank you, sir.

14 CHAIRMAN RANKIN: We are done, sir, with this portion
15 of your screening, and thank you again for being
16 here and taking our questions and participating
17 in this. You are reminded that we, as the
18 Commission, take very seriously both the letter
19 and the spirit of the South Carolina Ethics
20 Laws, and any violation or appearance of
21 impropriety in that vein will be deserving of
22 very heavy weight in our screening process. To
23 that end, if we needed to, we would call you
24 back, and you understand that. We do not expect
25 that, but if that need were to arise, we would

1 call you back because the record remains open
2 until the formal release of the Report of
3 Qualifications. With that, Mr. DeBerry, thank
4 you, and we will see you another day. Take
5 care.

6 MR. DEBERRY: Thank you, and thank y'all for the
7 opportunity to be here, and thank you for your
8 service.

9 (Off the Record)

10 CHAIRMAN RANKIN: Welcome, Mr. Hyman. How are you
11 doing, sir?

12 MR. HYMAN: I'm doing good, Mr. Chairman.

13 CHAIRMAN RANKIN: We are under total control here.

14 We know exactly what's going on and everyone is
15 paying rapt attention.

16 B. ALEX HYMAN, being duly sworn, testifies as
17 follows:

18 CHAIRMAN RANKIN: Very well, have a seat there. And
19 before you are your Personal Data Questionnaire
20 and Sworn Statement. Do you need to make
21 changes to any of those?

22 MR. HYMAN: I do not believe so, Mr. Chairman.

23 CHAIRMAN RANKIN: All right. And we're going to make
24 those a part of the record unless you object.

25 MR. HYMAN: I do not object.

1 CHAIRMAN RANKIN: And we will start this process.

2 And you have participated in a screening before,
3 or no?

4 (Exhibit Number 21 was marked for identification
5 purposes - (15 pages) Personal Data Questionnaire for
6 B. Alex Hyman.)

7 (Exhibit Number 22 was marked for identification
8 purposes - (1 page) Amendment to Personal Data
9 Questionnaire for Alex B. Hyman.)

10 (Exhibit Number 23 was marked for identification
11 purposes - (6 pages) Sworn Statement of B. Alex
12 Hyman.)

13 MR. HYMAN: I have not gone through the screening
14 process. I filed and withdrew prior to the Bar
15 questioning prior to Pee Dee Citizens Committee
16 and before this.

17 CHAIRMAN RANKIN: Because you had served on the
18 Citizens Committee --

19 MR. HYMAN: That is correct.

20 CHAIRMAN RANKIN: -- for the Pee Dee?

21 MR. HYMAN: That's correct.

22 CHAIRMAN RANKIN: Very well. And so you know acutely
23 our process. And I'll put it on the record, but
24 you are aware that we are looking a number of
25 things as we investigate yours and the other how

1 many -- 60 candidates for various stripes and
2 judicial positions, but nine evaluative criteria
3 particularly, including a ballot box survey, a
4 study of your application materials,
5 verification of your compliance with state
6 ethics laws, search of newspaper articles in
7 which your name appears, a study of previous
8 screenings, of which there are none with you,
9 and then a check for economic conflicts of
10 interest. No affidavits have been filed in
11 opposition to your election, and no one has
12 requested to be present to testify. With that,
13 you are welcome to make an opening statement.
14 We are so ahead of schedule, you will beat the
15 rush hour traffic out of here if Murrell Smith
16 does not ask too many questions.

17 MR. HYMAN: Well, I understand that the person coming
18 after me is a local applicant, so I would waive
19 an opening and just simply say thank you for
20 allowing me to be here.

21 CHAIRMAN RANKIN: Very good. Ms. Wilkinson.

22 MS. WILKINSON: Thank you, Mr. Chairman. Mr. Hyman.

23 MR. HYMAN: Yes.

24 MS. WILKINSON: How are you doing today?

25 MR. HYMAN: I am good.

1 MS. WILKERSON: Mr. Chairman, I note for the record
2 that based on the testimony contained in the
3 candidate's PDQ, which has been included in the
4 record with the candidate's consent, Alex Hyman
5 meets the constitutional and statutory
6 requirements for this position regarding age,
7 residence and years of practice.

8 MR. HYMAN - EXAMINATION BY MS. WILKINSON:

9 Q. Mr. Hyman, how do you feel your legal and
10 professional experience thus far renders you
11 qualified and will assist you to be an effective
12 circuit court judge?

13 A. Thank you. This question's probably been asked
14 of me 15, 20 times, in some form or another,
15 since I decided to kind of go down this path.
16 And I think the things about me that would lend
17 themselves into being a good candidate have to
18 do with my experience. I was very, very honored
19 to serve as Judge Cottingham's law clerk when I
20 first got out of law school. And as many of you
21 in the room know, Judge Cottingham was a bit of
22 an old school judge. And in some ways, I think
23 that is something that may be missing from our
24 judiciary. After clerking with Judge
25 Cottingham, I briefly worked with my father, who

1 then went on to be a circuit judge. I worked
2 with my dad about six months, and was kind of
3 given the reins to a lot of cases that were his.
4 And at that point, it was kind of sink or swim.
5 That was back in 2007. And since then I have
6 handled a myriad of different kind of cases from
7 mechanics liens to product liability to auto
8 injury to debt collection to multiple murder
9 cases. The vast majority of my practice really
10 in the past six or seven years has lended (sic)
11 itself more towards criminal defense. But the
12 first six or seven years of my practice I'd say
13 it was closer to 50/50. I hired some associates
14 who have allowed me to kind of pull back from
15 civil practice and concentrate on really cases
16 that require a lot of attention. I think that
17 that broad range of -- and broad scope of
18 representation along with -- I want to say that
19 I think I have a very good work ethic. Things
20 that I've learned from my father and my
21 grandfather have always been more related to how
22 I treat people and my work ethic than
23 potentially verdicts and how things always play
24 out. And I think that that's very important. I
25 think that patience is something that is

1 extremely important in our judiciary, and I feel
2 that I'm a very patient person. I have dealt
3 with issues that litigants -- or I've dealt with
4 many types of litigants. And I think that in
5 some instances we forget that they're people and
6 that attorneys are people and that there are
7 things that come up. And that's something that
8 our judiciary, I feel like, needs to always
9 remember. But I'm probably rambling on, but
10 those are -- they are generalized ideas of why I
11 think I would be a good candidate.

12 Q. Thank you, Mr. Hyman. Mr. Hyman, the Commission
13 received 154 ballot box surveys regarding you
14 with 26 additional comments. The ballot box
15 survey, for example, contained several positive
16 comments, some of which read: Mr. Hyman will be
17 a tremendous asset to the bench. He is an
18 exceptional person that also is very
19 knowledgeable of the practice of law. I have no
20 hesitation in supporting his candidacy for a
21 judgeship. Another comment stated: Alex Hyman
22 would make an absolutely incredible judge. I am
23 a prosecutor, and he is a personal injury,
24 criminal defense attorney. I believe that he
25 would be fair to all sides of the bench. He is

1 the epitome of ethical. More comments state:
2 Alex is an excellent attorney. He has a very
3 well balanced practice and has experience in all
4 facets of circuit court. He would make an
5 excellent judge and hit the ground running.
6 Some of the comments did express concerns.
7 Several of the comments indicated that you would
8 be biased toward and influenced by legislators
9 who appear in front of you. What response would
10 you offer to this concern?

11 A. Well, the -- I am an attorney. And I'm involved
12 in politics in that I'm an elected official. I
13 serve on city council, and there are
14 representatives and senators that I've dealt
15 with in my experience on city council. I do not
16 think that in any way that would sway me one way
17 or the other in keeping from being fair and
18 impartial. Supporting someone in an election,
19 to me, is so far removed from whether or not you
20 could be fair and impartial in a judicial
21 setting. I don't think that the two are even
22 closely related. But I personally know my
23 character and I know my ethic responsibility
24 that I would have as a judge. I also know that
25 I have personally delivered bad news to

1 representatives and senators who are friends of
2 mine in case evaluations and that thing. I
3 don't think that in any way I would be swayed to
4 not be fair and impartial.

5 **Q. Thank you. Additionally, there were concerns**
6 **regarding lack of experience, particularly in**
7 **civil matters. I know you've just spoken about**
8 **your experience, but would you like to elaborate**
9 **on that?**

10 A. Sure. You know, ballot boxes are anonymous. My
11 assumption is that that may very well be
12 somebody who is either new to the practice or
13 who has not dealt with me personally. As I
14 said, my firm, we handle quite a bit of civil
15 work. My name is on that civil work. When I
16 hired my younger brother specifically so he
17 could help with the civil practice. We still
18 handle a good many civil cases. I checked this
19 morning and right now I have 35 civil cases that
20 are pending. Some of those are auto accidents,
21 some of them deal with mortgage fraud, debt
22 collection, all kinds of different civil
23 matters. Yes, I am much more known probably
24 around that community for criminal defense, just
25 because it seems like every time I'm in trial on

1 a criminal defense case, it's a murder. But I
2 certainly have some experience in civil
3 proceedings.

4 **Q. Thank you. Lastly, there was a comment that**
5 **alleges that you believe a judgeship to be an**
6 **inherited position, given that your father was a**
7 **judge. There were some other comments that**
8 **stated similar concerns. How would you respond**
9 **to those concerns?**

10 A. You know, I certainly can't change who my father
11 is. I have never felt that a judgeship was
12 something that should just be given to me. I
13 was personally a witness when my dad ran twice,
14 and I know how hard these elections are.
15 Nothing is ever promised. My drive and desire
16 to be a circuit judge actually probably does not
17 come from my father. I had great mentors, from
18 Judge Cottingham to Judge Breeden. I have a
19 tremendous respect for the judges that I've
20 appeared in front of. My desire to be a judge
21 really goes along with wanting to work with
22 people. I enjoy my practice. I enjoy what I
23 do. But I think that we are at our best when
24 we're serving others. And that's something that
25 I've learned, being on city council and other

1 boards, that I think I could carry over to the
2 judiciary.

3 MS. WILKINSON: Mr. Chairman, I would note that the
4 Pee Dee Citizens Committee reported Mr. Hyman as
5 qualified in the evaluative criteria of
6 constitutional qualifications, physical health
7 and mental stability. The Committee reported
8 Mr. Hyman well qualified in the evaluative
9 criteria of ethical fitness, professional and
10 academic ability, character, reputation,
11 experience and judicial temperament.

12 Q. Mr. Hyman, I have a few housekeeping issues to
13 go over with you.

14 A. Sure.

15 Q. Are you aware that as a judicial candidate you
16 are bound by the Code of Judicial Conduct as
17 found in Rule 501 of the South Carolina
18 Appellate Court Rules?

19 A. I am.

20 Q. Since submitting your Letter of Intent, have you
21 contacted any members of the Commission about
22 your candidacy?

23 A. I have not.

24 Q. Since submitting your Letter of Intent, have you
25 sought or received the pledge of any legislator,

1 either prior to this date or pending the outcome
2 of your screening?

3 A. I have not.

4 Q. Are you familiar with Section 2-10-70, including
5 the limitations on contacting members of the
6 General Assembly regarding your screening?

7 A. I have, or I am, excuse me.

8 Q. Yes, sir. Have you asked any third parties to
9 contact members of the General Assembly on your
10 behalf, or are you aware of anyone attempting to
11 intervene in this process on your behalf?

12 A. I have not and I am not aware.

13 Q. Have you reviewed, and do you understand, the
14 Commission's guidelines on pledging of South
15 Carolina Code § 2-19-70(E)?

16 A. I have.

17 MS. WILKINSON: Mr. Chairman, I would note for the
18 record that any concerns raised during the
19 investigation by staff regarding the candidate
20 was incorporated into the questioning of the
21 candidate today. I have no further questions.

22 CHAIRMAN RANKIN: All right. Any questions by
23 members of the Commission? Representative
24 Smith.

25 MR. HYMAN - EXAMINATION BY REPRESENTATIVE SMITH:

1 Q. Mr. Hyman, how are you doing today?

2 A. I'm doing well, sir. How about yourself?

3 Q. I appreciate your service on city council. I
4 didn't realize that until I read your briefing
5 paper, so congratulations. How long have you
6 been on there?

7 A. Just since January but it seems like it's been
8 ten years.

9 Q. I'm going to question why you decided to get
10 into public service.

11 A. Well, I had been on the planning commission and
12 the zoning board of appeals for years prior, so
13 it was kind of the next step, but I do enjoy it
14 in some instances.

15 Q. I can understand. Let me just ask you a little
16 bit. I think you covered it well but you mainly
17 do criminal work, right?

18 A. As far as the bulk of my practice, yes. Right
19 now the bulk of my practice is criminal defense.
20 My firm, which is two attorneys, handles a good
21 bit of civil but not compared to my criminal
22 practice.

23 Q. But you still have some civil cases?

24 A. I do, yes.

25 Q. And tried civil cases before?

1 A. I have, yes.

2 Q. So you've tried lots of criminal cases?

3 A. I have.

4 Q. So you have a wealth of experience on the civil
5 and criminal side?

6 A. I would say that, yes, sir.

7 Q. And obviously mainly what you do as a circuit
8 court judge is -- unfortunately, it seems like
9 we have more in general sessions terms of court
10 now than we do common pleas, but you would be
11 well versed and be able to handle trials of
12 pleas and probation violations and now non-jury
13 motions for general sessions. You could do all
14 that, right?

15 A. I could, yes, sir.

16 Q. Now when you -- you know, one thing, you've been
17 on the defense side, and we ask this to both
18 sides when they come over here, have you ever
19 prosecuted before?

20 A. I have not.

21 Q. And, you know, a knock you generally see on
22 someone who's a criminal defense attorney or
23 public defender is that they're going to be
24 lenient on --

25 A. Sure.

1 Q. -- people who are charged with crimes and vice
2 versa. Solicitors, they're going to be, you
3 know, too hard on people that are charged with
4 crimes. How do you thread that needle of, you
5 know, what your experience and your advocacy as
6 to how that translates into your job -- your
7 role as a circuit court judge?

8 A. Well, you certainly have certain principles that
9 you have as a defense attorney and certain
10 principles you have as a solicitor. But when
11 you're a circuit judge you're required to
12 somewhat throw those principles out and look at
13 the case in front of you, applying it to the
14 law, the facts and law and really sentence based
15 on that. Now as a circuit judge, one of the --
16 well, if I was a circuit judge, one of the
17 things that has impressed me the most I've been
18 somewhat of a part of is the programs that
19 you're starting to see around the state, drug
20 court, the mental health court to -- a few of
21 the circuits are doing a veteran's court. I
22 think Charleston is now doing a homeless court.
23 Those second chance opportunities are just -- I
24 think are a great thing. One of the most
25 humbling things about this experience is that I

1 had quite a few prosecutors who -- I mean, we've
2 had knock down, drag out wars in court who
3 called me to say, hey, I just finished my ballot
4 box. I just wanted to let you know you're my
5 guy. And that makes me, as a defense attorney,
6 feel very good in that I've still developed
7 relationships where they think I could be fair
8 and impartial and not be the "bleeding heart."
9 I think sentencing should be fair. I think
10 there are situations where people need to get a
11 second chance. But I also think there are
12 situations, generally with violent offenders,
13 where they may have been given a second chance,
14 and a second chance and a third chance is not
15 needed. At some point, it may be that they
16 can't be rehabilitated and that they need to
17 spend time in jail. I think taking that real-
18 life approach is the best way to handle those
19 situations.

20 Q. You're a -- I ran into you in magistrate's court
21 years ago. You helped me navigate that place.
22 I guess you helped me find the courtroom to
23 begin with.

24 Q. But I presume you've experienced what a lot of
25 us in small areas with a blended practice of,

1 you know, doing criminal, civil, and you got to
2 work in different counties and different cities
3 and municipalities. And so it's stretched thin
4 when you've got a caseload over there, and you
5 get a call from the clerk's office you're on the
6 roster. They give you at least three weeks
7 notice now. It's about the extent of the notice
8 you get from the judicial system. But
9 nonetheless you have an idea and you've got a
10 case on the roster or you've got motions, and,
11 you know, you've got an implied consent hearing
12 in Florence or somewhere like that. How are you
13 going to handle that? You know, you've
14 experienced it, I presume, as an attorney --

15 A. Absolutely.

16 Q. -- and, you know, how are you going to handle
17 that from the perspective as a judge with
18 lawyers and also, you know, to some extent the
19 quality of life? You know, you've got a life
20 outside of -- I think you've got children, and
21 you obviously want to be at your children's
22 football games or soccer games or whatever it is
23 that they may be, and, you know, you also have
24 the extreme side. We hear from this. We've
25 been doing this for a while, the court

1 administration saying you've got to move these
2 cases. You've got to clear your backlog over
3 here. How do you balance those two?

4 A. I think the best way to do it is just to
5 remember what it was like being a lawyer. I
6 certainly have those issues constantly. There
7 are weeks when I'm in four counties. And it is
8 very tough trying to juggle, especially the
9 smaller -- I say smaller, but your municipal
10 cases and your magistrate cases when you may
11 have something on the common pleas docket or the
12 general sessions docket. As a judge, I think it
13 is imperative to have compassion for the
14 attorneys. You have to be able to set aside the
15 fact that, hey, yes, we need to move this case
16 with the fact that you have to remember that
17 it's a business that we're in is a busy
18 business. It has great benefits, you know, in
19 no way am I taking it away from that, but there
20 are time constraints. And there are certainly
21 times when attorneys are pulled ten different
22 directions. I think as a judge it's very, very
23 important to remember that, to remember that if
24 an attorney needs a continuance -- I'm not
25 talking a baseless continuance, but a

1 continuance where there is truly an issue or,
2 you know, if someone is running 30 minutes late
3 because they had an implied consent hearing that
4 morning, be somewhat flexible. It doesn't mean
5 that the whole system is shutting down. I think
6 that doing that and also trying your best to
7 move cases along. One of the things that I did
8 as a clerk for Judge Cottingham is as soon as
9 the rosters came out, I started calling the
10 attorneys just to remind them. If you've got an
11 issue call me. And if you think you may need a
12 continuance, call us. If you see a scheduling
13 issue, call us. And I don't know if other
14 clerks do that. I don't think I've ever gotten
15 a call from a judge's clerk that did that. But
16 it would certainly be something that I would ask
17 my clerks to do, reach out to the attorneys and
18 say, listen, you're number four on this roster,
19 how are we looking. I think that just that
20 little bit of communication could fix some of
21 those issues, but also being -- just having some
22 compassion for the attorneys and litigants that
23 come before you.

24 **Q. I'll say this. I've never been to an**
25 **investiture of a judge where they haven't said,**

1 "I'm going to never forget what it's like to be
2 a lawyer." And some of those people have
3 forgotten as soon as they zipped up their robe
4 to make that speech. And so, I would -- if
5 you're successful in your endeavors this time or
6 whenever it may be, I just would ask that you
7 always remember those words. Because, you know,
8 to me it is getting to be more and more of a
9 problem. You know, it's becoming -- practicing
10 law has unfortunately becoming a lifestyle
11 that's all consuming now. At least that's been
12 my experience with it. And, you know, people
13 want you in every court, and it's -- you know,
14 you get magistrates and municipal court judges
15 who think that the Supreme Court doesn't even
16 matter, that their case comes first, and, you
17 know, and so I really try to -- when I go
18 through this, again what I want to emphasize to
19 everybody is, you know, there are people with
20 other responsibilities outside the practice law
21 of law.

22 A. Sure.

23 Q. And I think you are uniquely situated where
24 you've experienced such in having a small
25 practice and having a diverse practice and then

1 one in numerous counties. You bring that
2 experience to the bench, which is well needed
3 sometimes, rather than someone that's never had
4 to manage a payroll and make sure that the trust
5 account is reconciled and everything else that
6 comes with running a practice that you're
7 accountable to the powers that be over here in
8 Columbia. So I appreciate that and your
9 perspective and what you bring to us. I'm sure
10 it was asked to you here before, but, you know,
11 you always look at this, and you see, you know,
12 you're 40 years old, your practice is growing,
13 you've got a great reputation in Horry County.
14 You can make probably a lot more money being a
15 lawyer if you wanted to do that, so why now?
16 What kind of brings you to this point now?

17 A. As far as that goes -- and I did mention it
18 earlier -- I really do enjoy practicing law. My
19 brother is at that age where he really is kind
20 of hitting the ground running. He is six years
21 younger than I am. So I'm enjoying see that and
22 we're really working some cases together. And
23 my father's actually come back and is working a
24 little bit with us, just kind of off and on.
25 He's really just telling us what we're doing

1 wrong. For me, this has been a goal probably
2 since -- and I may have the date wrong, but
3 1992. I was 12 years old and I went and saw the
4 Crystal Faye Todd murder case. It was Ken
5 Register. And Ralph Wilson and Morgan Martin
6 tried that case, and Judge Cottingham was the
7 judge. And I remember just thinking, this is
8 amazing. You know, it was the first trial that
9 I had seen. I'd certainly been over to court
10 with my father. But ever since that moment,
11 I've had it in the back of my mind, and then
12 through law school -- I went to the University
13 of Arkansas for law school. And their third
14 year they allow you to do some courtroom
15 practice. And I did that, and there was a judge
16 there named Marion Humphrey, who looks exactly
17 like James Earl Jones, and he had this big
18 boisterous voice. And I just remember how kind
19 he was to me in helping me around the courtroom,
20 as far as really helping me not to look dumb, I
21 guess is a better expression with that. And I
22 think that my experience and where I want to go
23 the next portion of my life, that's what I want
24 to do. I want to be that judge that that 12
25 year old kid comes in and goes, gosh, that's

1 what I want to do. I want to be a lawyer. I
2 want to be a judge. And I also think that I
3 really can help our judiciary. I'm somewhat
4 tech savvy. I know that's kind of dirty
5 sounding but I look at where trials are going
6 now with cell phone databases and things like
7 that. It's not what it used to be. And those
8 kind of things in the way our judiciary -- the
9 way I see our judicial and really the circuit
10 court growing in the next ten years, I feel like
11 I'm someone who could really help that and grow
12 with it. And I think that given my experience,
13 even though it's limited in 14 years, I do think
14 I have a lot of experience and a lot world
15 experience that could help.

16 **Q. All right. Thank you.**

17 CHAIRMAN RANKIN: Other questions.

18 MR. HYMAN - EXAMINATION BY CHAIRMAN RANKIN:

19 **Q. Alex, obviously I know you, watched you grow up**
20 **and have admired you, admired your family. Your**
21 **grandfather and all the way up, y'all were just**
22 **true term pillars of the community. Y'all have**
23 **been that --**

24 A. Thank you, I appreciate that.

25 **Q. -- so your answers just now to the questions of**

1 why, don't surprise me really. It's who y'all
2 are, what you're about, and I think sincere and
3 pure intention to be a mentor for folks coming
4 up. And as with the other prior candidate, 40
5 years old, it's a little -- and the earlier
6 candidate, the magistrate in Columbia -- we've
7 had a number of young people who are
8 effectively, as Representative Smith said,
9 choosing to effectively sacrifice the money-
10 making days of their lives and focus on the
11 bigger contribution to society. So I want to,
12 again, commend you for that. In terms of your
13 practice mix, and I'm looking at the PDQ, 25-ish
14 civil, 70-ish criminal. You mentioned murder
15 cases. You have tried to verdict murder or any
16 stripe of a criminal case?

17 A. Murder, I think six, other criminal cases that
18 are in general sessions, ten, probably 30, 40 in
19 magistrate's courts. I think seven or eight
20 civil. No, let me change that civil. A couple
21 of those had arbitration agreements. So they
22 weren't full trials but they were arbitration.

23 Q. Right. And you don't practice in family court?

24 A. No.

25 Q. To your credit in that you are not seeking to be

1 a family court judge. That's not the direction
2 you want to go, correct?

3 A. That is correct.

4 Q. And the public service. Again, we're from the
5 same hometown. You're deciding to run for the
6 city council, again. You gave a little bit
7 about that. That was an open seat?

8 A. It was. It was a former member of city council
9 who was hired to run the parks and rec
10 department. Obviously, he couldn't serve both
11 roles. He chose to do that and is doing a
12 fantastic job, an absolutely wonderful job.

13 Q. And again, the good and the bad of public
14 service, it's been a long year for everybody.
15 Your service in the City of Conway, we've had
16 floods, we've had shutdowns of roads, bridges.
17 We've had it all going on down there.

18 A. Sure.

19 Q. So it is a taxing pursuit, but you enjoy public
20 service in the elected field as well?

21 A. I enjoy the service part of it. Some of the
22 elected part, you always get the blunt of any
23 problems that ever come about. But I really do
24 enjoy service the citizens of Conway. Conway is
25 on the cusp of really kind of having a boon,

1 where obviously we benefit from Myrtle Beach.
2 But there are quite a -- there's some industries
3 and business that want to come in Conway that --
4 it's fun. And it really, really is great to be
5 a part of that, trying to bring those businesses
6 to Conway.

7 **Q. My last question, and I touched on this in the**
8 **very outset. Your role as a member of Citizens**
9 **Committee, which is perhaps unique. I don't**
10 **know that I've met a candidate who has served in**
11 **that capacity and then went to move over to the**
12 **elected position. But from your standpoint,**
13 **what do we need to do better to emphasize the**
14 **importance of this whole process and to attract**
15 **good candidates to apply for these positions?**

16 **A.** I may be in the minority. I think we have good
17 judges as a whole. There have been very few
18 times across the state when I've been in front
19 of judge that they didn't impress me. I think
20 that our vetting process that we have currently
21 is what's needed. I mean, I don't know how you
22 would change it. I've been in a state where
23 there was a popular election. And I can tell
24 you that's not where I think we need to go. So
25 as far as the process, the Pee Dee Citizens

1 Committee, my time on that was very interesting,
2 very interesting. Because it was obviously a
3 more laid back forum than this, but you've got
4 to know the candidates, you got have a lot of
5 these same questions in a little smaller,
6 different setting. And quite often there were
7 attorneys in the room that knew them, knew their
8 background, knew their reputation. Where in
9 this process we're kind of telling you what our
10 background is and what our reputation is. So
11 it's different but I think it's beneficial. I
12 really do.

13 **Q. And in that vein, the last question. Y'all**
14 **don't just have a meet and greet?**

15 A. No.

16 **Q. Y'all call, y'all reach out?**

17 A. Yes. So, yeah, I think I called 25, maybe 25
18 attorneys, when I was on the Committee just --
19 and not just attorneys, citizens around the
20 community that I knew went to church with the
21 applicants, that kind of stuff. Just you hate
22 to call people and say, what do you know bad
23 about this person, but that's kind of what
24 you're getting at. And for the most part the
25 candidates that we screened while I was on it,

1 we never got any of that bad stuff. So it's
2 qualified, good candidates.

3 CHAIRMAN RANKIN: Well, and the goal here for me, and
4 I know all of us and those who have done this a
5 long time, we don't want any surprises. We want
6 to vet and, I use the term, kick the tires. We
7 want to know as much about a candidate so that
8 we know what the people in South Carolina are
9 going to get when they have a judge that's
10 elected by the General Assembly. We don't
11 always get it right, but I think that is the
12 goal. So I want to commend you for your time in
13 that vein and working to help vet for us at the
14 Citizens Committee those candidates.

15 MR. HYMAN: Thank you.

16 CHAIRMAN RANKIN: Any other comments, and enough from
17 me. Mr. Strom moves that I no longer have the
18 mike. But with that, unless there are other
19 comments -- and again, you're welcome to make a
20 closing statement, but you don't have to in the
21 interest of time and I-20. I would suggest you
22 waive that. This will conclude this portion of
23 our process. And you are reminded of our
24 evaluative criteria and that particularly our
25 very serious regard for both the letter and the

1 spirit of the ethic laws, and any violation of
2 those or the appearance impropriety, in that
3 vein, of either would be deserving of heavy
4 weight in our screening deliberations. You know
5 that our formal release of the Report of
6 Qualifications triggers when the record closes.
7 It will remain open until it's released. And
8 should we need to, we would call you back. I
9 pray that would not be the case. But you are
10 aware of that, correct?

11 MR. HYMAN: Yes, I am, thank you.

12 CHAIRMAN RANKIN: All right. Mr. Hyman, thank you
13 again for your service to the folks of Horry
14 County and the city, the citizens of Conway and
15 for offering for this position.

16 MR. HYMAN: Thank you, Mr. Chairman and other
17 members.

18 (Off the Record)

19 CHAIRMAN RANKIN: Good morning. How are you doing?

20 MS. LEWIS: Good afternoon. How are you doing?

21 CHAIRMAN RANKIN: All right. If you will, raise your
22 right hand, please, ma'am. We are going to
23 swear you at this time.

24 REGINA HOLLINS LEWIS, having been duly sworn,
25 testifies as follows:

1 CHAIRMAN RANKIN: Have a seat.

2 MS. LEWIS: Thank you.

3 CHAIRMAN RANKIN: Ms. Regina Hollins Lewis, correct?

4 MS. LEWIS: That is correct.

5 CHAIRMAN RANKIN: That is correct. Before you are
6 your very thorough and numerous pages that you
7 have filled out, your PDQ and the Sworn
8 Statement.

9 MS. LEWIS: Yes, sir.

10 CHAIRMAN RANKIN: Do you want to make any changes to
11 those before we put them in the record?

12 MS. LEWIS: I do not.

13 CHAIRMAN RANKIN: And you don't object to them being
14 made a part of the record?

15 MS. LEWIS: I do not.

16 CHAIRMAN RANKIN: Very well. Ms. Lewis, you are
17 aware of this process and our effort to
18 thoroughly investigate your candidacy. We have
19 nine evaluative criteria, which include the
20 ballot box survey, a thorough study of your
21 application materials, verification of
22 compliance with state ethics laws, search of
23 newspaper articles where your name appears, a
24 study of previous screenings and a check for
25 economic conflicts of interest. No affidavits

1 have been filed in opposition to your election,
2 and no witnesses are here to testify against
3 you, though you have brought two masked ladies.

4 Would you like to introduce these ladies?

5 (Exhibit Number 24 was marked for identification
6 purposes - (22 pages) Personal Data Questionnaire for
7 Regina Hollins Lewis.)

8 (Exhibit Number 25 was marked for identification
9 purposes - (8 pages) Sworn Statement of Regina
10 Hollins Lewis.)

11 MS. LEWIS: I have and I would love to. These are my
12 daughters, Erin and Morgan. They are two-thirds
13 of my contingent. My husband is frantically
14 trying to get here, since we came a little
15 earlier than expected. But, yes, these are my
16 daughters from Charlotte and from Winston-Salem.

17 CHAIRMAN RANKIN: Well, stand up, ladies and take
18 your masks down so we can see your pretty
19 smiles. Beautiful, thank you, and now put them
20 back on. Lovely seeing those beautiful smiles.
21 We see where you get them from.

22 MS. LEWIS: Thank you.

23 CHAIRMAN RANKIN: And we do want you to have your
24 mask off so that our court reporter can hear,
25 and obviously we've got that.

1 MS. LEWIS: Absolutely.

2 CHAIRMAN RANKIN: And you are welcome, ladies. Have
3 a seat. Thank y'all for joining. You will
4 represent to your father just how well she's
5 doing if he's not here by the time we finish.
6 You have the opportunity, if you'd like to make
7 a brief opening statement. And if not, we'll
8 turn it over for questions but, again, the floor
9 is yours, if you'd like to make an opening
10 comment.

11 MS. LEWIS: Thank you, Senator. Just briefly, I
12 would just like to say thank you all for having
13 me here today. It's certainly a pleasure and an
14 honor to be here, and that you all very much for
15 your service on the Commission. And with that,
16 I'm happy to answer any questions.

17 CHAIRMAN RANKIN: All right. Thank you.

18 MS. ROSS: Thank you, Mr. Chairman. Good afternoon,
19 Ms. Lewis.

20 MS. LEWIS: Good afternoon.

21 MS. ROSS: It's great to meet you in person.

22 MS. LEWIS: Yes.

23 MS. ROSS: I note for the record that based on the
24 testimony contained in the candidate's PDQ,
25 which has been included in the record with the

1 candidate's consent, Regina Hollins Lewis meets
2 the constitutional and statutory requirements
3 for this position regarding age, residence and
4 years of practice.

5 MS. LEWIS - EXAMINATION BY MS. ROSS:

6 **Q. Ms. Lewis, how do you feel your legal and**
7 **professional experience thus far renders you**
8 **qualified and will assist you to be an effective**
9 **circuit court judge?**

10 A. Thank you. Well, I have had the pleasure and
11 fortune of practicing over the past 33 years in
12 a number of different areas. I have practiced
13 in public interest. I have practiced in
14 government service and in private practice in a
15 number of areas, both civil and criminal. And
16 so I think that my broad and varied experience
17 will bode well for me as a judge because I've
18 been exposed to a number of legal areas.

19 **Q. Okay. And what, if any, further experience or**
20 **training do you think you would need before**
21 **taking the bench?**

22 A. Well, certainly I believe it would always be a
23 learning experience. There will be areas, you
24 know, certainly still in the civil practice as
25 well as in criminal, that I would need to become

1 more familiar with. And I think that, you know,
2 at the core of being a judge as well as being a
3 lawyer is the ability to identify the applicable
4 law, to be able to analyze and comprehend it and
5 to apply it to a set of facts. And I think that
6 I have the background that will enable me to do
7 that in a broad number of areas. But to the
8 extent that I'm uncomfortable with an area, I
9 certainly would take advantage of some judicial
10 training, of CLEs and of all resources that are
11 available to me to help me get familiar with
12 that.

13 Q. Great, thank you. Ms. Lewis, the Commission
14 received 261 ballot box surveys regarding you
15 with 64 additional comments. The ballot box
16 surveys, for example, contained the following
17 positive comments: Excellent mediator, kind,
18 patient, smart. Regina is as qualified as any
19 candidate can be for the bench. She is wicked
20 smart, even tempered, compassionate and fair.
21 I'm thrilled that she is running, and she would
22 be an asset to the judiciary. The sky is the
23 limit for Regina. Only three of the written
24 comments expressed concerns, and we'll talk
25 about those just briefly. What would your

1 **response be simply to the question of whether**
2 **you would make a good judge?**

3 A. I think I would make a good judge. I've
4 certainly been told that over the years and
5 gratuitously asked on many occasions if I've
6 considered a run for the bench. And I think
7 that, you know, I'm well rounded. I think that
8 I have the familiarity with the law and the
9 ability again to identify the law and to apply
10 it. I also think that I have the appropriate
11 temperament for it. As a mediator, I have had
12 the opportunity to work with both sides, which
13 has been, you know, a fantastic part of my
14 practice. I've gotten to know lawyers on both
15 sides of the beat, much more than I will on the
16 opposing side just because in mediation, of
17 course, you have the opportunity to spend a
18 little bit more time in a different capacity and
19 getting to know folks. So I think I have the
20 temperament. I think that I have the neutrality
21 to be a judge and to be able to make sound and
22 reasoned decisions, which is at the core, of
23 course, of being a judge.

24 **Q. Jumping off what you just said, what do you**
25 **think would be the appropriate temperament to**

1 **being a judge, and why do you think you have**
2 **that temperament?**

3 A. Well, of course, I think it would be -- it's of
4 upmost importance to be fair, to be professional
5 at all times, to be courteous, but to yet be
6 firm and have control over your courtroom. But
7 to do that always in a manner that reflects well
8 on the bench, just as I try to do in my practice
9 to reflect well on the Bar. And so I do. I
10 think I possess the appropriate demeanor and
11 temperament to be an effective judge.

12 **Q. And finally, of the three, if you could just**
13 **tell a little bit about your ability to grasp**
14 **difficult issues in cases.**

15 A. Sure. Actually, I think I have -- that's my
16 husband --

17 CHAIRMAN RANKIN: Let me interrupt you.

18 MS. LEWIS: Yes, sir.

19 CHAIRMAN RANKIN: Stand up, sir. Ma'am, tell us this
20 fellow's name.

21 MS. LEWIS: This is my husband, Irving Lewis, of
22 close to 30 years, and he's, you know, the other
23 part of these two.

24 CHAIRMAN RANKIN: Glad you made it. Thanks for being
25 here.

1 MS. LEWIS: Thank you. Please excuse him. He wasn't
2 able to get home to get his jacket and suit, so
3 please forgive his attire.

4 CHAIRMAN RANKIN: He looks dynamite.

5 MS. LEWIS: Coming straight from Food Lion.

6 A. With regard to grasping issues, I think that's
7 actually one of my strengths. I'm pretty astute
8 about being able to crack open an issue and get
9 to the bottom of it. I've had occasion many
10 times in my career where something has been
11 unfamiliar to me, but I've been able to get to
12 the bottom of it and to accurately assess it.
13 For example, I sat as a Commissioner on the
14 Ethics Commission for about three years. And
15 one of the tasks that I had as an ethics
16 commissioner was to hear cases and to decide
17 matters involving, of course, the state ethics
18 laws. One of the bigger matters that I handled
19 there was to chair a hearing that was pretty
20 well publicized and involving a public official
21 with some allegations of impropriety. And it
22 was different than my normal practice, so I did
23 have to study the statute. I had to go back
24 into the record and re-listen to some testimony.
25 But at the end of the day I was able to write I

1 believed to be a well reasoned, sound decision,
2 along with my panelists, who also concurred in
3 the decision.

4 **Q. Okay, thank you.**

5 MS. ROSS: I would note that the Midlands Citizens
6 Committee reported that Ms. Lewis is well
7 qualified in the evaluative criteria of ethical
8 fitness, professional and academic ability,
9 character, reputation and judicial temperament
10 and qualified in the evaluative criteria of
11 constitutional qualifications, physical health,
12 experience and mental stability. The Committee
13 stated in its summary statement: Ms. Lewis is
14 has limited criminal experience but is otherwise
15 well qualified.

16 **Q. I will just go through a few housekeeping**
17 **things.**

18 A. Sure.

19 **Q. Ms. Lewis, are you aware that as a judicial**
20 **candidate you are bound by the Code of Judicial**
21 **Conduct as found in Rule 501 of the South**
22 **Carolina Appellate Court Rules?**

23 A. Yes, I am.

24 **Q. And since submitting your Letter of Intent, have**
25 **you contacted any members of the Commission**

1 about your candidacy?

2 A. I have not.

3 Q. Since submitting your Letter of Intent, have you
4 sought or received the pledge of any legislator,
5 either prior to this date or pending the outcome
6 of your screening?

7 A. I have not.

8 Q. Are you familiar with Section 2-19-70, including
9 the limitations on contacting members of the
10 General Assembly regarding your screening?

11 A. Yes, I am.

12 Q. Have you asked any third parties to contact
13 members of the General Assembly on your behalf,
14 or are you aware of anyone attempting to
15 intervene in this process on your behalf?

16 A. I have not.

17 Q. Have you reviewed, and do you understand, the
18 Commission's guidelines on pledging and S.C.
19 Code Section 2-19-70(E)?

20 A. Yes, I have.

21 MS. ROSS: Mr. Chairman, I would note for the record
22 that any concerns raised during the
23 investigation by staff regarding the candidate
24 were incorporated into the questioning of the
25 candidate today, and I have no further

1 questions.

2 CHAIRMAN RANKIN: Okay. Questions by members of the
3 Commission? Mr. Strom.

4 MR. STROM: Mr. Chairman, first I want to put on the
5 record that my wife, Susan was the Edwards in
6 the Lewis, Gaffney, Edwards for a number of
7 years until we got married, and y'all resolved
8 all your financial issues. You remain great
9 friends, but there's no financial interest back
10 and forth; is that correct?

11 MS. LEWIS: That is correct.

12 MS. LEWIS - EXAMINATION BY MR. STROM:

13 Q. And Regina, I've known you and Irving and the
14 kids a long time, and I know you're not one to
15 brag about yourself. And so I'm going to kind
16 of lead you through a few questions. As I
17 understand it, you started reading at the age of
18 three?

19 A. Yes, I did.

20 Q. And would you tell the Commission at what age
21 you went to college?

22 A. I went to college at 15, almost 16. I started
23 in the August of 1980 at the University of South
24 Carolina, and I turned 16 on September 8th of
25 1980.

1 **Q. And you grew up in the Blythewood area here?**

2 A. I did. I grew up in Blythewood before
3 Blythewood was a place, and no one knew where
4 Blythewood was at the time.

5 **Q. Now tell us a little bit about your parents.**

6 A. Well, I've been very blessed to have had
7 wonderful parents. Neither of them is any
8 longer with me, and my mom has been passed now
9 for about 20 years, over 20 years. But my
10 parents were both very, very hard working. And
11 as Commissioner Strom was saying, I started
12 reading early. And the reason that happened was
13 because my brother, who was three years older
14 than I was -- who is three years older than I
15 am, was failing first grade, essentially. And
16 my mother insisted that he would not fail. And
17 she made up vocabulary list. And my mom at that
18 time was not a college-educated woman. And so I
19 would sit in on these learning sessions with
20 him, and that's how I learned to read. And
21 that's what inspired my mom to go back and get
22 her degree. And she went to Allen University at
23 night, oftentimes with little Regina in tow. So
24 I went to college as a young kid and she
25 graduated from college in 1979, about a year

1 before I graduated from high school and the same
2 year that my older brother graduated high
3 school. And my dad, same thing, just salt of
4 the earth, hard worker. He was a brick mason.
5 Worked in construction. Built the Riverbanks
6 Zoo, was one of the people who worked on
7 Riverbanks Zoo and was very proud of that. And
8 he just worked very hard. And I think as I said
9 in my PDQ, one of the things that, you know, was
10 just phenomenal about him is that he built our
11 home, everybody says, from the ground up. I
12 guess they're all built from the ground up, but
13 he did that over a period of five years, just
14 laying bricks, taking time off, working on the
15 house, laying bricks, taking time off. And I
16 think as I also said, I didn't really realize
17 the magnitude of it when we walked into that
18 3,300 square foot home in Blythewood. And my
19 parents said, you know, we have no mortgage on
20 this house. We have done this through our years
21 of hard work, and this is what hard work does.
22 And, you know, again I didn't appreciate the
23 magnitude but I so appreciate the magnitude now.
24 And my parents just instilled, I believe, great
25 values. And I hope to pass the same on to my

1 girls. I hope that I have.

2 **Q. And you went straight on to law school and**
3 **celebrated your 21st birthday in law school?**

4 A. I did, I did.

5 **Q. Yes.**

6 A. I finished Carolina at 19. And I was very happy
7 to apply to the University of South Carolina and
8 to be accepted there. And my parents sat me
9 down and they said, listen, we would like for
10 you to go away to law school. We don't think
11 that you've had the experience of being away at
12 college and maturing and growing as you need to
13 do for the college experience. So we're going
14 to gently invite you to go away to law school.
15 And so I did. I left and I went to the
16 University of Maryland. I got there. And after
17 about a week I cried and called home and told my
18 dad, please come get me. I'll sit out a year
19 and I'll go to Carolina next year. I don't want
20 to be up here. And my dad was kind of a -- you
21 know, I was a daddy's girl. So he said, great,
22 I'll come get you but I'm not going to bring you
23 back. And he said, before you -- before I come
24 get you, you need to talk with your mom. And my
25 mother got on the phone, and she said, let me

1 tell you something, young lady. You will hang
2 up this phone, you will go find a book, and you
3 will read and you will study and you will stay
4 there, and you will finish law school. And so I
5 said, yes, ma'am, and I hung up. And I stayed
6 there for the next 15 years until I returned
7 home, right before she passed.

8 **Q. And I know you went to work for Venable, which**
9 **is a 500 person law firm, very prestigious,**
10 **taught at the law school on various topics,**
11 **worked in domestic violence, and then you went**
12 **to work for the attorney general's office. Tell**
13 **us a little bit about that.**

14 **A.** The attorney general's office was a great
15 experience. I went in on my first day and I had
16 a brief in my chair. And the chief of
17 litigation called me in and she said, well, this
18 is your first case. And I looked at it and it
19 said, in the United States Court of Appeals for
20 the Fourth Circuit. And I said, okay, great.
21 Well, who's going to be working on this with me.
22 And she said, well, I'll be here for any
23 questions that you may have but go have at it.
24 And so that was my first case as an assistant
25 attorney general for the State of Maryland. I

1 was in the civil litigation division. And
2 Maryland is set up a little bit different than
3 South Carolina, because agencies here have a
4 general counsel that works for that agency. In
5 Maryland, the attorney general's office assigns
6 an assistant attorney general to each agency.
7 But they also had a civil litigation division,
8 which was the division that I was in. And that
9 division was in charge of handling all of the
10 big litigation for the state. So for example,
11 when the smoking ban first came into effect,
12 Maryland was one of the first states to
13 institute that and Baltimore sued the state.
14 And so the civil litigation division handled
15 that. We also reviewed all briefs that were
16 written by assistant attorneys general for other
17 agencies. So I was in civil litigation for
18 about half of my five years there. While there,
19 my dad was diagnosed with cancer. And I was
20 starting to have to travel back and forth a
21 little bit more from Maryland. And so at that
22 time I decided to apply for the criminal appeals
23 division, and I did. I transferred to the
24 criminal appeals division. And you referenced
25 earlier a lot of people, you know, who know me

1 from being in South Carolina don't know about my
2 criminal experience. But I did practice in the
3 criminal appeals division for a little bit less
4 than three years, until I moved back to South
5 Carolina. And so in that position, I wrote
6 briefs, seven to eight briefs every month. I
7 read transcripts and argued in the appellate
8 courts in Maryland, you know, between three and
9 four times a month. So I became very familiar
10 with criminal procedure and criminal issues.
11 And that's how I rounded out my time at the AG's
12 office. It was a fabulous experience.

13 **Q. Quickly tell us about the Knott case. I found**
14 **that to be interesting.**

15 A. Knott, was that the orange jumpsuit?

16 **Q. That's the orange jumpsuit.**

17 A. Yes. The orange jumpsuit was one of the more
18 challenging cases of my career. The long and
19 short is that a gentleman was tried in his
20 orange jumpsuit. And his lawyer, his public
21 defender, asked the court for a recess to allow
22 him to get civilian clothing and the judge said
23 no. Everybody knows that he's charged with a
24 crime. And I don't think that that's a big deal
25 that he's tried in his orange jumpsuit. Well,

1 of course, we all know that that's a
2 constitutional violation and it stripped him of
3 his presumption of innocence. What is
4 interesting about the case was that I went to my
5 boss, the chief of criminal appeals, and I said,
6 well, are we really going to, you know, fight
7 about this? Isn't this one where we would just
8 concede and say, you know, well, we agreed to a
9 new trial? And he said, well, normally we
10 would, but because the intermediate appellate
11 court -- so Maryland has the court of special
12 appeals as a court of appeals. And so because
13 the court of special appeals had somehow upheld
14 the decision, the chief of criminal didn't feel
15 good to just concede it behind the appellate
16 court that had upheld it. So I was left to come
17 up with some creative argument as to why the
18 case shouldn't be reversed. And astonishingly,
19 I was able to find some law that I used that's
20 persuasive that said, if the defendant is in an
21 orange jumpsuit that is unmarked -- it doesn't
22 say DOC and it doesn't have numbers on it, then
23 he's not stripped of his presumption of
24 innocence. And so I argued that as best as I
25 could. Of course, it didn't turn out well for

1 the state. The case was of course reversed.

2 Q. Then you came back to South Carolina, you were a
3 partner with Nexsen Pruet for a while?

4 A. Yes.

5 Q. And then you and Amy and Susan founded your law
6 firm. And y'all were and probably still are the
7 only AV women's-owned law firm in the state?

8 A. We are. If we're not the only, we're one of a
9 few, I would say. Yes, we -- I practiced at
10 Nexsen Pruet for seven years and had a great
11 time. I met great lawyers there. And we just
12 decided that, you know, one of the struggles
13 there was that during the early 2000s when I was
14 there, frankly a lot of corporations started
15 with a diversity push. And they wanted to hire
16 diverse outside counsel. And several of them
17 said to me, you know, we like you well enough,
18 but your law firm doesn't -- you know, isn't
19 diverse. And so that was a challenge in
20 developing business and trying to get national
21 clients. And so Amy, Susan and I decided, well,
22 what if we start a law firm. And we focused our
23 practice on the corporate side, on the defense
24 side, like, you know, many people that we knew
25 that went out and focused on the plaintiff's

1 side. And that's what we did. And it's been --
2 it continues to be a good -- a great practice,
3 and we've enjoyed it.

4 **Q. And just to sort of wind down, you're a Liberty**
5 **Fellow?**

6 A. I am.

7 **Q. You've gone through that program. You already**
8 **talked about being on the state ethics**
9 **commission. And I know that your practice**
10 **involved recently evolved into doing a lot more**
11 **mediation; is that right?**

12 A. Yes, it has.

13 **Q. And I note, some of y'all's clients are like**
14 **Wal-Mart. Who are your other big clients that**
15 **you represent?**

16 A. We do some work for Ford Motor Company, some
17 breach of warranty work. We've done work for
18 Starbucks, Dollar General. We do work for Flynn
19 Restaurant Group, which is the holder of Taco
20 Bell, Panera and Applebee's. And just several -
21 - it's mostly national retailers and
22 restaurants. We do also do a little bit of
23 insurance defense work, but most of our clients
24 are self-insured retailers.

25 **Q. Have you done some internal investigations for -**

1 - tell us a little bit about that.

2 A. I have. From time to time I get called in by a
3 company who wants someone other than their
4 outside counsel to come in and to conduct an
5 investigation into some type of workplace
6 misconduct. Mostly it's allegations of
7 discrimination or sexual harassment. And so I
8 go in, I interview everyone involved, and then I
9 make findings of fact and do a detailed report
10 and submit it to the company. I actually just
11 concluded one of those, a pretty big one.

12 Q. I think I have covered all my questions. I note
13 that your references include David Williams, a
14 plaintiff's lawyer and Greg Harris and I.S.
15 Leevy Johnson. So that bodes, obviously, well
16 for you. And also the comments that we have
17 from people on both sides talking about how
18 qualified you are.

19 A. Thank you.

20 Q. So, you know, just in closing from me, I want to
21 thank you for offering. You know, this is
22 important for the state. Our chairman, our co-
23 chairman was able to get judicial pay up, so
24 we're finding better candidates like you to run.
25 We had a couple last time that we're really

1 proud of. And, you know, I hope that this works
2 out. Now let me say this to you, because we
3 have not talked about this, even though we are
4 friends. You're in a race with 12 other people.

5 A. Yes.

6 Q. And a lot of these folks have run once, twice,
7 some more than that. And they've run in
8 circuits where there are no more openings.
9 Obviously, Judge Manning is going to be retiring
10 at the end of this year. That's an open seat
11 for the fifth circuit where you reside. Also if
12 Judge Benchman is elevated, there would be a
13 second resident seat in Richland County. So I
14 have no idea how all this plays out, none of us
15 do. We haven't done it. But I want to
16 encourage you, no matter how this piece works
17 out, that you're the kind of person we want on
18 the bench.

19 A. I very much appreciate that.

20 Q. Thank you, yeah.

21 A. And I would like to return to public service,
22 and I can't think of a better way to do that.
23 You know, I've enjoyed my private practice over
24 the last 20 years. But, you know, I started out
25 pretty early in public interest and public

1 service. And I would like to return to that and
2 I can't think of a more honorable way to do
3 that.

4 MR. STROM: Thank you, Mr. Chairman.

5 CHAIRMAN RANKIN: Thank you. Senator Sabb?

6 SENATOR SABB: Thank you, Mr. Chairman. Ms. Lewis,
7 good to see you.

8 MS. LEWIS: Good to see you.

9 SENATOR SABB: I just have a comment. And I really
10 think that Mr. Strom sort of cataloged, and so
11 if I could just add one or two things. One
12 being, one of the honors of my professional life
13 was to become a member of the American College
14 of Trial Lawyers. And I was in an extraordinary
15 class with some extraordinary people, one of
16 whom sits before us, y'all. And I've just been
17 so proud of her. And I think Todd will have an
18 appreciation for this. You know, one of the
19 things with the college, not unlike any of the
20 other older institution, is it lacks diversity.
21 And Regina has been the leader in the group to
22 try to make that institution more diverse. And
23 so I've gotten some great appreciation for the
24 incredible work that she's doing with the
25 college, and I, like Pete, would encourage you

1 to continue to offer if for some reason this
2 doesn't work out. Because you're clearly a
3 quality individual. And in my opinion would
4 enhance the judiciary of our state.

5 MS.LEWIS: Thank you, Senator. I appreciate that.

6 CHAIRMAN RANKIN: Other comments? I want to make
7 two. One, Amy Gaffney I know well, a stellar
8 attorney. I've just done a quick Google check
9 of your whole group, and it's an impressive firm
10 y'all are with. Yes, you represent some of our
11 nation's finest. Sometimes a David Williams or
12 a Pete Strom or others might have a particular
13 case against one of those fine groups that you
14 represent. But your firm has been, and I know
15 this personally, abundantly fair in representing
16 difficult cases with, I will say, compassion.
17 And I hope that doesn't hurt you in keeping
18 those wonderful, national companies that you
19 represent. But I know that personally, how well
20 y'all see facts and modulate or move based on
21 facts. I want to commend you on that.

22 MS.LEWIS: Thank you.

23 CHAIRMAN RANKIN: The second and final point is your
24 middle name is exactly the same as my
25 daughter's, save a G at the end of the N before

1 the S. You know how many times folks
2 mispronounce her name and call her Hollins.

3 MS. LEWIS: Yes.

4 CHAIRMAN RANKIN: It's H-O-L-L-I-N-G-S. I wonder
5 have you ever been called Hollings?

6 MS. LEWIS: Hollings and Hollis very often. Hollings
7 and Hollis.

8 CHAIRMAN RANKIN: That's a first, and I can't wait to
9 report to her that hers is not the only name
10 that is murdered in the pronunciation.

11 MS. LEWIS: Thank you, sir. I appreciate it.

12 CHAIRMAN RANKIN: Senator Sabb.

13 SENATOR SABB: Thank you, Mr. Chairman. One last
14 point I'd like to make. When we look at her
15 ballot boxes, and I've been watching these since
16 I've been on the Commission. She has more
17 zeroes for unqualified as any candidate that
18 I've ever seen before us.

19 CHAIRMAN RANKIN: And zeroes are good.

20 MS. LEWIS: Thank you.

21 CHAIRMAN RANKIN: Lest your daughters and husband
22 wondered why he was bragging about that.

23 SENATOR SABB: Thank you, Mr. Chairman.

24 CHAIRMAN RANKIN: All right. That is it, unless
25 there are other questions and comments. Again,

1 thank you. And sir, thank you for beating a
2 path to be here. We are tickled to have the
3 entire family here for this. Unless you have
4 any closing remarks, this will now conclude this
5 portion of the screening process. And I want to
6 remind you that per the criteria that we review
7 and we are guided by that we take seriously both
8 the spirit and the letter of the ethics laws.
9 And any violation or appearance of impropriety
10 will be deemed very serious and deserving of
11 heavy deliberation by us. Again, in the
12 unlikely event that that were to occur, you know
13 that this formal record is not closed until we
14 release the Report of Qualifications. You could
15 be called back in the event, again, which we
16 don't expect to happen, but you are aware of
17 that, correct?

18 MS. LEWIS: I am aware and I do understand and
19 certainly will adhere. And I thank you all very
20 much.

21 CHAIRMAN RANKIN: Thank you all for being with us,
22 and this concludes this hearing.

23 MS. LEWIS: Thank you.

24 CHAIRMAN RANKIN: We're going to move to go into
25 Executive Session, on motion of Mr. Strom,

1 seconded by Mr. Smith.

2 EXECUTIVE SESSION

3 (There being nothing further, the proceeding concluded at
4 5:15 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
3 IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
4 CERTIFY THAT I REPORTED THIS PROCEEDING, ON TUESDAY, THE
5 17TH DAY OF NOVEMBER, 2020, AND THAT THE FOREGOING 238
6 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY
7 STENOMASK REPORT OF SAID PROCEEDING.

8 I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
9 COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
10 PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
11 INTERESTED IN SAID CAUSE.

12 IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
13 21ST DAY OF DECEMBER, 2020.

14 

15 JENNIFER NOTTLE, COURT REPORTER

16 MY COMMISSION EXPIRES JULY 11, 2023
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Exhibits				
201117NO. JMSC_Stilwell_ Exh 1	5:3 73:1 201117NO. JMSC_Bayne_ Exh 11	201117NO. JMSC_Hyman_ Exh 21	10:00	41:9 42:20 68:7 150:11 168:13
4:4 10:20	5:5 86:11	6:7 185:4	11	188
201117NO. JMSC_Stilwell_ Exh 2	201117NO. JMSC_Bayne_ Exh 12	201117NO. JMSC_Hyman_ Exh 22	86:11,15	75:2
4:7 10:23	5:8 86:14	6:9 185:7	113	18:15
201117NO. JMSC_Bonds_ Exh 3	201117NO. JMSC_Coble_ Exh 13	201117NO. JMSC_Hyman_ Exh 23	172:15	11:15
4:10 18:15	5:10 123:20	6:12 185:10	11:30	19
201117NO. JMSC_Bonds_ Exh 4	201117NO. JMSC_Coble_ Exh 14	201117NO. JMSC_Lewis_ Exh 24	50:7	168:16 225:6
4:12 18:18	5:13 123:23	6:14 213:5	12	1979
201117NO. JMSC_Legette_ Exh 5	201117NO. JMSC_Coble_ Exh 15	201117NO. JMSC_Lewis_ Exh 25	86:14 204:3,24 233:4	223:25
4:14 41:8	5:16 124:1	6:17 213:8	12(b)(6)	1980
201117NO. JMSC_Legette_ Exh 6	201117NO. JMSC_Coker_ Exh 16		127:4	222:23,25
4:17 41:11	5:19 150:10		1200	1983
201117NO. JMSC_Legette_ Exh 7	201117NO. JMSC_Coker_ Exh 17		103:23 106:3	20:3 56:25
4:20 41:14	5:22 150:13		13	1990s
201117NO. JMSC_Bailey_ Exh 8	201117NO. JMSC_ DeBerry_Exh 18		123:20	37:21
4:22 72:20	5:24 168:13		14	1992
201117NO. JMSC_Bailey_ Exh 9	201117NO. JMSC_ DeBerry_Exh 19		123:23 205:13	204:3
4:25 72:23	6:2 168:16		145	
201117NO. JMSC_Bailey_ Exh 10	201117NO. JMSC_ DeBerry_Exh 20		139:16	2
	6:5 168:19		15	2
			115:8 124:1	10:23 123:24
			168:14 170:1	2-10-70
			173:11 185:5	194:4
			187:14 222:22	2-19-
			226:6	80:16
			154	2-19-70
			189:13	26:21 49:13
			16	101:23 136:11
			150:10 222:22, 24	157:3 174:18
			165	221:8
			139:16	2-19-70(E)
			17	27:7 49:24 81:3
			18:16 72:21	102:9 136:22
			123:21 150:13	157:15 175:4
			172:16	194:15 221:19
			177	20
			21:4	33:15 65:23
			18	96:7 168:19
				187:14 223:9
				233:24

2000 17:5	24 213:5	<hr/> 4 <hr/>	18:19 41:11 185:11	90 111:24 119:18
2000s 230:13	24/7 139:1	4 18:18	60 186:1	900 104:4,5
2007 188:5	242 90:1	40 31:14 96:6 178:22 203:12 206:4,18	64 216:15	90s 20:18
2009 11:20 154:10	25 75:3 96:7 209:17 213:8	46 128:2	6:15 11:15	95% 151:14
2010 154:11	25-ish 206:13	48 12:24	<hr/> 7 <hr/>	99 90:2 95:2
2011 154:11	26 86:12 189:14	49 154:25	7 41:14 124:2 168:20	9:30 119:25
2012 23:1	261 216:14	<hr/> 5 <hr/>	70 80:17	<hr/> A <hr/>
2013 53:10	28 158:17	5 10:21 41:8,12 130:9	70-ish 206:14	a.m 120:1
2014 170:5	281 44:2	50 96:6	70/30 176:5	a.m. 119:25 120:7,9
2015 78:16,20	<hr/> 3 <hr/>	50/50 188:13	718 12:23	abilities 172:5
2016 50:16	3 10:24 18:15	500 226:9	72 129:12	ability 13:11 25:21 47:22 79:19 100:23 109:6 135:16 156:4 161:15 173:21 193:10 216:3 217:9 218:13 220:8
2017 132:3	3,300 224:18	501 26:9 48:15 80:4 101:7 135:24 156:16 174:6 193:17 220:21	75 89:7 104:3	ABOTA 95:17,18
2018 127:7	30 132:5 176:7 201:2 206:18 218:22	56 127:3	<hr/> 8 <hr/>	abreast 153:6
2020 78:23,24,25	31 21:4	57 131:8	8 72:20 150:14 213:9	absence 63:22
2021 84:12	33 215:11	5:15 238:4	8:00 120:7,9	absolutely 31:21 55:9 77:10 84:12 89:22 141:19,23 142:5 189:22 199:15 207:12
208 131:8	34 17:6	<hr/> 6 <hr/>	8th 222:24	
21 185:4	35 191:19	6	<hr/> 9 <hr/>	
21st 225:3	3:00 119:24 120:6		9 41:15 72:23 73:2	
22 185:7 213:6				
23 74:7 76:1 185:10				

214:1	accredit	additional	adopt	73:25 87:13,14
abstract	52:18,20	21:5 44:4 75:3	59:9	116:2 124:24
113:5	accurate	79:6,21 88:18	adopt-a-	148:11 151:6
abundantly	28:1 85:17	90:2 97:13	highway	167:8 170:20
235:15	90:19 98:3	131:9 155:1	59:9	211:20 214:18,
abuse	114:4,7,11	171:25 172:16	adult	20
63:16	116:24 117:7	189:14 216:15	58:15	age
abused	accurately	Additionally	advanced	19:7 37:22
112:6	219:12	43:5,15 44:25	94:18	42:10 73:23
academic	accused	46:22 75:1	advantage	87:10 125:8
13:11 25:21	20:19 47:17	191:5	58:6 111:11	151:4 170:18
47:22 79:19	achievement	address	216:9	178:11,25
100:23 135:16	13:18	22:3,25 88:25	adversarial	182:21 187:6
153:8 156:4	acknowledge	90:17 92:17	51:23	203:19 215:3
173:20 193:10	93:21	93:11 94:24	adverse	222:17,20
220:8	act	97:15 110:13	32:9	aged
accepted	28:8 126:19	113:20 141:10,	advice	178:20
225:8	171:9	18 148:23	144:10	agencies
accident	action	addressed	advising	227:3,17
126:11	20:2 98:24	25:1	45:7 71:4	agency
accidents	173:12 182:11	adhere	advocacy	50:24 227:4,6
20:13 28:9	actions	237:19	87:23 89:10	agree
191:20	19:25 56:25	adjourned	103:25 107:14,	33:7
accommodate	active	69:16	15 197:5	agreed
63:6,11 64:9	8:4 11:18 14:14	adjuster	advocate	229:8
171:19	90:9 92:15	32:2 33:25	104:7	agreement
accommodating	176:24	admin	advocates	149:7
64:16 109:2	actively	89:5 103:17	98:6,7,13	agreements
171:13	92:7 98:11	administer	affect	206:21
accomplished	actual	67:7	31:2 55:4	Agriculture
109:5	43:19	administration	affected	169:22
accomplishment	acutely	29:13 30:12	165:13	AG'S
s	164:20 185:22	67:3 200:1	affects	228:11
60:20	add	administrative	118:17	ahead
account	96:5 127:24	127:13	affidavits	153:6 186:14
91:2,10,12,17,	234:11	admire	10:16 18:11	air
19,20 92:4	added	77:22 78:1	41:3 72:15 86:7	14:18 99:7
126:12 203:5	142:13	admired	124:14 150:3	154:7
accountable	addition	205:20	169:11 186:10	aisle
203:7	21:9 44:7 106:2	admit	212:25	34:7
accounts	172:23	44:17 109:24	afternoon	albeit
91:2		161:14		54:24

Alex 184:16 185:6,9, 11 187:4 189:21 190:2 205:19	Amendment 41:12 72:24 123:24 168:17 185:8	apartment 118:20 165:20	applicable 9:25 123:15 128:9 216:3	arbitration 206:21,22
allegations 92:18 100:11 219:21 232:6	amendments 9:24 40:2,6,12 42:6 71:15,16, 24 85:11 123:14	apologize 86:24 114:7 181:5	applicant 186:18	ardent 51:15
alleged 19:24 97:14	America 65:16	appeal 111:17 112:10	applicants 209:21	area 28:11 46:5 50:25 77:8,11, 17 88:23 89:2, 13,23 105:22 130:2 152:24 162:7 216:8 223:1
alleges 192:5	American 234:13	appeals 111:18 140:9 195:12 226:19 227:22,24 228:3 229:5,12,13	application 10:11 18:6 40:23 44:19 72:10 86:2 96:18 124:9 130:20 139:5 149:23 169:5 186:4 212:21	areas 19:16 21:7 32:15 87:20 120:14 154:13 170:3,5 198:25 215:12,15,18,23 216:7
Allen 223:22	amount 77:9 88:1 90:7 109:5 152:4 154:8	appearance 38:8 68:17 82:22 106:22 122:15 147:10 166:17 183:20 211:2 237:9	applies 93:22 160:18	aren't 138:24
allowing 41:21 186:20	Amy 230:5,21 235:7	appeared 31:18 160:23 192:20	apply 82:6 93:25 208:15 216:5 217:9 225:7 227:22	argued 152:16 228:7 229:24
alluded 102:23 143:5	analyze 216:4	appearing 77:25	applying 197:13	argument 40:17 94:13,17 229:17
alternative 56:21 89:19	and/or 165:14	appears 10:14 18:8 27:21 41:1 68:7 72:12 86:5 124:11 134:23 150:1 169:7 186:7 212:23	appointed 49:2 50:14 106:9,10 127:8	Arifjan 8:16
alternatives 59:19,20	anger 155:8,13	appeared 10:14 18:8 27:21 41:1 68:7 72:12 86:5 124:11 134:23 150:1 169:7 186:7 212:23	appointment 48:21 101:15	arise 152:11 183:25
Altman 151:25	angered 178:6	appeals 111:17 112:10	appointments 63:10,12	arises 38:14 68:22 83:3 122:21 143:22 147:16
altogether 99:15	angry 55:1 110:1 155:21 161:18	appellate 26:9 48:15 80:5 101:8 135:25 151:12 156:17 174:6 193:18 220:22 228:7 229:10,15	appreciation 159:4,6,13 234:18,23	Arkansas 204:13
alumni 98:16,19 106:12,15 107:1	anniversary 84:4	Applebee's 231:20	approach 105:14 153:8,9 156:12 198:18	Army 13:19
amazed 121:23	anonymity 111:12		approached 66:15	arose 23:15
amazing 8:14 66:3 161:7 204:8	anonymous 132:22 159:17 191:10		April 78:23 108:6	
Amazon 105:8	answers 65:1 131:5 205:25			
ambient 168:1	anymore 73:10 149:9 155:14			

arrangements 89:19	asset 21:11 75:8,15 131:16 172:25 189:17 216:22	astray 144:5	132:13 133:13 142:10,11 144:11 189:24 190:2,11 196:22 197:9 198:5 199:14 200:24 226:12,14,25 227:5,6 235:8	automobile 19:25 20:12 28:8
array 171:5 173:7	assigns 227:5	astute 219:7		AV 230:7
arrived 105:9	assist 19:11,17 21:2 42:17 74:2 87:17 106:15 115:9 125:13 151:8 170:22 187:11 215:8	at-large 158:16		avail 45:8
arrogant 55:24 133:10 142:12	assistance 121:4	atmosphere 63:4 74:15		availed 44:20 45:4
art 89:9 103:24	assistant 43:21 62:4 66:17 74:22 128:15 130:10 133:16 142:22 171:3 183:3 226:24 227:6,16	attack 107:5	attorneys 12:9 28:23 29:21 45:2 63:15,18 64:2,7 97:15 98:1,5 112:2 113:7 119:17 120:13 125:22 126:18 127:16 128:11, 21 129:18,20 130:15 138:16, 24 139:5 142:6, 19 152:21 162:15 163:4 171:19 182:5 189:6 195:20 200:14,21 201:10,17,22 209:7,18,19 227:16	average 106:3
article 138:14		attempt 23:18 133:21		avoid 24:24
articles 10:13 18:8 40:25 72:12 86:4 124:11 139:9 149:25 169:7 186:6 212:23		attempted 20:20		Award 84:20
aspect 62:8 160:4		attempting 27:2 49:19 80:23 102:4 136:17 157:9 174:24 194:10 221:14		aware 9:22 23:9 26:7 27:2 31:3 48:13 49:19 79:1 80:2, 23 101:5 102:4 135:3,22 136:17 142:15 156:14, 18 157:9,12 164:20 174:4,24 175:1 185:24 193:15 194:10, 12 211:10 212:17 220:19 221:14 237:16, 18
aspects 161:21 178:7	assisting 107:1 152:6,8	attended 45:5		awesome 146:21
aspired 160:9 165:16	associate 63:1 127:8,11 143:3 145:12	attending 14:12 69:14 153:12		aye 7:6,17 36:2,11 69:18 70:1,12
Assembly 26:23 27:1 49:15,18 56:21 80:18,22 101:25 102:3 136:13,16 141:5 157:5,8 174:20,23 194:6,9 210:10 221:10,13	associates 188:13	attention 17:4 143:19 184:15 188:16	attorney's 125:25	eyes 7:7,10,18,21 36:3,6,12,15 69:19 70:2,5,13, 16
asserting 94:9	Association 84:19	attire 219:3	attract 208:14	
assess 219:12	assumed 127:1	attorney 11:8 18:23 19:14,15 20:15 21:8 22:14 23:11 29:22 45:17 53:16 55:25 57:22 61:1 62:15 84:15 90:9 91:21 99:2 100:6 106:14,22 126:10 129:9	attribute 178:20	
assessment 159:20	assuming 22:14 34:3		attributes 178:7	
	assumption 191:11		attuned 144:20,25	
	Assaad-faltas 99:11		August 108:6 222:23	
	astonishingly 229:18		auto 188:7 191:20	

B	116:10,11,14 175:19 190:25 207:13 209:22 210:1	15 236:15 balls 78:11 Baltimore 227:13	baseless 200:25 basic 96:9	Beaufort 19:23 62:15,18 beautiful 147:25 213:19, 20
back 7:14 20:18 30:5 31:14 36:15 37:8,24 38:13, 20 45:23 56:13 57:2 58:23,25 65:25 68:2,6,22 69:12 70:9 81:17 83:2 88:15 90:20 97:7 104:23 112:22 114:8 118:12 122:20 140:6 147:15 148:4 154:10 160:1 162:3 164:13,23 165:2 166:23 167:12 183:24 184:1 188:5,14 203:23 204:11 209:3 211:8 213:20 219:23 222:9 223:21 225:23 227:20 228:4 230:2 237:15	Bailey 62:5 70:21,23, 25 71:6,8,15,21 72:1,5,22,25 73:3,4,21,24,25 75:1,6,17 77:20 78:14 79:12,15, 22 80:1,2 81:7, 11,13,15,17 82:1 83:5 BAKER 150:23 151:5 156:1 157:17 balance 29:11,20 57:12 200:3 balanced 74:24 109:16 190:3 balancing 56:19 166:5 ball 161:10 ballot 10:10 12:23 18:5 21:4,5 33:11,24 40:22 44:2,4 57:8 60:21 72:9 75:2, 4 86:1 90:1,2 109:8 116:17 124:8 131:8,9 149:22 154:25 155:1 169:4 172:15,17 186:3 189:13,14 191:10 198:3 212:20 216:14,	ban 227:11 bank 126:12 bar 12:15,16 22:19 25:10 32:13 50:12 62:23 63:2,6,12,19 74:20 77:12,14, 16 88:7,8 95:19 104:14,22 119:16 120:4 121:10 138:21 171:2 179:23 180:12 185:14 218:9 barbecue 91:14 bargaining 151:20 barred 99:25 barring 119:12,22 121:5 Base 14:18 baseball 119:9,20 120:6 based 19:2 42:4 73:18 87:6 109:6 111:23 125:3 150:24 170:13 187:2 197:14 214:23 235:20	basically 20:10,17 32:13 33:2 34:1 43:22 110:3 111:8,9, 20 113:17 152:8 basics 105:4 basis 56:13 94:9,15, 19 116:5 177:23 basketball 92:1 bat 157:25 Baylor 91:25 92:1,2 Bayne 83:7,9,14,18,23 84:1,12,14 85:1, 3,10,13,21,23 86:13,16,17,20 87:2,9,12,13 89:25 90:10,17 100:17,20 101:5,10 102:21,22 108:13,14 114:20,24 115:2,3 122:8, 24	beer 95:15 began 31:11 180:5 begets 158:22 begged 165:4 begging 51:7 115:16 begin 7:4 72:19 86:10 198:23 beginning 52:9 95:20 behalf 27:1,3 49:18,20 80:22,24 102:3, 5 136:16,18 157:8,10 166:2 174:23,25 194:10,11 221:13,15
backed 114:22				believed 220:1
background 21:10 31:20 151:11 152:10, 18 209:8,10 216:6		Base 14:18 baseball 119:9,20 120:6	102:21,22 108:13,14 114:20,24 115:2,3 122:8, 24	Bell 231:20 bench 10:8 13:20 18:3 19:18 37:25 40:20 44:7 68:4 72:7 74:9,25 75:8 78:3 85:24 88:4 89:4,23 95:1 96:16 97:2 103:16 104:9 118:1 124:6
backlog 28:24 118:4 200:2		based 19:2 42:4 73:18 87:6 109:6 111:23 125:3 150:24 170:13 187:2 197:14 214:23 235:20	Beach 208:1 beat 186:14 217:15	
backlogs 23:18,19			beating 237:1	
bad 56:18 93:17			Beaty 127:9	

125:17 128:16 129:6 130:1 131:17 133:17 171:23 173:14 178:8 182:23 189:17,25 203:2 215:21 216:19 217:6 218:8 233:18 benches 178:15 Benchman 233:12 beneficial 81:24 209:11 benefit 32:14 45:7 74:24 139:20 208:1 benefits 200:18 Benjamin's 140:8 bettering 88:2 betterment 87:21 bias 22:6 biased 190:8 big 25:7,8 104:12 204:17 227:10 228:24 231:14 232:11 bigger 206:11 219:18 biggest 35:5 97:2 bike 8:17	billion 152:13 birthday 225:3 bit 12:3 19:20 22:10 29:7,19 56:10 71:10 75:13 110:25 116:19 132:6 137:7,9 175:15 187:21 191:14 195:16,21 201:20 203:24 207:6 217:18 218:13 223:5 226:13 227:2,21 228:3 231:22 232:1 black 113:2 blame 113:21 bleeding 198:8 blended 198:25 blessed 37:9 223:6 blog 138:6,17,20 139:1 blood 159:2 blown 48:9 60:16 blue 20:23 blunt 207:22 Blythewood 223:1,2,3,4	224:18 board 120:11 195:12 boards 193:1 bode 173:14 215:17 bodes 232:15 boisterous 204:18 bond 103:20 115:16, 19 118:7 Bonds 15:12,14,22 16:7,13,14,16, 18,22,24 17:3, 23 18:17,19,20, 25 19:5,8,9 21:3 22:5 23:1 25:19, 24 26:2,6 27:14, 16,19 31:7,8 34:19 35:19 36:22,24 37:12, 15 38:2,18 book 8:2 9:10 105:8, 19 138:9 139:7 226:2 booked 120:19 books 104:23 138:8 153:8 boon 207:25 boot 181:8 boring 137:20	born 96:3 borrow 9:10 boss 229:5 bottom 219:9,12 bought 105:7,8 bound 26:7 48:14 80:3 101:6 135:23 137:23 156:15 174:5 193:16 220:20 box 10:10 12:23 18:5 21:4,5 33:11,24 40:22 44:2,5 51:3 60:21 72:9 75:2, 4 76:16 86:1 90:1,2 109:8 116:17 124:8 131:8,9 149:22 154:25 155:1 160:11 169:4 172:16,17 186:3 189:13,14 198:4 212:20 216:14, 15 boxes 191:10 236:15 brag 222:15 bragging 236:22 brain 76:13 breach 231:17	breadth 27:21 37:3 break 24:15 73:16 107:22 121:3 breaks 69:23 breathing 30:12 Breeden 192:18 Brett 85:3 86:13,15 brick 224:4 bricks 224:14,15 Bridge 153:17 bridges 207:16 briefing 7:25 17:11 70:18 93:9 195:4 briefly 31:9 103:5 137:10 162:2 169:18 187:25 214:11 216:25 briefs 227:15 228:6 bright 90:4 bring 37:24 45:10 46:2 143:15,19 164:6 171:23 203:1,9 208:5 225:22 bringing 52:22 178:18
---	--	--	---	--

brings 203:16	button 110:18	camp 178:10	208:15 209:4,25 210:2,14 232:24	62:1,3 68:5,8 74:7 87:19
broad 26:2 31:15,20 112:19 156:10 188:17 215:16 216:7	buy 104:12	canceled 181:24	candidate's 125:4,5 150:25 151:1 170:14,15 187:3,4 214:24 215:1	97:23 140:22,25 141:2 151:12 171:13 182:24 219:10 228:18
	C	cancer 227:19		
broadcast 114:1	cable 149:5,6	candid 99:16	candor 92:17,21 93:1 94:1 110:20 112:5,22 113:8 116:6	careers 37:21
brother 110:19 191:16 203:19 223:13 224:2	caliber 14:15	candidacy 26:14 48:20 49:7 80:9 83:16 86:8 101:12 136:4 156:21 174:11 189:20 193:22 212:18 221:1		caring 48:4
brought 17:4 38:24 54:4, 15 65:25 213:3	call 7:1 14:19 29:6 37:14 59:15 70:8 78:11 98:15 105:25 120:8 143:21 150:19 165:18 166:23 183:23 184:1 199:5 201:11,12,13,15 209:16,22 211:8 236:2	candidate 26:7 27:11,13 36:18 48:13 50:3,4 65:6 67:24 79:2 80:3 101:6 102:13,15 115:12 135:23 137:1,3 156:15 157:19,21 166:1 174:4 175:9,11 187:17 189:11 193:15 194:19, 21 206:4,6 208:10 210:7 216:19 220:20 221:23,25 236:17	canons 22:18 143:22	Carolina 11:5 21:12 26:9 38:16 42:21 43:14,25 48:15 67:24 68:24 80:5,16 81:3 83:4 84:16,18 87:22 91:25 92:1 101:8 102:9 104:22 122:23 135:25 138:21 147:17 151:24 156:17 157:15 166:16 175:4 183:19 193:17 194:15 210:8 220:22 222:24 225:6,7, 19 227:3 228:1, 5 230:2
brunt 100:3			can't 128:17 155:21 164:15 165:18 192:10 198:16 233:22 234:2 236:8	
buck 135:7			capable 180:21	
Buckner 59:5 63:9			capacity 13:18 14:16 44:1 46:11 127:12 208:11 217:18	
built 224:5,10,12	called 38:13 68:22 83:2 122:20 143:23 147:15 198:3 209:17 225:17 226:17 232:2 236:5 237:15		car 126:10 155:11	
bulb 165:19			cardiologist 30:6	Caroling 174:6
bulk 195:18,19	calling 118:11 201:9		care 46:19 110:19,21 167:4 184:5	carried 178:2
burglary 20:23	calls 62:15 165:21	candidate's 19:3,4 42:5,7 60:15 73:19,20 87:7,8	cared 56:17	carrier 23:13,14
business 17:15 62:8 141:22 148:23 149:7 172:11 183:6 200:17,18 208:3 230:20	calm 60:7 78:2 155:6, 18 172:20	candidates 38:6 68:14 69:3 70:20 82:20 90:25 122:13 147:7 186:1	career 14:8 34:20 37:13,24 46:12, 15 51:14,22 52:9 56:6,9 57:9 60:18 61:4,13	carry 179:20 193:1
businesses 28:2 208:5	camp 8:16 165:6,8			case 23:7,8,14,25 24:11,12,19 25:3 30:20 35:1
busy 29:21 200:17	campaign 169:12			
butt 95:12				

45:13,14,20 46:19,20 53:11, 13,15 54:12 55:25 58:20,21 59:22 61:3 62:19 63:25 66:6 76:3,13,21 83:18,19 89:3 90:5 92:12,15 93:5,6,17,21,23 94:4 99:3 103:9, 12 104:8,25 105:3,11,22 106:9,19 107:6 111:16,20,25 112:14,18,24 115:8,24,25 116:20 117:6 121:16,20,23 126:11 134:6,25 135:3,5 138:1 143:16 151:16 161:7 176:15 191:2 192:1 197:13 199:10 200:15 202:16 204:4,6 206:16 211:9 226:18,24 228:13 229:4,18 230:1 235:13 caseload 199:4 cases 19:16,25 20:1, 13,14,15,21,23 23:20,23 28:20 29:14,19 30:13 42:25 46:22 47:7 51:16,25 55:3 56:22 65:23 74:5,6,7, 10,22 75:23 76:2,3,15,16	77:2,19 90:16 92:7 95:5,6 104:6 106:17 115:12 125:24 126:6,15 134:1, 16 135:1 145:12 151:16 156:11 163:11,22 171:5 173:8 176:20,25 188:3,6,9,15 191:18,19 195:23,25 196:2 200:2,10 201:7 203:22 206:15, 17 218:14 219:16 228:18 235:16 cataloged 234:10 catch 108:7 180:21 caught 97:16 137:16 caused 113:19 cautious 138:22 cede 78:6 celebrated 225:3 cell 205:6 central 126:24 134:1 chair 87:3 147:20 162:21,24 182:20 219:19 226:16 chairing 152:8	chairman 7:1,8,10,13,19, 21 8:8,13,22 9:5,8,18,20,23 10:3 11:6 12:22 13:20,22 14:1, 25 15:3,6,12,15, 18 16:4,8,14,18, 23 17:1,10,14, 24 18:22 19:1 27:9,14,17,19 31:6 32:22 34:17,18 35:15, 16,19 36:4,6,9, 13,15,24 37:13, 16 38:20,23 39:2,7,10,15,18, 22 40:4,8,11,16 41:23 42:3 50:1, 5,6,10 60:3 61:16,18 65:11, 12 67:17 69:1, 10,24 70:3,5,8, 14,16 71:1,10, 18,22 72:2 73:6, 12,15,17 81:5,8, 10,13,16,18,23 83:7,10,21,24 84:8,13,24 85:5, 11,18,22 86:19, 21 87:5 102:11, 15 124:24 136:24 140:17 147:21,24 148:4,8,11,14, 18,21 149:4,10, 14,17,19 150:21,23 157:17,21,23 158:1 161:24 164:12 165:1,8, 12,24 166:10 167:1,4,6,9,12,	15,18,21,23 168:6,9,23 169:1,17 170:7, 11,12 175:7,11, 13,14,21 181:3 183:14 184:10, 12,13,18,22,23 185:1,17,20,22 186:21,22 187:1 193:3 194:17,22 205:17,18 210:3,16 211:12,16,19,21 212:1,3,5,10,13, 16 213:17,23 214:2,17,18 218:17,19,24 219:4 221:21 222:2,4 232:22, 23 234:4,5,6 235:6,23 236:4, 8,12,13,19,21, 23,24 237:21,24 challenge 230:19 challenges 172:10 challenging 228:18 chambers 105:25 chance 56:22 57:15 58:5,6,8 59:4 116:15 197:23 198:11,13,14 chances 59:3,7 change 17:3 40:9 55:17 57:5 59:2 126:5 133:10 148:22	164:2 192:10 206:20 208:22 changed 52:21 53:25 59:1 71:19 123:11 changing 165:19 character 13:6,11 21:13 25:21 47:23 48:10 75:9 79:19 100:23 108:20 135:16 156:5 173:21 190:23 193:10 220:9 charge 127:14 227:9 charged 66:20,25 67:5 197:1,3 228:23 Charismatic 48:4 Charleston 111:21 145:14 197:22 Charlie 152:2 Charlotte 213:16 check 56:2 124:12 150:2 169:9 186:9 212:24 235:8 check-the-box 25:6,12 checked 160:11 191:18 checks 10:14 18:9 41:2
---	---	---	---	--

72:13 86:6	158:9 160:16	45:1,3 46:1 48:8	clear	closed
chemist	170:23 172:2,4,	50:21 60:17,23	99:7 200:2	237:13
24:3	19 180:18	67:15 75:14,19	clears	closely
chief	187:12 188:1	76:11 79:24	167:25	60:18 190:22
45:18 89:5	190:4 192:16	82:7,14 94:1	clerk	closer
127:8,9,11	196:7 197:7,11,	105:22 121:16	99:23 139:21	188:13
134:1 142:2	15,16 205:9	125:20 126:1,3	144:2 187:19	closes
143:3 146:19	215:9 226:20	127:5 128:8	201:8,15	211:6
226:16 229:5,14	233:11	130:3,5,19	clerked	closest
child	circuits	151:19,25	177:22	142:16
143:5	197:21 233:8	153:19 154:15	clerking	closing
children	circumstance	156:10,11 160:4	187:24	106:20 210:20
29:23 52:13	109:11 110:4	171:4 173:8	clerks	232:20 237:4
91:4 169:23	circumstances	175:20,24	120:17,22	clothing
180:23 199:20	23:4 82:3	176:2,7,20	201:14,17	228:22
children's	109:18 111:3	177:8 188:15	clerkships	co-
199:21	cities	191:7,14,15,17,	98:13,14	232:22
choosing	199:2	18,19,22 192:2	clerk's	coach
206:9	Citizen	195:21,23,25	199:5	87:23 91:21
chose	100:25	196:4 199:1	CLES	107:18
179:9 207:11	citizens	206:14,20	44:21,22 60:25	Coble
Chris	13:8 19:18	215:15,24	104:11 105:18	123:1,7,9,12,17,
117:10	25:19,23 42:21	227:1,7,14,17	216:10	22,25 124:3,18,
Christ	47:15,19 60:10	civilian	client	25 125:1,6,9,10
52:18,23 55:17	61:8 65:4 79:14	228:22	23:6 32:4 92:25	131:7,11,14,17
church	100:16 135:10	claim	105:1 141:22	135:11,18,22
58:24 209:20	156:1 164:14,18	76:18	144:11	136:2 137:6,7
circuit	173:17 185:15,	claims	client's	140:18,19
11:19 19:12,19	18 193:4 207:24	20:5 28:8	117:2	141:11 147:1,3,
21:9 23:3 27:25	208:8,25 209:19	Clarendon	clients	18
28:5 31:11 35:9	210:14 211:14	29:10	75:16 94:7,12	code
42:17,23 43:12,	220:5	clarification	117:24 141:21	26:8 27:6 48:14
15,22 44:1,20,	city	127:4	230:21 231:13,	49:24 80:4,16
25 46:15 63:5	103:11 190:13,	clarify	14,23	81:3 101:6
69:4,7,9,11 74:3	15 192:25 195:3	149:6	clinical	102:9 135:23
87:17 88:13,17,	207:6,8,15	class	103:10	136:22 156:15
20 113:2 125:14	211:14	108:3 234:15	close	157:15 174:5
129:6 130:1	civil	classes	63:11 104:15	175:4 193:16
131:14,16	21:10 24:17	107:14	120:21 166:12	194:15 220:20
138:19 142:24	25:3 26:2 27:22	CLE	177:21 178:24	221:19
143:10 144:21	31:16 35:6 37:4	104:12,13 139:1	218:22	cognizant
151:9 154:2	44:15,23,24			109:17

Coker 147:22,23 148:3,7,9,13,17, 20,23 149:8,13, 16,18 150:12, 15,16 151:2,5,6 152:23 154:1,24 155:3 156:2,9, 13,14,19 157:24 158:1 162:1,2 164:12,25 165:2,10,16 166:9,11,25 167:3,5	206:6 combined 152:19 Comcast 148:24 155:14 comfortable 32:20 40:18 108:19 160:7 177:13 command 155:5 commend 61:3 139:22 206:12 210:12 235:21 commensurate 88:16 comment 12:25 21:15 60:4 61:5,12 66:21 69:4 79:21 98:23,24 159:16 182:18 189:21 192:4 214:10 234:9 commented 26:1 48:2 100:25 comments 12:24 14:4 21:5, 6,14 34:6 35:12 44:4,6,12 60:9, 21 65:3 67:11 69:8 75:3,5,18 76:9 90:2,4,13, 14 91:18 92:3, 16 94:22 95:2 97:13 102:18 111:15 112:17 113:9 116:6 121:10 122:6 131:9,11,21,22	132:22 145:25 155:1,3,7,15,17 156:9 164:14 172:17,18 173:1,2 174:1 189:14,16 190:1,6,7 192:7 210:16,19 216:15,17,24 232:16 235:6 236:25 commission 7:3 9:15 10:7 11:16 12:22 13:24 16:21 17:12 18:2,14 21:3 26:13 35:8 38:5 39:3,25 40:19 42:4 44:2 48:19,22 49:2 60:13 68:14 69:23 70:9 71:4, 16 72:6,18 75:2 79:8 80:8 82:19 85:9,23 89:25 101:12 122:12 123:6 131:7 136:4 137:9 147:7 154:24 156:21 157:24 172:15 174:10 181:4 183:18 189:12 193:21 194:23 195:11 214:15 216:13 219:14 220:25 222:3,20 231:9 236:16 Commission's 27:6 38:5 49:23 68:13 73:4 81:2 82:18 90:23 102:8 122:12	commissioner 219:13,16 223:11 Commission's 136:21 147:6 157:14 175:3 194:14 221:18 commit 53:25 commitments 83:8 committed 79:23 166:3 181:1 committee 13:8,15,16,23 25:19,23 26:1 47:20 48:2,9 49:4 60:10,14 65:4 79:14,21 81:20 100:16, 19,25 102:18 135:11,18 156:2,9 164:14, 18 173:18,25 183:9 185:15,18 193:4,7 208:9 209:1,18 210:14 220:6,12 committment 83:11 common 44:18 62:20 74:9 111:4 126:3,8,22 128:7 173:10 196:10 200:11 Commonwealth 151:13 communicate 91:22	communication 101:17 201:20 communicator 48:6 community 44:11 61:6,9 88:8,15 90:8 182:19 191:24 205:22 209:20 companies 20:2 176:23 235:18 company 38:24 126:14 231:16 232:3,10 compared 160:25 195:21 compassion 200:13 201:22 235:16 compassionate 216:20 compel 30:22,24 97:8 130:8 compete 107:23 competent 128:24 competition 91:6 92:5 107:20 competitions 104:2 107:19 complaints 51:13 Complete 84:19 completely 35:12 complex
---	--	--	--	---

95:6 156:11	29:5 116:5	128:17	170:16 187:4	contacted
compliance	183:11	conference	199:11 201:3	23:13 26:13
10:12 18:7	concerns	105:25	215:1	48:19 80:8
40:24 72:11	13:21 21:15	conferences	consideration	101:11 136:3
86:3 124:10	27:10 44:13,16	24:6,16 64:21	51:18	156:20 174:10
149:24 169:8	45:11 46:3,8	confidence	considered	193:21 220:25
186:5 212:22	47:9 50:2 57:7	128:13 133:8	11:17 177:20	contacting
complicated	64:12 75:18	180:15	217:6	26:22 49:14
127:6	81:6 90:13,14,	confident	consistent	101:24 136:12
complies	17 92:16 94:22,	48:8 133:9	113:8	157:4 174:19
143:21	24 97:13 102:12	134:17 172:4	conspiracy	194:5 221:9
compliment	118:7 131:22	180:14	100:8	contained
178:9	132:5 136:25	confidential	constantly	19:2 21:6 42:5
comply	141:10,18 155:8	35:23 36:17	139:4 200:6	73:19 75:4 87:6
144:14	157:18 173:1,2,	conflict	constitution	90:3 125:3
component	4 175:8 190:6	63:1 134:23	47:14	131:10 150:24
92:22	191:5 192:8,9	176:15	constitutional	155:2 170:14
composure	194:18 216:24	conflicted	13:14 19:5	172:18 187:2
90:11	221:22	64:14	25:24 42:9	189:15 214:24
comprehend	concerted	conflicts	47:25 73:21	216:16
216:4	116:11	10:15 18:10	79:16 87:9	contested
computer	conclude	24:25 29:15	100:18 125:6	95:7
64:24	14:1 38:2 68:11	41:2 64:7 72:14	135:12 151:2	context
concealed	82:16 210:22	86:6 95:8	156:7 170:16	160:22
112:7	237:4	124:13 150:2	173:23 187:5	contingent
concealment	concluded	169:10 186:9	193:6 215:2	213:13
112:9	232:11 238:3	212:25	220:11 229:2	continuance
concede	concludes	confusing	constraints	64:11 99:1
229:8,15	67:18 69:15	139:4	200:20	119:10 121:7,19
conceivably	122:9 147:4	congratulations	construction	127:14,20
116:8	237:22	61:13 195:5	224:5	141:15 143:4
concentrate	concurred	congratulatory	constructive	200:24,25
188:15	220:2	91:7	144:24	201:1,12
concern	conduct	conjunction	consuming	continue
21:15,17 22:5,9	20:21 26:8	138:18	202:11	11:5,17 33:1
46:5 75:21,22	48:14 64:23	conscientious	contact	61:8 105:19,20
113:19 131:22	80:4 101:7	172:21	23:12 26:25	121:7 122:4
132:1 133:20	122:2 128:10	consent	49:17 80:17,21	141:1 146:4,17
140:21 141:3	135:24 156:16	19:4 30:15,17,	102:2 136:15	172:6 177:4
155:10 190:10	174:5 193:16	19,25 42:8	157:7 174:22	235:1
concerned	220:21 232:4	73:21 87:8	194:9 221:12	continued
	conductor	125:5 151:1		24:11 119:15

146:15	Cothran's	17 146:20,23	134:1,2 135:25	143:7 183:7
continues	177:22	169:19 170:6	138:11,19 140:9	206:19 228:8
65:18 122:1	Cottingham	177:3 179:6,20,	143:7,9,10,11,	cousin
231:2	187:21,25	21 182:10,20	23 144:21	181:23 182:4
contract	192:18 201:8	203:13 211:14	146:23 148:1	cousins
152:5 176:10,13	204:6	233:13	151:9,12,14,17	181:10
contribution	Cottingham's	couple	152:15 154:2	cover
206:11	187:19	74:8 101:3	156:17 160:16	105:10
control	couldn't	158:15 174:2	170:23 171:1	covered
132:20 133:5,7	160:6 165:6	182:11 206:20	172:2,4,20,21	195:16 232:12
184:13 218:6	207:10	232:25	173:8,9 174:7	covering
conversation	council	courage	176:24 180:18	134:2
94:11 119:21	170:6 179:20	108:17	187:12 190:4	Covid
convoluted	182:10,15,20,21	Courie	193:18 196:8,9	28:21 71:3
139:3	190:13,15	100:5	197:7,20,21,22	104:11 118:9
Conway	192:25 195:3	court	198:2,20 199:25	165:12 176:21
207:15,24	207:6,8	11:21 19:12	202:13,14,15	177:15
208:3,6 211:14	counsel	21:9 23:3,21,24	204:9 205:10	COVID-19
Cooper	45:18 86:22	24:14 25:15	206:23 207:1	29:1
77:23 78:12	90:16 96:1	26:9 27:25 28:5	213:24 215:9	crack
89:4 99:24,25	115:21 227:4	29:3,13,16	220:22 226:19	219:8
100:6 103:16	230:16 232:4	30:11 31:17	228:21 229:11,	Crantford
cooperated	counseling	42:17,22 43:3,	12,13,16	145:3,6
23:14	121:11	12,13,15,22	courteous	CRAWFORD
core	counsel's	44:1,18,20 45:1,	218:5	8:7 11:11,13
216:2 217:22	124:22	8 47:1,4 48:16	courthouse	12:22 15:9,17
corporate	counties	58:13,14 63:8,	100:1	Crawford's
151:20 230:23	62:11 118:6	14 64:1,24 74:3,	courtroom	11:7
corporations	199:2 200:7	8,9,11 77:21	21:25 22:19	creative
230:14	203:1	78:17,21 80:5	43:23 47:3,18	229:17
correct	country	87:17 88:13,17,	64:15,25 78:6	credentials
9:18 16:23,25	13:20	20 92:17,18,19,	90:11 95:14	162:7
38:25 40:4,5	county	20,23 93:3,20,	98:9 106:16	credit
71:14,17 79:3,4	11:22 19:23	22 94:17 100:13	128:5 132:20	52:22 55:17
123:8 140:22	20:5 23:3 29:9,	101:8 103:3,12	133:3,8 141:16	150:22 206:25
158:5 166:24	10 56:13 59:10	110:20,23	142:24 161:16	cried
167:13 179:10,	61:23 62:14,15,	111:17 112:4,5,	178:3 198:22	225:17
13 185:19,21	19 99:24 111:19	20 113:3 116:2	204:14,19 218:6	crime
207:2,3 211:10	121:17 125:18	117:8 121:4,15	courtrooms	56:14,18 57:20
212:3,4,5	127:9,15,23,25	125:14 126:8,	28:10 62:11	228:24
222:10,11	131:15,18	22,25 128:1,2,7	95:12 141:9	crimes
237:17	140:10 141:16,	129:6,20 130:1,	courts	
		4,12 131:14,16	28:25 128:4	

20:19 197:1,4 criminal 19:15 20:16,17, 21 21:10 23:19 24:16 27:23 29:5 31:16 32:7 33:19 37:3 46:12 50:20 51:2 52:4 66:15 74:20 75:13 79:22 82:7,14 88:25 89:3,7,9, 12,15 102:24 103:6,9 104:4,6, 7,13,22 105:17 106:9,23 115:4, 7,25 117:9 118:18,22 121:15,20,23,25 125:20,23 126:1 130:9,12 151:15 152:7,9 153:13 156:12 159:17, 21 160:4 162:12,14 163:3,10 164:16 171:4 173:8 175:20,24 176:2,5,7,15,24 177:7 188:11 189:24 191:24 192:1 195:17, 19,21 196:2,5, 22 199:1 206:14,16,17 215:15,25 220:14 227:22, 24 228:2,3,10 229:5,14 criminals 57:12 criteria 10:9 13:10,13	18:4 38:5 40:22 47:21,25 68:14 72:8 79:15,18 82:19 86:1 100:17,21,22 122:12 124:7 135:12,15 147:7 149:21 156:3,6 169:3 173:19,23 186:2 193:5,9 210:24 212:19 220:7,10 237:6 critical 142:5 criticism 131:3,4 144:23, 24 criticize 110:5 cross 86:25 cross-examine 106:21 107:4 cry 54:2 Crystal 204:4 cuffs 32:9 culminates 104:2 cumbersome 127:6 cure 28:24 29:1 curious 97:1 131:12 current 90:16 160:12 cusp 207:25	<hr/> D <hr/> dad 188:2 192:13 224:3 225:18,20 227:19 daddy's 35:22 daddy's 225:21 daily 116:5 Daniel 123:1,22,25 124:3 125:6 Data 9:11 10:4,21 16:19 18:16 39:23 41:9,12 71:12 72:21,24 85:6 86:12 123:3,21,24 150:11 168:14, 17 185:5,8 213:6 databases 205:6 date 26:18 49:10 64:10 80:13 85:14 101:20 115:18 136:8 149:2 156:25 174:15 184:19 194:1 204:2 221:5 daughter 85:14,20 159:24 164:24 166:2,3 daughters 97:17 213:12,16	236:21 daughter's 235:25 David 232:13 235:11 day 15:10 25:8,15 86:20 97:19 103:18 108:3 118:18 121:8 129:13,21 139:20 141:21 153:14,15 180:23 181:8 184:4 219:25 226:15 day-to-day 32:24 days 8:17 28:20 29:4 34:3 82:11 105:9 111:24 153:13 168:2 180:25 182:11 206:10 dead 77:21 deadline 17:16 deal 32:5 50:17 59:12 118:12 119:11 121:11 143:13 191:21 228:24 dealing 90:23 92:23 121:14 142:7 143:3 dealt 109:20 146:6,14 189:2,3 190:14	191:13 Dean 91:9 deanship 91:10 dear 55:6,7 death 59:22 151:16 Deberry 167:8,10,13,14, 16,19,22 168:2, 5,8,15,18,21,22, 25 169:17,19 170:16,19 171:24 172:19 173:18 174:3 175:13,16 181:5,11,16,23, 24 182:17 183:13 184:3,6 debt 188:8 191:21 decade 96:11 decide 219:16 decided 187:15 195:9 227:22 230:12, 21 deciding 207:5 decision 22:21 110:16 133:13 134:14, 15 220:1,3 229:14 decisions 7:23 70:19 127:19 128:25 134:5,11 139:20
---	---	---	--	--

217:22	22:13 24:7	Dennis	117:2	dirty
dedicated	27:22 28:7	161:5	developed	205:4
48:7 146:16	31:25 33:19,21	Denno	198:6	disagree
Dee	35:2,6 53:16	52:6	developing	133:23 134:3
173:17 185:15,	66:15 162:15	Denver	230:20	disagreements
20 193:4 208:25	163:3 176:14	107:25	diagnosed	34:10
deemed	188:11 189:24	deny	227:19	disappointed
166:17 237:10	191:24 192:1	100:11	dickens	161:17
deep	195:19 196:17,	department	67:1	disclose
154:16	22 197:9 198:5	20:4 84:3	didn't	17:8
defective	230:23 231:23	169:22 207:10	132:12 133:15	disclosed
20:12 93:6	defer	depending	145:15 146:20	17:11 36:19
defects	150:16	109:11	159:25 179:12	discovery
93:5	deference	deployed	195:4 208:19	24:22 29:17
defendant	64:6	14:13	224:16,22	30:23 112:6,25
52:1,4 53:6	deficits	deposit	229:14,25	130:4,6,7
57:22,23 58:2	162:10	152:13	differences	discrimination
66:24 79:2 94:3	degree	deposition	120:5	232:7
99:10 103:14	223:22	92:11 113:1	difficult	discuss
106:23 118:18	deliberation	depositions	57:6 94:11	49:7 90:15
162:24 229:20	166:18 237:11	29:17 94:8,21	153:19 172:12	discussed
defendants	deliberations	depth	218:14 235:16	36:21 131:24
47:18 104:7	38:10 68:19	138:13,15	dignity	discussing
162:16	82:24 122:17	154:13	21:24 22:21	114:17
defended	147:12 211:4	deserve	dim	discussion
152:15	delight	56:22	118:2,11	36:17
defender	74:13	deserving	dinner	discussions
56:12 106:15,25	delivered	38:9 68:18	15:24 95:24	70:20 182:16
125:24 127:18	190:25	82:23 122:16	direct	dishonesty
144:8 176:10	delivery	131:13 147:11	20:2	92:18
196:23 228:21	76:18	183:21 211:3	directed	dismiss
defenders	demands	237:10	23:10	113:15
57:10 63:19	32:24	desire	direction	dismissed
103:19 106:14	demeanor	192:15,20	207:1	47:6 78:18
115:9	26:3 60:7 97:10	detailed	directions	100:12 105:12
defender's	113:9 155:6	232:9	33:4 141:7,14	111:19
130:11 176:14	172:20 177:18	determine	200:22	dismissing
defending	218:10	57:13	directly	43:8
76:21	denied	determined	92:12 151:17	display
defense	30:8 93:24	112:3 113:4	director	97:11
19:14,15,22	Denise	detriment	84:2	disposition
20:16,18 21:21	39:5 52:21			

99:13	111:24	door	Dwaine	editorial
disputes	documented	64:12	78:17	139:11
151:21 152:11	113:1	DOR	dynamic	educate
154:9,10	documents	17:17	48:4 165:15	105:21,24
disrespect	9:12,15,24	Dorchester	dynamite	Edwards
83:16	16:20 17:21,25	62:18	219:4	222:5,6
disservice	39:24 40:12	dormant		effect
22:17,19	71:23 85:8	91:3	E	97:7 227:11
dissolutions	123:5,14	doubt		effective
154:10	doesn't	109:4	eager	19:11 42:17
distinguish	126:5 133:9,10	doubtful	172:5	48:5 74:3 87:17
93:12	140:3 141:11	180:6	ear	125:13 151:9
distinguishable	161:11 201:4	downtown	64:12	170:22 187:11
93:14,18	202:15 229:21,	165:18	Earl	215:8 218:11
distinguished	22 230:18	dozen	204:17	effectively
14:9 68:8	235:2,17	106:13 139:25	earlier	108:21 113:24
District	dog	dozens	56:4 69:2	159:2 206:8,9
78:17,21 151:18	152:15	125:21	113:20 148:16	efficient
diverse	dollar	drafting	203:18 206:5	128:24 150:18
151:11 170:2	152:14 231:18	120:23	213:15 227:25	efficiently
178:16 202:25	dollars	drag	early	154:14
230:16,19	126:7	198:2	37:20 46:23	effort
234:22	domestic	drive	73:7 150:19	46:1 116:11
diversion	226:11	192:15	223:12 230:13	159:1 212:17
57:14	don't	dropped	233:25	egos
diversity	130:19,24	163:18	earth	56:3
230:15 234:20	132:23 133:10	drug	224:4	elaborate
division	134:17 135:1	76:3 197:19	easiest	191:8
227:1,7,8,9,14,	140:2 149:8,11	Duane	116:1	elect
23,24 228:3	150:20 153:20,	177:24	easily	178:24
Dizzley	24 155:24	DUI	178:5	elected
78:22	161:12 162:23	62:19 64:2	easy	28:16 95:16
DOC	176:9 177:3,14	duly	76:15 77:1	103:1 118:1
229:22	178:25 181:19,	9:3 16:16 39:20	109:13	130:1 170:5
docket	22 182:4 190:21	71:8 85:3 123:1	echo	172:14 182:19
23:18,19 43:24	191:3 201:13,14	148:9 167:10	65:2	190:12 207:20,
133:4 200:11,12	206:1,23 208:9,	184:16 211:24	economic	22 208:12
dockets	21 209:14	dumb	10:15 18:10	210:10
46:24 103:19	210:5,10,20	204:20	41:2 72:14 86:6	electing
118:5	212:13 225:10,	duties	124:12 150:2	179:3
document	19 228:1,24	127:13 141:6	154:7 169:9	election
	237:16		186:9 212:25	10:17 18:11

41:4 72:16 88:4 124:14 150:4 169:12 179:6 186:11 190:18 208:23 213:1 elections 192:14 element 56:11,18 93:17 elevated 233:12 eleven 11:20 131:21 Eliza 164:24 165:9 166:6 167:2 email 143:20 emails 108:7 embarrass 144:11 embarrassed 132:12 137:12 embraced 51:2 emotional 142:9 empathetic 142:6 empathize 17:19 32:23 emphasize 202:18 208:13 employ 53:2 58:9 59:4 employees 172:11 emulate 78:4 enable	216:6 encounter 109:20 encourage 115:23 162:8 233:16 234:25 encouraged 25:10 end 17:17 30:18 37:13,24 61:5 68:6 76:24 119:7 121:14 125:25 127:18 151:22 180:14 182:23 183:23 219:25 233:10 235:25 endeavoring 164:17 endeavors 202:5 ended 105:12 180:5 endorse 21:12 ends 23:25 24:1 endure 62:7 Energetic 90:4 engaging 48:5 enhance 235:4 enjoy 11:23 12:1 34:21 134:4 178:1 192:22 195:13 203:18 207:19,21,24	enjoyed 74:6 77:25 137:22 139:6 177:25 179:15 231:3 233:23 enjoying 74:15 203:21 enormous 43:6 entire 30:20 48:9 62:1 111:20 140:21, 25 237:3 entirety 8:19 entitled 162:18 environment 154:7 162:21 179:18 envision 33:9 epitome 190:1 equally 164:20 equipped 43:24 180:17 Erin 70:21 71:8 72:22,25 73:2 75:11 213:12 essence 47:5 essentially 89:2 91:15 113:10 129:14 223:15 establishment 22:8,11,12 46:7 69:5,7	estate 28:4 154:9 ethic 13:7 135:20 169:9 188:19,22 190:23 211:1 ethical 25:20 47:21 60:7 79:18 100:22 135:15 156:3 173:20 190:1 193:9 220:7 ethics 10:12 18:7 38:7 40:24 68:16 72:11 82:21 83:13 86:3 122:14 124:10 147:9 149:24 166:16 181:13 182:5 183:19 186:6 212:22 219:14,15,17 231:8 237:8 evaluations 191:2 evaluative 10:9 13:10,13 18:4 38:5 40:21 47:21,25 68:13 72:8 79:15 82:19 85:25 100:17,20,22 122:12 124:7 135:12,15 147:6 149:21 156:3,6 169:2 173:19,23 186:2 193:5,8 210:24 212:19 220:7,10 evening	107:16,17 event 166:22 237:12, 15 everybody's 121:21 everybody's 162:22 everyone's 120:7 evidence 50:20 53:12,13 54:10,11 67:5 74:12,14 94:8, 13,20 107:3 122:1 128:8 132:12,15 137:13,17,21 138:9 evidentiary 107:2 evolved 65:15 67:9 79:5 231:10 exact 93:15 examination 11:13 19:8 27:19 31:8 34:19 42:12 50:10 61:19 73:24 87:1,12 102:21 108:13 115:2 125:9 137:6 140:18 151:5 158:1 162:1 170:19 175:13 187:8 194:25 205:18 215:5 222:12 examiner 50:12
--	--	--	---	---

examples 93:2	exhibit 10:5,20,23	42:16,24 43:11	170:3 198:24	extreme 199:24
exams 16:2,5	18:15,18 41:8,	44:11,14 45:13	199:14 202:24	extremely 33:14 65:22
excel 45:16	11,14 72:4,20,	47:23 48:3,8	experiences 42:24 43:10	90:6 144:2
excellent 13:6,7 33:13	23 73:1 86:11,	52:18,20,23	55:8 132:18	155:3 189:1
34:21 44:8	14 123:20,23	53:18 54:4,7,10,	152:20	eye 126:15
74:16 75:8	124:1 150:10,13	17,23 56:24,25	explain 99:13 139:3	eyes 54:24,25 58:20
77:12 78:12	168:13,16,19	60:24 67:14	182:12	133:18
79:22 90:6	185:4,7,10	68:1 74:1,17	explained 93:24 114:21	
131:19 172:19,	213:5,8	75:9,12,16,19	explanation 19:20 114:13	F
22 183:12	exhibiting 160:25	76:6 77:5 79:17,	exposed 71:3 215:18	fabulous 228:12
190:2,5 216:17	exhibits 17:22,25	23,24 82:7,14	exposure 75:14 164:16	face 12:13 98:1,8
exception 64:3 82:1	exist 89:16 122:4	87:16 88:9,12,	express 21:14 166:1	147:25
149:13	exists 93:13,21 104:14	14,24 90:7	173:1 190:6	Facebook 91:2,12
exceptional 90:7 189:18	expanding 88:5 152:3	97:19 100:21	expressed 21:15 44:12	faced 77:10
exchange 95:10	expect 117:9 121:23	101:1 102:24	75:18 90:13	facets 154:4 161:3
exchanged 49:6	183:24 237:16	103:7,21 108:1	131:21 155:8	190:4
excited 60:16,19 172:8	expectation 112:21 113:12	115:4,23,25	216:24	fact 93:15 94:10
178:6	expectations 25:8 32:5	120:14 125:12,	expression 204:21	96:17 116:25
exciting 25:8	expected 213:15	19 126:16	extensive 88:10	121:15 146:13
exclusively 33:18,20 91:22	expecting 163:5	127:22 128:12,	extensively 91:13	155:17 200:15,
112:24	expects 38:6 68:14	19,25 129:8	extent 23:13 29:23	16 232:9
excuse 84:10 194:7	82:19 122:13	130:14 131:23	34:5 91:4	facts 93:22 94:8
219:1	147:7	132:21 133:1,15	171:20 199:7,18	112:10,23 117:4
executive 7:5,11,12,15,22	experience 13:12 16:8	135:13,20 143:2	216:8	197:14 216:5
35:20,24,25	19:10,13 21:11	146:12 151:7	extra 127:13	235:20,21
36:7,8,10,16	23:22 25:22	154:4,13 156:8,	extraordinary 48:3 67:11	failing 223:15
69:25 70:6,7,11,	26:2 27:20,21	10,12 159:18	234:14,15	
17,18 237:25	28:3,6 31:16,18	163:3 170:21		
238:2	32:19 37:3,25	173:3,5,7,13,21		
		179:15 187:10,		
		18 190:3,15		
		191:6,8 192:2		
		193:11 196:4		
		197:5,25 202:12		
		203:2 204:22		
		205:12,14,15		
		215:7,16,19,23		
		220:12,14		
		225:11,13		
		226:15 228:2,12		
		experienced 21:7,20 53:9		
		54:6 164:7		

failure 20:22	76:19 103:13 117:8 118:21 141:5 167:17 170:4 180:11 181:18 183:7 205:20 206:23 207:1 237:3	182:24	fighting 66:19	138:14 153:20, 22 154:21 160:6 198:22 226:2 229:19
fair 12:19 21:16 34:1 66:10 75:10 85:17 110:11 131:12 159:20 179:19 189:25 190:17, 20 191:4 198:7, 9 216:20 218:4 235:15	fanatic 91:14 fantastic 207:12 217:13 fashion 67:12 fastidious 159:12 father 187:25 188:20 192:6,10,17 204:10 214:4	feeds 114:19 feel 14:5 19:9 25:14 32:20 34:1 42:15 46:10 73:25 87:15 88:19 116:19 125:11 134:13 135:7 151:6 158:17 159:10 161:5 163:1 170:20 171:25 180:14,20 187:9 189:1,8 198:6 205:10 215:6 229:14	figure 8:18 76:17 77:3, 6 117:14 180:21 file 17:18 121:15, 16,18 filed 18:11 41:3,4 44:19 78:16,21, 23,24 99:11,22 124:14 150:3 169:11 176:20 185:14 186:10 213:1 files 43:6,7 47:5 filings 93:4 fill 62:25 162:9 filled 57:1 212:7 filling 9:8 final 112:7 166:20 174:3 235:23 finally 25:3 75:11 143:13 169:9 218:12 financial 36:21 222:8,9 find 17:13 23:11,20, 23 24:21 51:6,7 57:12 59:18,24 94:7,8 96:13 99:20 117:3 122:3 127:7	finding 34:5 232:24 findings 232:9 fine 21:8 76:9 158:22 182:8 235:13 finest 13:3 235:11 finish 26:5 89:12 95:14 105:12 153:16 214:5 226:4 finished 198:3 225:6 finishing 104:15 Finkel 151:25 fire 103:15 120:18 firm 17:16 20:7 22:13 23:2 34:24,25 35:5 62:7,9 78:3 98:16 105:5 111:20 112:2,8, 18 116:7 120:12,15,16 121:2 131:12 133:12 151:19 170:1,2 191:14 195:20 218:6 226:9 230:6,7, 18,22 235:9,14
fairly 28:1 65:7 151:11 179:22 fairness 111:8 faith 94:9,15,19 FALK 175:7 fall 89:24 107:18 falling 22:1 Faltas 100:1,4,10 familiar 9:14 26:21 49:13 80:16 101:23 130:6,8 136:11 149:14 157:3 168:11 174:18 194:4 216:1,11 221:8 228:9 familiarity 217:8 families 141:22 family 54:21 58:14	fanatic 91:14 fantastic 207:12 217:13 fashion 67:12 fastidious 159:12 father 187:25 188:20 192:6,10,17 204:10 214:4 fathers 59:17 father's 203:23 FAULK 87:5,12 102:11 170:12,19 173:17 fault 132:13,14 favor 7:6,16 36:2,11 69:18 70:1,12 favorably 160:25 177:20 favorite 142:1 Faye 204:4 fear 97:2 federal 45:13,20 61:1	feels 115:20 Fellow 231:5 fellow's 218:20 felonies 76:4 felt 32:20 52:12 99:5 192:11 female 97:15 98:1,5,7, 12,18 females 97:20 field 75:13 87:21 88:3,5 98:1 115:4 159:21 207:20 fight 67:1 229:6	fighting 66:19 figure 8:18 76:17 77:3, 6 117:14 180:21 file 17:18 121:15, 16,18 filed 18:11 41:3,4 44:19 78:16,21, 23,24 99:11,22 124:14 150:3 169:11 176:20 185:14 186:10 213:1 files 43:6,7 47:5 filings 93:4 fill 62:25 162:9 filled 57:1 212:7 filling 9:8 final 112:7 166:20 174:3 235:23 finally 25:3 75:11 143:13 169:9 218:12 financial 36:21 222:8,9 find 17:13 23:11,20, 23 24:21 51:6,7 57:12 59:18,24 94:7,8 96:13 99:20 117:3 122:3 127:7	finding 34:5 232:24 findings 232:9 fine 21:8 76:9 158:22 182:8 235:13 finest 13:3 235:11 finish 26:5 89:12 95:14 105:12 153:16 214:5 226:4 finished 198:3 225:6 finishing 104:15 Finkel 151:25 fire 103:15 120:18 firm 17:16 20:7 22:13 23:2 34:24,25 35:5 62:7,9 78:3 98:16 105:5 111:20 112:2,8, 18 116:7 120:12,15,16 121:2 131:12 133:12 151:19 170:1,2 191:14 195:20 218:6 226:9 230:6,7, 18,22 235:9,14

first-year 16:1	focused 10:9 18:4 40:21	forgive 48:25 219:3	foundation 26:5	130:24 134:7,9
firsthand 120:18 127:16 143:4	72:8 85:25 87:19 124:7 230:22,25	forgot 114:16	founded 230:5	142:25 144:11
Fisher 84:15	focusing 132:2	forgotten 33:23 202:3	four- 85:19	145:8 146:6
fishing 76:19	folks 22:22 30:12	form 101:15 187:14	Fourteenth 19:19 31:10	153:21,22 190:9
fit 76:16	32:7 34:12 77:15 109:25	formal 38:12 68:20 82:25 122:19 147:14 166:21 184:2 211:5 237:13	35:9 42:23 63:5 69:7,11	192:20 197:13
fitness 13:10 21:13 25:20 47:22 79:18 100:22 135:15 156:4 173:20 193:9 220:8	126:9 127:21 152:6 160:14 178:11 206:3 211:13 217:19 233:6 236:1	forms 77:1	fourth 165:3 226:20	208:18
fix 201:20	follow 34:22 38:6 60:18 68:15 82:20 122:13 128:7,8 134:18 147:8	fortunate 21:25 103:1 139:7,10 140:8	frankly 12:3 23:8 33:12 108:20 154:20 230:14	frustrating 30:15
flatfooted 137:16	Food 219:5	Fortunately 169:10	frantically 213:13	frying 163:14
flexible 201:4	foot 224:18	fortune 215:11	fraud 191:21	full 206:22
flip 138:12 155:18	football 91:25 199:22	forum 209:3	freedom 55:6	full-time 125:17 127:22
flips 57:10	force 14:18 90:8	forward 8:1 12:6 94:18 116:18 119:18 120:4 155:19 159:15 160:13 171:21 172:14	fresh 52:10	132:4 133:1
floods 207:16	forceful 155:20	found 8:19,20 15:7 24:19 25:4 26:8 47:24 48:15 53:23 54:1 62:6 80:4 100:19 101:7 135:24 137:20,21 156:16 174:5 193:17 220:21 228:13	freshmen 83:12 181:13	165:3
floor 78:6 214:8	Ford 231:16		Friday 84:4 148:25	fully 159:14
Florence 169:19 170:6 177:3 182:9,10 199:12	forget 28:16 31:4 138:2 142:4,21 146:12 189:5 202:1		friend 39:5 145:13 177:22	fun 208:4
Flynn 231:18	forgetting 33:9		friends 84:16,17 127:24 141:20 142:16 144:6,17 145:6, 15 180:10 191:1 222:9 233:4	fund 182:13
focus 119:15 130:2,13 152:22 166:14 206:10			front 27:24 31:18 62:16 74:11 77:25 111:17 127:25 128:14	fundamental 65:18

G

Gaffney

222:6 235:7

gain

13:5

gained

43:10

game

119:9,20 120:6

games

199:22

gamut

110:14

gangs 57:1	generate 91:19	Golden 12:17	Google 235:8	grateful 41:18 73:5
Gap 153:17	gentleman 228:19	Goldilocks 159:18	gosh 204:25	gratuitously 217:5
gauntlet 108:22	gently 225:14	good 11:14 14:5 15:7, 12,14 22:22 34:4 38:16 42:13,14 51:12 54:14,16 56:2 65:5 67:15 70:25 73:25 75:13 87:13,14 92:10 94:9,15, 19 98:8 101:2 115:12 117:18 124:24 125:1 129:22 130:20 131:13 132:19, 24 135:20 137:9 142:15,16 144:13,14 145:1 148:11 149:14 151:6 155:5 158:22 159:10 162:7 163:20 164:8 165:7 167:2,8 170:20 175:19 178:5,15 184:12 186:21, 25 187:17 188:19 189:11 191:18 195:20 198:6 207:13 208:15,16 210:2 211:19,20 214:18,20 217:2,3 229:15 231:2 234:7,8 236:19	Goudelock 100:5	gray 182:22
gave 59:8 181:12 207:6	Gerhard 78:22		government 182:13 215:14	great 15:10 21:11 26:5 44:6,7 48:5 64:6 117:10 126:16 128:12, 25 129:9 131:1 138:7 145:13 146:23 165:11 167:9 170:11 172:24 177:22 180:8 192:17 197:24 200:18 203:13 208:4 214:21 216:13 222:8 224:24 225:21 226:14, 20 230:10,11 231:2 234:23
gearing 84:5	get along 34:9		governments 20:5	
general 20:10 26:22 27:1 42:22 43:4, 12 49:14,18 56:20 58:14 74:8 76:2,11 80:18,22 89:5 101:24 102:3 103:4,13,17 104:10 106:8,14 118:4,5 121:5 126:2 132:23 136:13,16 141:5 143:15 157:5,8 173:9 174:20,23 194:6,9 196:9, 13 200:12 206:18 210:10 221:10,13 226:25 227:4,6, 16 231:18	girl 225:21		grab 115:14	
	girls 167:19 225:1		grade 145:7 165:3 223:15	
	give 12:2,6 14:18 17:18 50:25 57:15 58:5 59:7 63:8,9,12 64:6 68:2 83:13 84:10 88:12 92:23 93:2 95:20 98:21 109:18 115:17 116:15 138:11 146:3 162:17 177:19 199:6		graded 50:18,19,20	
	giving 11:2,4 37:7 88:15 121:10 124:20 163:2		graduated 223:25 224:1,2	
	glad 15:6 16:11 218:24		grain 109:10	
generalized 189:10			grand 43:9	
generally 97:10 99:23 118:10 120:10 129:24 177:7 196:21 198:12	goal 88:6 94:6 129:16 179:19 204:1 210:3,12		grandfather 188:21 205:21	greater 180:15
general's 226:12,14 227:5	goals 22:2	Goodstein's 161:15	grandmother 56:16	greatly 19:17 21:2
	God 41:21 58:7,8		grandmothers 59:17	green 94:6
			grandparent 181:14	greet 209:14
			grant 98:25 141:15	Greg 232:14
			granular 88:24	grew 65:17 223:1,2
			grapes 111:9 155:24	Griffith 35:1
			grasp 218:13	Griffith's 35:2
			grasping 219:6	grossly 112:5

ground 145:1 190:5 203:20 224:11, 12	24 54:13,25 57:24 134:8	handle 29:20 52:3 56:22 105:3,5 113:23 125:23 126:20,23 127:2 130:10 134:16 191:14,18 196:11 198:18 199:13,16	harassment 232:7	Headen 23:3,6,10
group 113:7 231:19 234:21 235:9	guns 76:19		hard 12:11 46:7 65:19 73:15,16 109:7 113:5 115:11 131:11, 18 132:10,14,17 134:6 155:19 159:13 172:22 192:14 197:3 223:10 224:4,8, 21	heading 154:6
groups 235:13	guy 66:19 117:10,18 181:19 198:5			heads 95:12
grow 85:20 145:5 146:9 205:11,19	guys 66:5	handled 105:11 130:9 156:10 171:4 182:14 188:6 219:18 227:14		health 13:14 25:25 48:1 63:16 79:16 100:18 119:17 121:11 135:13 156:7 173:24 193:6 197:20 220:11
growing 203:12 205:10 225:12	H		hardened 56:14 57:2	hear 8:6,9,11,13 14:4,24 57:23 64:12 70:24 71:2 78:8,9 118:16 119:2 130:17,20,22 141:20 144:6,18 148:1,15,17 171:10,16 199:24 213:24 219:16
grown 182:7	H-O-L-L-I-N-G-S 236:4	handles 195:20	harder 97:21	heard 7:7,9,18,20 13:25 15:2 28:23 35:18 36:3,5,12,14,23 59:21 69:19,21 70:2,4,13,15 79:4 81:12,22 113:14 114:2 122:7 165:25 167:23 171:10
guard 97:17	habit 73:15	handling 23:7 126:24 227:9	hardest 75:6	hearing 30:17,19 62:17 93:15 114:4 115:18 116:13, 20,23 119:14,23
guess 30:1 31:17 32:19 33:1 44:24 52:13 64:18 137:20 154:23 164:15 198:22 204:21 224:12	habits 73:15	hands 86:25 112:14 115:22	hardworking 60:8	
guest 15:19,20 84:14	habitual 119:13 121:6	handwrite 65:4	harm 96:20 163:23	
guide 142:17	Hague 50:22	hang 158:20 226:1	harken 164:13	
guided 237:7	hair 120:18 182:23	happen 17:15 51:1 79:11 84:7 94:10 119:24,25 131:4 237:16	harrington 158:12	
guidelines 27:6 49:23 81:2 102:8 136:21 157:14 175:3 194:14 221:18	HALEY 73:24	handwritten 53:8 55:15 98:22 132:11 153:10 223:12	harris 232:14	
guiding 57:16	half 98:4,14 125:16, 18 129:1 132:2 133:16 227:18	happy 81:17 88:25 96:15,23 97:11 99:6 113:21 162:16 214:16 225:6	harry 167:16,23	
guilty 43:1 52:5 53:19,	Hampton 19:23 46:25 62:14		hate 13:4 55:2 209:21	
	hand 9:1 16:15 39:18 53:15 71:7 85:1 138:4 148:8 162:19 168:9 211:22		hated 137:18	
	handful 95:3		haven't 121:21 176:22 201:25 233:15	
			head 53:16 161:19 176:4	

137:14 153:21 199:11 201:3 219:19 237:22 hearings 30:15 45:6 81:25 97:3 103:21 115:16 153:23 hearsay 113:17,18 heart 30:4 53:19 198:8 hearts 53:19 heated 95:7,10 heavy 38:9 68:18 82:23 122:16 147:11 166:18 183:22 211:3 237:11 heels 100:2 heinous 56:14 held 118:19 helped 198:21,22 helpful 154:5 162:20 171:15 helping 62:22 204:19,20 helps 73:8 139:2 152:10 Henry 167:24	hesitation 189:20 hey 54:9 70:23 111:5 198:3 200:15 he's 35:3 131:18,20 144:10 145:13, 20 146:22 161:9 177:24 178:12 180:3,7,8 203:25 214:5 218:22 228:23, 25 229:23 hidden 112:6 hierarchy 30:24 62:20 high 75:9 144:12 145:19 146:7,21 151:22 164:22 224:1,2 higher 30:25 highlight 75:5 highly 48:6 65:7 98:21 155:4 hire 230:15 hired 188:13 191:16 207:9 history 21:20 26:4 149:4 hit 61:25 190:5	hitting 203:20 hold 9:5 67:6 110:10 144:12 160:3 holder 231:19 holds 146:7,21 Hollings 236:5,6 Hollins 211:24 212:3 213:7,10 215:1 236:2 Hollis 236:6,7 home 20:13 30:4 58:23 118:21 165:4 219:2 224:11,18 225:17 226:7 homeless 197:22 hometown 207:5 hone 172:6 honed 164:4 honest 153:8 honestly 52:23 57:17 63:13 155:24 159:23 177:12 honor 40:1 41:19 175:21 214:14 honorable 8:3 9:3 10:22,24	123:1,22,25 124:3 125:6 234:2 honored 84:20 187:18 honors 234:12 hope 8:20,22 9:13 12:14,18 14:16 35:13 39:15 71:3 134:18 140:6 177:20 180:13 224:25 225:1 233:1 235:17 hopeful 164:1 Horry 203:13 211:13 hot 110:18 hour 150:19 186:15 hours 103:23 104:4,5 106:3 119:18 153:17 house 160:5 224:15,20 housekeeping 26:6 48:12 80:1 101:3 135:21 156:13 174:3 193:12 220:16 Houston 107:24 huh-uh 112:10 human 51:25 52:25 55:12 56:11,18	110:7 humanity 55:11 59:14 66:11 humans 59:15,16 humble 48:5 humbled 13:16 14:23 55:9,23 humbling 54:23 197:25 humiliating 54:4 humility 51:11,19 54:4 Humphrey 204:16 hundred 28:22 126:6 hundreds 20:19 43:4 128:3 hung 226:5 hurdles 97:25 hurt 92:24 98:20 235:17 hurts 92:25 husband 39:5 165:17 213:13 218:16, 21 236:21 Hyman 184:10,12,16, 22,25 185:6,9, 12,13,19,21
---	---	---	---	---

186:17,22,23,25 187:4,8,9 189:12,16,21 193:4,8,12 194:25 195:1 205:18 210:15 211:11,12,16 hypocrite 155:23	130:11 immediately 23:10,12 immerse 105:16 immersive 103:21 impact 57:20 impartial 190:18,20 191:4 198:8 imperative 200:13 implied 30:15,17,19,25 199:11 201:3 importance 171:6,7 208:14 218:4 important 21:22 25:13,16 28:14 30:18 32:11 63:18 92:22 129:11 132:16 142:5 161:6 171:12,21 178:4 180:25 188:24 189:1 200:23 232:22 importantly 11:3 12:18 14:12 37:1 67:21 128:13 142:1 170:24 182:9 impress 208:19 impressed 16:10 51:9 150:17 197:17	impressive 60:11 67:20,21 235:9 impropriety 38:8 68:17 82:22 122:15 147:10 166:17 183:21 211:2 219:21 237:9 improve 23:18 107:6 129:14 131:3,5 improved 96:11 in- 104:17 in-laws 181:15 inadvertently 49:5 include 149:22 212:19 232:13 included 10:10 13:2 18:5 19:3 40:22 42:7 44:6 72:9 73:20 86:1 87:7 93:19, 20 102:23 124:8 125:4 150:25 170:15 187:3 214:25 includes 21:10 127:13 169:4 including 26:21 47:3 49:13 80:17 101:23 136:11 157:3 174:18 186:3 194:4 221:8	incorporated 27:12 50:3 81:7 102:14 137:2 157:20 175:10 194:20 221:24 incredible 189:22 234:24 incredibly 77:15 indigent 162:16 176:14 individual 31:2 44:9 65:5 235:3 individuals 19:24 20:11 industries 208:2 infection 29:1 infections 29:2 influenced 190:8 information 50:11 79:7 102:23 informed 23:10 infringement 105:1 inherited 192:6 inhumane 53:22 initial 90:18 initially 99:19 112:23 injured 20:12	injury 76:13 188:8 189:23 inmates 59:15 innocence 229:3,24 innocent 103:15 118:25 inquiry 10:8 18:3 40:21 72:7 85:25 124:6 insight 133:2 insisted 223:16 inspired 223:21 Instagram 91:12 114:18 instance 77:13 161:4 instances 111:1 189:5 195:14 instilled 224:24 instincts 90:12 institute 227:13 institution 154:16 234:20, 22 institutions 154:19 instructions 148:3 insurance 19:13,22 20:1
<hr/> I <hr/>				
I-20 210:21				
I.S. 232:14				
idea 111:13 163:20 199:9 233:14				
ideas 25:17 189:10				
identification 10:20,23 18:15, 18 41:8,11,14 72:20,23 73:1 86:11,14 123:20,23 124:1 150:10,13 168:13,16,19 185:4,7,10 213:5,8				
identified 90:22				
identify 77:20 216:3 217:9				
identifying 91:20				
ignore 115:21				
imagine 17:17 33:10				

31:25 126:13 176:23 231:23 integrity 48:10 95:18 intellect 161:8 intellectual 153:7 156:12 intellectually 131:12 intelligent 131:19 155:4 intend 33:1 Intent 26:12,16 48:18 49:8 80:7,11 101:11,18 136:3,6 156:20, 23 174:9,13 193:20,24 220:24 221:3 intention 206:3 intentional 112:9 intentions 92:8 interacting 126:17 interaction 177:18 interest 10:15 18:10 41:2 72:14 86:6 124:13 150:2 169:10 186:10 210:21 212:25 215:13 222:9 233:25 interested 67:3	interesting 76:7 94:2 130:17 137:21 209:1,2 228:14 229:4 intermediate 229:10 internal 231:25 internet 149:8 interpretation 114:10 interrupt 218:17 intervene 27:2 49:19 80:23 102:4 136:18 157:10 174:25 194:11 221:15 interview 79:2 232:8 introduce 15:21 39:2 83:24 124:21 169:18 213:4 introduced 15:19 introduction 48:23 49:1 investigate 185:25 212:18 investigated 10:7 18:2 40:20 72:6 85:24 124:5 investigation 27:11 50:2 81:6 102:12 137:1 157:19 175:9 194:19 221:23	232:5 investigations 231:25 investiture 201:25 invitations 182:14 invite 182:11,16 225:14 involved 83:19 95:4 104:25 106:24 119:5 190:11 231:10 232:8 involves 175:17 involving 219:17,20 IP 105:5 IRF 20:7 ironic 69:3 irrevocably 53:24 Irving 218:21 222:13 isn't 229:7 230:18 issue 50:22 90:24 93:10,13,15 95:3 96:4 100:3 101:13 112:10 118:13,15 119:3,4,13 143:19,22 152:13,14 182:21 201:1, 11,13 219:8	issued 99:25 111:18,19 112:15,20 113:3 issues 8:21 24:25 36:18,21 56:5 63:16 64:17 79:8 90:5 91:24 97:19 105:2,24 107:2 112:16 119:1 126:2,24 141:21 142:8 144:3 164:6 171:11 189:3 193:12 200:6 201:21 218:14 219:6 222:8 228:10 it's 114:1 125:1 126:15,21 127:3,17 128:9, 11,12,13,16,19, 25 132:22,24 134:4 135:4 139:1 141:12 142:4,5,18,22, 25 144:19 149:10 150:18 155:17 159:7,18 161:16 162:19, 20 163:18 164:17 165:13, 17 167:16 171:14 172:12 173:12 176:5,16 177:6,10,15,16 179:14 183:6 192:1 195:7 199:3,7 200:17, 22 202:1,9,13 205:7,13 206:1, 5 207:14 208:4	209:11 210:1 211:7 214:13,21 218:3 231:1,21 232:6 235:9 236:4 IV 167:13,16 I'd 37:5 105:19 119:20 138:1,2 169:17 181:20, 21 188:12 204:9 236:14 I'll 124:19 135:6,8 139:23 145:20 167:3 185:23 201:24 225:18, 19,22 226:22 I'm 125:16 127:11, 14,18 129:7,13, 14,24 130:8 131:2,5 133:5 135:2,3,7 138:4, 18 139:4 143:19 144:1,20,22,24, 25 145:1 148:24 150:17 154:21 155:18,21 157:11 160:10 161:17 162:10, 22 163:12 164:1,3 169:18 172:3,4,5,13 175:1,14,21 176:1 177:12,21 178:5 180:12, 19,20 181:18 183:11 184:12 189:2,9 190:11, 12 191:25 195:2,9 200:7,
--	--	---	---	---

24 202:1 203:9, 21 205:3,11 206:13 214:16 216:8,21 217:7 219:7 222:15 225:22	jacket 219:2 Jackson 52:6 jail 55:5 198:17 James 19:5 204:17 Janice 23:2,6 January 195:7 Jasper 19:23 46:25 jealous 161:14 jerk 143:24 Jessica 169:20 Jesus 52:18,23 55:17 JMSC 149:4 job 14:3 15:8 24:5 33:16 37:7 78:13 98:20 115:10 118:19 134:12 135:2 139:14 161:7 180:8 181:2 197:6 207:12 Johnson 78:17 232:15 join 71:5 joined 152:2 joining 214:3	jokingly 155:12 Jonathan 39:6 Jones 204:17 Josie 169:23 journal 137:24 Jr 78:17 jubilant 113:22 judge 8:4,8,9,11,15, 16,25 9:7,10,17, 19,22 10:2,6 11:1,6,11,12,13, 14,18,20,21 12:8,21,23 13:2, 4,5,6,9,16,23 14:1,3,14,20 15:5,9,10 19:12 21:16,22,25 27:25 28:5 30:9 35:10 37:6 42:18 43:15,22 44:1,20 52:3 53:8 58:1 59:4, 18,21 62:16 63:9 66:1,2,14, 23 74:3,16 77:4, 21,23 78:4,5,8, 10,12 87:18 88:6,13,21 89:4 90:6 96:22 98:16 99:24,25 100:6 103:16 110:17 111:18, 23 112:8 113:3 115:20 117:11	119:7,8,11 120:3 121:19 123:7,9,12,17 124:18,25 125:1,9,10,14 127:1,8 128:14 131:7,11,13,14, 17 132:7,16 133:9,18 134:1, 25 135:11,18, 21,22 136:2 137:6 140:7,8, 13,18,19 141:11 142:10 143:3 144:7 145:1,25 146:2,4,11,19 147:1,3,18 151:9 153:20,22 154:2 155:4 158:11,12 160:16 161:4,8, 15 170:23 171:8,12 172:2, 4,20 177:17,21, 23 180:18 183:12 187:12, 19,21,22,24 188:1 189:22 190:5,24 192:7, 16,18,20 196:8 197:7,11,15,16 199:17 200:12, 22 201:8,25 204:6,7,15,24 205:2 207:1 208:19 210:9 215:9,17 216:2 217:2,3,21,23 218:1,11 228:22 233:9,12 judge's 111:22,25	judges 13:3 28:15 31:13,15 32:21 37:21 45:1,6 59:5 62:6 68:4 82:8 88:17 91:1, 23 112:1,14 121:25 130:23, 24 133:6,22 134:21 142:25 160:23 161:2 171:15 178:24 179:4 192:19 202:14 208:17 judgeship 189:21 192:5,11 judge's 201:15 judgment 76:23 127:3 judicial 7:3 10:6 13:12 18:1 25:22 26:3, 7,8 40:18 47:23 48:13,14 72:5 75:10 78:2 79:20 80:3,4 85:22 98:14 100:24 101:5,6 124:4 131:19 135:17,22,23 143:22 155:9 156:5,14,15 170:25 171:6 172:22 173:22 174:4,5 186:2 190:20 193:11, 15,16 199:8 205:9 216:9 220:9,19,20 232:23 judiciary 12:3 21:12
<hr/> J <hr/>				
Jack 15:22 16:5 35:21				

22:17 75:15 100:8 152:10 153:5 172:24,25 178:14,21 182:25 187:24 189:1,8 193:2 205:3,8 216:22 235:4 juggle 83:17 141:6 200:8 July 78:24 132:3 Jumping 217:24 jumpsuit 228:15,16,17, 20,25 229:21 June 78:16 juries 29:3 jurisdiction 53:14 jurisdictional 50:22 126:4 jurists 161:20 jurors 126:18 161:5 jury 40:17 42:25 43:9 53:23 74:11 78:7 104:1,3 125:20, 21,25 126:16,20 129:2 133:3 137:11 138:24 177:2 justice 34:13 47:12 67:2,4,7 75:13	117:4 118:22 127:9 142:2 justify 96:20 Justin 138:9 juvenile 52:14 <hr/> K <hr/> Kahn's 138:9 Katherine 169:23 keeping 153:6 190:17 235:17 Ken 204:4 Kershaw 141:17 kick 210:6 kid 160:8 182:7 204:25 223:24 kids 37:17 91:15 222:14 kid's 165:20 kind 14:22 24:19 28:18 31:19,20 32:22 34:5 51:21 52:2 61:20,25 74:15 77:5 89:11 93:2 100:3 103:5 104:11 105:13 113:25 114:1	130:22 134:4 140:12 152:18 163:6,12,13,23 164:8 177:1,12, 15,16 187:15 188:2,4,6,14 195:13 203:16, 19,24 204:18 205:4,8 207:25 209:9,21,23 216:17 222:15 225:20 233:17 kinds 52:25 64:17 191:22 Kirby 127:1 132:7 knee-jerk 66:18 knees 54:15 knew 53:2 54:9 60:6 99:20 132:11 137:12 209:7,8, 20 223:3 230:24 knock 196:21 198:2 knocking 98:9 Knott 228:13,15 knowing 32:3 74:14 98:7 115:18 knowledge 16:24 43:11 90:11 99:22 100:12 114:7 172:7 knowledgeable 189:19	Kolb 66:16,23 kudos 164:21 Kuwait 8:16,19 <hr/> L <hr/> lack 60:23 67:14 88:23 102:24 110:20 115:4 154:23 155:9 159:17 180:17, 20 191:6 lacked 112:4 lacking 162:8 lacks 234:20 ladies 213:3,4,17 214:2 lady 226:1 laid 112:14 209:3 Lamark 78:17 landlord/tenant 154:9 large 95:11 96:3 120:15 146:24 largely 91:5 Lastly 192:4 lasts 108:5	late 20:18 201:2 Laura 84:1,2,24 law 14:6 15:23 16:1 17:16 21:7 28:17 37:17,20 43:16 44:15,23, 24 45:1,3 50:20 51:2 52:10 55:21 56:3 60:5 62:7,8 66:2 68:7 77:9 79:25 82:11,21 88:25 89:3,6,7,8 93:6, 8 96:6,17 98:4, 16 99:23 103:9, 23,24 104:5,21 106:2,24 107:8, 13 111:20 116:7 120:15,17,22 129:10 137:18 138:1,14 139:9, 20 141:12 144:1 152:22,24 153:4 154:4,17 155:5 166:15 169:25 170:3,4 172:7,9, 13 173:7 187:19,20 189:19 197:14 202:10,20,21 203:18 204:12, 13 216:4 217:8, 9 225:2,3,10,14 226:4,9,10 229:19 230:5,7, 18,22 law-enforcement 46:6 laws 10:12 18:7 38:7
---	---	--	---	--

40:25 68:16 72:11 86:4 122:14 124:10 147:9 149:24 166:16 169:9 183:20 186:6 211:1 212:22 219:18 237:8	222:16 leader 60:6 234:21 leads 88:7 leaning 54:3 learn 45:25 48:9 55:22 97:9 105:16 132:15, 17 134:10 146:10 153:3 172:6 180:22 learned 52:24 54:17 55:20 66:8 99:21 178:1 180:24 188:20 192:25 223:20 learning 52:11 129:13 139:4 143:2 162:19 215:23 223:19 leave 16:11 27:17 35:21 63:22 83:11 86:24 led 14:8 54:8 Leevy 232:15 left 137:14 160:20 225:15 229:16 leg 31:19 legal 7:24 19:9 37:8 42:15 44:10 68:2 70:18 74:1,	7 87:15,21 88:2, 15 90:8 91:24 97:23 98:1 125:11 126:24 133:20 140:22 142:8 151:7,12 154:19 170:20 187:9 215:6,18 Legette 38:21,22 39:1,4, 11,17,20,22 40:1,5,10,15,18 41:10,13,16,17 42:2,8,12,13 47:20 48:12 50:10 60:1,4 61:6,15,19,20 65:13 67:16 68:10,25 legislator 26:17 49:9 80:12 101:19 136:7 156:24 174:14 193:25 221:4 legislators 190:8 legitimate 118:6 119:1 Leigh 142:16 lend 187:16 lended 188:10 lengths 60:14 lenient 57:11 196:24 lent 46:16	lessons 51:19 letter 26:12,16 34:24, 25 38:7 48:18, 22,24,25 49:8 61:1 68:15 80:7, 11 82:21 101:10,14,15,18 122:14 136:2,6 147:8 156:19,23 166:15 174:9,13 183:18 193:20, 24 210:25 220:24 221:3 237:8 letters 34:23 35:6 61:21 84:21 108:25 145:2 letting 143:17 let's 143:12 180:2 level 126:14 131:23 levelheaded 79:23 levels 108:22 154:3 163:21 Leventis 142:17 Lewis 211:20,24 212:2,3,4,9,12, 15,16 213:7,10, 11,22 214:1,11, 19,20,22 215:1, 5,6 216:13 218:18,21 219:1,5 220:6,	13,19 222:6,11, 12 234:6,8 236:3,6,11,20 237:18,23 liability 20:1,13 152:15 188:7 liar 116:10 liberty 117:23 118:8 231:4 lie 92:20 lied 92:19 112:4 113:14 lien 17:4,18 liens 188:7 life 48:3 54:5,18 59:20 65:14 115:22 118:17 129:7 179:15 198:18 199:19 204:23 234:12 lifelong 169:19 lifestyle 202:10 lift 7:15 light 20:23 94:5 165:19 limit 126:4 216:23 limitations 23:16 26:22 49:14 80:17
--	---	--	--	---

101:24 136:12 157:4 174:19 194:5 221:9 limited 135:19 205:13 220:14 Lindi 149:1 lining 64:19 link 100:8 Lion 219:5 list 223:17 listed 92:16 94:22 97:13 listen 21:24 22:21 34:12 57:19,20, 21,22 116:15 171:9 201:18 225:9 literally 111:24 152:13 litigant 79:5 133:14 litigants 75:11 78:8 126:10 128:11 138:16,23 139:21 152:21 171:9 189:3,4 201:22 litigated 76:14,18,20 152:12 litigation 19:22 33:18 75:14 76:12	87:20 88:10,11 94:1,2 95:4 96:4 113:25 116:7 151:19,20 152:1,4 226:17 227:1,7,10,14, 17 litter 59:11 live 180:25 lives 206:10 living 29:9 77:21 loading 8:7 local 180:10 182:12 186:18 long 14:6 35:7 50:14 75:24 79:10 92:11 97:3 127:21 139:12 143:21 148:9 150:12,14 179:1 195:5 207:14 210:5 222:14 228:18 longer 55:15 176:17 183:1 210:17 223:8 looked 33:11 51:10 60:21 90:20 114:8 140:24 165:5 226:18 lookout 131:2	Lord 52:22 lose 13:4 53:4 55:5, 23 56:1 93:19 109:25 118:19, 20 loss 13:5 lost 96:19 lot 28:3,10 35:4 37:9,16 51:5 61:22,23 63:13 64:20 65:24 75:23 76:24 81:19 82:10 86:20 95:5 108:17,20 110:8 116:9 118:5 121:1,2 125:24 126:2,7,9 127:12 128:22 134:21,25 138:23,24 140:1 145:12 151:22 162:14 165:22 166:7 170:3 173:6 176:17 177:10 178:1 180:10 182:19, 22 183:9 188:3, 16 198:24 203:14 205:14 209:4 227:25 230:14 231:10 233:6 lots 35:11 196:2 love 65:14 74:5	96:19 153:3 161:15 169:24 213:11 loved 56:16 Lovely 213:20 loves 61:9 Lowcountry 25:18,23 47:19 60:10 79:14 156:1 164:14 lowest 30:21 luck 38:17 67:15 luckily 153:1 lucky 117:25 182:1 lumped 99:14 100:9 lunch 69:16,17,23 <hr/> M <hr/> mad 139:18 154:12 made 7:23 9:25 16:10 17:2 65:3 66:22 67:11,21 70:19 106:22 139:17 149:5,11 162:5 212:14 218:24 223:17 Madison 169:15 170:11 magistrate 74:10 125:10,17	127:23 128:1 129:1,20 131:15,17 132:4,8 133:1,6 138:23 139:14 200:10 206:6 magistrate's 64:1 magistrates 128:3 202:14 magistrate's 130:4 173:9 198:20 206:19 magnitude 224:17,23 main 95:17 majority 13:1 89:6 188:9 make 9:20 10:18 14:5 17:25 18:13 21:8 22:21 24:6 28:21 29:9 39:14 41:6 46:19 60:24 63:7 64:13 67:13 69:1 72:3, 17 74:16 84:12 85:12 86:9 90:6 93:4 98:18 107:5 114:25 116:11 117:13 124:17 128:21, 24 134:10,14 139:10,19 144:13,14 145:1 148:14,15 149:1 150:6,8 154:18 165:21 168:6 169:14 172:23 178:8 179:22
---	--	--	--	---

183:8,11 184:20,23 186:13 189:22 190:4 202:4 203:4,14 210:19 212:10 214:6,9 217:2,3,21 232:9 234:22 235:6 236:14 makes 57:2 96:25 113:6 129:19 161:5 198:5 making 9:24 17:21 40:12 71:23 93:7 94:13 110:15 123:13 127:19 128:20 134:4,13 154:11 179:17 206:10 mal 115:25 Maldonado 17:3,13 18:22 19:1,8 22:25 27:9 male 99:2 mama 14:23 man 58:19 140:12 149:5,6 182:8 manage 43:17,18,23 62:13 63:1 203:4 managed 62:6 management 43:16,17,21	155:8,13 manager 43:20,21 165:18 manages 43:23 managing 62:22 mandatory 24:2 manner 118:23 218:7 Manning 140:7 233:9 manual 77:14 March 78:23 Marie 99:11 Marion 204:16 mark 10:4 marked 10:20,23 18:15, 18 41:8,11,14 72:20,23 73:1 86:11,14 105:10 123:20,23 124:1 150:10,13 168:13,16,19 185:4,7,10 213:5,8 married 169:20 222:7 Martin 204:5 Maryland 225:16 226:25 227:2,5,12,21 228:8 229:11	mask 39:10 148:2 213:24 masked 213:3 masks 213:18 mason 224:4 master 76:22 77:8,11 97:22 152:24 Masters 95:21 material 112:9 materially 118:17 materials 10:11 18:6 40:23 72:10 86:2 107:23 124:9 149:23 169:5 186:4 212:21 maternal 161:16 matter 53:14 56:14 65:17 202:16 233:16 matters 28:2 30:10 32:8 75:19 79:1 152:9 154:15 156:13 177:9 191:7,23 219:17,18 maturing 225:12 Mauldin 11:22	Maura 149:1 150:7,22 159:11 Maura's 164:13 ma'am 175:5 211:22 218:19 226:5 Mcangus 100:5 108:8 Mciver 60:2,3 65:4 Mcleod 123:1,22,25 124:3 means 22:12 63:21,23 133:11,12 meant 46:13 47:1 51:15 66:7 69:2 measure 113:23 measures 109:3 meat 91:13 mechanics 188:7 med 115:25 media 90:15,24 91:1 114:2 median 37:22 mediation 24:20 25:7 217:16 231:11 mediations 25:5,11,16	29:17,18 mediator 216:17 217:11 medium 96:24 meek 155:18 meet 183:10 209:14 214:21 meeting 70:9 148:24 158:2 meets 19:5 42:8 73:21 87:9 125:6 151:2 170:16 187:5 215:1 member 102:17 152:10 174:10 207:8 208:8 234:13 members 13:23,24 23:4 26:13,22 27:1 42:3 48:19 49:4, 14,18 54:21 56:20 60:13 62:23 63:2,12, 18 76:19 80:8, 18,22 101:11, 16,24 102:3 136:3,12,16 137:5 156:20 157:4,8,24 174:19,23 180:11 181:4 193:21 194:5,9, 23 211:17 220:25 221:9,13 222:2
---	---	---	---	---

memorandum 93:20 94:18	85:22 124:4	mirror 113:9	47:11 55:8 126:8 154:11 203:14	127:5 128:22 129:3 130:8 133:4,21 152:16 196:13 199:10
memorandums 93:9	message 91:7	misconduct 232:6	money- 206:9	motivates 129:23
memories 65:25	met 58:19 93:16 149:15 208:10 230:11	misdeemeanor 103:11	monitor 30:5	Motor 84:3 231:16
memory 175:17 176:1	MGC 100:7,9	mispronounce 236:2	month 228:6,9	Mottel 73:9,10,11,14
mental 13:15 25:25 48:1 63:16 79:17 100:19 119:17 121:11 135:14 156:8 173:24 193:7 197:20 220:12	mid 108:5,6	misrepresenting 110:22	months 45:9 54:20 153:1 160:6 163:25 165:5,23 173:12 188:2	MOTTLE 73:24 79:13
mention 57:8 114:16 203:17	middle 53:7 145:19 163:19 235:24	missed 17:16 23:8	Morgan 204:5 213:12	move 7:25 24:24 30:13 73:8 101:2 119:18 120:4 121:8 128:24 133:4 174:2 200:1,15 201:7 208:11 235:20 237:24
mentioned 56:3 58:15 110:24 117:21 160:19 206:14	Midlands 100:16,25 135:10 220:5	missing 23:16 181:6 187:23	morning 7:4 8:24 9:9 11:14 15:12,14 24:13 39:13 42:13,14 129:17 191:19 201:4 211:19	moved 28:20 29:14 146:8 151:24 228:4
mentioning 122:5	mike 148:14 210:18	mission 95:17	mortgage 191:21 224:19	movement 176:22
mentor 90:10 133:5 142:16 206:3	military 11:15	mistakes 132:18	mother 54:24 56:15 165:25 223:16 225:25	moves 7:5,14 35:25 36:9 69:17,24 70:10 210:17
mentors 142:15 144:4,15 192:17	military's 13:4	Mitch 35:1,2	mothering 165:22	moving 29:3 154:15 159:22 160:12 171:20 179:25
merciful 52:16	mind 22:1 65:21 133:11 135:1,6, 7,8 138:14 204:11	mix 177:8 206:13	mothers 59:16	MS.LEWIS 235:5,22
mercy 51:18 52:5,13 53:6	mine 14:9 177:22 191:2	mock 87:23 91:5 92:3 107:11,18	motion 30:22,24 64:23 93:16,23 97:8 115:19 127:3,4 128:20 237:25	Mullen 59:21
Meredith 125:15 148:9 150:12,14 151:2	minimal 163:23 164:1	modulate 235:20	motions 43:3 62:17 64:21 103:20 119:2 126:20,21	multinational 152:14
Merit 7:3 10:6 18:1 40:19 72:5	minor 103:11	mom 39:13 165:17 223:8,17,21 225:24		
	minority 208:16	moments 95:11 110:6		
	minutes 201:2	moms 165:14		
		Monday 62:9		
		money		

multiple 61:7 74:10 111:6 112:1,13 143:7 188:8	<hr/> N <hr/>	90:14 96:20 140:5	nobody's 61:25 78:7	165:24 170:12 173:17 175:7 187:1 193:3 194:17 214:23 220:5 221:21 231:13 232:12
municipal 11:21 74:11 128:1,3 143:9, 11 200:9 202:14	named 79:2 204:16	negatives 60:22	nobody's 154:11	
municipalities 20:4 199:3	narcotics 20:22	negligence 20:14	noise 97:7 168:1	
Murdaugh 34:24	narrow 32:16	negligent 19:25	nolle 47:7	noted 13:15 104:24
murder 20:20 74:22 152:17 188:8 192:1 204:4 206:14,15,17	nation 44:25	negotiations 43:3	nominate 84:21	notice 30:16 145:2 199:7
murdered 236:10	national 230:20 231:21 235:18	negotiator 97:22	nominated 158:10	noticed 51:12 85:13
murders 76:4	nation's 235:11	Nelson 91:9	non-commission 101:16	notion 65:16 67:12
Murphy 7:14 35:25 60:2 61:17,18,19 69:17 102:19, 20,21 114:15, 16,21,25 115:6 140:16,17,18	natural 26:3	Nettles 177:21	non-jury 45:6 129:2 196:12	Nowadays 25:5
Murphy's 117:10,18	naturally 96:25	neutrality 217:20	nonetheless 16:11 199:9	nuances 89:16
Murrell 150:22 186:15	nature 26:3 94:1 95:4, 15 96:3 99:13, 16 112:16 130:21	Newman 66:1,2,14,24 161:8	normal 219:22	number 10:20,23 18:15, 18 41:8,11,14 62:5 63:24 72:20,23 73:1 80:1 83:17 86:11,14 104:15 111:21 113:8 115:3 123:20,23 124:1 129:17 140:25 141:7 150:10,13 163:25 168:13, 16,19 185:4,7, 10,24 201:18 206:7 213:5,8 215:12,15,18 216:7 222:6
MUSC 30:6	navigate 198:21	news 190:25	norms 154:20	
myriad 188:6	necessarily 60:23	newspaper 10:13 18:8 40:25 72:12 86:4 124:11 149:25 169:7 186:6 212:23	not- 53:23	
Myrtle 208:1	neck 30:13	Nexsen 230:3,10	notably 146:18	
	needed 88:23 89:24 118:24 183:23 198:15 203:2 208:21	nice 37:4,23 68:1 181:19	note 13:7 19:1 25:18 27:9 38:11 42:4 47:19 50:1 68:19 73:17 79:13 81:5 82:24 85:18 87:5 99:14 100:15 102:11 116:21 117:17 122:18 125:2 135:10 136:24 137:8 142:3 147:12 150:23 156:1 157:17	
	needing 24:22	night 15:24 57:25 108:2,5 223:23		numbers 24:11 139:15 229:22
	needle 197:4	nine- 166:2		numerous 20:16 42:25
	negative 12:25 71:3 76:9	Ninth 158:9		

45:21 203:1 212:6 nursing 20:13	offender 53:23 offenders 46:14,15 198:12 offer 22:8 37:5 44:15 46:8 75:20 108:21 131:25 155:10 173:4 190:10 235:1 offered 110:17 169:11 offering 14:14 34:15 35:13 37:2 38:1, 15 61:14 67:10 68:9,23 83:3 140:19 147:16 182:2 211:15 232:21 offers 61:7 office 22:13 54:8 63:10 115:13 153:11 176:15 199:5 226:12,14 227:5 228:12 officer 106:21 107:4 143:14 officers 122:2 official 92:4 190:12 219:20 oftentimes 223:23 older 129:12 178:18 223:13,14 224:2 234:20	oldest 84:16 one-attorney 120:16 ongoing 92:7 online 104:16,17 open 22:1 38:11 64:11,12 68:20 82:25 122:18 133:11 140:10 147:13 166:20 184:1 207:7 211:7 219:8 233:10 opened 133:18 opening 10:18 18:13,20 41:6 72:18 86:10 106:19 124:16 126:15 150:8,16 169:14 186:13,19 214:7,9 openings 233:8 operate 171:1 operating 172:10 opinion 88:7 235:3 opponents 34:5 opportunities 164:1 197:23 opportunity 11:2,4,24,25 16:12 17:19	23:17 38:4 41:22 54:21 60:18 68:12 82:17 110:13 111:11 122:11 124:20 147:5 150:6 169:14 170:9 172:8 179:16 184:7 214:6 217:12,17 opposed 7:8,19 36:4,13 69:20 70:3,14 opposing 90:16 96:1 115:21 217:16 opposite 34:2 95:23 116:25 130:25 opposition 10:16 18:11 41:4 72:15 86:7 124:14 150:3 169:12 186:11 213:1 orange 228:15,16,17, 20,25 229:21 order 29:9 70:9,10 88:20 99:25 111:22 112:1,8 113:4 143:8 172:1 orders 24:18,23 25:2 112:2,13,15 orientation 83:12 original 42:6	originally 151:11,24 outcome 26:18 49:10 80:13 101:20 136:8 156:25 174:15 194:1 221:5 outright 43:8 outset 208:8 outstanding 13:6 61:4,13 108:24 131:15 139:14 over-scheduled 64:14 overcharged 103:15 overly 138:22 143:1 overrun 58:15 overused 160:18 owning 172:11
				<hr/> P <hr/>
				p.m. 119:24 238:4 package 104:12 packed 173:13 packet 53:10 102:23 107:21 pad 142:3

pages 10:21,24 18:16, 19 41:9,12,15 72:21 73:2 86:12,15 123:21,24 124:2 150:11,14 168:14,20 185:5,11 212:6 213:6,9	part 9:25 16:12 20:9 28:13 31:15 33:12,17 40:13 56:9,19 58:21 71:24 72:4 107:11 115:1 117:5 123:15 134:12 135:2 146:24 149:11 153:4 161:6 184:24 197:18 207:21,22 208:5 209:24 212:14 217:13 218:23	passed 61:7 135:4 223:8 226:7	19 100:10 104:24 125:4 148:19 150:25 168:3 170:14 187:3 206:13 212:7 214:24 224:9	66:8 68:5,6 69:9,10 76:10, 14,25 77:2,16 79:10 82:10 98:17 109:1,10, 25 110:6,19 115:3 117:15 139:16,25 140:1 146:11 154:21 158:17 160:2 161:19 162:6,9, 12 179:21 180:11,14 183:1,9 188:22 189:5,6 192:22 197:1,3 198:10 202:2,12,19 206:7 209:22 210:8 224:6 227:25 230:24 232:17 233:4 234:15
paid 63:25	part-time 11:22 56:12	passing 135:7	Pearce 41:25 42:3,12 47:19 50:1,6 60:8	perceived 92:14 99:1,3
pain 53:20	participants 81:24	passion 54:12	pecking 143:8	percent 89:7 104:3 176:7
painstaking 46:18	participate 57:4	passionate 79:25	pediatric 30:6	perfect 12:5 110:5 180:19
pan 163:14	participated 185:2	past 58:19 76:14 84:17 90:25 92:25 94:12 129:1 162:5,13 188:10 215:11	Pee 173:17 185:15, 20 193:4 208:25	perfectly 97:10
pandemic 64:19 84:6	participating 60:25 183:16	pat 45:22	peers 44:10	performance 61:2
panelists 220:2	parties 26:25 49:17 80:21 95:8 96:23 102:2 105:21,24 136:15 143:17, 18 157:7 174:22 194:8 221:12	path 162:25 187:15 237:2	pen 67:7	period 108:9 152:25 224:13
Panera 231:20	partner 23:2 66:2 230:3	pathway 146:18	penalty 59:22 151:16	persistent 164:23
paper 17:11 195:5	partnership 154:10	patience 96:11 188:25	pending 26:18 49:10 80:13 100:14 101:20 136:8 148:23 156:25 174:15 191:20 194:1 221:5	person 43:23 44:6 45:12 46:16
papers 159:2	party's 143:24	patient 189:2 216:18	people 12:12,18 14:15 20:19 22:20 29:12,18,21 34:9 37:4,6,7,23 43:14,18,25 47:16,17 48:7 51:5,7 52:24 53:1,7 55:4,5 56:5,22 57:2,7, 8,9 59:1,2,7	
par 153:2	pass 51:8 115:11 133:21 224:25	pay 17:19 127:13 232:23		
paragraph 65:5		paying 105:13 141:23 184:15		
paralegals 120:16		payroll 37:18 172:12 183:8 203:4		
parent 143:6		PCR 77:13,14		
parents 39:11,12 181:14 223:5,7,10 224:19,24 225:8		PCRS 153:14		
parks 207:9		PDQ 19:3 42:5,6 72:3 73:19 87:7 99:9,		

53:4 56:15 57:13 58:3,11, 12 90:4 96:13 97:1 104:18 125:1 155:23 163:12 178:20 186:17 189:2,18 209:23 214:21 226:9 233:17	persuaded 133:12 persuasive 229:20 Pete 34:17 234:25 235:12 phenomenal 90:9 224:10 Phillips 84:15 philosophy 28:19 57:18 62:22 phone 115:17 119:22 120:8 143:21 150:19 165:21 205:6 225:25 226:2 phones 149:8 phrase 112:7 160:17 physical 13:14 25:25 48:1 79:16 100:18 135:13 156:7 173:24 193:6 220:11 pick 59:11 138:11 picking 152:7 158:19 160:8 pictures 91:3,13,15 piece 233:16 pillars 205:22	Pinckney 39:7 PINCKNEYS 39:9 Pinkney 39:5,6 52:21 69:13 place 64:5 108:18 179:18 198:21 223:3 plaintiff 78:22 94:3 plaintiff's 19:14 20:10,15 22:14 27:22 76:12 plaintiffs 25:14 28:9 47:18 plaintiff's 32:3 33:18 34:25 35:5 230:25 232:14 plan 104:13 153:10 planning 195:11 play 188:23 plays 140:11 233:14 plea 43:2 52:5 57:24 143:13 pleading 103:25 pleadings 45:5 77:18 112:25 pleads 24:12	pleas 44:18 62:21 74:9 126:3,8,23 128:7 173:10 196:10,12 200:11 pleasant 101:1 pleasantly 146:8 pleasantries 49:6 pleasure 41:19 75:7 214:13 215:10 pled 54:25 pledge 26:17 49:9 80:12 101:19 136:7 156:24 174:14 193:25 221:4 pledging 27:6 49:23 81:2 102:8 136:21 157:14 175:3 194:14 221:18 Pleicones 142:2 point 27:17 46:25 49:6 55:9 60:15 62:2 90:18 92:12 93:7 97:23 114:18 117:17 120:20 121:17,18 123:19 124:18 138:7 162:5 163:14 188:4 198:15 203:16	235:23 236:14 pointed 60:9 points 107:5 166:6,7 pole 30:21 police 51:24 polite 75:10 politics 179:6 190:12 popped 161:19 popular 52:19 158:19 208:23 portion 38:2 68:11 82:16 122:9 147:4 166:12 181:6 183:14 204:23 210:22 237:5 posed 150:7 position 19:6 37:2,5 38:1,15 42:10 51:23 68:9 73:22 82:6 87:10 103:2 120:2 125:7 151:3 170:17 180:13 182:12 187:6 192:6 208:12 211:15 215:3 228:5 positions 98:12 186:2 208:15
---	---	--	--	---

positive 13:1 21:6 44:6 75:5 90:3,8 131:10 155:2 172:18 179:14 189:15 216:17	45:1,3 46:23 51:1 55:21 62:1, 23 73:23 77:17 87:11 89:9 95:16 107:8,13 120:14 125:8 126:21 127:17, 25 129:12 141:12 151:4 152:4 170:2,18 171:4,14 176:3 177:5 183:4,5 187:7 188:9,12, 15 189:19 190:3 191:12,17 192:22 195:18, 19,22 198:25 202:20,25 203:6,12 204:15 206:13,23 215:4,14,24 217:14 218:8 219:22 228:2 230:23 231:2,9 233:23	144:8 175:19 practitioners 62:24 64:22 141:10,20 142:19 144:18 145:8 praises 65:5 pray 211:9 prayer 58:9 precious 55:7 precocious 97:18 predecessor 126:25 prefer 153:9 prejudice 78:18 premises 19:25 20:13 prep 107:20 preparation 104:9 129:5 prepare 93:9 103:2 107:22 prepared 24:12 73:7 88:20 103:1 155:5 172:1 176:19 prepping 106:17 presence 78:3 present	10:17 18:12 41:5 43:9 72:17 84:23 124:15 150:4 165:14 186:12 presentation 67:22 112:23 presenting 94:12 95:22 presents 77:4 preside 103:3 125:19 126:16 presided 125:21,23 126:19 president 84:18 presiding 129:2 pressure 29:13 121:12 pressures 32:2 prestigious 226:9 presume 8:24 9:13 28:9 37:18 51:15 181:17 198:24 199:14 presumed 118:25 presuming 28:7 presumption 229:3,23 pretty 34:4 45:15,24 134:22 182:14 213:18 219:7,19	232:11 233:25 previous 10:14 18:9 41:1 72:13 86:5 124:12 150:1 169:6 186:7 212:24 previously 90:21 151:10 pride 166:1 principles 197:8,10,12 prior 21:19 26:18 32:16 43:15 47:3 48:21 49:10 80:13 100:13 101:14, 20 111:25 136:8 156:25 174:15 185:14,15 194:1 195:12 206:4 221:5 prioritize 33:5 priority 62:21 prison 56:23 57:13,14 58:23 66:5 79:10 prisoner 78:15,18,20 prisons 57:1 58:15 private 63:6,12,18 115:6 127:17 142:19 171:3,14 183:3,4,5 215:14 233:23
--	---	--	---	---

privilege 11:23,25	97:9 99:22 102:5 108:16 109:15 122:10 130:7 136:18 139:11 146:9 147:4 149:15 152:22 157:10 158:18,25 159:4,7 160:12 162:20 166:13, 19 174:25 179:24 183:22 185:1,14,23 194:11 208:14, 20,25 209:9 210:23 212:17 221:15 237:5	program 91:6 98:15 103:10 107:12 231:7 programs 197:18 progress 177:5 progressed 52:2 promised 159:24 192:15 promote 98:11 promoted 54:7 promotion 61:7 pronunciation 236:10 proper 88:12 89:16,17 94:25 property 151:21 152:6 154:9 165:17 prosecutable 46:20 66:23 prosecute 46:14 58:21 66:4 104:8 prosecuted 47:7 54:22 58:22 65:23 196:19 prosecution 51:14 58:22 prosecutor 42:21 44:8 46:13 52:14,17 53:3,17 55:15 57:21 62:3 67:2	189:23 prosecutors 56:6 63:19 198:1 prossed 47:7 proud 65:13,23 113:22 180:9 224:7 233:1 234:17 proudly 21:12 prove 161:12 proven 81:23 provided 79:21 Pruet 230:3,10 public 15:25 26:4 48:4 56:12 57:9 63:19 99:5 103:19 106:13, 14,25 115:9 125:24 127:17 130:11 140:22 141:1 144:8 146:16,18 153:18 176:9,14 177:19 178:3 179:16,17 180:1 195:10 196:23 207:4,13,19 215:13 219:20 228:20 233:21, 25 publications 138:10 139:6 publicized 219:20	publicly 106:16 published 139:7,8 publishes 77:14 pull 77:18 188:14 pulled 33:3 141:6,13, 25 200:21 punish 118:23 punishment 59:13 pure 206:3 purpose 118:22 purposes 7:24 10:21,24 18:16,19 41:9, 12,15 43:7 72:21,24 73:2 86:12,15 123:21,24 124:2 150:11,14 168:14,17,20 185:5,8,11 213:6,9 pursuant 38:4 68:13 82:18 122:11 147:6 pursuit 207:19 push 28:20 155:19 230:15 put 94:18 100:10 121:12 148:22
pro 106:8,11 126:9 128:11 133:14 138:16,23				
pro- 46:5 47:10,12				
pro-anything 47:11				
pro-justice 47:10,13				
pro-plaintiff 21:16 33:14,16				
probate 173:9 177:10				
probation 59:8 196:12	product 188:7			
problem 22:3 96:25 118:3 120:9 155:13 202:9	products 20:12			
problems 207:23	profession 37:8 63:17 68:2 87:21 88:2 91:24			
procedural 153:13	professional 13:11 19:10 25:21 42:15 47:22 74:1 79:19 87:15 91:20 95:13 100:23 125:12 128:10 135:16 151:7 156:4 170:21 173:20 187:10 193:9 215:7 218:4 220:8 234:12			
procedure 39:13 46:1 50:21 128:9 130:3,19 228:10				
proceed 69:17				
proceeding 76:22 238:3				
proceedings 12:19 192:3				
process 16:9 27:3 38:3 49:20 57:16 68:11 78:19 80:24 82:17 89:12 96:12	professionalism 44:10 95:18 professor 91:21			

159:9 160:3,15 164:9 168:7,10 171:16 181:9 182:3 185:23 212:11 213:19 222:4 putting 79:9 94:14	quality 171:8 178:20 199:19 235:3 question 17:6 22:4 42:19 44:17 50:21,24 52:9 55:18 60:4 63:3 65:18 74:4 94:16 98:2 99:15 131:6 144:4,9 164:9 195:9 208:7 209:13 217:1 questioned 162:13 questioning 27:12 50:4 81:8 102:14 115:5 137:2 157:20 175:10 185:15 194:20 221:24 Questionnaire 9:11 10:5,21 16:19 18:16 39:23 41:9,13 71:12 72:21,25 85:6 86:12 123:4,21,25 150:11 168:14, 18 184:19 185:5,9 213:6 questions 11:9 13:21,22 15:1 18:24 26:6 27:13,15 31:6 35:17 36:22,25 41:25 48:12 50:5,8 60:1 67:18 73:13 80:2 81:9,11,19, 21 86:22 101:3 102:16,18 122:6 124:23 137:3,4	145:24 147:2 150:7 157:22,23 161:11,24 169:16 174:3 175:12 181:3 183:16 186:16 194:21,22 205:17,25 209:5 214:8,16 222:1, 2,16 226:23 232:12 236:25 question's 187:13 quick 35:20 45:12,15, 23 85:20 138:12 235:8 quicker 73:9 quickly 12:4 45:19 48:9 66:1 134:22 228:13 quiet 78:2 quote 13:16 22:7 48:3 142:1	132:5 136:25 157:18 175:8 194:18 221:22 Ralph 204:5 rambling 189:9 rambunctious 97:18 ran 192:13 198:20 range 30:24 127:5 188:17 Rankin 9:9 147:20,21, 24 148:4,8,11, 14,18,21 149:4, 10,14,17,19 150:21 157:23 158:1 161:24 164:12 165:1,8, 12,24 166:10 167:1,4,6,9,12, 15,18,21,23 168:6,9,23 169:1 170:11 175:13,14 178:12 181:3 183:14 184:10, 13,18,23 185:1, 17,20,22 186:21 194:22 205:17, 18 210:3,16 211:12,19,21 212:1,3,5,10,13, 16 213:17,23 214:2,17 218:17,19,24 219:4 222:2 234:5 235:6,23 236:4,8,12,19,	21,24 237:21,24 rap 178:9 rapt 184:15 rate 29:1 re- 104:23 re-listen 219:24 re-post 91:8 re-posted 91:10 re-tweet 92:3 reach 96:23 201:17 209:16 reachable 144:23 read 60:20,25 77:18 99:17 104:20,24 105:9 111:24 113:3,13 130:18 153:3 189:16 195:4 223:20 226:3 228:7 reading 45:4 105:20 153:2,7 222:17 223:12 ready 23:21,24 121:22,24 149:10 real 28:3 35:20 55:4, 5 74:12 75:8 82:12 138:12
Q		R		
qualifications 10:8 13:14 18:3 25:25 38:12 40:20 48:1 60:15 68:21 70:21 72:7 79:16 83:1 85:24 100:18 122:20 124:6 135:13 147:14 156:7 166:21 173:24 184:3 193:6 211:6 220:11 237:14 qualified 13:9,13 19:11 25:20,24 35:11 42:16 47:21,24 74:2 79:15,18 87:16 98:21 100:17,20,21 125:13 135:11, 14,19 151:8 155:3 156:3,6 170:22 172:3 173:19,22 180:13 187:11 193:5,8 210:2 215:8 216:18 220:7,10,15 232:18				

154:9 169:25	174:14 189:13	123:15 125:2,5	referenced	rehabilitated
real-	193:25 216:14	136:24 147:13,	227:24	198:16
198:17	221:4	19 148:22	references	Rehabilitation
reality	recent	149:5,12,19	232:13	59:13
143:9	54:20 58:18	150:24 151:1	referred	reins
realize	recently	157:17 166:20	76:21	188:3
195:4 224:16	25:4 95:16	167:7 168:7,10	referring	reiterate
realized	104:18 165:2	170:13,15	90:22	61:20 67:19
138:4	176:20 231:10	171:17 175:7	reflect	related
realm	recess	181:9 182:3	40:6 44:22	29:16 92:9
67:15 165:12	69:22 228:21	184:1,9,24	54:13 95:2	156:8 173:25
reappointed	recognition	185:23 187:1,4	218:9	188:21 190:22
127:10	93:5,6	194:18 211:6,18	reflected	relates
reason	recognize	212:11,14	90:14 112:12	21:20 30:9
105:22 119:23	33:3	214:23,25	reflective	relating
143:1,15,24	recognized	219:24 221:21	58:10	91:24 112:2,16
171:17 177:10	44:9 63:15	222:5 237:13	reflects	relational
223:12 235:1	recommend	recover	218:7	48:6
reasonable	98:12,16,18	181:7	refresh	relationship
34:8,9,11,12	recommendatio	recusal	105:15 176:1	34:4
reasoned	n	135:1	refresher	relationships
217:22 220:1	35:7 84:22	recusals	89:14	198:7
reasons	recommendatio	134:20	refusing	release
24:11 119:1	ns	recuse	119:5	38:12 68:20
rec	108:25	134:22 182:5	regard	83:1 119:2
207:9	reconciled	recusing	25:3 28:19	122:19 147:14
recall	203:5	135:3	89:11 146:7,22	166:21 184:2
92:13	record	red	154:16 159:16	211:5 237:14
receive	7:14 9:25 13:8	94:5	163:3 210:25	released
107:21	15:11 19:2,4	reduction	219:6	211:7
received	27:10 36:16,20	118:7	Regina	remain
10:15 12:22	38:11,19,20	reductions	211:24 212:3	38:11 68:20
18:10 21:3	40:13 42:4,7	89:20	213:7,9 215:1	82:25 122:18
26:17 41:3 44:2	50:1 68:20	reelected	216:18,23	147:13 166:20
49:9 70:18	71:24 73:18,20	179:7	222:13 223:23	211:7 222:8
72:15 75:2	75:25 79:13	reelection	234:21	remained
80:12 86:7	81:5 82:25 83:6	166:1 179:9	Register	177:6
89:25 91:9	85:19 87:6,8	reemphasize	204:5	remaining
101:19 124:13	99:5 100:15	60:11	regular	164:4
131:7 136:7	102:11 106:22	reference	177:23	remains
154:24 155:16	108:24 115:1	61:1,21 90:23	rehabilitate	184:1
156:24 172:15	117:21 122:18	145:2	58:17	

remark 50:9	14,23 69:21 70:4,15 81:12, 22 122:7	145:24 147:2 181:5,12,17 182:1 194:23,25 206:8	requisite 76:6	51:13 66:18 75:20 115:5 119:6 131:25 155:9 173:3 190:9 217:1
remarked 28:23	report 38:12 68:21 78:14 83:1 122:19 147:14	representatives 190:14 191:1	reside 233:11	responses 12:23 44:4 112:25
remarks 164:22 237:4	reported 13:9 25:19,23 47:20 60:10 79:14 100:16 135:11 156:2 173:18 193:4,7 220:6	represented 19:24 20:1,11, 19 32:7	residence 19:7 42:10 73:23 87:11 125:8 151:4 170:18 187:7 215:3	responsibilities 202:20
remember 31:13 82:4 109:12 138:1 158:2 162:3 166:19 175:15, 16 189:9 200:5, 16,23 202:7 204:7,18	reporter 148:1 213:24	representing 20:3,4,6 66:25 94:7 103:13,14 116:4 235:15	resident 59:5 169:19 233:13	responsibility 88:6 190:23
remind 38:4 68:12 82:18 122:11 147:5 201:10 237:6	reporting 32:1	reputation 12:9,12,14 13:12 21:13 25:22 34:21 47:23 79:20 100:24 129:10 132:23 135:17 156:5 173:21 193:10 203:13 209:8,10 220:9	resolution 95:9	responsible 46:24 47:2
reminded 166:13 183:17 210:23	represent 117:4 162:15 179:21 214:4 231:15 235:10, 14,19	request 30:4,9 109:2 127:15 143:4	resolve 119:3 120:5	responsive 131:12 143:20 144:1,2
remotely 8:25 11:3 14:12 71:5	representation 106:8,11 188:18	requested 186:12	resolved 23:15 30:20 222:7	rest 129:7 132:21,25 141:2 164:9 181:18
removed 190:19	representations 111:22	requests 127:20	resources 216:10	Restaurant 231:19
renders 19:10 42:16 74:2 87:16 125:12 151:8 170:21 187:10 215:7	representative 7:14 8:1 35:25 60:2 61:16,18, 19 69:16,20,22, 25 83:15 87:3 102:17,21 108:12 114:15, 16,21,25 115:2 122:8 123:3,8, 10,13,18 124:4, 22 137:4 140:16,17,18	require 95:9 188:16	respect 12:1 21:23 22:20 44:9 109:1 164:4 192:19	restaurants 231:22
rental 160:6		required 35:24 159:1 197:11	respected 154:20	result 23:4 88:4 95:9
repeating 96:9		requirements 19:6 42:9 73:22 87:10 125:7 151:3 170:17 183:10 187:6 215:2	respectful 12:15 155:6	resulting 20:24
replacing 132:7			respectfully 133:23 134:3	resume 67:20 183:2
replies 7:9,20 13:25 15:2 35:18 36:5,			respects 154:21 179:1	resumes 147:20
			respond 21:17 133:19 192:8	retailers 231:21,24
			responding 115:19	retained 20:7
			response 22:8 44:15 46:8	retired 8:4 11:18 12:3 13:17 14:14 59:6 77:24 177:24

retirement 178:25	ride 155:11	163:4 187:21 209:7	6 133:3 140:1 158:13,15	236:12,13,23
retiring 140:7 233:9	riding 8:17	ROSS 124:24 125:2,9 135:10 136:24 214:18,21,23 215:5 220:5 221:21	159:23 162:6 171:1 176:19 179:9 183:6 207:5,9 217:6 232:24 233:6,7	Sabb's 83:11
return 143:20 233:21 234:1	ripples 160:20			sacrifice 65:19 206:9
returned 226:6	rise 109:18	roster 199:6,10 201:18	running 46:24 62:8 107:11 108:21 118:15 141:22 148:25 158:7,13 168:1 190:5 201:2 203:6,20 216:21	safe 69:12
returning 98:3 148:6	Riverbanks 224:5,7	rosters 201:9		safeguards 47:14,16
reversed 229:18 230:1	road 97:21 98:8 179:25	rounded 217:7 228:11		Safran 31:7,8 32:7 34:22 36:10 69:8,24 70:11 108:12,13 161:25 162:1
review 45:5 47:4 111:23 138:14 139:9 237:6	roads 207:16	rounding 125:16	runs 78:5 158:2	Safran's 114:17
reviewed 27:5 43:6 49:22 50:11 81:1 102:7 136:20 157:13 175:2 194:13 221:17 227:15	robbery 153:15	rule 12:17 22:7 26:9 48:15 52:6 63:24 80:4 101:7 127:3 128:20 130:9 135:24 154:17 156:16 174:6 193:17 220:21	rural 61:8	sake 109:2
reviewing 102:22	robe 12:1 202:3		rush 186:15	salt 109:10 224:3
revocation 118:8	Robert 16:16 18:17,19 19:5	rules 8:24 26:10 45:25 48:16 74:12,14 80:5 101:8 128:7,8,9 130:3,4,18 132:11,15 135:25 137:12, 17,20 138:9 139:3 144:14 156:17 174:7 193:18 220:22	Rutherford 8:2 70:1 86:25 87:3 102:17,20 108:12 114:15 115:2 118:13 122:8 123:3,8, 10,13,18 124:4, 22 137:4 140:16 145:24 147:2,21	sanction 112:19
revocations 103:20	Robin 8:3 9:3 10:22,25		Rutherford's 150:22	sanctions 111:19
Richland 99:24 111:19 121:17 125:18 127:9,15,23,25 131:15,18 140:10 141:16 146:20,23 233:13	rock 109:13		S	sat 89:4 103:12,16 219:13 225:8
richly 37:9	rocks 116:12,17		S.C. 136:21 172:24 221:18	satisfied 35:12
RICO 45:14,20 61:3	rods 76:19		Sabb 65:11,12 67:18, 20 83:10,18 234:5,6,9	sausage 16:9
	role 46:13 147:20 165:25 197:7 208:8	ruling 46:7 133:20		save 59:14 164:15 235:25
	roles 207:11	run 30:5 43:19 47:1 49:5 95:8 128:5,		savvy 205:4
	rolling 153:12			SC 27:6 49:23
	room 8:6 35:21 70:23 148:5 162:23			scenario 117:12

scenes 46:18	136:9,13 139:11 147:4,12 157:1, 5 158:25	seconds 70:11	77:2 98:17	serves 172:20
schedule 8:1 73:8 186:14	166:12,19 174:16,20	section 50:17 51:3 136:11,22 157:3 174:18 194:4 221:8,19	senior 74:21 161:4	service 8:23 13:19 14:2 26:4 38:16 41:20 44:11 48:7 67:23 68:24 78:19 82:5 83:4 88:7 100:13 122:23 140:22 141:1 146:16,18 147:17 170:9 179:16,17 180:5 184:8 195:3,10 207:4,14,15,20, 21,24 211:13 214:15 215:14 233:21 234:1
scheduled 64:13 141:8 171:18	183:15,22 185:2,13 194:2, 6 211:4 221:6, 10 237:5	sections 50:19	sense 52:12,13 61:6 113:6 117:13 163:7	
schedules 171:19		secure 107:6	sentence 57:13 89:16,17, 18 117:11 197:14	
scheduling 24:18,23 25:2 62:9 64:20 121:4 201:12	screenings 10:14 18:9 41:1 72:13 86:5 124:12 150:1 169:6 186:8 212:24	security 152:13	sentences 59:20	
school 14:6 37:17 43:16 52:10 60:5,6 89:6 93:8 98:4 103:9,23 106:24 107:9 120:16 129:10 137:18 145:19 160:8 187:20,22 204:12,13 224:1,3 225:2,3, 10,14 226:4,10	scrimmage 107:23	seek 78:4	sentencing 58:11 59:20 89:14,19 115:15 198:9	
	script 9:6	seeking 178:10 206:25	September 222:24	
	search 10:13 18:7 40:25 72:11 86:4 124:10 149:24 169:6 186:6 212:22	seldom 65:3	series 104:3	services 84:2
	seasoned 21:8 130:15	Select 7:3	seriousness 126:5,14	serving 11:19 14:13 19:17,18 88:8 141:4 192:24
	seat 18:1 40:17 59:6 85:5 131:14 148:11 158:7,9, 16 184:18 207:7 212:1 214:3 233:10,13	Selection 10:7 18:2 40:19 72:6 85:23 124:5	servant 48:4	session 7:2,5,11,12,16, 22 35:20,24 36:1,7,8,10,17 69:25 70:6,7,11, 17,18 237:25 238:2
	seated 15:16 40:16	self-insured 231:24	serve 11:5,17,24 13:17 14:16 21:2,14 23:17 43:13,14,25 58:7 61:8,14 65:8 88:8,20 120:3 140:19 154:2 160:16 170:7 172:1,3 178:7 187:19 190:13 207:10	sessions 42:22 43:4,12 58:14 74:8 76:2 89:5 103:4,13, 17 104:10 106:8 118:5 126:3 143:16 173:10 196:9,13 200:12 206:18 223:19
	seats 140:10 158:19	selfless 44:11	served 11:21 34:13 42:20 67:2 78:25 99:18 185:17 208:10	set
	seconded 7:16 36:1,10 69:25 238:1	senator 7:4,16 9:9 36:1 48:23,24 49:1 65:11,12 67:17, 19 70:10 83:10, 18,20 101:14 147:20 214:11 234:5,6,9 235:5 236:12,13,23		
		senators 190:14 191:1		
		send 48:22 76:15		

63:8 65:21 93:22 97:10 120:13 143:13 151:14 153:11 200:14 216:5 227:2 setting 22:22 190:21 209:6 settled 24:21 settlements 171:16 Seventy 176:7 Seventy-five 126:6 sexual 20:21 232:7 shame 62:3 share 79:7 shared 67:8 Sharp 172:22 Shaw 14:18 Shealy 127:1 132:7 Sheila 84:14,15,24 Sheila's 84:17 sheriff's 20:3 she's 155:4 159:12 214:4 234:24 shift	43:20 shipped 105:8 short 22:2 77:9 109:4 127:22 152:25 228:19 shorten 81:19 shorter 81:25 shortly 99:24 shot 111:12 shoulder 54:2 shouldn't 135:8 153:5 229:18 show 143:14 181:22 showing 116:2 Shuler 177:24 shutdowns 207:16 shutting 201:5 shy 35:9 133:20,24 134:17 siblings 59:17 sic 188:10 sick 143:5 side 23:23 34:2 35:3	45:17 51:17,24, 25 54:19 55:10 57:10 60:17 82:7 89:15 97:5 119:21 125:23 126:3 128:16 130:5,9,12 133:17 139:11 155:18 159:8 196:5,17 199:24 217:16 230:23, 24 231:1 sides 34:6 74:20,23 75:12,17 95:23 104:8 125:22 126:1 128:12 171:2 189:25 196:18 217:12, 15 232:17 sight 53:4 sign 15:4 134:6 signed 120:24 significant 87:25 88:24 89:15 97:25 119:23 152:4 silver 64:19 84:20 similar 112:15 177:20 192:8 simply 46:17 78:10 186:19 217:1 sincere 206:2 single 92:21 127:14	143:4 sink 188:4 sir 9:2,17,19,22 10:2 11:10,12 15:12 16:15 18:1,20,25 26:15,20 27:4,8, 16 28:1 32:25 34:16 37:12 38:17,22 39:1 40:1 42:14 52:8 63:3 65:9 67:16 68:25 71:17 83:9,14 85:2 86:17 87:2 88:18 103:5,8 106:4 107:10,13 109:22 113:16 114:14,20 121:13 123:9,12 137:10 140:20, 23 145:4,11,23 148:20 149:18 158:6 162:13 163:16 164:25 166:25 167:6,14 168:5,8,25 170:20 174:2 175:25 176:6,8, 11 179:11 181:16 183:13, 14 184:11 194:8 195:2 196:6,15 212:9 218:18,19 236:11 237:1 siren 167:25 sit 31:1 41:19 95:1 106:18 153:14, 23 223:19	225:18 sits 24:19 234:16 sitting 22:23 58:1 120:23 125:16 133:17 situated 202:23 situation 23:25 24:14 108:19 109:12 119:12 120:25 176:21 situations 95:7 111:10 162:6 163:18 198:10,12,19 sixth 145:7 skills 48:11 66:16 75:9 164:4 172:7 sky 216:22 SLED 78:14 sleep 106:6 slipping 25:16 slow 150:20 small 29:6 62:7,23 76:24 120:12,15 121:2 141:22,24 198:25 202:24 smaller 200:9 209:5
--	--	--	---	--

smart 45:24 48:6 67:13 90:6 156:11 216:18, 20	soccer 199:22	son 15:22 120:6	174:6 175:3 183:19 193:17 194:14 210:8 220:21 222:23 225:7 227:3 228:1,4 230:2	89:8 140:21
smiles 213:19,20	social 90:15,24 91:1 114:2	son's 119:8,20		spiel 150:5,6
Smith 7:1,8,10,13,19, 21 8:8,13,22 9:5,8,18,20,23 10:3 11:6 13:22 14:1,21,25 15:3, 6,12,15,18 16:4, 8,14,18,23 17:1, 10,14,24 18:22 27:14,17,19 31:6 34:17 35:16,19 36:4,6, 9,13,15,24 37:13,16 38:20, 23 39:2,7,10,15, 18,22 40:4,8,11, 16 41:23 50:6, 10 61:16 62:2 65:11 67:17 69:1,10,20,22, 24 70:3,5,8,14, 16 71:1,10,18, 22 72:2 73:6,12, 15 81:10,13,16, 18,23 83:7,10, 15,21,24 84:8, 13,24 85:5,11, 18,22 86:19,21 150:22 181:5, 12,17 182:1 186:15 194:24, 25 206:8 238:1	societal 154:19	sons 54:24		spiral 137:23
	society 206:11	sooner 12:4 37:19	speak 124:20 177:23 178:11	spirit 38:6 68:15 82:20 147:8 166:14 183:19 211:1 237:8
	sole 106:11 127:18	sort 65:24 88:24 89:10 95:9 103:10,21 104:13,23 105:3 106:16 107:1 112:10,22 120:18 231:4 234:10	speaking 99:23 159:10	spirt 122:13
	solicitor 24:7 62:4 66:18, 23 74:21,22 115:17 118:11 119:4 128:15 130:10 133:16 142:22 146:1,4, 13 171:3 183:3 197:10	sought 26:17 49:9 74:17,18 80:12 101:19 136:7 156:24 174:14 193:25 221:4	speaks 65:7 75:25 173:6	split 176:2
	solicitor's 22:13 23:22		special 76:22 82:13 229:11,13	spoke 90:21 101:13 137:10
	solicitors 61:24 103:19 106:13 117:23 118:3 163:4 197:2	sound 217:21 220:1	specialized 82:12	spoken 44:25 45:2 49:3 191:7
	solo 62:24 64:8,22 120:12 121:2 141:3,10,20,24 142:19,23 144:7,18 145:8 170:1 175:19 183:5	sounding 205:5	specific 130:2	spot 8:18 15:7
	solve 96:24 120:9 121:8	sour 111:9 155:24	specifically 118:2 129:25 130:12 191:16	spring 107:17 153:11 160:2 165:11
	somebody's 115:22	South 11:5 21:12 26:9 38:16 42:21 43:14,25 48:15 67:23 68:24 80:5,16 81:2 83:4 84:16,18 87:22 101:7 102:8 104:22 122:23 135:24 138:21 147:17 151:24 156:16 157:14 166:16	spectrum 95:23	square 224:18
smoked 91:14	Somebody's 165:8		speech 181:13 202:4	stability 13:15 26:1 48:2 79:17 100:19 135:14 156:8 173:25 193:7 220:12
smoking 227:11			speed 45:10,19 46:2,4 89:21 106:1 153:2	staff 27:11 81:7 102:13 137:1 148:6 157:19 175:9 194:19 221:23
			spend 79:9 87:25 103:23 104:5 159:24 165:4 198:17 217:17	stage 104:1
			spending 166:4	
			spent 8:17 28:10 51:22 87:19	

stake 117:23 118:9	38:16 40:24 41:20 42:20 44:23 45:21 67:23 68:24 70:17 72:11 77:21 83:4 86:3 119:6 121:1 124:10 128:6 141:25 149:24 169:8 170:9 176:13 179:17 186:5 190:1 197:19 208:18, 22 212:22 219:17 226:25 227:10,13 230:1,7 231:8 232:22 235:4	states 13:19 169:22 226:19 227:12 stating 79:22 status 24:6,16 64:21 statute 23:8,16 36:19 96:18 219:23 statutory 19:6 42:9 73:22 87:9 125:7 151:3 170:17 187:5 215:2 stay 183:1 226:3 stay-at-home 165:13 stayed 226:5 steady 177:6 stellar 14:3 235:7 step 86:23 161:11 195:13 steps 88:19 159:1 171:25 Steve 167:12 Steven 167:10,13,16 168:15,18,20 169:18 172:19 sticks 130:22 Stillwell 8:3,5,8,10,11, 15,16 9:1,3,7,	10,17,19,22 10:2,22,25 11:1, 12,13 12:23 13:2,4,5,9,17,23 14:1,20 15:5,10 stones 110:3 stonewalling 119:4 stood 179:6 stop 20:22 128:18 134:6 138:19 stores 43:19 stories 130:16 144:19 story 48:10 65:14 66:1,14 127:21 130:21 straight 219:5 225:2 strange 152:18 strengths 219:7 stress 62:8 142:8,9,13 stressed 16:2 stretched 199:3 strict 143:1 strikes 78:11 stripe 206:16 stripes	186:1 stripped 229:2,23 Strom 34:17,18,19 35:14,15,17 36:9 137:5,6 182:18 210:17 222:3,4,12 223:11 234:4,10 235:12 237:25 strong 53:12,13,15 54:11 61:6 144:4 159:13 162:7 164:6 stronger 159:6 struggle 144:19 struggles 142:20 230:12 stuck 33:13 84:9 126:24 student 15:23 16:1 student's 16:4 students 89:8 96:6 98:4, 14 103:24 104:6 165:14 studied 137:17 study 10:11,14 18:5,9 40:23 41:1 45:13,15,23 72:9,13 86:2,5 124:8,12 149:22 150:1 169:5,6
stand 69:16,22 94:14 110:12 133:12 161:21 213:17 218:19 standards 144:12 standing 116:3 standpoint 153:7,20 208:12 Starbucks 231:18 start 37:20 50:8 77:12,17 89:12 105:11 111:6 137:13 138:5 153:12,15 154:12 157:25 167:25 175:14 185:1 230:22 started 20:17 31:10 51:14 99:19 104:10,11 137:10,17,22 138:3,6 151:11 201:9 222:17,22 223:11 230:14 233:24 starting 68:5 197:19 227:20 starts 169:15 state 10:12 11:5 12:2 13:3 18:7 28:11 36:16,25 37:10	stated 135:18 156:9 189:21 192:8 220:13 statement 9:12 10:18,24 16:20 18:14,19, 21 39:24 40:3 41:6,15 57:18 71:13 72:4,18 73:2 85:7 86:10, 15 98:3 123:4 124:2,16 134:19 140:24 148:19 150:8,14,16 160:15 168:3,20 169:15 184:20 185:11 186:13 210:20 212:8 213:9 214:7 220:13 statements 57:21 93:3 95:17,20	stay-at-home 165:13 stayed 226:5 steady 177:6 stellar 14:3 235:7 step 86:23 161:11 195:13 steps 88:19 159:1 171:25 Steve 167:12 Steven 167:10,13,16 168:15,18,20 169:18 172:19 sticks 130:22 Stillwell 8:3,5,8,10,11, 15,16 9:1,3,7,	stripped 229:2,23 Strom 34:17,18,19 35:14,15,17 36:9 137:5,6 182:18 210:17 222:3,4,12 223:11 234:4,10 235:12 237:25 strong 53:12,13,15 54:11 61:6 144:4 159:13 162:7 164:6 stronger 159:6 struggle 144:19 struggles 142:20 230:12 stuck 33:13 84:9 126:24 student 15:23 16:1 student's 16:4 students 89:8 96:6 98:4, 14 103:24 104:6 165:14 studied 137:17 study 10:11,14 18:5,9 40:23 41:1 45:13,15,23 72:9,13 86:2,5 124:8,12 149:22 150:1 169:5,6	

186:4,7 212:20, 24 219:23 226:3 studying 45:25 stuff 28:8 87:24 96:9, 10 110:9 114:4 131:2 209:21 210:1 stumps 128:22 subbing 147:22 submission 85:16 submit 21:18,21 71:15 232:10 submitted 9:14,16 16:21 39:25 40:6 71:12 85:8 123:5 submitting 26:12,16 48:18 49:8 80:7,11 101:10,18 136:2,6 156:19, 23 174:9,13 193:20,24 220:24 221:3 substance 63:16 substantively 88:22 succeed 158:11 success 109:6 113:22 successful 145:20 154:14 160:24 179:24	180:4 202:5 successfully 152:14,17 sudden 24:13 28:16 30:23 sued 23:2 105:1 227:13 suffer 63:15 suffering 53:21 suffice 110:7 sufficiency 173:3 suggest 115:6 159:3 210:21 suggested 163:9 suggestions 163:1 suicide 53:25 suit 23:15 219:2 suits 20:2 99:10 100:7,10 summary 127:3 135:18 220:13 summer 153:11 159:23, 25 165:6 summers 108:7 Summerville 61:22	Sumter 29:10 56:13 super 60:19 support 67:12 94:19 180:10 supported 61:11 supporting 189:20 190:18 supports 88:9 supposed 62:10,16,18 110:15 117:3 Supreme 45:8 63:14 151:17 202:15 surgery 181:7 surmise 155:21 surprise 206:1 surprised 146:8 155:15 surprises 210:5 survey 10:10 18:5 21:5 40:22 44:5 72:9 75:4 86:1 90:2 116:17 124:8 131:9 149:22 155:1 169:4 172:17 186:3 189:15 212:20 surveys 21:4 44:3 57:9 75:2 90:1 109:8 131:8 154:25	172:16 189:13 216:14,16 survive 57:3 Susan 222:5 230:5,21 suspensions 89:20 suspicion 111:16 112:17 sway 190:16 swayed 191:3 swear 8:25 15:17,18, 20 211:23 sweeping 112:19 swim 188:4 sworn 9:4,11 10:1,24 16:16,19 17:22 18:19 39:20,23 40:2,13 41:15 57:17 71:8,13, 24 72:4 73:2 85:3,7 86:15 123:2,4,15 124:2 132:3 134:19 140:24 148:9,19 150:14 167:10 168:3,20 184:16,20 185:11 211:24 212:7 213:9 Symmes 73:11,12,17 81:5 system 57:4 118:22	151:14 154:19 170:25 199:8 201:5 systems 171:1 <hr/> T <hr/> tabbed 105:10 table 159:8 tack 37:11 Taco 231:19 tact 112:11 tagged 91:4 takes 86:20 87:3 93:22 108:17,20 132:25 taking 29:16 76:10 89:22 104:10 129:5 134:25 153:8 183:16 198:17 200:19 215:21 224:14, 15 talk 28:18 29:19 56:5 78:9 96:14 99:6 110:14 119:22 121:19 127:24 128:1 145:18 182:21 216:24 225:24 talked 14:18 25:4
---	---	---	---	---

32:12 56:10 59:8 61:2 66:22 67:24 97:1 115:15 231:8 233:3 talking 114:9 115:6 130:14 144:6 161:9 200:25 232:17 Talley 36:1 48:23,24 49:1 70:10 101:14 Tally 7:5,16 Tameaka 39:20 41:10,13, 15 tap 148:14 tasks 219:15 taught 53:1 55:13 93:8 129:10 226:10 tax 17:4,18,19 taxes 141:23 taxing 207:19 teach 87:22,23 89:7, 11 103:22 107:8,13,14,17 teaching 88:15 89:8 103:24 team 58:22 87:24 107:19 116:8	tech 205:4 Technology 71:1 Technology's 8:14 telling 33:24 53:8 58:24 117:12 203:25 209:9 tells 35:4 64:8 temper 110:1 temperament 13:12 21:13 25:22 28:15 47:24 48:5 75:10 78:2 79:20 94:23,25 95:1,25 96:16 100:24 101:2 131:20 135:17 155:9 156:5 160:22 161:1 171:7 172:22,24 173:22 177:18 178:5 179:5 193:11 217:11, 20,25 218:2,11 220:9 tempered 21:7 216:20 ten 92:16 94:22 107:19 115:12 165:1 169:21 195:8 200:21 205:10 206:18 tenacious 35:3 67:13	tend 81:25 tenth 84:3 tenure 163:13 term 94:2 154:23 179:13 180:5,14 205:22 210:6 terminated 78:23 terms 32:23 105:17 109:5,15 110:8 113:23 152:7 160:22 163:13 169:2 179:5 196:9 206:12 Terron 78:22 test 165:15 testament 166:4 testified 151:10 160:19 testifies 9:4 16:16 39:20 71:8 85:3 123:2 148:10 167:10 184:16 211:25 testify 10:17 18:13 41:5 72:17 86:9 94:14 124:15 150:5 169:13 186:12 213:2 testimony 10:1,5 17:22 19:2 40:14 42:5 71:25 72:5	73:18 87:6 94:20 113:1 123:16 125:3 150:24 170:13 187:2 214:24 219:24 tests 159:2 text 104:22 105:7 113:2 thankful 13:19 41:21 73:4 thanking 14:2 Thanksgivings 181:22 that's 24:12 126:25 129:8,16 131:1 132:25 134:12 135:2,5 139:2, 18 144:15 145:14 149:2 150:5,21 158:22 162:25 163:2 164:2,8 167:20 168:1 171:21 172:13 177:4,13 178:4 179:11, 14,19 180:24 181:11 185:21 188:24 189:7 192:24 202:11 203:3 204:23,25 205:4 207:1 208:24 209:23 210:9 218:15 219:6 223:20,21 228:11,16,24 229:1,19 231:1	233:10 236:8 theme 111:4 thereto 40:13 there's 28:20 96:8 126:21 128:3 141:2 143:15,18 153:4,7 163:8, 21 164:5 166:10 177:8 179:2 208:2 222:9 they'll 133:12 they're 129:23 130:16 133:9,11 138:8 143:25 162:18 163:5 169:23,24 171:9 180:6 182:25 189:5 196:23 197:2 224:12 they've 233:7 thin 199:3 thing 8:14 24:9 28:25 35:23 51:9 52:19 55:20 56:2 61:24 62:5 82:13 85:13 104:20 110:2, 18,21 113:18 116:1 127:24 129:9,11 131:4 132:10 133:6 134:8 142:10,13 154:14 159:8 163:9 178:15
---	---	--	--	---

191:2 196:16 197:24 224:3 things 12:13 21:1 23:23 24:24 28:4 29:10,15 30:15,21 46:3 52:11 55:14 65:24 66:3,4 76:23 77:16 81:23 83:17 91:8 109:25 110:12,15,17 113:24 115:5 116:9,14 117:4, 13 120:4,19,24 122:4 135:21 149:20 151:23 153:3 160:3 164:3 171:22 179:23 183:8 185:25 187:16 188:19,23 189:7 197:17,25 201:7 205:6,8 220:17 224:9 234:11,19 thinking 57:25 58:1 155:11 204:7 thinks 142:10,11 third-year 15:23 16:4 96:6 thought 54:9 60:12 61:5 132:11 137:12 thoughtful 58:10 thousands 43:5 thread 197:4	three-year-old 85:14 threw 47:6 thrilled 216:21 thoroughly 18:2 40:19 throw 46:23 109:13 110:3 116:12 197:12 throwing 43:8 116:16 thrown 163:13 ticket 20:20 104:12 152:16 tickled 237:2 tier 90:12 tiers 163:10 time 7:23 9:21 10:19 11:14 16:3 17:2 18:14 23:12 28:10 29:24 34:14 38:13 40:9 41:7 46:7 54:6 63:8,20 68:22 69:23 71:20 73:5 74:13 76:8 77:9, 17 79:10 83:2, 17 85:12 86:18 87:4 88:1 97:12, 21 100:2,4 103:18,22 108:9 109:4 118:15	119:14 121:6 122:21 123:11 124:17 128:23 132:6 139:13 141:8,9,17 147:15,20 148:24 152:25 158:2,13 159:9, 24 160:10 161:13 165:4 166:4 167:5 171:18 179:8 180:16 191:25 198:17 200:20 202:5 209:1 210:5,12,21 211:23 214:5 217:18 222:14 223:4,18 224:14,15 227:22 228:11 230:11 232:2,25 times 12:16 24:10 28:22 52:15 62:12 95:10 96:1 98:11 111:6 127:11 134:21 160:17 162:4 179:7 187:14 200:21 208:18 218:5 219:10 228:9 236:1 tire 179:12 tires 210:6 today 10:1,6,16 11:3 17:22 18:12 27:13 38:21 39:13 40:14	41:3,18,22 50:4 61:10 71:2 81:8 83:22 84:23 86:9 92:11 95:22 96:25 102:15 118:9 119:9,24 122:22 137:3 149:5 150:18 155:12 157:21 167:5 170:7,10 175:11,18 180:24 186:24 194:21 195:1 214:13 221:25 Todd 150:21 204:4 234:17 toe 158:15 toes 161:11 told 66:23 84:13 86:22 155:12 163:15 217:4 225:17 Tommy 77:23 tomorrow 119:25 120:1,7, 9 121:8 top 90:12 113:18 120:19,20 176:4 topics 226:10 tort 20:5 28:8 total 184:13	totem 30:21 touch 117:19,22 175:18 touched 131:24 175:18 208:7 tough 29:2,3 134:1,5, 10 135:5 164:17 200:8 toughest 134:7 tow 223:23 town 29:7 76:24 trademark 104:25 105:2,4, 7 traffic 20:20 186:15 trafficking 20:21 train 128:17 trained 96:7 training 24:2 88:2,14 89:8 96:8 104:5 129:4,8,14,25 215:20 216:10 trait 96:4 131:13 transactional 28:2 152:5,9 transcript 111:25 123:19 transcripts
--	---	---	--	--

228:7	91:6 92:4 95:5, 14,21 96:9	140:4 214:8 229:25	ultimately 110:16 112:3	unit 160:7
transferred 14:17 227:23	103:24 104:1,4	turned 56:24 138:6,17 222:24	umpire 78:11	United 13:18 169:21 226:19
translates 197:6	106:18 107:11, 14,19,21 121:18	turns 140:2	uncomfortable 216:8	University 87:22 91:8 204:12 222:23 223:22 225:7,16
travel 227:20	129:3 132:16	twelve 106:2	undergrad 92:2	unlike 115:24 234:19
traveling 107:24	133:3,18 137:11	Twenty-nine 44:3	understand 27:5 28:21 30:3, 7,11,14 32:6,10 45:11 46:3,10 47:9 49:22 55:3 76:7 81:1 89:11 102:7 109:14 122:1 136:20 141:12 142:6, 14,24 144:3,16 157:13 159:14 171:6,7,11,22 175:2,5 178:4, 21 181:24 183:24 186:17 194:13 195:15 221:17 222:17 237:18	unmarked 229:21
travels 69:12	152:17 153:15, 21 164:16	Twenty-two 90:12	understanding 31:22 127:20 142:18 170:25	unpardonable 110:24
treat 12:17 21:23 22:20 25:11 66:10 130:24 131:1 138:25 188:22	176:25 191:25 204:8 229:9 234:14	Twitter 91:16,17,19 114:19,22 138:18,20 139:1	understood 15:24 105:3	unprecedented 160:17
treated 12:18 44:8	trials 42:25 74:9 95:12 104:3 125:20,21,25 126:17,20 129:2 138:25 175:24 177:2 196:11 205:5 206:22	two-thirds 213:12	unequal 97:14	unqualified 236:17
treatise 77:18	triggers 211:6	type 14:4 31:20 34:6 57:14 68:4 131:1 165:21 177:17 232:5	unfamiliar 77:8,11 152:24 219:11	unrealistic 32:4
treatises 77:12,13	trip 84:6 159:11	typewriter 149:9	unique 75:11 120:13,25 208:9	unsophisticated 139:21
treatment 97:14	trouble 35:22 117:22	typically 94:3 95:5 97:4	uniquely 202:23	untaught 53:1 55:13
treats 179:22	true 48:3 93:25 94:6 112:12 116:22, 24 120:12 205:22	types 11:15 20:22 28:4 155:17 171:5 189:4		untouched 160:21
tremendous 109:5 154:8 189:17 192:19	truth 117:3,12	typifies 65:16		unwilling 22:7
trenches 20:25 88:11	truths 94:4	typing 138:5,6		up-in-the 154:7
trend 33:2	Tuesday 24:13			update 9:21 40:9 83:13
trial 20:24 21:8 35:3 45:20 47:3 63:25 66:16 74:5,17 75:9,19, 22 76:1,6 79:22 87:23 88:10 89:9,12 90:7	turn 53:22 64:23 76:25 117:1	<hr/> U <hr/> UConn 91:9		updated 71:20 123:11
				updates 17:2 85:12
				upheld 229:13,16
				uphill 98:8

uphold 47:16	210:13 211:3	14:1,25 15:3,6, 12,15,18 16:4,8, 14,18,23 17:1, 10,14,24 18:22 27:14,17,19 31:6 34:17 35:16,19 36:4,6, 9,13,15,24 37:13,16 38:20, 23 39:2,7,10,15, 18,22 40:4,8,11, 16 41:23 50:6, 10 61:16 65:11 67:17 69:1,10, 24 70:3,5,8,14, 16 71:1,10,18, 22 72:2 73:6,12, 15 81:10,13,16, 18,23 83:7,10, 21,24 84:8,13, 24 85:5,11,18, 22 86:19,21 170:7 182:20 197:1	views 52:2 VII 167:24 violated 53:21 violation 166:15,16 183:20 211:1 229:2 237:9 violations 38:8 68:16 82:22 122:15 147:9 196:12 violence 226:11 violent 76:4 198:12 Virginia 151:13 virtually 160:17 vocabulary 223:17 voice 204:18 votes 7:22 vowed 137:15	186:18 210:22 waived 58:13 wake 129:17 Wal-mart 231:14 walk 160:19 walked 21:24 22:19 224:17 walking 152:16 walls 95:13 Walter 62:4 Walterboro 24:4 wanted 41:17 52:15 55:2 60:11 61:3, 12 65:22 66:17 84:22 105:2 114:25 119:6 182:3 198:4 203:15 230:15 wanting 37:19 182:25 192:21 war 130:16 warranty 231:17 wars 198:2 wasn't 132:13 219:1 watch 53:20 182:10
upmost 218:4	Venable 226:8			
upset 133:13,14	vengeance 53:6			
Upstanding 44:9	venue 53:14			
Upstate 13:8	verdict 19:16 20:15,24 32:9 46:21 76:5 92:10 107:7 125:22 126:13 175:23 206:15			
USC 96:5	verdicts 43:1 188:23			
utilize 59:10	verification 10:11 18:6 40:24 72:10 86:3 124:9 149:23 169:8 186:5 212:21			
<hr/>				
V				
<hr/>				
vacation 25:1 63:21	Verifying 149:13	victim 53:5,18,20 57:20 victim's 103:13 victims 57:19 victim's 51:24 view 38:8 68:16 74:24 82:21 114:23 116:21 118:2,11 120:2 121:5 122:15 147:9 viewed 178:22	violence 226:11 violent 76:4 198:12 Virginia 151:13 virtually 160:17 vocabulary 223:17 voice 204:18 votes 7:22 vowed 137:15	wanted 41:17 52:15 55:2 60:11 61:3, 12 65:22 66:17 84:22 105:2 114:25 119:6 182:3 198:4 203:15 230:15 wanting 37:19 182:25 192:21 war 130:16 warranty 231:17 wars 198:2 wasn't 132:13 219:1 watch 53:20 182:10
valuable 172:23	vernacular 159:18			
values 224:25	versa 197:2			
varied 215:16	versed 196:11			
varies 50:24	versus 178:12			
variety 151:19	vet 210:6,13			
vary 50:23	veteran's 197:21			
vast 188:9	vetting 208:20			
vehicle 84:2	vice 7:1,8,10,13,19, 21 8:8,13,22 9:5,8,18,20,23 10:3 11:6 13:22			
Vehicles 84:3				
veil 7:15				
vein 183:21 209:13				
<hr/>				
W				
<hr/>				
		Wade 66:16 wait 143:16 236:8 waiting 148:3 149:6 155:14 waive 18:20 124:19		

watched 108:16 146:9,10 205:19	we're 36:6 141:6 154:6 163:13 164:20 165:7 169:1 180:9 184:23 192:24 200:17 203:22, 25 207:4 209:9 225:13 230:8 232:24,25 237:24	WILKERSON 187:1	150:4 169:13 213:2	151:15,22 152:1,5,7,20,21 159:1 162:12 176:9,10 177:7, 8,11 182:8,9 183:2 188:19,22 191:15 192:21 195:17 199:2 217:12 224:21 226:8,12 231:16,17,18,23 234:24 235:2
watching 16:8 236:15		Wilkinson 186:21,22,24 187:8 193:3 194:17	woman 52:21 223:18	
water 67:6 158:15		willful 112:9	Women's 84:18	
waves 165:12		William 145:3,5,6,9,12, 18	women's-owned 230:7	
ways 51:11 54:5 56:21 59:12,24, 25 187:22	we've 41:3 83:7 86:7 139:25 140:7 162:5,6 165:20 169:20 177:2 198:1 199:24 206:6 207:15, 16,17 213:25 231:3,17	Williams 232:13 235:11	won 84:19	
wealth 37:25 43:11 68:1 82:6 196:4		willingness 65:8 82:5	wondered 236:22	
wear 11:25		Willis 84:14	wonderful 90:10 131:16 207:12 223:7 235:18	worked 15:7 20:8 43:16 46:12 64:3 68:7 103:18 120:15 132:14,17 140:25 144:7 160:1 171:2 187:25 188:1 224:5,6,8 226:11
Webex 45:7 64:20,22	whatnot 155:24 160:8	Wilson 204:5	wondering 111:6 163:12	worker 131:18 224:4
week 119:18 134:2 225:17	what's 144:25 162:24 181:23 184:14 208:21	win 55:22 92:5	won't 144:21 145:18	working 56:20 71:2 74:12 75:6 76:20 88:1 96:22 131:11 143:25 148:15 149:1 160:5,13 172:23 203:22, 23 210:13 223:10 224:14 226:21
weeks 107:20 115:14, 19 199:6 200:7	white 113:2	wind 67:19 231:4	word 154:22 160:1	
weight 38:10 68:18 82:23 122:17 147:11 166:19 183:22 211:4	who's 142:17 153:22 196:22 226:21	winding 37:21	worded 57:17	
weren't 206:22	wicked 216:19	window 58:4	words 14:22 41:24 89:18 202:7	
Westlaw 99:20	wide 127:4 171:5 173:7	windows 100:1	work 13:7 16:9 20:3, 5,6,18 24:9 26:3 27:22,23 28:9 29:6 33:21 61:23 62:20 65:19 74:13,20 75:20,22 76:1, 11,13 77:13 88:13 96:5,21 108:2,5,7 109:7 115:7 119:19 121:25 127:12 132:9 135:20 143:11,14,17,18	workplace 232:5
we'd 119:21 144:2	who's 142:17 153:22 196:22 226:21	wins 91:6		works 35:13 89:13 108:22 130:7 159:12 161:5 169:21 227:4 233:1,16
we'll 140:10 148:2 168:10 174:2 177:1 214:7 216:24	wife 29:22 84:1 91:3 169:20 222:5	Winston-salem 213:16		
	WIFI 8:18 15:7	wise 131:20 180:7		
		withdrew 185:14		
		witnesses 10:17 18:12 24:8 41:5 72:16 86:8 124:15		

world 12:5 53:1 205:14	wrong 66:9 96:15,17, 18 141:3 144:25 204:1,2	years 11:20 14:4 19:7, 21 20:8 25:7 29:24 30:2 31:11,14 32:13 33:15,20 37:16 42:10,20 45:21 46:12 50:16 55:16 56:12 62:5 65:23 66:2 68:7 73:23 74:21 79:9 85:15 87:11 108:17 109:23 111:3 121:16 125:8,11,16,18 129:2 131:21 133:17 144:22 149:16,17 151:4 152:3 158:4,16, 25 168:12 169:21 170:1,18 173:11 178:23 180:8 187:7 188:10,12 195:8,12 198:21 203:12,20 204:3 205:10,13 206:5 215:4,11 217:4 218:22 219:14 222:7 223:9,13, 14 224:13,20 226:6 227:18 228:4 230:10 233:24	132:6 135:19 138:4 139:24 140:12 163:12 178:11,12,22 180:3 206:7 223:24 226:1	you've 9:15 15:20 16:20 34:3 51:19 125:10 128:23 137:8 139:17 140:21 144:16 146:8 158:25 160:19, 23 162:11 163:19 175:18 179:6 182:7 183:3 191:7 196:2,16 198:24 199:4,9,10,11, 13,19,20 200:1, 2 201:10 202:24 203:13 209:3 225:11 231:7
worried 16:5	wrongfully 66:25 67:4			
worry 35:22 162:23	wrongly 66:20		younger 37:23 58:11,12 178:17,19 179:3 182:25 191:16 203:21	
worse 28:22	wrote 111:15,23 113:3 137:25 228:5		youngest 30:4	
worst 46:14 109:12			youth 178:14	
worthy 51:18	<hr/> Y <hr/>		you'd 129:5 146:19 169:15 183:11 214:6,9	
wouldn't 141:14 155:13	y'all 11:2,4 39:8 40:17 69:13 79:11 84:25 111:15 116:23		you'll 129:11 134:14 143:8 144:22 168:9	
wow 129:22	yank 29:18		you're 37:19 128:17 129:12 134:13 139:13,24 140:5,11,12 141:19,23,25 142:23 143:9,23 144:17 146:11 150:8 164:2,17 166:7 181:14,20 182:1,22 197:11,19 198:4,20 199:5 201:18 202:5 203:6,12 206:2 207:5 209:24 210:19 222:14 231:4 233:4,17 235:2	y'all 150:18 159:14 162:25 182:11 184:6 205:21,22 206:1 209:13,16 214:3 222:7 230:6 234:16 235:10,20
wrap 97:7	year 17:5 59:1 81:14 84:20 88:1 89:8 95:16,21 96:5,7, 8,10 98:5,13 103:16,23 104:4,5 106:5 107:19,25 121:17,20,24 140:8 149:15 158:3 160:10 168:11,22 175:16 176:16, 17 177:11,16 181:25 204:14, 25 207:14 223:25 224:2 225:18,19 233:10			y'all's 231:13
wrapped 25:2				<hr/> Z <hr/>
wreck 66:6 115:24		yesterday 93:15		zeroes 236:17,19
write 77:15 137:23 138:2,7,13 219:25		YLD 84:19		zipped 202:3
writing 35:6 120:23 137:18,19,22 138:3 139:6,16		York 107:25		zoning 195:12
writings 137:8 138:15,20		young 58:19 101:1		Zoo 224:6,7
written 21:14 44:12 61:11 67:11 75:17 77:1 90:13 131:21 137:8 155:7 173:1 216:23 227:16	year-old 85:20 166:3			Zoom 8:3,24 70:22 71:11 81:24

108:1 148:5