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PUBLIC HEARINGS

November 18, 2020

Judicial Merit Selection Commission

REPORTER: Patricia Bachand

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.
10 SENATOR RONNIE A. SABB
11 REPRESENTATIVE CHRIS MURPHY
12 REPRESENTATIVE J. TODD RUTHERFORD
13 HOPE BLACKLEY-LOGAN
14 LUCY GREY MCIVER
15 ANDREW N. SAFRAN
16 J.P. "PETE" STROM
17 SENATOR SCOTT TALLEY
18 ERIN B. CRAWFORD, CHIEF COUNSEL

19 * * * * *

20 DATE: November 18th, 2020
21 TIME: 9:30 a.m.
22 LOCATION: Gressette Building, Room 105
23 1101 Pendleton Street
24 Columbia, South Carolina 29201
25 REPORTED BY: PATRICIA G. BACHAND, COURT REPORTER

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1 REPRESENTATIVE SMITH: Representative Murphy
2 moves that we come out of executive session, and is
3 secondly by Senator Talley. All in favor say "aye."

4 (At this time the members audibly say "aye.")

5 REPRESENTATIVE SMITH: All opposed?

6 (Hearing none.)

7 REPRESENTATIVE SMITH: The ayes have it.
8 Let me state while we were in executive session there were
9 no votes taken and no matters decided. We were in
10 executive session for the purpose of a legal briefing.

11 All right. We got the first candidate
12 today. Good morning, Mr. Meetze.

13 MR. MEETZE: Good morning. How are you, Mr.
14 Smith?

15 REPRESENTATIVE SMITH: I'm doing well. You
16 got a guest with you?

17 MR. MEETZE: I do.

18 REPRESENTATIVE SMITH: Would you like to
19 introduce her?

20 MR. MEETZE: Please. Thank you so much.
21 This is my wife. I'm proud to introduce my wife, Anna
22 Braddock Meetze, from Hartsville.

23 REPRESENTATIVE SMITH: Welcome, Anna. I
24 appreciate you being here today. Mr. Meetze, raise your
25 right hand, please, sir.

1 WHEREUPON,

2 WILLIAM VICKERY MEETZE, being duly sworn and
3 cautioned to speak the truth, the whole truth and nothing
4 but the truth.

5 REPRESENTATIVE SMITH: All right. You can
6 be seated. And let me ask you a couple questions. I think
7 we saw you last year, wasn't it?

8 MR. MEETZE: Yes, sir.

9 REPRESENTATIVE SMITH: Okay. So you know
10 how the -- how the drill goes. You got before you, your
11 PDQ and your sworn statement. Are those both documents
12 that you submitted to the Commission?

13 MR. MEETZE: They are.

14 REPRESENTATIVE SMITH: And are they both
15 true and accurate?

16 MR. MEETZE: Yes, sir.

17 REPRESENTATIVE SMITH: Any changes or
18 updates that need to be made at this time?

19 MR. MEETZE: No, sir, not at this time.
20 Subsequent to me having submitted these prior to the
21 deadline, I did submit an amendment, which is also before
22 me and marked as Exhibit 2. And that is -- I don't need to
23 add anything to that, but I will note for the record that I
24 did make an amendment subsequent to me having initially
25 submitted everything.

1 REPRESENTATIVE SMITH: Okay. Great. Do you
2 have any objection to us making your statements, as well as
3 any amendments, an exhibit to your sworn testimony here
4 today?

5 MR. MEETZE: None at all.

6 REPRESENTATIVE SMITH: All right. Without
7 objection we'll make those as exhibits.

8 (EXHIBIT NO. 1 - JUDICIAL MERIT SELECTION
9 COMMISSION PERSONAL DATA QUESTIONNAIRE OF WILLIAM
10 VICKERY MEETZE)

11 (EXHIBIT NO. 2 - JUDICIAL MERIT SELECTION
12 COMMISSION AMENDED PERSONAL DATA QUESTIONNAIRE OF
13 WILLIAM VICKERY MEETZE)

14 (EXHIBIT NO. 3 - JUDICIAL MERIT SELECTION
15 COMMISSION SWORN STATEMENT OF WILLIAM VICKERY
16 MEETZE)

17 REPRESENTATIVE SMITH: Mr. Meetze, the
18 Judicial Merit Selection Commission has thoroughly
19 investigated your qualifications for the bench. Our
20 inquiry is focused on nine evaluative criteria, and has
21 included a ballot box survey, a thorough study of your
22 application materials, verification of your compliance with
23 state ethics laws, a search of newspaper articles in which
24 your name appears, a study of previous screenings, and
25 checks for economic conflicts of interest.

1 We've received no affidavits in opposition
2 to your election today. There are no witnesses present to
3 testify. Do you wish to make a brief opening statement?

4 MR. MEETZE: Please. Thank you very much.
5 I just would like to thank everybody for this opportunity.
6 I think it's a wonderful opportunity that's provided by our
7 Legislature in our state. And I certainly would like to
8 thank you all for your dedication to this state and service
9 to this process. It's extremely meaningful to myself and
10 all of the candidates.

11 REPRESENTATIVE SMITH: Thank you, Mr.
12 Meetze. Will you answer questions that Counsel may have
13 for you.

14 MR. MALDONADO: Thank you, Mr. Chairman.
15 I would note for the record that based on the testimony
16 contained in the candidate's PDQ, which has been included
17 in the record with that candidate's consent, William
18 Vickery Meetze meets the constitutional and statutory
19 requirements for this position regarding age, residence,
20 and years of practice.

21 EXAMINATION BY MR. MALDONADO:

22 **Q. Mr. Meetze, can you tell the Commission why it is**
23 **you want to be a Circuit Court judge?**

24 A. You know, I've -- it's interesting I think about
25 this question a good bit, and my desire to be a Circuit

1 Court judge sort of started when I was in law school. My
2 grandfather served for many years as the chaplain of the
3 Senate, and in that process he very much enjoyed when the
4 judicial candidates would be coming to the statehouse, and
5 any opportunities to interact with them. And so when I
6 became a law student, and whenever I would visit with him,
7 he would say to me, "Vick, you're going to be my judge.
8 You're going to be my judge."

9 And of course that's a proud grandfather talking
10 to his grandson in private conversations, but that sort of
11 planted the seed.

12 I had an opportunity to clerk for the Honorable
13 Jim Brogdon when I got out of law school, and I think he
14 served as an excellent example of a judge. Sort of -- I
15 guess you could classify him as a judge's judge. I think
16 he was highly respected. And I think he had all of the
17 qualities that it takes to serve in our judiciary, and in
18 an outstanding manner.

19 And so that's when it really sort of got me to
20 where I really felt like this was a job, a position that I
21 would be very well suited for, because I saw a lot of those
22 same characteristics in me.

23 As my career's gone on, I think of the important
24 things of what I do in representing people in trying to
25 help me, and try to serve our Constitution, and I think all

1 of those things are very important. I've always seen our
2 judges as protectors of the Constitution.

3 And I think that as a judge, not just serving my
4 clients, but providing opportunities for folks who have
5 cause to come before the court with a fair and just
6 opportunity to be heard is something that's extremely
7 appealing to me.

8 And, again, the protection of our Constitution
9 and all of our rights is something, again, that I think I'm
10 well suited for, and is very appealing to me to continue
11 the public service that I've done my whole career.

12 **Q. Thank you. How do you feel your legal and**
13 **professional experience thus far renders you qualified and**
14 **will assist you to be an effective Circuit Court judge?**

15 A. I believe I spent, like I said, for one -- and
16 even though it was a good while ago now, I clerked for a
17 judge that I think provided a wonderful example of how to
18 do the job.

19 After that, I went to work in the solicitor's
20 office in the 16th Circuit, and from there at the public
21 defender's office, also in the 16th Circuit, and have been
22 a trial lawyer in Circuit Court my entire career.

23 In that process, I've obviously tried any number
24 of cases. I've worked hard in doing so. I've always done
25 my own research. I've always done all of that. I'm very

1 adept at that. I have a wealth of trial experience. I
2 think that, that certainly lends itself well to be a
3 Circuit Court judge. And not just what you do in the
4 courtroom, but how I conduct myself outside the courtroom,
5 the way I've always treated folks, be it the clerk's
6 office, colleagues, adversaries, it's all, I think, has
7 lent itself to good judicial service.

8 And folks that I've grown up with, my family, and
9 all the influences that I've had also lends itself to just
10 knowing how to treat people, how to conduct yourself, how
11 to work hard, and has, I think, set me up very strongly to
12 be an effective member of the judiciary.

13 **Q. Mr. Meetze, in 2016 you were named as a co-**
14 **defendant, along with the Honorable Nikki Haley, Sheriff**
15 **Kenny Boone, Solicitor Clemmons and some others, on a suit**
16 **filed by David Bryant Wicks, an inmate, in an action in**
17 **U.S. District Court. Can you tell the members anything**
18 **about the nature and that outcome of that suit?**

19 A. I don't have any real personal knowledge of that
20 suit. I can tell you that I found out about that suit
21 yesterday in a phone conversation with you. I did
22 represent a David Wicks, years ago. I was not aware that
23 he had filed any sort of suit against me.

24 I can only assume that, that would have been a
25 suit that was handled and taken care of without any service

1 to me personally. But I was not aware until actually
2 yesterday, that, that had taken place.

3 Q. And for the record, the case was dismissed
4 without service. Mr. Meetze, after submitting your PDQ,
5 you also submitted an amendment where you mentioned that
6 you were -- that your client, John Lawrence Barfield, told
7 you that he was going to file a suit against you. Can you
8 explain anything about that?

9 A. I can. As you just said, I've got a client
10 currently, still my client, named John Lawrence Barfield.
11 He's got some serious charges that expose him to the
12 possibility of a life sentence if the state chose to serve
13 him the with notice. I have been informed that he has been
14 informed that should he go to trial, that they do intend on
15 serving him with the notice under our Recidivous Statute.

16 He pretty much told me as much, but he -- that he
17 filed a lawsuit against me. And I found out about that --
18 I think it was the Friday that all of the applications and
19 all were to have been submitted. I had submitted mine
20 earlier that week.

21 So he told me that Friday, that he had sued me,
22 and pretty much told me in no uncertain terms that he
23 thought that by doing, that he would be able to get me off
24 of his case. That did not work.

25 But, anyway, I -- so at that point in time, all I

1 knew was I had a client that told me he had filed a suit
2 against me, but he didn't tell me which court or whether or
3 not -- and I didn't know for sure that he had at that point
4 in time.

5 But I notified the Judicial Merit Selection
6 Commission that I had been told that. And further looking
7 into that, I did find out that he had. I set up my own
8 Pacer account in the federal system and looked up the case.
9 It took me a little while because my name -- he didn't
10 spell names right, so I had to check spellings and things
11 like that.

12 But eventually I did find and see where the case
13 had been again dismissed without getting notice, and I
14 think I printed those things off, and the allegations that
15 he had were false. But again it was dismissed by Judge
16 Childs without me ever having been notified of the -- of
17 the suit at all.

18 Q. Thank you. The Commission received 92 ballot box
19 surveys regarding you, with twenty-two -- 20, sorry,
20 additional comments. The ballot box survey, for example,
21 contained the following positive comments:

22 "Vick Meetze embodies the qualities essential to
23 being an outstanding judge. He has a brilliant legal mind
24 and it will enable him to master any area of the law."

25 Also, "Mr. Meetze is the best candidate, hands

1 down. Terrific temperament. Very knowledgeable."

2 There were no negative comments, but two of the
3 written comments mentioned your lack of civil experience.
4 How would you respond to this concern?

5 A. I would say that as far as lack of civil
6 experience, it is true that I've always either been -- as a
7 practicing attorney either in the solicitor's office or in
8 a public defender's office. And so all of my practical
9 work as being a lawyer has been in General Sessions.

10 I will say that in that process, I do have
11 experience in post-conviction relief hearings, which is a
12 part of civil court. I also -- working for Judge Brogdon,
13 I got to participate in several different complex
14 litigation cases. He was Chief Administrative Judge for
15 civil court back then, so I got to at least back then
16 observe a good bit of civil court.

17 I'm a trial lawyer. Like I said, you know, it's
18 kind of -- this process -- I think one of the best
19 characteristics that a judge could have is to maintain a
20 sense of humility. And I think that I fit that
21 characteristic.

22 But at the same time, when you're sitting here
23 and trying to present yourself as the best candidate for a
24 particular job, you've got to, I guess, put some of that
25 aside.

1 I'll say that, you know, in my career as a -- as
2 a practicing attorney, I've tried two different murder
3 trials, two acquittals, two stand your ground hearings
4 where clients were granted immunity.

5 I've had successful outcomes in trials for drug
6 trafficking, criminal sexual conduct with a minor in the
7 first degree, armed robberies, attempted murders, burglary
8 in the first degrees, all where I was able to achieve
9 favorable verdicts for my clients.

10 And I say that to say this: You don't get those
11 kind of results without extremely hard work and dedication.
12 And I learned that through my family and through other
13 folks that I've worked for and with. And that's to me what
14 really lends itself best to being a circuit judge or really
15 any profession: it's how hard you work, what are you going
16 to put into it.

17 And I think my career stands for itself in that
18 regard. And the work that I do and the hard work that I
19 do, if there's any perceived shortcomings from not having
20 as much experience in civil court, I in myself, I do not
21 believe at all that there's any -- that there are any
22 shortcomings.

23 I think that I can overcome any lack of
24 experience with my work and dedication, which is the only
25 way I've ever known how to conduct myself in this

1 profession.

2 Q. Thank you.

3 MR. MALDONADO: I would note the that Pee
4 Dee Citizens Committee reported that Mr. Meetze is well
5 qualified as to ethical fitness, professional and academic
6 ability, character, reputation, experience, and judicial
7 temperament. The Committee reported Mr. Meetze is
8 qualified as the constitutional qualifications, physical
9 health and mental stability.

10 BY MR. MALDONADO:

11 Q. I'll finish up with some housekeeping questions.
12 Mr. Meetze, are you aware that as a judicial candidate you
13 are bound by the Code of Judicial Conduct as found in Rule
14 501 of the South Carolina Appellate Court Rules?

15 A. I am.

16 Q. Mr. Meetze, since submitting your letter of
17 intent have you contacted any members of the Commission
18 about your candidacy?

19 A. I have not.

20 Q. Since submitting your letter of intent have you
21 sought or received the pledge of any legislator, either
22 prior to this date or pending the outcome of your
23 screening?

24 A. I have not.

25 Q. Are you familiar with Section 2-19-70, including

1 the limitations on contacting members of the General
2 Assembly regarding your screening?

3 A. I am familiar.

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

8 A. I have not asked anyone to make any such
9 contacts, and I am not aware of anyone having done so on my
10 behalf.

11 Q. Have you reviewed and do you understand the
12 Commission's guidelines on pledging and South Carolina Code
13 Section 2-19-70(E)?

14 A. I have reviewed and I am familiar with those
15 guidelines.

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

21 CHAIRMAN RANKIN: Okay. Thank you.
22 Questions by members of the Commission? Representative
23 Smith.

24 REPRESENTATIVE SMITH: Mr. Meetze, good to
25 see you again.

1 MR. MEETZE: Thank you. Good to see you as
2 well.

3 EXAMINATION BY REPRESENTATIVE SMITH:

4 Q. Again, I will say I guess I've known Vick since
5 we were teenagers, maybe before we even went to college.

6 A. Yes, sir.

7 Q. And I, again, am impressed with your presentation
8 and your work ethic, and also I'll say your persistence in
9 trying to do this. This is obviously a dream of yours, I
10 presume, and something you would hope to obtain. And you
11 did a good job of explaining to us why and how you came in
12 -- became interested in this.

13 But as we go through, you know, I always
14 mentioned your civil -- lack of civil experience. And
15 you've been criminal -- doing a lot of criminal work, so do
16 you think that there's a -- you know, how would you adapt
17 to the civil side of the courtroom if you had -- if you
18 were successful at this job?

19 A. You know, I think that as far as adapting goes, I
20 think that my personality the way it is, and my work ethic
21 sort of lends itself to an easy transition and being able
22 to adapt well to that branch of the Circuit Court. I think
23 that, you know, it boils down to your work and your
24 dedication.

25 I certainly, currently, keep up with the law. I

1 always have. I would continue to do that. I would
2 certainly read more with regards to Circuit Court, advance
3 sheets and things like that. As I stand now, whenever I've
4 got a case for trial or whatever else, I make sure that I'm
5 aware and know every legal issue that I can think of to try
6 handling that case.

7 If I were to get this job, be fortunate enough to
8 get this position in Circuit Court, I would do the same
9 thing there. I would make sure that as trials were coming
10 up, I would be as familiar as I could with the issues, have
11 them researched, and be able to make reasoned and sound
12 decisions and do it in a -- in a quick manner. I think
13 that, you know --

14 **Q. And rules of evidence are the same in Circuit**
15 **Court.**

16 A. Rules of evidence are the same in Circuit Court -
17 -

18 **Q. Procedures are the same.**

19 A. Yes, sir.

20 **Q. Just a little bit different and allow you to draw**
21 **how many strikes of a jury you get.**

22 A. That's right.

23 **Q. But, you know, it's -- and my experience in most**
24 **cases -- again, try little car wreck cases and all that. I**
25 **mean, it's nothing you don't think that you could easily**

1 pick up on.

2 A. I don't think there's any issue with regards to
3 me being able to easily pick you on those kind of nuances,
4 the differences in the two.

5 Q. And I always use him as an example of this, is my
6 former law partner, now Supreme Court Justice Buck James,
7 ran for this seat. And I think there was some concerns
8 expressed to him when he was running, about his lack of
9 criminal experience.

10 And I don't think anyone around here that's seen
11 him, once he went to that bench, that's where he excelled
12 was in the -- having a completely civil practice, he
13 excelled at criminal. And you hear people that are
14 prosecutors or public defenders talking about what a good
15 judge he was in that area.

16 And so I -- you know, I think while we look for
17 somebody that's well rounded, also you've got to have --
18 look at the candidate and understand that people specialize
19 in certain areas.

20 But as long as they got the temperament, the
21 ability to learn and the -- and the proven record of
22 success in one of the areas, that more than likely they're
23 going to succeed in the civil area too.

24 A. Yes, sir. And I -- sorry to interrupt you, Mr.
25 Smith. But I would say that you can add me to that list of

1 folks that have that same opinion about now Justice Buck,
2 that at the time Judge Buck, 'cause I certainly was able to
3 practice in front of him in the criminal arena. And he was
4 an outstanding judge for General Sessions court.

5 REPRESENTATIVE SMITH: All right. Thank
6 you, Mr. Meetze. I appreciate you being here today.

7 MR. MEETZE: Thank you.

8 CHAIRMAN RANKIN: Any further comments or
9 questions?

10 (Hearing none.)

11 MR. CHAIRMAN: Very well. Anna --

12 MS. MEETZE: Yes, sir.

13 CHAIRMAN RANKIN: -- Braddock. I don't know
14 that I've met a Braddock before, other than you. And
15 you're from Hartsville?

16 MS. MEETZE: That's correct. Yes, sir.

17 CHAIRMAN RANKIN: Very good. I'm glad
18 you're here again. You've been here with him before?

19 MS. MEETZE: I have. Yes, sir.

20 CHAIRMAN RANKIN: Super. All right.

21 REPRESENTATIVE SMITH: Are you related to
22 Brian Braddock?

23 MS. MEETZE: We are not related. But we
24 think maybe far down the road, maybe.

25 REPRESENTATIVE SMITH: Wasn't he from

1 Darlington County too?

2 MS. MEETZE: He is.

3 REPRESENTATIVE SMITH: Okay.

4 MS. MEETZE: That's correct. I'm from
5 Hartsville -- we're both from Hartsville.

6 REPRESENTATIVE SMITH: People are asking me
7 if that Smiths are related, so I claim a lot of relatives;
8 they don't claim me.

9 CHAIRMAN RANKIN: Celeste Braddock, is that
10 --

11 MS. MEETZE: That's correct. That was Judge
12 Chandler's -- she was with Judge Chandler when I started
13 with the solicitor's office back in 1995. But we're not
14 related.

15 CHAIRMAN RANKIN: Well, very good. All
16 right. Well, thank you for being here as well. And Mr.
17 Meetze -- you pronounce it Meetze.

18 MR. MEETZE: That's correct.

19 CHAIRMAN RANKIN: So often -- we had a
20 chaplain here, same spelling, and of course we know that
21 relation that you had to him. Anyway, and of course we
22 know, and Erin has reminded me, that we've talked about
23 this before, what a -- 'cause I never really knew was it
24 "Meets" or was it Meetze.

25 MR. MEETZE: Right.

1 CHAIRMAN RANKIN: Anyway, just a wonderful
2 presence in the Senate, and long-serving. I don't know how
3 many years he was there, but --

4 MR. MEETZE: Fifty-six.

5 CHAIRMAN RANKIN: We won't talk about this
6 now, but his counsel on a couple things was just spot-on to
7 me. He would bellow at the beginning of his prayer,
8 "Beloved." And he would -- I mean, he could just do it.
9 It was just such a beautiful attention-grabbing start to
10 his little prayer.

11 MR. MEETZE: I certainly appreciate you
12 mentioning him in that regard. And I can certainly tell
13 you that he loved being the chaplain of the Senate. And he
14 loved the senators that he prayed over and counseled, and
15 it was something that was extremely dear to him, and
16 extremely proud.

17 And I can remember him taking me to the
18 Meetze chapel, right on the second floor, when I was
19 probably 8 years old for the first time. And it's all very
20 meaningful to me as well. And so it's great to hear
21 anybody remember him fondly. And I certainly do. So thank
22 you so much.

23 MR. CHAIRMAN: Very good. Very good. All
24 right. This will close -- unless you've got anything else
25 to say. Again, I'm not inviting more, but if you'd like --

1 any final comments from you?

2 MR. MEETZE: I have no -- nothing -- no
3 further comments. Thank you, though.

4 MR. CHAIRMAN: Very good. Very good. So
5 this will conclude this portion of the screening process.
6 And I want to remind you of our adherence to both the
7 letter and the spirit of the ethics laws in South Carolina.
8 Any violation or the appearance of impropriety will be
9 deemed as a very serious event, potentially deserving of
10 heavy weight and consideration in the screening
11 deliberations.

12 I trust that will not be the case with you,
13 but you do remember that this record will remain open until
14 the formal release of the report of qualifications. If the
15 need were to arise, we would call you back. And we don't
16 expect that would be the case, but you're aware of that
17 rule, correct?

18 MR. MEETZE: I am aware. Thank you.

19 CHAIRMAN RANKIN: Very good. All right.
20 Thank you again. And Ms. Braddock --

21 MS. MEETZE: Thank you.

22 CHAIRMAN RANKIN: -- Meetze. Thank you so
23 much.

24 MR. MEETZE: Thank you all

25 (Candidate excused.)

1 CHAIRMAN RANKIN: All right. Mr. Miller,
2 are you ready? If you will, sir, raise your right hand.

3 WHEREUPON,

4 DAVID W. MILLER, being duly sworn and
5 cautioned to speak the truth, the whole truth and nothing
6 but the truth.

7 CHAIRMAN RANKIN: Very good. Have a seat.

8 MR. MILLER: Thank you.

9 CHAIRMAN RANKIN: Take a look, if you will,
10 at the documents that you have previously filled out, the
11 PDQ and sworn statement. And just tell us if there needs
12 to be amendments to those. Or if not, do you have any
13 objection to us putting them in the record?

14 MR. MILLER: I'm not aware of any
15 amendments, Senator. And I have no objection to those
16 being placed into the record.

17 CHAIRMAN RANKIN: Very well.

18 (EXHIBIT NO. 4 - JUDICIAL MERIT SELECTION
19 COMMISSION PERSONAL DATA QUESTIONNAIRE OF DAVID
20 W. MILLER)

21 (EXHIBIT NO. 5 - JUDICIAL MERIT SELECTION
22 COMMISSION AMENDED PERSONAL DATA QUESTIONNAIRE OF
23 DAVID W. MILLER)

24 (EXHIBIT NO. 6 - JUDICIAL MERIT SELECTION
25 COMMISSION SWORN STATEMENT OF DAVID W. MILLER)

1 CHAIRMAN RANKIN: You are familiar with the
2 screening process, but for the record I want to just remind
3 you that we look -- as we're investigating your
4 qualifications to the nine evaluative criteria that we
5 have, which includes a ballot box survey, a study of your
6 application materials, verification of your compliance with
7 the state ethics laws, a search of newspaper articles in
8 which your name appears, a study of previous screenings,
9 and a check for economic conflicts of interest.

10 No one's filed an affidavit in opposition of
11 your election. No one has desired to be present as a
12 witness to testify against you. Obviously, you have
13 someone with you. We would welcome the introduction of
14 your guest.

15 MR. MILLER: Thank you, sir. This is Ashley
16 -- Ashley Jacobs. She is a life-long friend of mine. And
17 the last time I appeared before the committee, she came
18 with me and I was favorably screened out. And so I thought
19 I'd keep going with that luck.

20 CHAIRMAN RANKIN: You might want to get a
21 little closer. Welcome back. Glad you're here. And we
22 will now turn it over to Donna Barton for questions. Thank
23 you.

24 MR. MILLER: Thank you.

25 MS. BARTON: I note for the record that

1 based on the testimony contained in the candidate's PDQ,
2 which has been included in the record with the candidate's
3 consent, Mr. David Miller meets the constitutional and
4 statutory requirements for this position regarding age,
5 residence, and years of experience.

6 EXAMINATION BY MS. BARTON:

7 **Q. Mr. Miller, could you briefly tell us why you**
8 **want to serve as Circuit Court judge at this time?**

9 A. I want to serve as a Circuit Court judge because
10 I have witnessed some things that have happened over the
11 course of the -- particularly this year. I think it is
12 about to be a very, very challenging time for the judiciary
13 in South Carolina, because of the impact of Covid, because
14 of the -- really kind of transformation that's been going
15 on, moving away from being in the courtroom as much, and
16 doing things on-line.

17 There are a lot of technical challenges that were
18 coming up. There are a lot of -- there are a lot of things
19 that are going to require a lot of flexibility out of the
20 judiciary and out of the judges. And I think I'm well
21 equipped to do that.

22 And I am very interested in serving as a judge so
23 that I can help make that transition possible as we start
24 moving towards a new kind of way of doing things in the
25 court system.

1 I know for a fact that the court administration
2 has been talking very recently about going to electronic
3 sentencing sheets, they're expecting the judges to be
4 producing those electronic sentencing sheets. There's a
5 lot of different changes that are going on. And a lot of
6 it was expedited by the Covid pandemic.

7 But I really don't think we're ever going to go
8 back to the way things were before, before March of this
9 year. And I think I'm in a good position to help the
10 system adapt to the way that things are going to have to be
11 done in the future.

12 **Q. Thank you, Mr. Miller. Mr. Miller, how do you**
13 **feel your legal and professional experience thus far**
14 **renders you qualified and will assist you to be an**
15 **effective Circuit Court judge?**

16 A. I have had experience in all aspects of the law
17 in the circuit courts of South Carolina. Before I was a
18 deputy solicitor, before I was a prosecutor, I was in
19 private practice. I represented civil plaintiffs, civil
20 defendants.

21 In Aiken, you kind of had to take what came
22 through the door. You didn't get to just be a plaintiff's
23 lawyer or just be a defense attorney. I represented
24 criminal defendants. As a matter of fact, most of my
25 trials as a private attorney were criminal defense matters.

1 So I've had that wide range of experiences, inside and
2 outside the courtroom.

3 I participated in PCR actions. I have been
4 involved in many death penalty cases, and even gone as far
5 as witnessing the execution of one of my clients that I was
6 appointed to represent, and I prosecuted a death penalty
7 case as well.

8 So I think as far as the types of cases and the
9 types of things that I have had the opportunity to
10 participate in and to do, I really have kind of covered the
11 waterfront with my experience. It's been that diverse.

12 Q. Thank you. Mr. Miller, the Commission received
13 164 ballot box surveys regarding you, with 37 additional
14 comments. The ballot box survey, for example, contained
15 the following positive comments:

16 "Extremely talented lawyer. Good natured and
17 understanding. Knowledgeable of the law is exceptional.
18 He treats all those who deal with him fairly and with
19 respect. Perfect temperament and extremely well
20 qualified."

21 One of the written comments expressed concern in
22 regards to anger control and respect towards others. What
23 response would you offer to this concern?

24 A. I can't address the concern directly, because I
25 have no idea where it came from. And interestingly,

1 whenever we discussed this before, I went and asked some
2 people about -- you know, this was -- this was the concern
3 that was expressed. And the feeling or the feedback that I
4 got from people was that, that really wasn't something that
5 they had seen before.

6 And it -- but it concerned me. Because, you
7 know, when something like that happens -- and one person --
8 actually, it was Solicitor Thurmond actually suggested
9 maybe they had the wrong David Miller. There are three of
10 us in South Carolina, three attorneys named David Miller.

11 But I just -- I just don't know how there can be
12 that kind of diversity or divergence from what everybody
13 else had commented on, except to say that, certainly, it's
14 something that I've thought about a lot. And I hope I
15 never earn that comment.

16 Q. Thank you. Mr. Miller, you have indicated in
17 your PDQ, that you were named as a party in a 1983 action
18 captioned as Dustin Williamson v. Brian Sterling, et al, a
19 civil action against AT&T, a lis pendens listed on the
20 Aiken County index, and a minor settlement listed on the
21 Aiken County index. Could you please explain the nature or
22 disposition of these particular matters?

23 A. The 1983 case, the federal case with Dustin
24 Williamson, I was granted summary judgment in the case.
25 And that grant of summary judgment was appealed to the 4th

1 Circuit Court of Appeals, and they affirmed that matter.

2 And the nature of it, it was -- it was a
3 allegation that was made by a inmate who was a safe-keeper,
4 and I had been one of the people that had signed paperwork
5 and it was ministerial. So that I was granted summary
6 judgment on.

7 I brought a lawsuit against AT&T in my individual
8 capacity, many years ago, over a iPhone discrepancy. And I
9 got a judgment -- I obtained a judgment in that case
10 regarding the iPhone.

11 And then the lis pendens was, as near as we can
12 tell, it didn't have anything to do with me. It was an
13 action where I represented a party in the case, and somehow
14 in the public index it got me listed as a party on that lis
15 pendens. And I'm sorry, the last one was?

16 **Q. A minor settlement.**

17 A. Oh, the minor settlement. A very close friend of
18 mine -- family friend of mine had a daughter who was
19 injured in a -- in an accident. And I was asked to act as
20 the guardian ad litem for her so that she could get the
21 minor settlement approved for her. And so I did that for
22 her without any compensation. But that's why I was listed
23 as the guardian in that case.

24 **Q. Thank you. Your SLED report indicated there was**
25 **a lawsuit filed against you. It was filed in September of**

1 2015, and dismissed shortly thereafter for service issues
2 in the U.S. District Court by Demal Sanders, an inmate at
3 the time. Were you aware of this matter? And if so, could
4 you please explain any -- the nature and disposition?

5 A. No, ma'am, I'm not aware. And I actually went
6 back and checked. We didn't ever have a defendant by that
7 name, according to our records in the 2nd Circuit. So
8 maybe that's another one of those other David Millers. I
9 don't know.

10 Q. Thank you.

11 MS. BARTON: I would note that the Midlands
12 Citizens Committee reported that David Miller is qualified
13 in the evaluative criteria of constitutional
14 qualifications, physical health and mental stability. The
15 Committee found him well qualified in the evaluative
16 criteria of ethical fitness, professional and academic
17 ability, character, reputation, experience, and judicial
18 temperament.

19 In addition, the Committee provided a
20 written comment of: "Excellent qualifications based on vast
21 experience."

22 BY MS. BARTON:

23 Q. Mr. Miller, just a few more items. Are you aware
24 that as a judicial candidate you are bound by the Code of
25 Judicial Conduct as found in Rule 501 of that South

1 Carolina Appellate Court Rules?

2 A. Yes, ma'am.

3 Q. Since submitting your letter of intent have you
4 contacted any members of the Commission about your
5 candidacy?

6 A. No, ma'am.

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

11 A. No, ma'am.

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

15 A. I am.

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

20 A. I have not, and I am not.

21 Q. Have you reviewed and do you understand the
22 Commission's guidelines on pledging in South Carolina Code
23 2-19-70(E)?

24 A. Yes, ma'am.

25 MS. BARTON: Mr. Chairman, I would note for

1 the record that any concerns raised during the
2 investigation by staff regarding the candidate were
3 incorporated into the questioning of the candidate today.
4 I have no further questions.

5 CHAIRMAN RANKIN: All right. Thank you, Ms.
6 Barton. Questions by members of the Commission? Senator
7 Rutherford.

8 REPRESENTATIVE RUTHERFORD: Sir, I just -- I
9 don't have a question, but I did want Mr. Miller to know
10 how much I appreciate him being my lawyer over the years in
11 the solicitor's office. Because when you call and you need
12 something anywhere where David is, he then walks you
13 through the process and tells you all that things that
14 you're probably doing wrong, but that he thinks he can fix
15 it. And he very ably and kindly fixes it every single
16 time.

17 And he has just been a prince of a guy over
18 the years that I've known him, and has been an awesome
19 solicitor and an awesome person. And I think at the
20 appropriate time would make an awesome judge.

21 So, David, again I can't thank you enough
22 for all of the pitfalls you've helped me avoid and all of
23 that personalities you've helped me understand.

24 And David was, in fact, the solicitor on the
25 call when the victim who I thought -- who had paid me to

1 represent this defendant and get him out of jail then
2 flipped on the Zoom call and told me how he was -- my
3 client was going to kill her with the bullet that she found
4 in her car. And David called me and we laughed about it
5 later. But David is always a good sport, always a great
6 solicitor.

7 So again, thank you for continuing your
8 endeavor to make it to this high honor.

9 MR. MILLER: Thank you.

10 CHAIRMAN RANKIN: Mr. Strom.

11 MR. STROM: Mr. Chairman, I'd like to echo
12 what Mr. Rutherford said. I've known David since he was
13 clerking with Judge Peeples. And I've watched throughout
14 his whole career, there isn't a better person. And if
15 somebody has something negative to say about him, I would
16 say that person has a character flaw. Thank you, Mr.
17 Chairman.

18 MR. MILLER: Thank you, sir.

19 EXAMINATION BY CHAIRMAN RANKIN:

20 Q. Now we all know the real David Miller. Mr.
21 Miller, I too -- I remember you well. And looking back
22 through the dusted-off and -- or current letters of
23 reference -- of references that you have, all stellar, from
24 people that you would want to hear from and that you would
25 want in your corner, saying the things about you that is

1 literally, I think, without blemish of, again, those who
2 you know you. So Skip Utsey -- "Bert" on paper -- but
3 Skip's name is very impressive, his endorsement of you.

4 We've had this question before in the theme of --
5 you know, I invoke Goldilocks of just the right mix.
6 Clearly, you are purely criminal defense or prosecution-
7 steeped in your practice, now, with no active civil
8 practice. And that would be hard to do.

9 Just speak to those who might have some concern,
10 though again by the ballot box, not brought to our
11 attention, with your lack of civil experience and how you
12 would get up to speed if you were to succeed in this quest.

13 A. Yes, sir. And, obviously, I think that, that was
14 one of the most important aspects for -- or characteristics
15 of any judge is that they be willing to continue to learn,
16 and certainly know that there is room for growth and there
17 is room for me to learn more, and to get back into the
18 civil practice as far as the things that need to be done in
19 a civil practice.

20 So I would be primarily focusing my efforts as
21 far as continuing education on the civil side of things,
22 because I'm more comfortable these days on the criminal
23 side.

24 But I did note this is -- it was kind of
25 interesting whenever the questions came back -- or the

1 comments came back, for the first time in my life I think
2 that the majority of the attorneys that I work with don't -
3 - have never known me as anything but an assistant or a
4 deputy solicitor, because it was -- it was twelve years ago
5 that I was on the Board of Governors for the South Carolina
6 Trial Lawyers, and I had a very active civil practice, and
7 that I was working in a -- in a private law firm.

8 And there's so many young kids, and we get these
9 young men and women that come out of law school, and they
10 become assistant solicitors or public defenders, and then
11 they kind of migrate into private practice.

12 And probably now that scale's tipped that the --
13 that most of the people that I work with regularly only
14 know me as being a deputy solicitor or an assistant
15 solicitor.

16 But I have had that experience in the past of
17 working on the civil cases, and quite frankly, really
18 enjoyed it. One of the big things about civil practice is,
19 if you want to be the courtroom and you want to be a trial
20 lawyer, you have a lot more opportunities on the criminal
21 side than you do on the civil side.

22 And I think every judge that I've spoken with
23 will say that the civil cases just don't get -- and with
24 good reason, they ADR in, you know, mediation and
25 arbitration. It's a harder to get a civil case to trial

1 anymore.

2 But the good news about that is, that I do
3 understand the basic -- the fundamentals of the civil
4 practice. And most importantly, we don't allow trial by
5 ambush in civil cases in South Carolina. We kind of
6 reserve that for the criminal court.

7 So I would have an opportunity to get in and
8 delve into specific issues that I might need some
9 additional guidance or information on. You know, I would
10 be looking for those, to go in and figure that out.

11 **Q. And working with Judge Peeples as a one-year**
12 **clerk?**

13 A. One year. Yes, sir.

14 **Q. Almost like the theme of trying cases would get**
15 **more action in the solicitor's office than you will with a**
16 **plaintiff or a defense firm, that experience was perhaps**
17 **not baptism by fire, but at least you were on the right**
18 **side of the bench watching that education that Judge**
19 **Peeples imparted to those before him.**

20 A. Judge Peeples was much, much easier to work for
21 than he was to work around. And Judge Peeples has always
22 treated me unbelievably well. And I am forever in his debt
23 for a lot of the things that he taught me, and a lot of the
24 things that he told me to -- he threatened me to say, "If
25 you every do so-and-so, I'm going to come after you."

1 And it was always great advice. You know, "Don't
2 ever show up for a hearing unprepared," and those types of
3 things. It was the things -- if you could practice in
4 front of Judge Peeples, you could practice in front of any
5 judge.

6 And so I am always -- and always will be
7 appreciative for that. I guess the greatest claim to fame
8 that I would have is during my time as Judge Peeples law
9 clerk, he quit smoking. So on top of everything else, he
10 stopped smoking while I was his law clerk, so --

11 **Q. You obviously provided strength to him. Without**
12 **you he would not have put that cigarettes down.**

13 A. I provided something for him. At least he knew
14 he wouldn't -- he wouldn't hurt me; I was going to show up
15 for work the next day.

16 CHAIRMAN RANKIN: Pete.

17 EXAMINATION BY MR. STROM:

18 **Q. David, you started out and you mentioned**
19 **something about you expect a lot of changes with Covid.**
20 **Would you expand on that a little bit?**

21 A. Well, it's what we've actually seen since March.
22 So I remember well the very first term of court we were
23 going to have in Bamberg was supposed to be March the 23rd.
24 And whenever everything got shut down on the 12th of March,
25 we didn't see the grand jury in Bamberg County until

1 September. I mean, we could not physically get people in.

2 And Judge Newman has been so fantastic as our
3 Chief Administrative Judge, his flexibility has been
4 unbelievable. By the middle of April or the end of April,
5 the jail in Aiken was so worried about being overrun that
6 Captain Nick Gallam, who's the jail administrator, he came
7 in and we actually held our first day of criminal court in
8 Aiken County after Covid started, using the video
9 visitation for the jail.

10 So you had an inmate on the phone and we -- that
11 worked for a day. And then with Judge Newman's guidance we
12 were like, "Well, let's try to do Facetime." And that
13 didn't work very well at all.

14 And then the next thing was, well, Judge Newman
15 said, "We're going to use Zoom." And we went to Zoom.

16 And then court administration said, "We want
17 Webex." And I've just been able to see how everything has
18 evolved over these last eight, nine months.

19 And I am aware from our conversations with other
20 solicitors office, and what's going on around the rest of
21 the state, if we didn't have that flexibility that Judge
22 Newman was willing to try something and willing to do
23 something to help us overcome the issues that we were
24 having, then we would have just been dead in the water.

25 **Q. Are the county grand juries meeting now around**

1 **the state?**

2 A. The county grand juries are meeting in the 2nd
3 Circuit, and I'm pretty sure that they're meeting all over
4 the place now. One of the things that -- well, and that's
5 another example of Judge Newman being -- being flexible.

6 Somehow -- and my primary responsibility for the
7 office is Barnwell and Bamberg County. Somehow for the
8 last five years, the first term of court -- General
9 Sessions term of court of the year has been on that Monday
10 that's Martin Luther King Day, and we're supposed to bring
11 in our grand jury that day. And so we lose a day for
12 Martin Luther King Day. And Thursday and Friday is the Bar
13 convention.

14 So we know we're only going to have two days of
15 court that week, we're going to spend half a day bringing
16 in the grand jury, getting them qualified, then we went to
17 bring in the appellate jury and there's just not any way to
18 do it.

19 So Judge Newman from the beginning was like,
20 "Well, look, we'll just pick a day earlier after the first
21 of that year, and we'll summon that grand jurors for that
22 day, and we'll come in and we'll do that, just so that
23 y'all can have that extra half day."

24 And that's the kind of thing that I'm talking
25 about, that kind of willingness to work with everyone but

1 to make sure that things can keep going. The clerks of
2 court are a huge part of what is going on, and they need to
3 have public defenders, solicitor's offices, judges. If you
4 don't have all of those pieces working together --

5 **Q. Court reporters.**

6 A. Court reporters. Unbelievable. Nobody can do
7 anything without a court reporter. I mean, that's --
8 that's it.

9 You know, it's a joke in our office that all you
10 need to do a plea is an indictment and a -- and a judge.
11 You know, we need the indictment and we need the judge. We
12 can videoconference everybody else in.

13 But the fact of the matter is that you have to
14 have -- you have to be willing to be flexible. And you
15 have to understand that some of these people that are --
16 that are -- that we are dealing with are having
17 difficulties that we don't know about. Some of them are
18 having difficulties that we are very aware of.

19 When the schools send everybody home, people have
20 problems with childcare. You know, one of -- one of the
21 things we found in our office was that a lot of times when
22 kids were out of school, even if they were sick and they
23 were out of school --

24 **Q. I'm going to cut you off, 'cause we got a lot.**

25 **But I wanted to ask you one other question.**

1 A. Yes, sir.

2 **Q. What changes have occurred during the Covid, that**
3 **you think ought to stay in place in the judicial system**
4 **going forward once we get a vaccine?**

5 A. Unquestionably, the non-jury being done by video
6 conference. When you're talking about people at jails,
7 Sheriff Hunt's budget is three-quarters of a million
8 dollars to transport people --

9 **Q. And it's a safety issue.**

10 A. It's a safety issue. It's a financial issue.
11 There is no reason -- now, but another thing Judge Newman's
12 huge on, and that we understand the importance of, you
13 can't use videoconferencing to keep the public out of the
14 courtroom.

15 So we have made it a point that if reporters and
16 people like -- if people wanted to watch, now with the
17 virtual courtrooms we're able to say, "Here you go. You
18 can come in and watch. We're not going to close off
19 access."

20 And I certainly wouldn't allow that, but that is
21 absolutely a no-brainer as far as what we should keep going
22 forward. Non-jury criminal stuff. In Family Court it's
23 been a huge difference as well. I've heard from the judges
24 there about people get picked up for non-payment of child
25 support.

1 You don't need to bring that person to the judge.
2 They can do it by video and say this is what you need to
3 pay or you have to stay in jail until, you know, six months
4 or whatever it is. There's just no reason to even take
5 them out of the secure compounds of the -- of the detention
6 center. And then it costs money.

7 MR. STROM: Thank you. Thank you, Mr.
8 Chairman.

9 MR. SAFRAN: Mr. Miller, it's good to see
10 you back up here.

11 MR. MILLER: Thank you, sir.

12 MR. SAFRAN: You and I don't know each other
13 particularly, but we've got a lot of shared groups, I
14 think.

15 MR. MILLER: Yes, sir.

16 MR. SAFRAN: I'm very impressed by the fact
17 that you've got letters from people who, frankly, are on
18 the other side of you in many of these instances. Some of
19 whom I know quite well, you know. I knew Jack Early when
20 he was a lawyer practicing in Bamberg. That dates me back.

21 And, you know, the thing is Ronnie Mack --
22 well, these are all people, obviously, that you're going to
23 see on the other side of the case.

24 MR. MILLER: Yes, sir.

25 MR. SAFRAN: And it is very telling that

1 they would feel strongly enough about your fairness and
2 your personality and just your demeanor, all the things
3 that would be essential to being a good judge, to want to
4 stand up and say it.

5 And so hearing it from Mr. Strom, from
6 Representative Rutherford -- I mean, it speaks volumes for
7 you. And I really do think that, as they've said, I would
8 echo that you shouldn't give up on this, that you need to
9 keep doing this. Hopefully, this may be your time.

10 But you're what I think many times we've
11 talked about over the last several years as what we're
12 looking for. I don't think that basically you ignore the
13 fact that you did have several years of private practice,
14 you know -- you know the essentials of what civil court's
15 about and how civil practice works. And, again, it's not
16 like you forgot it just because you've been working in the
17 solicitor's office.

18 So it may be remote, it still hasn't changed
19 that much in the interim. And I think you also would be
20 very sensitive of what we talk about a lot, which is what
21 the rigors are of private practice --

22 MR. MILLER: Yes, sir.

23 MR. SAFRAN: -- how much people are getting
24 pulled in so many directions and how, basically, being
25 sympathetic, empathetic to the plights of lawyers --

1 MR. MILLER: Yes, sir.

2 MR. SAFRAN: -- day-to-day. And I don't
3 think you lose that either.

4 MR. MILLER: No.

5 MR. SAFRAN: So, you know, I just want to
6 say that, again, I think you check off a lot of the boxes,
7 and I'm happy you did come back this time.

8 MR. MILLER: Thank you, sir.

9 EXAMINATION BY CHAIRMAN RANKIN:

10 Q. Mr. Miller, you mentioned a number of judges and
11 a number of folks that -- present and past, that you worked
12 with. And effectively, I would say everyone you're
13 invoking the name of, in respect of their service, my
14 question to you -- Judge Peeples might have been the most
15 adaptable judge that ever served on the bench, but not many
16 might have thought that.

17 Who would you want to emulate in terms of
18 temperament, in terms of just that themes of what you've
19 been talking about here? Give me a couple of names of
20 those who you would want to be compared to in a favorable
21 light.

22 A. Thomas W. Cooper from Manning just embodies
23 everything that I would want to be as a judge. I've read
24 trial transcripts of cases that he's done, and I find
25 myself reading them and hearing his voice in my head

1 whenever he speaks. Just absolutely fair.

2 He keeps control of that things that are going on
3 the courtroom, but he's not intimidating. He doesn't have
4 to be intimidating. Humble, patient, and he -- he's the
5 best in my -- in my opinion.

6 And there are great things that I have learned
7 from Judge Peeples. There are great things that I have
8 learned from Judge Casey Manning. There are great things
9 that I have learned from -- I think I've taken stuff from
10 every single judge that I've ever been before, especially
11 for any amount of time. Judge Early did some fantastic
12 things.

13 But if I had to say the one that -- all of those
14 judges out there, there are some things I would do
15 differently than they did. The one that I would most want
16 to absolutely model with exception would be Thomas W.
17 Cooper.

18 **Q. That's a strong answer. That's most as strong as**
19 **your bringing your lifelong friend with you. Those are**
20 **aces in the hole for us.**

21 CHAIRMAN RANKIN: So with that, unless there
22 are other questions by the Commission members, I want to
23 remind you of what you're well similar with, and that being
24 this Commission's very strict adherence to both the letter
25 and the spirit or the South Carolina ethics laws. Any

1 violation or the appearance of impropriety in that vein
2 would be deemed very serious and deserving of heavy weight
3 in our screening deliberations.

4 In the event that we would need to, you are
5 aware that this formal record isn't closed until the
6 release of the report of qualifications, we could call you
7 back if the need were to arise. But we would not expect
8 it. You are familiar with the rule, correct?

9 MR. MILLER: I am, sir.

10 CHAIRMAN RANKIN: Very good. Unless you
11 have anything else to offer, I want to thank you for your,
12 again, willingness to serve, willingness to offer, and for
13 being so infectiously enthusiastic about this job and the
14 service that we do on the bench and in the courtroom for
15 the folks of South Carolina. So thank you very much.

16 MR. MILLER: Thank you to the Committee.

17 (Candidate excused.)

18 CHAIRMAN RANKIN: How are you, sir?

19 MR. YOUNG: Good morning. I'm doing great.

20 CHAIRMAN RANKIN: Welcome. And if you will
21 raise your right hand, please.

22 WHEREUPON,

23 S. BOYD YOUNG, being duly sworn and
24 cautioned to speak the truth, the whole truth and nothing
25 but the truth.

1 CHAIRMAN RANKIN: Thank you. Have a seat
2 there. And before you are the documents that you have
3 prepared for us, both the personal data questionnaire and
4 the sworn statement. Do you need to make any changes to
5 those before we put them in the record?

6 MR. YOUNG: I do not.

7 CHAIRMAN RANKIN: All right. And you don't
8 object to them being made a part of the record, do you?

9 MR. YOUNG: I do not.

10 CHAIRMAN RANKIN: Okay, sir.

11 (EXHIBIT NO. 7 - JUDICIAL MERIT SELECTION
12 COMMISSION PERSONAL DATA QUESTIONNAIRE OF S. BOYD
13 YOUNG)

14 (EXHIBIT NO. 8 - JUDICIAL MERIT SELECTION
15 COMMISSION SWORN STATEMENT OF S. BOYD YOUNG)

16 CHAIRMAN RANKIN: You are joined with
17 someone here today?

18 MR. YOUNG: Yes. My wife who's with me.
19 Laura Young.

20 CHAIRMAN RANKIN: Very good. Laura Young,
21 welcome. And thank you, sir, for having your mask off,
22 because the court reporter will not be able to hear you
23 clearly with it on.

24 So you are aware of our process, this
25 investigation that this commission undertakes, and our

1 investigation of your qualifications for it bench.

2 MR. YOUNG: Yes, sir.

3 CHAIRMAN RANKIN: And of course we focus on
4 the nine evaluative criteria, and that includes as well a
5 ballot box survey, a thorough study of your application
6 materials, verification of your compliance with the state
7 ethics laws, a search of newspaper articles in which your
8 name appears, a study of previous screenings, and a checks
9 for economic conflicts of interest.

10 No affidavits have been filed in opposition
11 to your election, and no witnesses have desired to be
12 present to testify.

13 You, sir, have an opportunity to make some
14 opening remarks, if you like, and then we'll turn it over
15 to staff for questions of you.

16 MR. YOUNG: Well, I don't want to keep you
17 all from lunch, so I'm ready for questions.

18 CHAIRMAN RANKIN: All right. Thank you.
19 Mr. Hinson.

20 MR. HINSON: Good morning, Mr. Young.

21 MR. YOUNG: Good morning.

22 MR. HINSON: Mr. Chairman, I note for the
23 record that based on the testimony contained in the
24 candidate's PDQ, which has been included in the record with
25 the candidate's consent, Mr. Young meets the constitutional

1 and statutory requirements for this position regarding age,
2 residence, and years of practice.

3 EXAMINATION BY MR. HINSON:

4 **Q. Mr. Young, how do you feel your legal and**
5 **professional experience thus far renders you qualified and**
6 **will assist you to be an effective Circuit Court judge?**

7 A. Well, I have been a trial lawyer for twenty
8 years, and I've tried cases in Charleston as a public
9 defender. I've tried cases around the state of Georgia as
10 a capital defender. And then in the past twelve years,
11 I've tried cases all over the State of South Carolina, as
12 the capital defender office for indigent defense.

13 And in those twenty years, I have appeared in
14 every circuit in South Carolina, almost every county -- I
15 think I haven't gotten every county yet. And I've appeared
16 in front of almost every judge in South Carolina, with the
17 exception of people who have had a capital case lately.

18 And I think through those years and through those
19 trials, and as a law clerk for Victor Rawl, I have a lot to
20 offer on the bench. I think that the nature of evidence is
21 changing in South Carolina -- and not just South Carolina,
22 but everywhere.

23 Judges need to be more familiar with scientific
24 evidence and more familiar with statistics.
25 Particularly, like mixed sample DNA statistics that are

1 being offered and admitted -- and sometimes erroneously
2 admitted, according to a couple cases in South Carolina
3 recently -- I feel like my science background gives me a
4 particular edge on the judge's gatekeeper role with that
5 type of evidence.

6 And based on my litigation experience, I would be
7 very qualified to be a judge and be a good addition to the
8 South Carolina bench.

9 Q. Thank you. Mr. Young, the Commission received
10 179 ballot box survey regarding you, with 34 additional
11 comments. The ballot box survey, for example, contained
12 the following positive comments:

13 "Would be a great addition to the bench."
14 Another described you as an excellent candidate. Yet
15 another said, "This lawyer deserves to ascend to the
16 bench."

17 A few of the written comments expressed concerns
18 regarding your lack of civil experience. How would you
19 address that concern?

20 A. Well, it's true I haven't tried any civil cases.
21 I've done some quasi-civil work in the nature of post-
22 conviction relief. And one of the things that the Citizens
23 Committee ask me was, "Well, have you attended any civil
24 CLEs?"

25 And I thought about that, and I was like, "Well,

1 no, I should have." And of course during the pandemic, it
2 has offered the opportunity to put most CLEs on-line now,
3 so that you can watch them on demand. And the Bar has a
4 program called Big Tent, where you can go watch whatever
5 CLE you want to.

6 And so then I spent the next couple weeks
7 watching every civil CLE that the Bar had available back to
8 2016. I've watched a number of civil trials that were
9 published or available on-line or on YouTube.

10 And as a law clerk, I've certainly participated
11 in some complex civil matters. One of those was the
12 Gambling Book case that Judge Rawl handled, so I'm used to
13 dealing with complex civil cases as well as complex
14 criminal cases.

15 I think the administration of complex civil cases
16 and criminal cases are the same in terms of the trial
17 judge's responsibility to make sure that the parties are
18 keeping the case moving forward, so I've also went back and
19 re-attended the -- Bridge the Gap is what they called it
20 when we took it. I think they call it something else now.
21 But those are also available on-line, so I studied and
22 prepared myself to handle civil cases.

23 **Q. Thank you. One concern, while describing you as**
24 **a remarkable human being, wondered if your personal beliefs**
25 **would affect your ability to be impartial. How would you**

1 address that concern?

2 A. They would not in any way affect my ability to be
3 impartial. I think -- I know that there were questions
4 about how would you handle a death penalty case,
5 considering that you've been defending death penalty cases
6 for fifteen years. And it -- the death penalty is the law
7 of South Carolina.

8 I don't have an objection to the death penalty.
9 I think it's applicable in certain cases. And if I was
10 assigned to a death penalty case, I would be able to handle
11 it well.

12 Matter of fact, I think the most important thing
13 when it comes to complex cases with death penalty cases or
14 otherwise, is that the judges get it right once so that we
15 aren't trying cases multiple times.

16 We started my office in 2008, with a South
17 Carolina capital reversal rate somewhere around 68 percent.
18 Since that time we've had one reversal of a death penalty
19 case that my office handled.

20 Q. Thank you, Mr. Young. I would note that -- I'm
21 sorry. Let me back up. You indicated in your PDQ, that a
22 federal lawsuit was filed against you, years ago, while
23 serving as a Charleston County public defender. Can you
24 recall the nature and the disposition of that case?

25 A. Yes. I went back and looked at that. I sat

1 second chair with Lori Proctor on -- it was a armed robbery
2 of a post office. And the client was not happy with the
3 result and sued Lori, me, her co-chair, the judge, the
4 prosecutor. I'm pretty sure he sued everybody. And it was
5 -- I saw it once and then it was dismissed.

6 **Q. Thank you.**

7 MR. HINSON: I would note the that Midlands
8 Citizens Committee reported that Mr. Young is qualified in
9 the evaluative criteria of constitutional qualifications,
10 physical and mental health, experience, and well qualified
11 as to ethical fitness, professional and academic ability,
12 character, reputation, and housekeeping.

13 The Committee included remarks expressing
14 concerns of Mr. Young's limited civil experience.

15 MR. HINSON:

16 **Q. I just have a few housekeeping items for you.**
17 **Mr. Young, are you aware that as a judicial candidate, you**
18 **are bound by the Code of Judicial Conduct as found in Rule**
19 **501 of the South Carolina Appellate Court Rules?**

20 A. Yes.

21 **Q. Since submitting your letter of intent have you**
22 **contacted any members of the Commission about your**
23 **candidacy?**

24 A. No.

25 **Q. Since submitting your letter of intent have you**

1 sought or received a pledge of any legislator, either prior
2 to this date or pending the outcome of your screening?

3 A. No.

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

7 A. I am.

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

12 A. I am not.

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

16 A. Yes.

17 MR. HINSON: Mr. Chairman, I would note for
18 the record that any concerns raised during the
19 investigation by staff regarding the candidate were
20 incorporated into the questioning of the candidate today.

21 And with that, Mr. Chairman, I have no
22 further questions.

23 CHAIRMAN RANKIN: All right. Thank you, Mr.
24 Hinson. Questions? Representative Smith.

25 VICE CHAIRMAN SMITH: Mr. Chairman, thank

1 you.

2 EXAMINATION REPRESENTATIVE SMITH:

3 Q. Mr. Young, how are you doing today?

4 A. I'm doing good.

5 Q. All right. I want everybody to know I've known
6 Boyd, I guess, since you were a teenager. I practiced law
7 with your daddy. Your daddy gave me my first job over in
8 Sumter.

9 A. I think you fouled on me at a basketball game,
10 like in --

11 CHAIRMAN RANKIN: He didn't say followed but
12 fouled. He does that to a lot of people.

13 Q. That's what you get for trying to play ball with
14 me back then. I'm sure a lot of people would be surprised
15 I played basketball throughout college. You could actually
16 dunk the basketball back then. Now I can't even get a foot
17 off the ground.

18 I just want the Committee to know a few things
19 about you, 'cause it's an -- it's an impressive career
20 you've had. And I've followed your career and, you know, I
21 do note and -- when people make comments, you've been a
22 defender of that death penalty since you went to Atlanta.

23 I mean, I want to kind of walk through this
24 career. You started off with being a public defender down
25 in Charleston. And tell us how you got recruited to

1 Atlanta, which is a unique opportunity that you had at a
2 very young age.

3 A. So I tried -- in Charleston, back then there
4 wasn't a public defender training program. It was, "Here's
5 your case files. Go to work."

6 I started on a Monday and tried my first life
7 without parole case on a Wednesday, which I won. And then
8 we kept trying cases in Charleston. A guy named Chris
9 Adams, who's now the president of the National Association
10 of Criminal Defense Lawyers, was recruited to Atlanta to
11 open a capital trial division.

12 So they were going to take their capital cases
13 and have one office that handled them throughout the state.
14 And he asked me to come and help them try cases, 'cause
15 they had a lot of young lawyers come in to do that job, but
16 they didn't have a lot of trial experience.

17 And I brought to the team a lot of trial
18 experience and handled that well. While doing that I was
19 meeting with Representative Smith and Judge Cooper, and
20 South Carolina had \$3 million set-aside fund that was
21 always out of money at the -- seemed like the first month
22 into the fiscal year, all the vouchers were paid and there
23 wasn't any money left.

24 And I said, "Well, you know what we can do, we
25 can bring down South Carolina's reversal rate, try the

1 cases once with well qualified counsel. We'll pair up with
2 the public defender's office so you don't appoint lawyers
3 who have a case for five years that they're billing at \$120
4 an hour."

5 You have a salaried lawyer like myself who's
6 handling -- I'm personally handling four, my office is
7 handling twelve capital cases around the state, and we have
8 effectively reduced the South Carolina expenditures on
9 death penalty spending by over \$1.5 million a year.

10 And that money has really enabled the public
11 defender's office -- offices around this state to become
12 better staffed and handle their cases more efficiently.

13 Q. And you came back to South Carolina and was --
14 started the death penalty division within the South
15 Carolina Office of Indigent Defendant. And you kind of
16 took some of the points I wanted to make is that you
17 reduced -- I mean, not only did you reduce the budget and
18 the money that we expended on capital cases, which were
19 tremendous, but it also improved the quality of
20 representation.

21 Because people like in Sumter -- I'm death
22 penalty qualified, and I would get appointed to a death
23 penalty case where I probably hadn't, you know, had a
24 handful of criminal cases.

25 At that time, they just went through a list. And

1 that all has been set aside now as a result of your work
2 and your advocacy of allowing people to come and have
3 qualified capital, you've got investigators, you've got a
4 staff, you -- you are -- got a lot of resources which has
5 really helped with the -- as you mentioned, with the rates
6 of appellate decisions, overturning convictions, which
7 nobody likes.

8 A. Right. Everybody -- I mean, I -- I think the
9 important thing about the death penalty is that it gets
10 done once and done correctly. I did steal my wife from
11 Georgia, she was a mitigation specialist at the Georgia
12 Capital Defender's Office, and she came back with me to be
13 the mitigation specialist at the South Carolina Capital
14 Trial Division. And she's now a public defender in
15 Richland County.

16 Q. And let me also discuss with you by, you know,
17 death penalties and -- I've had to have one -- one or two
18 in my career, and those are contentious. And, obviously,
19 the consequences are serious at that point.

20 And, you know, you -- you have to -- and to
21 effectively advocate for your client, you've got to fight
22 at every turn, 'cause you're trying to save somebody's
23 life. And so naturally -- I guess the knock on your
24 candidacy would be, you know, he's always been a public
25 defender, advocating that the death penalty is wrong, or

1 trying to prevent people from getting -- from having to --
2 you addressed it a little bit of it, but, you know, they --
3 not probably is going to be -- you would probably be
4 included too much to favor criminal defendants. How would
5 you answer that?

6 A. I don't think that I would favor criminal
7 defendants. I would favor the rule of law and making sure
8 that it was applied appropriately. Obviously, as an
9 advocate I make motions -- you know, a hundred motions in a
10 capital case, ninety-nine of which I surely expect to be
11 denied, and advocate for -- I understand that this is --
12 there's South Carolina precedent that says this is not the
13 issue, but we want to preserve it for appeal.

14 But I in no way think that I would be unbiased --
15 or biased towards criminal defendants. One of the things
16 that I did in thinking about running for judge and thinking
17 about my candidacy, and one of that things I think that's
18 reflected in my Bar surveys, is that I've had a lot of
19 fights with a lot of prosecutors in the courtroom. But I
20 don't have any out of the courtroom.

21 I don't take things personal. And I don't make
22 things personal. I don't take things personally. One of
23 the people I met with in deciding to run for the judgeship
24 was the solicitor over in Lexington County, where we met
25 and we talked a long time with Solicitor Hubbard about,

1 "I'm thinking about doing this, what do you think?"

2 And he says, "You would be a great trial judge.
3 You know how to try a case. You keep things fair. You
4 keep things -- you don't keep things personal. You don't
5 make personal attacks. You are professional in the
6 courtroom." And encouraged me to run. I met with --

7 Q. And by the way, not to interrupt you, that was
8 recently the case that -- you recently tried a case with
9 Solicitor Hubbard in regards to the guy that killed his
10 children?

11 A. Right.

12 Q. You defended that case. And that's coming off
13 the heels of that emotional and contentious case that
14 occurred?

15 A. Which was, I think, the longest capital trial in
16 South Carolina history. It was a little over six weeks,
17 just due to the nature of the case and where the witnesses
18 were, right.

19 But coming off of that trial, I've met with
20 solicitors who initially say, "Well, we don't want you
21 involved in the case. We don't want the Capital Trial
22 Division. You all are just going to come in here and raise
23 cane and cause havoc."

24 And that's not who we are, that's not what we do.
25 We do protect our clients' rights, but we want the best

1 resolution possible. And we don't get that as an advocate
2 by throwing mud. You get that as being professional and
3 courteous and saying, "Here's reasons why I think the way I
4 think, you think the way you think. That's fine. We'll
5 have a trial and a jury will decide it."

6 Q. And the other criticism, I presume, that we've
7 run into or we hear often about candidates who are public
8 defenders or criminal defense lawyers and/or are on the
9 other side of some -- you know, like career-long solicitors
10 is your lack of civil experience. How would you compensate
11 for that?

12 A. Well, I've been studying a lot lately, with
13 regard to civil cases and civil experience. I think
14 through watching the civil CLEs that the Bar has made
15 available, those civil CLEs are in my opinion better done
16 than a lot of the criminal ones, because they have
17 insurance defense people and plaintiff's lawyers there
18 together, discussing how a case moves through.

19 I've watched a lot of civil trials, of course as
20 a law clerk, and helped manage civil dockets and oversee
21 complex civil litigation. So I've studied it and ready to
22 go and feel confident in my ability to handle civil cases.

23 Q. And lastly, I'll mention to you, you attended The
24 Citadel, like all -- your father and your uncles and most
25 of your family has over the years, and graduated and

1 achieved the honor of the Summerall Guards while you were
2 there, too, didn't you?

3 A. Yes, sir. I did. I don't know why holding a
4 rifle out in front of you for 61 minutes is a big thing,
5 but --

6 Q. Well, it's probably better than walking tours.
7 But have a feeling you've walked your fair share of tours
8 also.

9 A. I did a couple of tours as well.

10 REPRESENTATIVE SMITH: All right. Thank
11 you, Mr. Chairman.

12 CHAIRMAN RANKIN: Mr. Strom.

13 EXAMINATION BY MR. STROM:

14 Q. Mr. Young, first of all, thank you for what you
15 do. I mean, those are really tough cases. A lot of
16 lawyers don't want them. And you're absolutely right, I
17 mean, it's -- it's the best thing for the system to have
18 solid, qualified lawyers handling these death penalty cases
19 so they don't have to be done two and three times. So
20 thank you for that.

21 I want to clear up one thing. We talked about
22 whether you would be willing to give the death penalty, and
23 I want to tighten that question up a little bit. If you
24 were bench-trying a case, the defendant waived his right to
25 a jury trial, do you believe that you would be willing to

1 give the death penalty if the facts presented themselves
2 and --

3 A. Yes. I mean, I can think of people who I know
4 and have represented, where they got very lucky and didn't
5 get the death claim. But if I had been the judge, I would
6 say this is the worst of the worst, and that this is the
7 reason that we have a death penalty.

8 Q. And I see the dean of the South Carolina Press
9 Corps in the back of the room, Mr. Monk, who just tweeted
10 about a death penalty case. Apparently, someone is coming
11 up for sentencing shortly, and it looks like there's an
12 issue in South Carolina, they cannot find -- or the drugs
13 for lethal injection are not available to the Department of
14 Corrections. And under our statute the defendant has the
15 right to either choose electrocution or lethal injection.
16 Is that correct?

17 A. Yes, sir. That's correct.

18 Q. Okay. So do you have -- do you have an opinion
19 as to what the law is, or if there's law in South Carolina,
20 or what the law is around the country, if the lethal
21 injection formula is not available to -- and that is the
22 choice of the defendant? Does that cause a problem?

23 A. I don't think it causes a problem. In most
24 states that have resumed executions, and the federal
25 government have gone back to their Administrative

1 Procedures Act and removed the one controversial drug that
2 was part of the cocktail, that is no longer manufactured in
3 the United States, and just sort of supplemented it with
4 the two that are readily available and are also both
5 lethal.

6 Q. So you're saying it not a problem to get the
7 drug?

8 A. Well, there's one particular drug that the South
9 Carolina statute requires to be used in its execution
10 protocol, but it doesn't need to require that particular
11 drug. I mean, I think there are other options that other
12 states have chosen by changing their execution protocol
13 method.

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

16 EXAMINATION BY REPRESENTATIVE MURPHY:

17 Q. Mr. Young, thank you for offering to serve. I
18 was looking through your list of cases, and as
19 Representative Smith stated, you've worked on -- the cases
20 that you've listed are some of the most high-profile cases
21 involving capital litigation in South Carolina.

22 I've worked on two of them: the Simmons case and
23 the White case out of Dorchester County, back when I worked
24 with Solicitor Bailey, and I know you -- you've
25 participated in the retrial when that came back up.

1 A. We resolved Kenneth Simmons last week.

2 Q. I'm familiar with that as well. And the White
3 case, you all were able, I think, to get a -- with Pasco,
4 you all -- you all did a life sentence on that one as well,
5 correct?

6 A. We did do a life sentence on that one. Yes, sir.

7 Q. And I noticed when you were at The Citadel, you
8 were a biology major. At the -- at that time were you
9 thinking of medical school?

10 A. I was thinking about medical school. But it has
11 served me so well as a lawyer, just knowing the science and
12 having the science background in court these days has been
13 invaluable to me, personally, to -- you know, what is false
14 -- like when you see a blue light on some teeth marks, is
15 that real evidence or is that not real evidence and how to
16 challenge that. And that has been --

17 Q. I know a lot of your cases that you're involved
18 in are involved with DNA evidence as well.

19 A. Yes, sir.

20 Q. And I was a graduate -- I graduated in '90, and I
21 was a Summerall Guard as well. And I agree with you,
22 there's nothing pleasurable about holding a rifle in front
23 of you for 61 minutes.

24 Did you -- my brother was a '93 grad. Did you
25 know my brother? He would have been a senior, I think,

1 when you were a freshman. He was an athletic officer for
2 Third Battalion, Michael Murphy.

3 A. Yes. Yes. I do know your brother. Yes, sir.

4 Q. All right. Again, thank you for your willingness
5 to serve.

6 A. Thank you. And of the cases that I mentioned, of
7 course Kenneth Simmons and Eddie White were not my
8 favorite. My favorite was Crystal Hawkins, who was one who
9 was falsely charged in a double homicide out of
10 Spartanburg, where they said they were going to seek the
11 death penalty.

12 And we investigated that case, we took apart the
13 discovery, and we found who was the actual murderer in the
14 case, the evidence to prove that they were the actual
15 murderer in the case. And I went and met with Solicitor
16 Barnett, who initially was very sort of standoffish, like
17 "I don't want to meet with defense attorneys. I've had bad
18 experience with other, particularly death penalty defense
19 attorneys."

20 And I said, "Look, I'm not that guy. I'm not
21 like that. Let me bring you what I got." And he did, and
22 ultimately dropped the charges against her.

23 REPRESENTATIVE MURPHY: Thank you.

24 CHAIRMAN RANKIN: Very well. All right.
25 Other questions, comments from anybody?

1 (Hearing none.)

2 CHAIRMAN RANKIN: Mr. Young, I want to
3 compliment you. We've never met, that I'm aware of -- you
4 have not screened before --

5 MR. YOUNG: No, sir.

6 CHAIRMAN RANKIN: -- correct? You have a
7 wonderful array of skills, talents. And those who have
8 noted this have said some very nice things about you, that
9 speak well to your ability to serve.

10 Representative Smith asked about the voice -
11 - the criticism that many have, you got too much this but
12 not enough that. And it's never one or the other that --
13 again, I say Goldilocks, just the right mix.

14 But your admirers, those who've anonymously
15 commented about your skills, effectively endorse your
16 ability to take difficult the subjects and carry them out
17 and carry out challenges. In even the worst of cases, you
18 have shined, apparently, with those who are watching you
19 closely. So I want to commend you on that.

20 One personal, and this is dating me, in 1986
21 my international law school professor, Professor Haimbaugh,
22 effectively took his class on a field trip, and we went to
23 Washington D.C., got to go in the White House, the West
24 Wing, and then also sit and watch a Supreme Court oral
25 argument, which included one of the folks who have endorsed

1 you, presenting a case on behalf of South Carolina, or a
2 charge to someone that will speak to the South Carolina
3 court system, and that was John Delgado.

4 So I was as a young, budding law student,
5 hoping to be a graduate, struck by that guy's ability. And
6 so he speaks highly of you, as does Bill Nettles. So
7 that's -- that is a great compliment to you as well.

8 One other point and then you can comment on
9 this. Those are observations. But I am struck by your --
10 what is described as philanthropic work. I don't think
11 anybody that does what you're doing would consider
12 philanthropy.

13 But you are getting to be, as they noted,
14 parentless children every holiday season, either raising
15 money and/or buying out of your own pocket, presents for
16 parentless children. That, sir, is an incredible, not
17 looking for the headlines -- if you wouldn't call it
18 philanthropy, you would just call that, perhaps, what we're
19 tasked to do as good people.

20 MR. YOUNG: Especially children who have a
21 parent who have done some really horrific stuff, they have
22 a lot of trouble getting by at Christmas, 'cause they can't
23 -- they getting shunned at school and they're having a hard
24 time at school, they're having a hard time at church, based
25 on no fault of their own.

1 And of course my wife sort of brought that
2 program back to South Carolina, and we just had our tenth
3 annual yard sale, where we made the most money that we've
4 ever made at a yard sale, that was this past Saturday. And
5 we're looking forward to getting those kids names and doing
6 some shopping.

7 I met Delgado, 'cause I first appeared as an
8 exhibit in a case that he and my dad were trying over in
9 Sumter, and that was before I was in law school. And, you
10 know, I was in high school and working around my dad's
11 office when John had me out there throwing matchboxes with
12 rocks in them to see how far it could have gone, which was
13 an issue in their case. And he's been a mentor of mine
14 ever since then.

15 A couple of other mentors that I wanted to
16 mention was sort of Bill McAninch taught a sentencing and
17 policy class at the University of South Carolina. And
18 Judge Manning, Judge Allison Lee, Judge Keesly, and Judge
19 Rawl, all participated in it with a group of students that
20 we had for the semester.

21 And those guys were hugely influential on
22 me, on how to go about making judicial decisions.
23 Especially not only with regard to sentencing, but with
24 regard to civil matters as well.

25 And I just sort of would be remiss if I

1 didn't mention that I take all of that, that taught me and
2 have applied it throughout my career. I am amazed that
3 after twenty years of trying cases in South Carolina, and
4 being an advocate, that I haven't made enemies in the Bar
5 on any side or the bench. And I'm very proud of that.

6 CHAIRMAN RANKIN: Very good. All right.
7 Unless there are any other questions or comments.

8 (Hearing none.)

9 CHAIRMAN RANKIN: Sir, I do appreciate you
10 and your wife being with us today, and again trying to find
11 it -- remind me of her first name.

12 MR. YOUNG: Laura.

13 CHAIRMAN RANKIN: Laura. -- who is a public
14 defender here in Richland County. Very well. Thank you
15 both for your sticking your toe in the water for this. And
16 I want to remind you that as we conclude this portion of
17 your screening process, that we as a commission take very
18 serious both the letter and the spirit of the South
19 Carolina ethics laws. Any violation of those or the
20 appearance of impropriety will be deserving of very serious
21 and heavy weight in our screening process.

22 You know, you've read this, but I want to
23 remind you that this record will remain open until the
24 formal release of the report of qualifications. In the
25 event that we were to -- need to call you back, you are

1 aware that we can do that, and that this record is not
2 closed as of today, correct?

3 MR. YOUNG: Yes, sir.

4 CHAIRMAN RANKIN: All right, sir. With
5 that, we will bid you adieu. And thank you both for being
6 here. And you all have a great Wednesday.

7 MR. YOUNG: Thank you all.

8 (Candidate excused.)

9 CHAIRMAN RANKIN: If you will raise your
10 right hand, sir.

11 WHEREUPON,

12 FRANKLIN G. SHULER, JR., being duly sworn
13 and cautioned to speak the truth, the whole truth and
14 nothing but the truth.

15 CHAIRMAN RANKIN: Very well. Come join us.
16 Have a seat there. And tap on the mic just to make sure
17 that it working fine. Great.

18 You have before you, Mr. Shuler, the
19 personal data questionnaire and the sworn statement. Do
20 those need to be amended at all? Or are they ready to go
21 in the record?

22 MR. SHULER: Not that I'm aware of. I
23 assume they're ready to go in the record.

24 CHAIRMAN RANKIN: And you don't have any
25 objection to that?

1 MR. SHULER: No, sir. I do not.

2 MR. CHAIRMAN: Very well. They will be put
3 in there.

4 (EXHIBIT NO. 9 - JUDICIAL MERIT SELECTION
5 COMMISSION PERSONAL DATA QUESTIONNAIRE OF
6 FRANKLIN G. SHULER, JR.)

7 (EXHIBIT NO. 10 - JUDICIAL MERIT SELECTION
8 COMMISSION AMENDED PERSONAL DATA QUESTIONNAIRE OF
9 FRANKLIN G. SHULER, JR.)

10 (EXHIBIT NO. 11 - JUDICIAL MERIT SELECTION
11 COMMISSION SWORN STATEMENT OF FRANKLIN G. SHULER,
12 JR.)

13 CHAIRMAN RANKIN: Mr. Shuler, you are aware
14 of our investigation, the JMSC's role as we thoroughly
15 investigate your qualifications for the bench. Our inquiry
16 focuses on nine evaluative criteria, and has included a
17 ballot box survey, a thorough study of your application
18 materials, verification of your compliance with state
19 ethics laws, a search of newspaper articles in which your
20 name appears, a study of previous screenings, and a check
21 for economic conflicts of interest.

22 No one has filed an affidavit in opposition
23 to your election, and no witnesses are present to testify
24 for you or against you. But one might be called, 'cause
25 you brought her.

1 MR. SHULER: That was a mistake on my part.
2 I apologize.

3 CHAIRMAN RANKIN: That's the best thing
4 you've done, let me tell you. But introduce for the
5 record, who is with us here today with you.

6 MR. SHULER: This is my wife, Jane Shuler.
7 Many of you know she works for the House of
8 Representatives, and has previously worked for the Senate.
9 We've been married 37 and a half years.

10 CHAIRMAN RANKIN: Well, like me in my
11 marriage, that, sir, was the best day ever for you.

12 MR. SHULER: Well, many -- some have told
13 me. I met her during a -- during a summer clerkship at
14 Nelson Mullins, which at that time had all of one office.
15 I didn't get the job but got the wife. And I've been
16 debating ever since.

17 CHAIRMAN RANKIN: Trish, do not put that
18 last one on the record. I think what I heard him say was
19 that was the best outcome that day, he would ever --

20 MR. SHULER: That's pretty sure --

21 CHAIRMAN RANKIN: Very good.

22 MR. SHULER: I'm pretty sure about that.

23 CHAIRMAN RANKIN: All right. Mr. Shuler,
24 welcome. And Mr. Fiffick will ask some questions, and then
25 the Commission will. Thank you for being here early too.

1 MR. SHULER: No problem. And I do have an
2 opening if that's --

3 CHAIRMAN RANKIN: You are most welcome to
4 say that and give it to us. Yes, sir.

5 MR. SHULER: Mr. Chairman and Members of the
6 Commission, thank you for your time and service. This year
7 in particular we -- there are sixteen candidates in this
8 race alone. I wanted to briefly address a couple of points
9 that may or may not get raised today: my age and where I
10 would reside if elected. But before doing so, you will
11 notice I have notes.

12 I have prepared for this hearing like I do
13 anything else. I am fully prepared to go forward. My age,
14 I'm a sprite, young 65. I'm known for working long hours
15 in my law firm, and still considered one of the hardest
16 workers.

17 I was in the Marine Corps, as you saw by my
18 mask. You do not quit work until the work is done. And
19 I've carried that through my whole practice. There are no
20 disadvantages to being older, just advantages: wisdom,
21 experience, leadership.

22 Take someone who is 35 or 40 even, with the
23 former I have successful practiced law longer than any of
24 them have been alive. I've seen more things, I've done
25 more things, I've had more interactions with litigants and

1 counsel, and confronted more issues.

2 I was able to move my successful practice
3 from Alabama and start over here again in 2014. I was
4 recommended -- I received an award of Distinguished Lawyer
5 of the Year for labor and employment law. I've learned age
6 is just a number, but in my case it brings 37 and a half
7 years of experience. I would complete this term, could
8 serve another term of two years, and would hope to retire -
9 - serve as a retired judge.

10 As you recognize, I live here in Columbia,
11 but recognize also that Judge Russo sat in Florence. And
12 I'm willing to sit there if that's where court
13 administration wants me to still. I will sit wherever they
14 want me to sit.

15 I'm blessed I have been married to Jane for
16 37 and a half years. When we were young, we moved so she
17 could attend law school. So I started with a new firm.
18 And then that firm required me to practice in eleven
19 states, the Virgin Islands, and Puerto Rico.

20 We had a son and so it made travel a little
21 bit more difficult. In fact, I left three days after he
22 was born to go try a case in Puerto -- in the Virgin
23 Island. Full circle now. I'm now in a position to travel
24 again. And for that, I want -- I want to publicly thank my
25 wife who does support me in this endeavor. I love her

1 dearly.

2 Thank you for this opportunity to make a few
3 opening remarks. I would be remiss if I didn't thank Mr.
4 Fiffick and Lindi Putnam for their assistance in this
5 process. Thank you.

6 CHAIRMAN RANKIN: Very well. All right.

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

13 EXAMINATION BY MR. FIFFICK:

14 **Q. Mr. Shuler, how do you feel your legal and**
15 **professional experience thus far renders you qualified and**
16 **will assist you to be an effective Circuit Court judge?**

17 A. I think I just touched on that. I've been doing
18 this for a while, 37 and a half years. I've represented
19 plaintiffs. I've represented defendants. I've represents
20 individuals. I've represents corporations. I've
21 represents insurance companies. I've represents schools.
22 I've represented school -- non-profits. I've represented
23 colleges.

24 I have a broad experience and a lot of knowledge.
25 And you learn things over those years. I'm not the same

1 person I was ten years ago, or even when I came here 29
2 years ago. I think I can bring all that to bear as a
3 judge.

4 Q. Thank you, sir. Mr. Shuler, the Commission
5 received 165 ballot box surveys regarding you, with 37
6 additional comments. The ballot box surveys, for example,
7 contained the following positive comments:

8 "I've litigated many federal cases against Frank
9 Shuler, and I use him as a mediator on a regular basis.
10 Frank is smart, pleasant, and courteous. I think he would
11 be an excellent judge."

12 Another comment offered, "Patient with both
13 sides. Works diligently to come to a fair resolution."

14 A third offered in part, "One of the smartest men
15 I know. I practiced as an associate with Frank, he took me
16 under his wing and mentored me."

17 However, three of the written comments expressed
18 concerns. Mr. Shuler, the first concern alleges that you
19 may be sexist and short-tempered. What response would you
20 offer to this concern?

21 A. Mr. Fiffick, you were kind enough to share that
22 with me, and I have thought about it a lot. I disagree
23 with it, wholeheartedly. Though, I have to say it does
24 bother me that somebody would say that.

25 But with that in mind, I would say my wife is an

1 attorney. I supported her when she made the decision to go
2 to law school. We moved 250 miles so she could do that.
3 I've supporter her in her very successful career. She's my
4 partner, my equal, and I know I do -- I don't think she --
5 if you have her testify to say I was sexist.

6 I've hired six women associates. No males. And
7 it was the primary source of business for another woman
8 associate. I hired them because I hired the most qualified
9 candidates. I've maintained an excellent relationship with
10 all of them.

11 Three of them have gone on the in-house
12 positions, and they've all referred me positions -- all
13 referred me work. Two others have sent me referrals. My
14 relationship, and one in particular stands out, Michelle
15 Clayton was a law clerk for our firm, based on your
16 demonstrated skills and ability, so I hired her.

17 We worked together for ten or so years. She was
18 my right hand. When one of my largest clients called and
19 indicated they wanted the hire an in-house employment
20 lawyer, I recommended her. I knew they would hire her.
21 And I knew I would miss her much. But she was and is that
22 good. But for her -- but for where she was in her life, it
23 was the perfect match.

24 I've risen to the leadership of every
25 professional organization I have been in, DRI, South

1 Carolina employment law, the Employment Law Specialization
2 Advisory Board. Every time I was either appointed by a
3 woman or followed a woman.

4 The Marine Corps mask you saw me wearing this
5 morning, my assistant surprised me with that for no reason.
6 If I was a sexist, she would not have done that.

7 **Q. Thank you, sir. Mr. Shuler, the second concern**
8 **alleges you may be prone to ageism and making comments**
9 **about younger lawyers. What response would you offer to**
10 **this concern?**

11 A. You know, that is -- that is really a funny one.
12 Sixty-five is no -- anything like I would imagine when I
13 was 15. It isn't anything like it was when I imagined,
14 when I was 25. When I was a young lawyer, I started out --
15 I had the unique -- taking that job in Alabama, I moved
16 from a -- between the time I started the job and quit, the
17 firm split.

18 I had to take over a defense -- defending unions
19 and representing plaintiffs employees, having been a two-
20 year associate. I have no doubts about a younger lawyer's
21 ability to do the job. But they have to show they can do
22 the job. It's not age.

23 **Q. Thank you, sir. Mr. Shuler, the third concern**
24 **alleges you may be inappropriately boisterous and**
25 **disrespectful in the calls or meetings with opposing**

1 counsel and their clients. What response would you offer
2 to this concern?

3 A. Well, I can admit that I had a heated argument in
4 a case about six months ago. I am -- I have a client to
5 represent, and I am a zealous advocate. My role as a judge
6 would be totally different. I've not been selected to be
7 parties for mediators in the mediations for almost 600
8 cases if had a reputation of being a hot-head, and I'm sure
9 you would have received more adverse comments. I strongly
10 deny this.

11 Q. Thank you, sir.

12 The Midlands Citizens Committee reported Mr.
13 Shuler to be well qualified as to the evaluative criteria
14 of ethical fitness, professional and academic ability,
15 character and reputation, and found him to be qualified in
16 the evaluative criteria of constitutional qualifications,
17 physical health, mental stability, judicial temperament,
18 and experience.

19 The Committee also noted that Mr. Shuler is
20 well qualified but lacking in criminal experience.

21 BY MR. FIFFICK:

22 Q. Mr. Shuler, I have some housekeeping issues now
23 for you. Mr. Shuler, are you aware that as a judicial
24 candidate you are bound by the Code of Judicial Conduct as
25 found in Rule 501 of the South Carolina Appellate Court

1 Rules?

2 A. Yes, I am.

3 Q. Mr. Shuler, since submitting your letter of
4 intent have you contacted any members of the Commission
5 about your candidacy?

6 A. No, sir.

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

11 A. No, sir.

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

15 A. Yes, sir.

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

20 A. No, sir.

21 Q. Have you reviewed and do you understand the
22 Commission's guidelines on pledging in South Carolina Code
23 Section 2-19-70(E)?

24 A. Yes, I am.

25 MR. FIFFICK: Mr. Chairman, I would note for

1 the record that any concerns raised during the
2 investigation by staff regarding the candidate were
3 incorporated in the questioning of the candidate today.

4 Mr. Chairman, I have no further questions.

5 CHAIRMAN RANKIN: All right. Questions by
6 members of the Commission? Mr. Safran.

7 EXAMINATION BY MR. SAFRAN:

8 Q. Mr. Shuler, it's good to see you.

9 A. Good to see you, Mr. Safran.

10 Q. I know just for the record, Mr. Shuler has
11 referred a case or two to me over the years. And, you
12 know, we've known each other, not just professional, our
13 kids went to school together. I've known his wife, very
14 pleasantly, for quite some period of time. And I don't
15 have any doubt that Mr. Shuler, in terms of his skills and
16 his capacity, is as good as anybody you'll see.

17 I also just noted that in terms of the sexist
18 type of accusation, that one of your letters of reference
19 certainly would be very reluctant to provide anything if
20 that was truly the case with you. So I think that dispels
21 any notion that, that's some type of habit or predilection
22 that you may have.

23 Just because it always comes up, what do you do
24 with the situation involving the criminal work? Because as
25 you know -- I mean, the circuit courts have become pretty

1 much focused on criminal matters because of just so much of
2 the good job people like you have done with ADR. And so
3 what do you do, really, in handling those? Because it's
4 always a question that comes up.

5 And, frankly, I think it's something that I'm
6 sure you can address, and would like you to.

7 A. Yes, I can. And I hope I'm not too long-winded
8 on this. But I figured that would be an issue because I've
9 tried two criminal cases in my life. But that is not my
10 sole contact with criminal law.

11 I handled -- as many of you remember, we used to
12 have to handle PCRs, court-appointed cases, all the time.
13 And sometime -- you could get compensated for it. I never
14 did. I chose to represent them because that was -- and it
15 -- and I've got a list of just ten or eleven items -- in
16 some of the cases, these are three -- from three cases,
17 significant ones:

18 Failure to locate, interview and call witnesses
19 that corroborated the defendant's story; failure to object
20 to solicitor's comment -- these are cases I -- these are
21 things I've argued, briefed and tried.

22 Failure to object to the solicitor's commentary
23 in closing and vouching for witnesses; failure to object to
24 a highly prejudicial effort -- incident that was not
25 related to the charge; calling a witness -- the defendant's

1 brother that had a convictions for the same charge that my
2 client was charged with, and they -- the attorney didn't
3 move to exclude the conviction or even ask for a limiting
4 charge.

5 Fundamental unfairness of refusal to apply Barber
6 -- or Belcher v. State, which as you probably are aware can
7 no longer charge malice from the inferred use of a deadly
8 weapon. That was particularly important in my case, 'cause
9 the alleged deadly weapon was an iron -- the iron that you
10 iron clothes with.

11 The sufficiency of an indictment and the subject
12 matter jurisdiction, whether indictment was defective,
13 specificity is time, place, all that. Failure to obtain a
14 handwriting expert where there was a disagreement about
15 whether this confession was, in fact, true. Failure to
16 request the Jackson v. Denno on the admissibility an
17 alleged confession.

18 The involuntariness of the confession given --
19 excuse me -- not of the confession but of the agreement to
20 plead guilty, given the defendant's age, the support, no --
21 no expert. Failure of counsel -- and this one gets me
22 greatly -- to give the proper advice on sentencing.

23 It was an 85 percent mandatory service and he
24 told him it was 25 percent. That's a pretty big issue.
25 And I've briefed or tried all these issues.

1 Other things since then, I went and watched
2 Elmore v. State for four out of six days that it was there,
3 with Judge Hocker in August of 2020, the first criminal
4 trial in Covid -- since Covid-19 reared its ugly head. And
5 at one point sitting right in the back, six feet from me,
6 was the Chief Justice.

7 I watched ninth -- 2019 criminal law update,
8 State v. Beaty, which involved David Stumbo and Rauch Wise,
9 two very, very good employment lawyers. And they were
10 talking about that particular case. And then a similar --
11 handling the different witnesses with Rick Hubbard, Marion
12 Moses, and Judge Tommy Cooper.

13 The cool thing about the first one, I got --
14 because I went and watched Elmore v. State, both Rauch Wise
15 and Stumbo were there. And I got to pick their brains and
16 talk to them as the trial was going on.

17 Judge Cooper's presentation, whoever gets this
18 job, should be required to look at that. It is one of the
19 best things I've ever seen as far as the role of a judge,
20 the dignity of the bench, the phase and what he should do
21 in sentencing, or she.

22 I've watched another -- the 2020 Criminal Law
23 Practice Essentials. I bought the Big Ticket so I can
24 watch more. I bought two books, Criminal Law in South
25 Carolina and Pocket Prelims. I've been reading and

1 summarizing advance sheets.

2 I can tell you whatever -- if you want to know, I
3 can even tell you the one that came down today about juries
4 and polling juries. I've reviewed and studied the Rules of
5 Evidence and Rules of Criminal Procedure.

6 I borrowed the Bar Review Course from my
7 associate that just passed the Bar, so I could come to
8 terms with criminal procedure. I'm used to taking a Bar
9 exam. I've taken three.

10 I've never been able to take time off -- months
11 off. That longest I ever took to take any Bar exam was two
12 weeks. That was the Alabama, that was the first one. I
13 took a week for Florida and none for South Carolina. I
14 passed them all. Why do I say that? Because I can learn
15 on the fly.

16 Q. Thank you very much. I'm sure that, again, that
17 you display the capacity over time, as you said, to be able
18 to kind of pick up quickly and handle things in a matter
19 where multiple balls in the air. So we appreciate your
20 offering, and thank you for the response.

21 CHAIRMAN RANKIN: Representative Smith.

22 REPRESENTATIVE SMITH: Thank you.

23 EXAMINATION BY REPRESENTATIVE SMITH:

24 Q. Mr. Shuler, good to see you here today.

25 A. Nice to meet you, Representative Smith.

1 Q. Let me say -- I'm just going to make some
2 observations. First, your -- you've developed quite a
3 reputation as a mediator around the state. I know we tried
4 to use your services one time, and it's a case that had to
5 be mediated, and unfortunately you were booked.

6 But you've engaged and been in the mediation
7 arena for a while, and are a sought-after mediator in that
8 area. And it's not only employment law cases you're
9 dealing with, you're mediating a number of other cases,
10 aren't you?

11 A. Yes, sir. Obviously, my expertise, what I'm
12 known for is employment law. That's when I first started
13 mediating about twenty years ago, I sent out a letter to
14 the members of that Employment Law Bar.

15 But I've mediated malpractice suits, condominium
16 suits, just straight car wrecks. But again, my -- the
17 majority are employment cases. But I have handled a
18 variety of mediation.

19 Q. And the one observation I make is, you know,
20 there are certain sought-after mediators around the state,
21 and I think that's the biggest compliment to a lawyer is
22 when you're colleagues put the trust and the faith in you
23 to handle a case for their clients, and be fair to both
24 sides and work towards a resolution.

25 A. Your Honor, I absolutely agree with that. That

1 is the ultimate compliment is being selected mediator.
2 That's why I disagreed with some of the earlier comments.

3 Q. And the only last observation I'm going to make
4 is -- is I thought I would never find a lawyer as prepared
5 and as diligent as your wife. She absolutely has been a
6 pleasure to serve with. And I've served with her on ethics
7 -- on the Ethics Committee, and there is not a time -- as
8 you know, you live with her, but there is not a time --

9 A. Yes, I do know.

10 Q. -- that she is -- if you call and ask her a
11 question, she answers the phone and goes to the office and
12 worked. And today, I just make the observation -- I look
13 at you and you're here with notes, you're here with the
14 latest updates on criminal law, and you're citing cases I
15 haven't heard since my public defender days.

16 So I want to compliment you on your thoroughness
17 and your preparedness in being here today. And I think
18 Jane has met her match on a prepared attorney over here.

19 A. All I can say is we have some heck of a
20 arguments.

21 Q. I would not like to be a fly on that wall. Thank
22 you for offering, Mr. Shuler.

23 A. Thank you.

24 CHAIRMAN RANKIN: Anyone else? Mr.
25 Rutherford.

1 REPRESENTATIVE RUTHERFORD: And, you know, I
2 just wanted to make sure that you didn't get wrapped around
3 the actual -- some of the ballot box comments. You know,
4 we -- by putting ourselves in public office here, stuff all
5 the time -- we just learn to brush it off. But for an
6 accomplished lawyer like yourself, to hear people say bad
7 things, and then you have to start thinking and go through
8 your day and your week, going am I -- "Is this really me?"

9 But what we get are a number of comments
10 about a number of people, and some are just offshoots of
11 people that had a bad day and wanted to write down
12 something about you. And some of them may not know you at
13 all and just wanted to write something.

14 So I don't want you to get confused that we
15 take that and the you should take that and then all of a
16 sudden start worrying about that, day in and day out.
17 Before Murrell got elected, he thought he was a nice guy.
18 And he came up here and realized that he's really not.

19 But I don't want you to worry about that.
20 And I think that all of us agree that those are just
21 comments. You handled them great. And I wouldn't worry
22 about them.

23 MR. SHULER: I don't worry about them. But
24 we should worry about how we interact with others. That is
25 our job.

1 REPRESENTATIVE RUTHERFORD: Right.

2 MR. SHULER: Particularly as a mediator.
3 But as opposing counsel as well. As a judge, you have to
4 worry and think about it. So, yes, I took it to heart and
5 I thought about that a long time.

6 REPRESENTATIVE RUTHERFORD: And, again,
7 kudos to you for dealing with Jane and the IRS, as I fondly
8 call her.

9 MR. SHULER: You think she's bad with you?

10 REPRESENTATIVE RUTHERFORD: Well, we've had
11 discussions about you as well. So again, thank you for
12 allowing her to do what she does for us.

13 MR. SHULER: As I said, I'm very proud of
14 her.

15 CHAIRMAN RANKIN: I want to echo the initial
16 comments of Mr. Rutherford, and that being, again, you
17 might hear -- seizing on a few negative, those are
18 incredibly few in number. But we sometimes elevate them
19 just to get a response. And without a doubt, those are
20 outliers. They are incredibly few.

21 And the overwhelming response by those who
22 have taken the time to weigh in on you speak to unqualified
23 endorsement of your fitness, ethically, professional and
24 academic ability, your character, your reputation.

25 I mean, there is not one area that, again,

1 the few comments to the contrary that you've heard, fall
2 within any recognizable standard. The best way, obviously
3 -- the best exhibit to show in evidence is the one who
4 you're married to. 'Cause I know Jane incredibly well. It
5 broke my heart when she left the Senate. It broke the
6 Senate's heart. We're just not sure what she wanted in the
7 House, other than to help maybe like a child to get their
8 act together.

9 So she succeeded in bringing -- bringing
10 them along. They're a much stronger body now because of
11 her. And I say that in sincerity not -- no aspersions to
12 the -- to our members. But truly, where she's been is a
13 testament to her ability. And we've got a good thing
14 going, the House and Senate in our representation and
15 professional advice, again, both bodies enjoy now.

16 And then, secondly, the -- the point of
17 another exhibit is you don't hire and choose as your
18 mediator, someone that you don't hold in the highest
19 regard. And a busy mediator is even more proof that you
20 got it going on in every stripe that we're looking for
21 here.

22 MR. SHULER: Thank you, sir.

23 CHAIRMAN RANKIN: Thank you for being here.
24 And unless there are any other questions by the members --
25 and this is your first time screening, correct?

1 MR. SHULER: Yes, sir.

2 CHAIRMAN RANKIN: You've never offered
3 before. You are a young man. Thank you. And the comment
4 about ageism, I really don't know what it means. I did ask
5 whether either if I'm acting my age, is that a violation of
6 ageism, or if I'm acting my mental capacity as a child,
7 would that be a violation or evidence of ageism.

8 So again, you don't have to take the bait on
9 that. Please. Please. For the benefit of our brothers and
10 sisters here.

11 So with that, Mr. Shuler, this will conclude
12 this portion of the screening process. As part of our duty
13 here and our focus on our evaluative criteria, we are very
14 strictly focused on both the spirit and the letter of the
15 ethics laws. Any violations of those will be deemed very
16 serious and deserving of very heavy weight in our
17 deliberations, either a violation or the appearing of which
18 are the same.

19 We don't expect that out of you, but you are
20 aware that this record is not closed until the formal
21 release of the report of qualifications. In the event that
22 there would be something unexpected with you, you are
23 aware, are you not, Mr. Shuler, that we can call you back
24 for further testimony?

25 MR. SHULER: I am absolutely aware of that.

1 CHAIRMAN RANKIN: Very good. All right.
2 And with that, we thank you again. And thank you for
3 marrying so well.

4 MR. SHULER: Thank you very much.

5 CHAIRMAN RANKIN: Take care.

6 (Candidate excused.)

7 CHAIRMAN RANKIN: All right. On a motion of
8 Senator Talley, seconded by Representative Rutherford,
9 we're going to go into executive session.

10 (Off the record from 12:13 p.m. to 1:17 p.m.)

11 CHAIRMAN RANKIN: If you will raise your
12 right hand.

13 WHEREUPON,

14 KATE WHETSTONE USRY, being duly sworn and
15 cautioned to speak the truth, the whole truth and nothing
16 but the truth.

17 CHAIRMAN RANKIN: And before we get started
18 with yours, directly, I want to put on the record: While in
19 executive session no decisions were made and no votes were
20 taken.

21 Now we will jump back to you, Ms. Kate
22 Whetstone Usry.

23 MS. USRY: Usry. Yes, sir.

24 CHAIRMAN RANKIN: Very good. You have
25 before you, the forms that you have filled out and looked

1 at, both the PDQ and sworn statement. Any changes that
2 need to be made to those before we put them in the record?

3 MS. USRY: I do not have any changes.

4 MR. CHAIRMAN: And you have no objection to
5 them becoming a part of the record?

6 MS. USRY: No objection.

7 MR. CHAIRMAN: Okay. Great.

8 (EXHIBIT NO. 12 - JUDICIAL MERIT SELECTION
9 COMMISSION PERSONAL DATA QUESTIONNAIRE OF KATE
10 WHETSTONE USRY)

11 (EXHIBIT NO. 13 - JUDICIAL MERIT SELECTION
12 COMMISSION AMENDED PERSONAL DATA QUESTIONNAIRE OF
13 KATE WHETSTONE USRY)

14 (EXHIBIT NO. 14 - JUDICIAL MERIT SELECTION
15 COMMISSION SWORN STATEMENT OF KATE WHETSTONE
16 USRY)

17 CHAIRMAN RANKIN: The Commission, in our
18 efforts to thoroughly investigate your qualification,
19 focuses on the nine evaluative criteria -- you're familiar
20 with those -- and has included a ballot box survey, a
21 thorough study of your application materials, verification
22 of your compliance with the state ethics laws, a search of
23 newspaper articles in which your name appears, a study of
24 previous screenings -- of which you have had none?

25 MS. USRY: That's correct. None.

1 CHAIRMAN RANKIN: Yeah. Yeah. -- and a
2 check for economic conflicts of interest. No affidavits
3 have been filed in opposition to your election, and no
4 witnesses have asked to be present to testify.

5 We have recognized -- I recognize at least
6 one of the folks behind you, but would you like to
7 introduce the folks that you have with you here today?

8 MS. USRY: Absolutely. Thank you. Today
9 with me is my husband, Charles Usry, as well as my father,
10 Charles Whetstone. And for the record, my father would
11 come watch me run long distance in high school, and if he's
12 going to show up for something that boring, he wasn't going
13 to miss today. So he's here. I couldn't keep him away.
14 And I'm thankful to have both of them.

15 CHAIRMAN RANKIN: If Todd Rutherford and
16 Murrell Smith don't talk too long, this won't be anything
17 like that long distance running event.

18 MS. USRY: Yes.

19 MR. CHAIRMAN: Very good. You, ma'am, are
20 welcome to make an opening statement, and then we'll turn
21 it over to Madison for questions for you. The floor is
22 yours.

23 MS. USRY: I'll waive my opening statement
24 and stand by the documents that I've submitted to the
25 committee as part of this process.

1 CHAIRMAN RANKIN: Very good. All right.
2 Madison, take it away.

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

9 EXAMINATION BY MS. FAULK:

10 **Q. Good afternoon, ma'am. How do you feel your**
11 **legal and professional experience thus far renders you**
12 **qualified and will assist you to be an effective Circuit**
13 **Court judge?**

14 A. Well, thank you for that question. I believe
15 that I have a broad legal experience and background at this
16 point in my career. It spans Circuit Court, across
17 criminal and civil realms.

18 I began clerking, as you'll see in the materials
19 -- and not to quote them too much, but to kind of give some
20 highlights. In the materials that I've submitted, I was a
21 law clerk for Judge McMahon over the 11th Circuit.

22 And as a law clerk, I got to see all manner of
23 court that was performed, from temporary restraining orders
24 up to civil and criminal trials.

25 He was Chief Administration -- excuse me -- Chief

1 Administrative Judge, civil at that time, so I saw a lot of
2 civil court. I knew after that I wanted to be in the
3 courtroom. And the advice that I received at that time
4 was, you need to be in the public defender's office or in
5 the solicitor's office.

6 And I threw out applications and ended up in the
7 solicitor's office and had a great experience there for a
8 number of years. And during that time, what I would draw
9 on from that experience was trials that I took part in.

10 The first half of my time in the solicitor's
11 office was primarily just moving a docket, and a big docket
12 of -- I did all the domestic violence cases in the office
13 at that time, and did a lot of trials.

14 I was one of the first solicitors -- at least
15 what they told me at the time, was one of the first
16 solicitors to really try the domestic violence docket over
17 in Lexington.

18 The second half of my time that I would draw on
19 as a judge in the solicitor's office was moving more to
20 managerial responsibilities, being involved in hiring
21 decisions. I was also over all the law clerks that came
22 through the office.

23 In addition, I quote/unquote ran the trial
24 docket. I was the one who gathered the trials from our
25 office, was that one who was always in trial court, working

1 with judges to make sure that things ran smoothly and in
2 contact I want defense lawyer.

3 Another thing I'd highlight from that time was
4 the fact that I helped establish the Domestic Violence
5 Fatality Review Committee in the 11th Circuit. And that
6 involves taking input from very different disciplinary
7 areas, but included working with defense counsel a lot at
8 that time.

9 And I really got to see a view from defense
10 counsel at the time, of what was going on in their view in
11 the domestic violence realm of cases. Now I am in the
12 civil practice and do primarily civil plaintiffs work,
13 personal injury work. I also do some criminal defense.

14 And all of that experience together has allowed
15 me -- and most of that experience has been in civil court
16 and -- excuse me -- common pleas court, in the Circuit
17 Court area in the realm. So I have a lot of experience,
18 and I draw on the vast experience background on the bench.

19 **Q. Thank you, ma'am. Are there any additional steps**
20 **that you feel you need to take in order to be an effective**
21 **Circuit Court judge?**

22 A. Well, I think there's always additional steps
23 that you can take to better yourself, and continue to grow
24 in your area as a Circuit Court judge for sure. I would
25 continue to expand my civil knowledge and work further in

1 that area, learn the rules more.

2 I think -- at least for me, personally, you
3 really know a rule when you go in and had research it and
4 fight it -- fight on that rule and stand by your research
5 and looking into that. So the more you just work and stay
6 active in any area, I think you can advance those -- that.

7 So, yes, I'd always continue through -- just
8 continue to work or taking CLEs and expanding my knowledge.

9 Q. The Commission received 180 ballot box surveys
10 regarding you, with 40 additional comments. The ballot box
11 survey, for example, contained the following positive
12 comments:

13 "Kate Usry's intelligence, experience and ethical
14 integrity will serve her to make an outstanding Circuit
15 Court judge."

16 "I have known Kate for a long time, and she is
17 very well qualified for the position. She is very smart,
18 even-tempered, and compassionate. She has an excellent
19 resource in her father, to call upon for experience and
20 guidance. She will make an outstanding judge."

21 "Ms. Usry is extraordinarily well qualified to
22 serve on the judiciary in the State of South Carolina. She
23 is uniquely qualified, having both the history in civil and
24 criminal litigation, and, quite frankly, has more courtroom
25 and trial experience than most attorneys at her age. I

1 expect she would be a considerate, fair, and impartial
2 judge."

3 Three of the written comments expressed concerns.
4 Several comments indicated that you might lack sufficient
5 experience to serve as a Circuit Court judge. What
6 response would you offer to this concern?

7 A. Well, I don't think that I lack experience to be
8 a Circuit Court judge, first of all. I think I have a
9 depth of experience.

10 And as I've already -- not to kind of continue to
11 repeat what I've said earlier, but I stand by those
12 statements that I have had experience in trial court, I've
13 had experience arguing motions, I've had experience working
14 things out and working together with attorneys that are on
15 the opposite side of issues, and approaching those issues
16 with open -- an open mind.

17 I do believe I have the experience. But like I
18 also mentioned, I would continue to expand on that
19 experience and grow. And never assume that I have stopped
20 growing, but to continue that process throughout.

21 Q. Thank you, ma'am.

22 MS. FAULK: I would note that the Midlands
23 Citizens Committee reported that Ms. Usry is well qualified
24 in the evaluative criteria of ethical fitness, character,
25 professional and academic ability, reputation, experience,

1 and judicial temperament, and qualified in the evaluative
2 criteria of constitutional qualifications, physical health
3 and mental stability. The Citizens Committee noted that
4 Ms. Usry is well qualified with an excellent work ethic.

5 BY MS. FAULK:

6 Q. And now I will just move on to a couple of
7 housekeeping questions. Ms. Usry, are you aware that as a
8 judicial candidate you are bound by the Code of Judicial
9 Conduct as found in Rule 501 of the South Carolina
10 Appellate Court Rules?

11 A. Yes.

12 Q. Since submitting your letter of intent have you
13 contacted any members of the Commission about your
14 candidacy?

15 A. I have not.

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

20 A. I have not.

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

24 A. Yes.

25 Q. Have you asked any third parties to contact

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

4 A. I have not, and I am not aware.

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

8 A. I am.

9 MS. FAULK: Mr. Chairman, I would note for
10 the record that any concerns raised during the
11 investigation by staff regarding the candidate were
12 incorporated into the questioning of the candidate today.

13 Mr. Chairman, I have no further questions.

14 CHAIRMAN RANKIN: All right. Questions by
15 members of the Commission? Mr. Strom.

16 MR. STROM: Mr. Chairman, thank you. Kate,
17 of course I've known you a long time. And you -- you know,
18 no question in my mind that your qualified to be a judge.

19 We were talking at the break about Judge
20 McMahon, and what a good teacher he was, or is, and what a
21 good lawyer he is. And you learned under him in the
22 solicitor's office, handled voluminous cases, and now
23 you're working at your dad's firm. And all of us know what
24 high level quality litigation they do. So I mean, you had
25 the best of the best training. And we're glad that you're

1 here.

2 I do want to say this, though. Obviously,
3 we've got a dozen people in this race. Many people have
4 run a number of times and with more experience. And so
5 don't be discouraged. I have no idea how this is going to
6 work out, but don't be discouraged if this doesn't work out
7 for you. 'Cause you're the kind of person we want to have
8 as a judge in South Carolina.

9 MS. USRY: I appreciate that. I appreciate
10 those comments.

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

12 CHAIRMAN RANKIN: Others?

13 (Hearing none.)

14 EXAMINATION BY CHAIRMAN RANKIN:

15 Q. I want to ask a couple of things. And I am --
16 I'm familiar with you, a proxy more so than personally, and
17 that being through your father. And a number of instances
18 this screening season, we've seen, you know,
19 father/daughter sitting judges -- the Newmans for example -
20 - or others where they aspire to follow in their father or
21 mother's footsteps, both in the profession you've chosen,
22 but now in this seat that you're seeking an election for.

23 And so I want to commend not you so much
24 directly, but your father who apparently has set for you a
25 pretty good example of why you would ever want to do this

1 in the first place. So I want to commend your father for
2 raising up someone who would want to follow in the service
3 that he gave to this state.

4 Secondly, you have Horry blood. I delivered ice
5 to your uncle's store in Aynor. I think it would be your
6 uncle.

7 A. That's correct.

8 Q. And I've known of the Koon Family forever.
9 Obviously, the teacher. But as my customer in the ice
10 truck business, days long, long ago at the -- whatever the
11 cupboard was called. Kountry Kupboard, maybe? Spelled
12 with a "K" -- double "K."

13 So, anyway, y'all have a great legacy within
14 Horry County. And obviously we all grew up with your dad,
15 certainly, as well. So having said all that, all those
16 platitudes, why ever in the world would you want to be a
17 Circuit Court judge?

18 A. It's a great --

19 Q. Sitting and knowing what your dad went through
20 when he was on the bench.

21 A. I think that's a fantastic question. And it's --
22 it is because he enjoyed it so much. And I've gotten to
23 see that. And I was young, obviously, at the time when he
24 was on the bench. But I got to go and sit and watch court.

25 And quite frankly, that's when I learned that I

1 was interested in being a lawyer at that -- way back when,
2 when he was on the bench. As I got to go, I'd watch
3 trials. He would take me up there. And in all honesty, I
4 think he's the reason, probably, that my brother and I are
5 both in the legal field.

6 I think a lot of people don't enjoy the practice
7 of law. And my father has just always enjoyed it and never
8 said anything negative about it, and we were both attracted
9 to it. You know, we tried to expand our experience or --
10 you know, obviously, I've tried to expand my experience
11 outside of that realm, and tried to do different things.

12 We always kind of come back to this and to this
13 process, and I've always known this is a path I'd be
14 interested in following, I'd be interested in pursuing.
15 And I thought that this was the time to kind of start that
16 process.

17 **Q. And as Representative Smith has commented before,**
18 **particularly with young candidates who are in the prime of**
19 **their earning capacity, that prime of their professional**
20 **career, that you would want to put that down to pick up**
21 **this -- what is a little bit better pay, but will in no way**
22 **afford you the potential earning capacity that you in your**
23 **present track would enjoy. Why would you forfeit that?**

24 **A. Well, I have always personally been drawn towards**
25 **service, service of my community, service of others. It**

1 goes back to how I was raised, but all -- I mean, I did --
2 I did service organizations and -- even in high school, I
3 was in a different service organization.

4 In college, I was the head of mentoring
5 organizations. I truly believe that in your capacity as a
6 Circuit Court judge, you are serving your community.
7 You're upholding the efficient administration of justice,
8 and every day you get to go in and deal with citizens, even
9 if it's just jury qualification, and be a represent -- be
10 representative of that process.

11 I think now more than ever a solid, fair,
12 dependable judiciary is important. And I can't think of a
13 better way to serve -- serve your community and continue
14 that.

15 Q. And we have had a number of young candidates
16 throughout my four, five years of being involved with this,
17 perhaps never more than this series of candidates. You are
18 38, maybe the youngest -- I may stand to be corrected --
19 but at least one of the youngest, if not that youngest, who
20 have decided to forego, again, the earnings that you would
21 otherwise be expected to achieve. So that is commendable
22 to me.

23 I know your brother. Obviously, I know your
24 father. I don't know your mom as well. She must be a hell
25 of a mom to have produced such -- such quality people,

1 irrespective of the judge's travel during those days while
2 he was on the bench.

3 So y'all are to be commended, you and your
4 family, truly. And so I'm tickled that you're here.

5 CHAIRMAN RANKIN: Unless there are
6 questions? Mr. Safran.

7 MR. SAFRAN: Ms. Usry, first of all, thank
8 you. We appreciate the fact that you are here. And I just
9 want to say I've obviously known your father for many
10 years. I'm sure that under his guidance in the civil
11 realm, you're going to get more than an education. But it
12 already seems like it's started.

13 What I'm particularly impressed with is it
14 fact that you've shown up here for the first time with what
15 we asked for so frequently, but rarely see, which is having
16 some civil background, albeit it's just starting to some
17 extent, and criminal background.

18 I know we preach that and have for as many
19 years as I've been on this. And unfortunately, you don't
20 see it very often. So the fact that you're coming here in
21 that type of background, that kind of spectrum, is
22 impressive.

23 The other thing that I'm -- I guess I'm
24 moved by is the fact that a lot of times you don't hear
25 good things from other people about solicitors. You have

1 some accolades from people that, obviously, were on the
2 other side of you in these things.

3 Again, it's not a common situation to have
4 people complimenting you when they're butting heads with
5 you on a regularly basis. And fairmindedness, particularly
6 as perceived by defense lawyers when you're dealing with
7 solicitors, is I think a rare quality.

8 So I want to commend you on what you bring
9 to the table. I think, certainly, the way that you come
10 now, and the background that you've tried to put together,
11 also speaks highly of your dad. I mean, he was in the
12 Circuit Court area as a judge at a relatively young age.

13 And it appears like your following a well
14 established and successful plan right now. So again, like
15 Mr. Strom said, I can't say -- you've got basically a cast
16 of thousands that are here in terms of who's running for
17 this spot, but I certainly think that you're showing very
18 well for your first try. And thank you. And I appreciate
19 your offering.

20 MS. USRY: Thank you for your comments.

21 CHAIRMAN RANKIN: Are your children,
22 perhaps, in pre-law school at the kindergarten stage?

23 MS. USRY: We're trying.

24 CHAIRMAN RANKIN: And for the record, your
25 husband is nodding aggressively.

1 MS. USRY: We might try to keep them away
2 from it. We haven't decided yet.

3 CHAIRMAN RANKIN: Is there a certain
4 professor or teacher by the last name of Whetstone that's
5 administering some of that education?

6 MS. USRY: That's right.

7 CHAIRMAN RANKIN: All right. Thank you.
8 Senator Sabb.

9 SENATOR SABB: Thank you, Mr. Chairman.
10 Just a quick observation. I've actually not known this
11 candidate, but her husband I do know well. And we speak
12 highly of Judge Whetstone, who we all know and admire. Her
13 husband is quite a lawyer in his own right. But I am
14 delighted to say to him today. He obviously married above
15 himself.

16 CHAIRMAN RANKIN: Now we'd like to put your
17 father under oath and ask him some questions. He is not
18 moving. All right. Thank you very much.

19 And this will conclude this portion of the
20 screening process. And for your first time, as Mr. Safran
21 has said, you have brought an incredible, impressive
22 background which bodes well for your future, whether now or
23 in the future. So I want to commend you on that as well.

24 The Commission takes very seriously both the
25 letter and the spirit of the South Carolina ethics laws.

1 Any violation or the appearance of any impropriety would be
2 deemed very serious and deserving of heavy consideration in
3 our deliberative process.

4 To that end, if the need were to arise
5 because this report -- or this record doesn't close until
6 the issuance of the final record of qualifications, you
7 could be called back to come and testify. You know that,
8 though, correct?

9 MS. USRY: Yes.

10 CHAIRMAN RANKIN: Very well. All right.
11 And so we will now close the record, presently. And I hope
12 that we don't have to see you back under the guise of what
13 I've just talked about.

14 And we wish you well. Thank you all for
15 being here with her. And, Judge, I've never seen you sit
16 more quiet and patient and flinch less ever. And that's a
17 wonderful thing.

18 JUDGE WHETSTONE: Sometimes you need to just
19 be quiet.

20 CHAIRMAN RANKIN: That is the best, most
21 wise comment you've offered for these folks' benefit to
22 hear. For the record, it was directed at Representative
23 Rutherford. Thank you all very much.

24 MS. USRY: Thank you all. Thank you.

25 (Candidate excused.)

1 CHAIRMAN RANKIN: All right. We are ready.
2 Judge Van Slambrook -- Dale E. Van Slambrook, raise your
3 right hand, if you will.

4 WHEREUPON,

5 THE HONORABLE DALE E. VAN SLAMBROOK, being
6 duly sworn and cautioned to speak the truth, the whole
7 truth and nothing but the truth.

8 CHAIRMAN RANKIN: Very good. Have a seat,
9 sir. And for our court reporter's benefit of hearing
10 clearly, if you don't mind de-masking.

11 JUDGE VAN SLAMBROOK: I do not. Thank you
12 very much for that. I appreciate it.

13 CHAIRMAN RANKIN: Welcome back.

14 JUDGE VAN SLAMBROOK: Thank you.

15 CHAIRMAN RANKIN: Thank you. And good to
16 see you. And you have before you, the PDQ and the sworn
17 statement. You know your routine here. Any changes that
18 you would need to make to that before we put them in the
19 record?

20 JUDGE VAN SLAMBROOK: No changes.

21 CHAIRMAN RANKIN: All right. And you don't
22 object to them coming in.

23 JUDGE VAN SLAMBROOK: I do not object.

24 CHAIRMAN RANKIN: Okay.

25 (EXHIBIT NO. 15 - JUDICIAL MERIT SELECTION

1 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
2 HONORABLE DALE E. VAN SLAMBROOK)

3 (EXHIBIT NO. 16 - JUDICIAL MERIT SELECTION
4 COMMISSION AMENDED PERSONAL DATA QUESTIONNAIRE OF
5 THE HONORABLE DALE E. VAN SLAMBROOK)

6 (EXHIBIT NO. 17 - JUDICIAL MERIT SELECTION
7 COMMISSION SWORN STATEMENT OF THE HONORABLE DALE
8 E. VAN SLAMBROOK)

9 CHAIRMAN RANKIN: Judge, the Commission in
10 its investigation of your qualifications for service in
11 this role includes, of course, our focus on the nine
12 evaluative criteria, and the ballot box survey, a thorough
13 study of your application materials, verification of your
14 compliance with state ethics laws, a search of newspaper
15 articles in which your name appears, past screenings, which
16 you have been through, as well as a check for economic
17 conflicts of interest.

18 No one has filed an affidavit in opposition
19 to your election, and no one has requested to testify for
20 you or against you.

21 With that, I will turn the floor over to
22 you. You are welcome to make any brief introductory
23 remarks that you would like. And after that, we will turn
24 it over to Bryan Triplett for questions of you. So, Judge,
25 the floor is yours.

1 JUDGE VAN SLAMBROOK: If it's all right, I
2 will waive any opening statement.

3 CHAIRMAN RANKIN: Very well. All right.
4 Mr. Triplett.

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

12 EXAMINATION BY MR. TRIPLETT:

13 Q. Judge Van Slambrook, how do you feel your legal
14 and professional experience thus far renders you qualified
15 and will assist you to be an effective Circuit Court judge?

16 A. Basically, I practice law with a firm in private
17 practice for more than thirty years. It was a general
18 practice -- started out as a general practice, tried cases
19 in common pleas, general session, magistrates court.

20 I was in federal court in social security
21 hearings. I tried numerous cases to verdict amongst those
22 cases as well as many non-jury cases. I was the
23 supervising attorney and the office manager, so to speak,
24 of one of the offices. I ran the offices, ran the accounts
25 there.

1 I then moved on -- well, not moved on, but became
2 a municipal court judge and became in charge of and trying
3 cases in front of juries in the City of Goose Creek.
4 That's where I first became interested and involved in
5 becoming a judge. I got exposure to it there, enjoyed it.
6 Those are of course primarily criminal cases.

7 So I've had legal experience as a practicing
8 attorney dealing cases, dealing with the rigors of
9 practice, as well as the office side of it. I got to be a
10 judge, I got to try cases with juries -- deal with juries.
11 I enjoyed dealing with juries.

12 I felt a move -- a change and became the Master
13 in Equity for Berkeley County. Up there I was doing not
14 only the Master in Equity duties for the non-jury side in
15 those cases that were referred to me, but I was also
16 appointed as a special Circuit Court judge dealing with
17 non-jury matters there. I've taken pleas. I've dealt with
18 that.

19 Along the way I became the primary judge for the
20 Berkeley County Adult Drug Court, which we deal with folks
21 every week on there through this treatment program. And
22 that part of the team is not only the professionals that
23 deal with the mental health side of it, but also with the
24 representative from the solicitor's office, the sheriff's
25 office, the public defender's office. So we're involved in

1 the criminal aspects to a much greater degree than you'd
2 probably expect.

3 I've also got the benefit of being in the
4 courthouse, and the opportunity to sit in and watch pleas,
5 watch trials, in whole and in part, in front of different
6 judges, talk to different judges, see various lawyers in
7 action, and observe and learn as I went along the way.

8 My skill, I think, and background as a judge have
9 greatly expanded over the last six years as a result of my
10 exposure through the Master in Equity and just through the
11 opportunity to see lawyers and judges in action.

12 I think the combination of all of that, as well
13 as life experiences, make it so that I'm well suited,
14 capable. Certainly education-wise, background-wise, and
15 having touched on a lot of different things in my practice
16 and in -- from the bench, I think I'd be a good candidate
17 and make a successful Circuit Court judge.

18 Q. Thank you, Judge. Judge Van Slambrook, the
19 Commission received 261 ballot box surveys regarding you,
20 with 39 additional comments. The ballot box survey, for
21 example, contained the following positive comments:

22 "Well prepared. Wonderful temperament. Returns
23 orders very quickly and efficiently. Judge Van Slambrook
24 is a diligent, thoughtful and concerned jurist who has the
25 gift of compassionate firmness presented the tact. An

1 excellent candidate who is a fine gentleman, experienced
2 and capable lawyer, and who will be a credit to the
3 judiciary of our state."

4 Judge Van Slambrook, your SLED report indicated
5 that there was a lawsuit filed against you. It was filed
6 in 2020 in the Common Pleas Court by a Nehemiah Bryant.
7 Please explain the nature and disposition of this lawsuit.

8 A. That was, I guess, a follow up to a foreclosure
9 action that I presided over. Mr. Bryant was a defendant in
10 an action. He has -- he falls within the category of
11 what's commonly referred to as a sovereign citizen, where
12 there was numerous filings that go along with the
13 foreclosure itself, and then one of the avenues that they
14 also sometimes pursue is direct actions against the lawyers
15 and the people involved.

16 And that was -- that was what that was. I think
17 I got served as a result of some papers that were
18 delivered. I wouldn't necessarily call it good service,
19 but I did turn it over to the Berkeley County attorney for
20 handling. And that's been relatively recent, so there
21 hasn't been any disposition.

22 Q. Thank you, Judge.

23 MR. TRIPLETT: I would note that the Low
24 Country Citizens Committee reported that Judge Van
25 Slambrook is well qualified in the evaluative criteria of

1 ethical fitness, professional and academic ability,
2 character and reputation, and qualified in the evaluative
3 criteria of constitutional qualifications, physical health
4 and mental stability.

5 The Low Country Citizens Committee commented
6 that Judge Van Slambrook has, "Extensive experience as a
7 lawyer and judge, has performed well as a special Circuit
8 Court judge, and has done a great job as a drug court
9 judge. Very well rounded. He is doing it all now.
10 Substantial foundation for this position. Natural
11 transition for him. Imminently qualified in every
12 respect."

13 BY MR. TRIPLETT:

14 Q. Judge Van Slambrook, are you aware that as a
15 judiciary candidate, you are bound by the Code of Judicial
16 Conduct as found in Rule 501 of the South Carolina
17 Appellate Court Rules?

18 A. Yes.

19 Q. Since submitting your letter of intent have you
20 contacted any members of the Commission about your
21 candidacy?

22 A. No, I have not.

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

1 screening?

2 A. No, I have not.

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

6 A. Yes.

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

11 A. No, I have not.

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

15 A. Yes.

16 MR. TRIPLETT: Mr. Chairman, I would note
17 for the record that any concerns raised during the
18 investigation by staff regarding the candidate were
19 incorporated into the questioning of the candidate today.

20 Mr. Chairman, with that, I have no further
21 questions.

22 CHAIRMAN RANKIN: Thank you. All right.
23 Questions by members of the Commission? Representative
24 Murphy.

25 EXAMINATION BY REPRESENTATIVE MURPHY:

1 Q. Thank you, Mr. Chairman. And Judge Van
2 Slambrook, thank you for coming back up and offering your
3 service again. I've known you for a long time, and worked
4 together when you were with the Steinberg Law Firm.

5 I appeared in front of you when you were a
6 magistrate judge or municipal judge over in Goose Creek,
7 and most recently as a Master in Equity, where I think you
8 stated you handle a lot of the docket as a special Circuit
9 Court judge, correct?

10 A. Yes. Most of the default-type matters and so
11 forth with the E-filing are sent to me. So I'm handling
12 most of the non-jury types of things that come up as a
13 special Circuit Court judge.

14 In addition to that, just as a part of what we've
15 gone -- been going through for the last six months it's --
16 I've increased as far as the level of work that we've done,
17 incorporating handling quite a few motions -- motion roster
18 to keep those rolling along, since there wasn't any other
19 judge that was assigned to Berkeley County.

20 Q. In addition, you do minor settlements, wrongful
21 death settlements? I mean, basically, as your -- in your
22 role as a Master in Equity, you've done everything other
23 than preside over a jury trial, correct?

24 A. Everything other than a jury trial, that's
25 correct, on the civil side and on the -- on the criminal

1 side.

2 Q. General Sessions side. And I don't know -- and
3 there's twelve -- I think there's twelve or -- there's a
4 number of candidates in this -- for this race, and I can't
5 think of one that has come before us that has been more
6 qualified to assume the position from day one than you are
7 currently.

8 And looking at your ballot box, as Mr. Triplett
9 stated, there was 303 ballot surveys, none -- none of which
10 -- none, zero were -- were negative comments. And, in
11 fact, out of the 303 responses from -- which were anonymous
12 from members of the Bar, only two -- two out of the hundred
13 and -- or the 303 found that you were unqualified in
14 whatever category that they were stating.

15 That is almost unheard of, those responses for
16 somebody that has had such a long career, both in private
17 practice and -- and in the -- as your present duties as the
18 Master in Equity.

19 So I think that is a -- that is a credit to the
20 job that you have been doing, and that is a credit to your
21 character and how the members of the large profession find
22 you to be as qualified for a judgeship.

23 So I just want to commend you again for coming
24 back up here and going through this process. And I believe
25 that if you are fortunate enough to succeed at this time,

1 that the citizens of Berkeley County and the State of South
2 Carolina will be well served by you as they currently are.

3 So thank you again for offering your services.

4 A. Thank you for those kind words.

5 CHAIRMAN RANKIN: Senator Talley.

6 SENATOR TALLEY: Thank you, Mr. Chairman.

7 Judge, good afternoon. Nice to see you
8 again. I don't have a question, but just wanted to follow
9 up on some of the things that Representative Murphy pointed
10 out.

11 I've had the opportunity to appear before
12 you, I think, on two occasions. And as I read these ballot
13 box comments who talk about your diligence, your
14 thoughtfulness, you know, taking -- taking the application
15 of justice very seriously.

16 And I just point out that in my experience
17 before you on what would have seemed like to many a very
18 minor issue, you did exactly as has been represented in
19 this ballot box comments. And I would echo the sentiment
20 of these folks that have commented about your even
21 temperament, yet your attention to detail, and to make sure
22 that things that come before you are done the right way.

23 And so I appreciate that. I appreciate you
24 offering. And I wish you well.

25 JUDGE VAN SLAMBROOK: Thank you.

1 CHAIRMAN RANKIN: Mr. Safran.

2 MR. SAFRAN: Judge, obviously, we see each
3 other again here. I, again, would do the same in terms of
4 just reiterating what is said already in terms of your
5 qualifications. From my standpoint you bring to the table
6 exactly what we're looking for, somebody who's got a
7 lengthy and broad spectrum of experience on the both
8 criminal and civil side.

9 Add to that, that you've sat in a judicial
10 capacity for some period of time. You know, I don't think
11 that anybody could come over here with anything more in
12 terms of credentials and offer for a seat like this. And
13 so I'm encouraged that you come back.

14 And I am very, again, impressed by what I
15 see each time you show up. And I hope that things will work
16 out for you in this situation. And, again, I appreciate
17 your coming.

18 JUDGE VAN SLAMBROOK: Thank you.

19 CHAIRMAN RANKIN: Other Commission members
20 questions?

21 (Hearing none.)

22 CHAIRMAN RANKIN: Judge, I too want to
23 follow suit with the three previous speakers in the
24 incredible resume that you have. And it just speaks
25 volumes that you continue to serve and want to elevate your

1 role. And I think you've got what it takes in terms of the
2 particulars of what we're looking for here.

3 And, again, whether now or hereafter, on the
4 larger scale, our state will be better and well served if
5 you ascend to a higher role. So I want to appreciate -- or
6 tell you that I appreciate your continuing to knock on this
7 door.

8 JUDGE VAN SLAMBROOK: Thank you.

9 CHAIRMAN RANKIN: With that, unless there
10 are any other questions of Judge Van Slambrook, we will now
11 close the record, at least this portion of the screening
12 process. The record is not closed until we issue the final
13 report and record of qualifications. You're familiar with
14 that.

15 JUDGE VAN SLAMBROOK: Yes, sir.

16 CHAIRMAN RANKIN: But also that we as a
17 commission take very seriously both the letter and the
18 spirit of the ethics laws. Any violation of those or the
19 appearance of impropriety would warrant us calling you
20 back. And we would take very seriously and weigh very
21 heavily any of those allegations in our screening process.
22 Again, you're familiar with that, correct?

23 JUDGE VAN SLAMBROOK: Yes, sir.

24 CHAIRMAN RANKIN: All right, sir. With
25 that, we will now send you on your way. I don't know if

1 you rode your bike here, you're getting a ride in today --
2 JUDGE VAN SLAMBROOK: It's a little chilly
3 for that.

4 CHAIRMAN RANKIN: I-26 would not be the
5 route I would take. But nonetheless, we thank you and wish
6 you well. Take care.

7 JUDGE VAN SLAMBROOK: Thank you. Thank you
8 all very much. I appreciate it.

9 (Candidate excused.)

10 CHAIRMAN RANKIN: All right, sir. If you
11 will raise your right hand.

12 WHEREUPON,

13 DEREK A. SHOEMAKE, being duly sworn and
14 cautioned to speak the truth, the whole truth and nothing
15 but the truth.

16 CHAIRMAN RANKIN: Very well. Thank you.
17 Have a seat. And if you will, the items that you have
18 filled out, the PDQ and the sworn statement, do those need
19 to be amended in any way? Are they ready to be put into
20 the record?

21 MR. SHOEMAKE: They are ready to be put in
22 the record. One thing, and I don't think it needs to be
23 amended, yesterday I signed a contract. I was asked to
24 fill in at USC to teach a one-hour writing session in the
25 mornings, just kind of on the side. So I agreed to that

1 yesterday. I don't think it needs to be in the PDQ, 'cause
2 it's not happened yet. But just in the interest of full
3 disclosure.

4 CHAIRMAN RANKIN: You might need a three-
5 hour to be a TA.

6 MR. SHOEMAKE: Well, that's what we were
7 just talking about.

8 MR. CHAIRMAN: So we're going to grab those
9 and put those in the record now.

10 (EXHIBIT NO. 18 - JUDICIAL MERIT SELECTION
11 COMMISSION PERSONAL DATA QUESTIONNAIRE OF DEREK
12 A. SHOEMAKE)

13 (EXHIBIT NO. 19 - JUDICIAL MERIT SELECTION
14 COMMISSION AMENDED PERSONAL DATA QUESTIONNAIRE OF
15 DEREK A. SHOEMAKE)

16 (EXHIBIT NO. 20 - JUDICIAL MERIT SELECTION
17 COMMISSION SWORN STATEMENT OF DEREK A. SHOEMAKE)

18 CHAIRMAN RANKIN: And, Mr. Shoemake, you are
19 aware of our process here. You have screened before, or
20 not?

21 MR. SHOEMAKE: I have not. No, sir. This
22 is my first time.

23 CHAIRMAN RANKIN: Well, I know you're a
24 great study and you know what we're looking for.
25 Obviously, our commission and our investigation of your bid

1 for this position focus on the nine evaluative criteria.
2 And we also look at the ballot box survey, a thorough study
3 of your application materials, verification of your
4 compliance with state ethics laws, a search of newspaper
5 articles in which your name appears, a study of -- and a
6 check for economic conflicts of interest.

7 Obviously, with no screenings in the past,
8 we don't look at that. No affidavits have been filed in
9 opposition to your campaign, and no witnesses are present
10 to testify for you or against you.

11 With that, I'll open up the record and -- do
12 you have a guest, or you do not?

13 MR. SHOEMAKE: I do. I do, Your Honor. In
14 the black jacket there is my wife, Lana Shoemake.

15 CHAIRMAN RANKIN: Come on up to the front.
16 We're going to -- whoever these folks are between you and
17 your husband need to be blocked. We want to see you. So
18 welcome. And her name again?

19 MR. SHOEMAKE: It's Lana Shoemake. She's a
20 school teacher in Kershaw County. She's elementary school.

21 CHAIRMAN RANKIN: Lana, stand up and take
22 your mask down just for a second, so we can see your
23 smiling face. Beautiful. Thank you for taking that down,
24 and now you can put it back up. We now know you are.
25 Thank you so much for being here.

1 Now, sir, you have -- with the introduction
2 of your wife, you have the floor to make any brief opening
3 comments that you'd like.

4 MR. SHOEMAKE: Well, I know you guys are
5 ahead of schedule, so I don't want to mess up the record
6 here and get you guys out early.

7 Very briefly, you know, I listed in the
8 Marines when I was 17 and shipped off when I was 18, and
9 that really began a lifetime of public service for me. And
10 I've had stints when I've got out to make a little bit of
11 money. But by and large, I kind of gravitated back to
12 public service. And this to me is the next logical step
13 for that.

14 As I think my PDQ shows, I've done a little
15 bit of everything, both in life in general but also in the
16 courtroom. I've had paid clients. I've represented
17 plaintiffs. I've represented civil defendants. I have
18 defended criminal defendants and I've also prosecuted, in
19 addition to two clerkships. So I've sort of checked all
20 the boxes in the courtroom, and I'm excited to take this
21 next step.

22 With that, I'll just kind of go to
23 questions. 'Cause again, I know you guys are ahead of
24 schedule, so I want to keep you guys on track.

25 CHAIRMAN RANKIN: Super. Mr. Triplett, take

1 it away.

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

8 EXAMINATION BY MR. TRIPLETT:

9 Q. Mr. Shoemake, the Commission received 105 ballot
10 box surveys regarding you, with 26 additional comments.
11 The ballot box survey, for example, contained the following
12 positive comments:

13 "Derek is extremely smart and hardworking. We
14 would be lucky to have him as a circuit judge. The South
15 Carolina judiciary would be would be lucky to have Derek's
16 intelligent, work ethic, and temperament on the bench.
17 Exceptionally bright and well disposed for judicial
18 service. Would be hard to find a more well-rounded
19 candidate."

20 None of the written comments expressed concerns.

21 MR. TRIPLETT: I would note that the
22 Midlands Citizens Committee reported that Mr. Shoemake is
23 well qualified in the evaluative criteria -- evaluative
24 criteria of ethical fitness, professional and academic
25 ability, character and reputation, and qualified in the

1 evaluative criteria of constitutional qualifications,
2 physical health and mental stability.

3 The Midlands Citizens Committee commented
4 that Mr. Shoemake has a good balance of civil and criminal
5 experience.

6 BY MR. TRIPLETT:

7 Q. Mr. Shoemake, are you aware that as a judiciary
8 candidate, you are bound by the Code of Judicial Conduct as
9 found in 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 your
14 candidacy?

15 A. I have not.

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

20 A. I have not.

21 Q. Are you familiar with Section 2-19-70, including
22 the 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 of your behalf, or are you
2 aware of anyone attempting to intervene in this process on
3 your behalf?

4 A. I am not.

5 Q. Have you reviewed and do you understand the
6 Commission's guidelines on pledging in South Carolina Code
7 Section 2-19-70(D)?

8 A. I am.

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

14 CHAIRMAN RANKIN: All right. Thank you, Mr.
15 Triplett. Questions or comments by any of the Commission
16 members? Mr. Strom.

17 EXAMINATION BY MR. STROM:

18 Q. Good afternoon.

19 A. Good afternoon, Mr. Strom. How are you?

20 Q. I'm well. I hope you are.

21 A. Yes, sir.

22 Q. I'm just looking through, I see you've got some
23 letters of -- I see that you have letters of recommendation
24 of some folks we're very familiar with: Peter McCoy, our
25 current U.S. Attorney, and Tom Mulliken, who spent a lot of

1 time around here years ago. You know, that means a lot to
2 us.

3 I agree, I've looked at your resume and your
4 history. I mean, you've clerked for a federal judge.
5 You're in the U.S. Attorney's office now. You work with
6 John Simmons, who is an excellent lawyer. Do you feel like
7 you have any weaknesses that you would have to work on
8 before you became a judge or after you became a judge?

9 A. I feel like I'm a pretty strong candidate. I
10 would say that shy of having been a Circuit Court judge,
11 I'm not sure what other experience I could have to prepare
12 me for it.

13 Certainly, an incumbent judge who's been on the
14 Circuit Court would probably have some tips that I might
15 miss. But in terms of -- you know, taken a -- I've taken
16 some pretty diligent efforts to try to talk to -- for
17 example, Judge Chapman, I forget her new name. I know she
18 recently -- and she went through this process.

19 And I've spoken to some newer judges, Judge
20 McLeod, about some of the things that they experienced when
21 they got on the bench, and how that was different. And so
22 that -- that, I think, would probably be the one piece that
23 I maybe was missing when I started this process, but since
24 then have talked to them about just some of the nuances
25 they realized from going to practice to the bench.

1 Q. Do you feel like you'd be able to adjust from --
2 'cause, obviously, you've been a litigator on both sides --

3 A. Sure.

4 Q. And to going on the bench and becoming someone
5 who listens and rules?

6 A. I do. I think so. And the reason I think that
7 is everyone -- you mentioned John Simmons, who was a -- is
8 a dear mentor to me and a dear friend. You know, John --
9 what makes John great is he's his naturally aggressive
10 force. And it's why he is so effective.

11 My natural style is more diplomatic. I think
12 you've got to have those tools in your toolkit, but if
13 someone is naturally diplomatic -- I've had cases with many
14 of you in here, and I think you'll -- you know by that
15 experience, I tend to try to find ways to resolve cases and
16 try to find a resolution.

17 And so I think that translates pretty well onto
18 the bench because of the type of litigator that I am. So I
19 don't think it would be much of an adjustment, particularly
20 because I think the cornerstone job of a judge, in my
21 humble opinion, is in part not to forget how hard it is to
22 be a lawyer.

23 And that's something that I take with me sort of
24 every day. So I do think my natural style would suit the
25 bench well.

1 Q. And just the last question I have. You've
2 obviously planned your life. I mean, you've done a lot of
3 different things, and it's been orderly, you know, from a
4 reporter to being in the Marines, working with some really
5 good folks, and still doing the same thing. Is your
6 ultimate goal to be a circuit judge? Or would you like to
7 be an appellate judge? Or where do you see yourself at the
8 end of your career?

9 A. So I -- when I worked at Nelson Mullins, David
10 Dukes and I became pretty close. And David said something
11 to me that I had sort of been doing all along, but really
12 started focusing on after I talked to him, and he said he
13 had lived his entire career in sort of two- to three-year
14 increments.

15 And he said, "Okay, in the next three years, what
16 do I hope to accomplish, what do I want to be?" And he
17 said that led him -- that led him to stay at Nelson
18 Mullens.

19 For me, it's led me to try different things. So
20 I can tell you in the next two to three years, I would like
21 to continue to be a prosecutor. And God willing, I'd like
22 to be a member of the South Carolina bench. Past that, I
23 don't know. Certainly called to serve, I'd do whatever my
24 state needed.

25 But I don't really think about what do I want to

1 be in twenty years. I found David's advice to be very
2 helpful in terms of happiness, and just saying where do I
3 see myself in two to three years.

4 Q. Thank you.

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

6 CHAIRMAN RANKIN: Thank you. All right.
7 Other comments, questions? Mr. Safran.

8 EXAMINATION BY MR. SAFRAN:

9 Q. Glad to have you here.

10 A. Yes, sir.

11 Q. And thank you. You have a very impressive
12 resume. And I'm very fortunate to know a lot of the folks
13 that you've, I guess, characterized as your mentors. You
14 know, I clerked for Judge Anderson back in the Stone Age.
15 I consider myself one of his least distinguished law
16 clerks.

17 A. Was that G. Ross or --

18 Q. Judge G.

19 A. Oh, okay. Yes.

20 Q. So I know that even at an older age, you probably
21 have the battle scars to prove that. So I guess -- and the
22 same thing, Judge Harwell is somebody who's been a dear
23 friend of mine for a lot of years, but I'm sure he expects
24 a lot out of his clerks. And I'm sure you, obviously,
25 satisfied his requirements. John Simmons is another person

1 I have great respect for.

2 I guess when you look at the background -- I told
3 somebody else earlier, we've got just an unbelievably
4 impressive group of people this go-round. And it's hard to
5 really look at anybody and not see some really strong
6 attributes.

7 I guess what I'm trying to look at is, you really
8 think this is kind of the next step for you at this point?

9 A. I do. And here's why: I think that -- as I kind
10 of mentioned before, I've always had sort of this public
11 service magnetism. And I'm doing that now. And I love
12 what I'm doing. I want to be very clear about it, I love
13 it.

14 I'm not seeking to exit something. I'm seeking
15 to progress to something. And I think if you want to
16 really do good in the world, you've got to offer yourself
17 up in the way you think you can do the most good in the
18 biggest way. And for me, I think that's the bench.

19 I think I have a really keen understanding of
20 what litigants go through, and the attorneys. Judge
21 Harwell, who you mentioned, would often say to us when we
22 were working -- especially like a 12(b)(6) or, say, a
23 motion for sanctions, would always talk to us about --
24 like, "Look, the law is black and white. When the law is
25 black and white, you follow the law." There's no question

1 about that.

2 But, you know, the first rule of civil procedure
3 is secure the just, speedy, and inexpensive administration
4 of justice. And part of that means if the law is gray and
5 one side says, "Well, this is going to put a lawyer in a
6 malpractice suit, and one side doesn't, be mindful of
7 that."

8 It doesn't mean that changes your decision. The
9 law is the law. And experience is like that, I think it's
10 given me a unique perspective and I really think I can do a
11 lot of good for a state that I love, a state that -- you
12 know, I joined the military, ended up in Virginia, and
13 thanks to my wonderful wife who agreed, we came back here.
14 'Cause this is where we wanted to build our life.

15 So I think it's -- I think it is the next step
16 for me to be of great service. So, yes.

17 Q. Well, and in hearing that, it sounds like you
18 were tutored in an unbelievably compassionate way. I can
19 hear that kind of advice being given.

20 So effectively, what I'm also getting from that
21 is what we ask about all the time, which is empathy towards
22 the people who appear in front of you, including the
23 lawyers, recognizing what they do, the stresses that are
24 upon them, and all of the ways that things can be done
25 where you can reach the same result but do it in a way that

1 doesn't harm someone. And I get the sense that, that's one
2 of that ways you've been mentored.

3 A. Absolutely. I mean, I -- it's hard not to have
4 empathy when you've had the gut-punch in the courtroom.
5 You know, when you've had -- when I was in front of Judge
6 Barber, and he said that -- he gave me two options. And I
7 tried to tell him there was this third he was missing, and,
8 you know, John's tugging at my side and reminding me that
9 the judge is always right, and, you know, that's what the
10 appellate courts are for.

11 And so, you know, it's hard not to have empathy.
12 And I think that -- you know, what I like to tell people
13 is, at least in my humble opinion about what a judge is, I
14 think a judge is someone who's smart enough to be an
15 academic, but sort of wise enough not to be. This isn't a
16 law school exam. We have real, real people and real
17 stakes.

18 It's just as hard in my opinion to represent a
19 criminal defendant, who maybe they did it, but often the
20 question is do they deserve what they're getting, versus
21 representing the plaintiff or even a company.

22 I mean, I've stood next to people who are, you
23 know, going to lose their business and their livelihood
24 because of something that they truly don't believe was a
25 wrongful act or a negligent act. And so you have to have

1 across the board empathy.

2 You can't go in the a prosecutor's mindset or a
3 plaintiff's mindset or a defense lawyer's mindset, because
4 they're all very unique and have challenges that when they
5 commiserate amongst each other are unique to that group.

6 So I do agree, I think empathy is critical. And
7 I think -- I hope my career has allowed me to develop that
8 for all the parties in a case.

9 **Q. Well, let me ask this just out of curiosity.**
10 **After, I guess, doing the various things that you have,**
11 **what led you to be an Assistant U.S. Attorney and at least**
12 **to make that the more recent step?**

13 A. Sure. So one is I've kind of got a natural
14 curiosity about law. I just enjoy it. And I enjoy doing
15 different things. One of the great things about being a
16 judge is that sort of intellectual curiosity is sort of
17 never satiated, 'cause you have so many different things in
18 front of you.

19 Obviously, working with John, he'd talk about his
20 time at the U.S. Attorney's Office. I did a lot of CJ work
21 and some -- some paid work on the federal side. Most of my
22 paid work was state, I did the court-appointed work. And
23 one of the things I realized is -- again, I was looking to
24 get back into something where I could, again, be of
25 service.

1 And I know I keep saying that, but it's -- I say
2 it 'cause it's true. And one of the things about being a
3 prosecutor is, if you do it right -- and I know many of you
4 have been prosecutors -- and if you do it right, you maybe
5 have more control over making sure justice is done as a
6 defense lawyer, right?

7 Because a good prosecutor -- it's not about
8 getting the stats. I'm lucky enough to be a federal
9 prosecutor. Rarely do we get cases that we can't make.
10 The question is what is right and what is just.

11 And so the idea of being able to do that and sort
12 of make that kind of difference -- and not to mention when
13 -- you know, now Judge Lydon -- Sherri Lydon calls you and
14 says, "I want you to do this," the answer -- it's tough to
15 say "no" to Sherri Lydon.

16 **Q. Well, thank you very much for your answers. And,**
17 **again, I cannot say anything other than I'm thoroughly**
18 **impressed with your background and the way you've presented**
19 **yourself today.**

20 A. Thank you, sir. I appreciate it.

21 CHAIRMAN RANKIN: Mr. Smith. Representative
22 Smith.

23 REPRESENTATIVE SMITH: Thank you.

24 EXAMINATION BY REPRESENTATIVE SMITH:

25 **Q. Mr. Shoemake, how are you doing today?**

1 A. I'm good. I'm good. I'm good.

2 Q. I hear a lot of good things about you. And
3 you're over in Florence, where I got a lot of family and I
4 know people, and complimentary. And, you know, I know
5 Judge Harwell now for probably my whole life. So I
6 appreciate you offering. I just want to kind of go through
7 and, you know -- with you a little bit. You had a
8 different route than most people --

9 A. Sure.

10 Q. -- going to law school. You joined the military,
11 I presume, when you graduated high school?

12 A. Well, sir, I enlisted at 17. But you can't ship
13 off till you get the diploma. So, yes, sir. Right after -
14 - six days after I graduated, I was at Parris Island.

15 Q. And you stayed there for -- it appears for me,
16 for what, five, six years?

17 A. Well, I did four actives. I was in a little bit
18 of an inactive Reserves, and then I transitioned to a
19 defense contract.

20 Q. And then while you were inactive, I see you went
21 to community college and then got your degree from -- from
22 Old Dominion?

23 A. I did, yes, sir. So I went -- I had taken a few
24 classes in the Marines. And then when I got out, I had an
25 XO that told me, "You're going to go into bars all over the

1 place that are full of former Marines that were going to do
2 something with their lives."

3 And he said, "When you get out, you're going to
4 have this eight-hour job and it's going to get -- it's
5 going to grow on you like a fungus. And if you don't get
6 out there and work, you're not going to do it."

7 So it scared the hell out of me. And so the day
8 I started at General Dynamics, I enrolled in a night
9 program. I did eighteen hours in the summer, twelve hours
10 in the fall and spring. Three years later, I had a
11 bachelors. And he was absolutely right, because it grows
12 on you.

13 **Q. And I see you probably hit the low point of your**
14 **career when you worked at The Item as a news editor?**

15 A. Well, that was the old -- the old Item. You
16 know, I heard someone told me recently, the Osteens have
17 sold it. It was still a daily when I was there.

18 And so it was a seven-day-a-week paper. And I
19 tell you, nothing beat the -- I worked -- I was the night
20 editor. And so I was the sports section and the Clarendon
21 section.

22 And nothing beat that 2 a.m. going in with the
23 papers -- you know, coming off the presses, and that ink in
24 your hand. And one of the reasons I wanted to -- you know,
25 one of reasons I moved over into law was that was dying.

1 It was already going on-line. And the old school
2 journalism model which I loved was just going away.

3 Q. Yeah, I -- that was -- you're right, it was a
4 seven-day-a-week paper. And now they -- the Osteens still
5 own it.

6 A. Okay. Good.

7 Q. Yeah. I think they miss their time to sell the
8 paper by about probably five or six years. But they are
9 now a four-day-a-week paper, so you get -- you get one
10 action-packed paper with three pages in the weekend edition
11 that covers three days.

12 And by the way, Jeff Osteen and I are good
13 friends, so I always love going over there and talking
14 about how I always -- I always get my news from The State
15 newspaper first, and then read it in The Item the following
16 day. So I enjoy ribbing him some.

17 It appears to me -- you know, obviously, now
18 you're -- you're back to prosecuting. And I hear -- I see
19 how you -- how you've done that. But it appears to me that
20 you've got the requisite experience in civil work, criminal
21 work, and that you do state court -- did you do criminal
22 work when you practice with John?

23 A. I did. I would say if you were ranking it, the
24 least amount of time I spent was probably state court
25 criminal work. But I did, I had some state grand jury

1 stuff. I had some -- you know, the minor stuff that
2 everybody gets in a law office.

3 You know, John had the luxury of picking and
4 choosing. Not me so much. So if you came in the door and
5 you had a case, or money, I would take it.

6 Q. Well, money is the most important --

7 A. Right.

8 Q. I don't think you were volunteering to take free
9 cases, were you?

10 A. Not working with John Simmons.

11 Q. I wouldn't imagine you lasted more than a month
12 or two with John with that. And also, I just want to
13 comment on this, too, is -- you know, you excelled at
14 everything, and then I look at law school and you went back
15 later in life.

16 But on the Law Review, the Student Instructor
17 Writing Clinic -- I mean, Service Masters in the Law, you
18 excelled, obviously, in law school too.

19 A. Thank you.

20 Q. Well, I appreciate you offering for this
21 position. And I thank you for your service the to State of
22 South Carolina and to this country.

23 A. Thank you. I appreciate that.

24 CHAIRMAN RANKIN: I wonder how much sleep
25 you require in day -- at night.

1 MR. SHOEMAKE: Well, you know, the worst was
2 -- so my son was born the first month of law school. He
3 was born in September of 2006, and so I -- the first full
4 month of law school. And while, fully, the lady back here
5 did all the heavy lifting and hard work, we got surprised
6 by our daughter. Which is a better word than "accident," I
7 learned. 'Cause she's 13, now, and corrects me on
8 everything.

9 But so fourteen months later, she came
10 along. And I'll never forget I had sitting on the little
11 shelf, you know, they -- you have kids and you sleep in
12 that little dad bed they give you, you know. And so I'm on
13 the little sticky dad bed, on that pleather, and they bring
14 her in for her first feeding.

15 And my common law exam was in two weeks.
16 And I'm looking at that big, thick book sitting over there
17 and this little girl I got to take care of, and it was both
18 the most panic-stricken I've been, but also the most
19 driven.

20 And so that really kind of -- it drives you,
21 right? You realize, okay, everything's about this. No
22 matter what happens today in this room, what happens
23 tomorrow in another room, as long as I'm a good husband to
24 my wife and a good father to my kids, everything else will
25 work itself out.

1 CHAIRMAN RANKIN: So not much sleep --

2 MR. SHOEMAKE: Not much. Not much. Not
3 much sleep. Not much.

4 CHAIRMAN RANKIN: I am impressed with you as
5 well, based not just on the written submissions and the
6 letters of reference that you've offered, but I know you
7 personally. I know your work, professionally. And you are
8 not an up-and-comer, and a dynamo personality and mark of
9 success in every category that we're judged by. And so
10 I've got to believe your two children are learning a lot
11 from two very strong people with strong personalities, and
12 people who expect just as much out of them as you do,
13 perhaps, of yourself. So that's --

14 MR. SHOEMAKE: Thank you.

15 CHAIRMAN RANKIN: That's an incredible
16 combination there. One other little area that I focused
17 and didn't realize, but your work with veterans.

18 MR. SHOEMAKE: Yes, sir.

19 CHAIRMAN RANKIN: And you have either
20 created a program, or are participating in a program in the
21 law --

22 MR. SHOEMAKE: Yes, sir.

23 CHAIRMAN RANKIN: -- for veterans. Talk
24 about that, if you will.

25 MR. SHOEMAKE: So in law school, a buddy of

1 mine, we both served about the same time. And in full
2 disclosure, I was not a combat veteran. I feel like -- I
3 feel the -- because of my age, I'm sort of in that window.

4 And I feel it necessary to make that
5 disclosure, 'cause some of my dear friends were combat
6 veterans. And I'm very proud of my service, but it is
7 different.

8 And so my buddy, who was a combat veteran,
9 and I were talking about how -- you know, there were so
10 many veterans coming into the law school back in the mid-
11 2000s. And maybe that's still the case.

12 Because, you know, the wars were -- the wars
13 were sort of getting to a point where those people who had
14 done their first hitches of service were getting out, they
15 were looking to do something, and law seemed to be a
16 logical place.

17 And so we realized there wasn't really a
18 program of them. So we set up the Servicemembers and
19 Veterans in Law with sort of two goals. And I think it's
20 still around. As of last year, it was. One was to help
21 the community, give back, you know, go do Habitat for
22 Humanity-type things.

23 There's a group I ended up becoming on the
24 board of, Lutheran Services Carolinas, that has homeless
25 veterans homes, and we would go and help them out. The

1 other thing was networking for the members. Because what
2 anyone who is in the military knows is, when you got a
3 military background, any other veteran is going to open the
4 door for you.

5 So if you're a young Marine, a young
6 soldier, a young airman, a young Coastie coming out, and
7 you don't really know anybody, that's the best way to do
8 it, say this is a fellow veteran of mine. And so we did a
9 really great job of placing people. And we still will go
10 back from time to time, as recently as two years ago, and
11 teach a resume workshop.

12 Because you look at a veteran's resume,
13 sometimes, and it's -- you know, I was in BLT 22 running,
14 you know, FO. And it's like, okay, "Guys, like, nobody
15 understands that outside of this world." You know, helping
16 them turn their resumes into something that really
17 showcases that good stuff they're doing.

18 After law school, I worked on the Board of
19 Lutheran Services Carolinas, doing a lot of veterans work
20 as well as foster home work. And it's something that I
21 still care very, very deeply about. I do everything I can
22 to help veterans.

23 What I'd love to see, honestly, if I'm -- if
24 I can be so bold, I would love to see our state, in terms
25 of the judiciary perspective -- you know, we'd explored it

1 a little, and some of the solicitors have talked about it,
2 but I'd love to see us examine a veterans court. You know,
3 other states have it, and this idea that if you're a
4 veteran -- you know, again, look, there are certain crimes,
5 it doesn't matter what your background is, right?

6 But we're talking about -- you know, you get
7 a traffic ticket or, you know, you get some of non-violent
8 offence and you're a veteran, maybe you've got issues. And
9 just like we have drug courts that are popping up all
10 around, which I strongly support, I'd love to see a
11 veterans court.

12 Because there's a special need for veterans.
13 I work with a lot of -- Hidden Wounds is a charity run by a
14 guy named Stephen Diaz, I do some work with. And they help
15 the guys that are having the wounds you don't see. And
16 Stephen's story is horrific.

17 His roommate -- he used to kind of downplay
18 non-physical wounds; he lost his eye. He comes home one
19 day and his roommate, who was in mortuary affairs, had to
20 work with dead bodies all day, is hanging in the bathroom.

21 So Stephen signs up with Hidden Wounds to
22 help those going through that issue. And I will tell you
23 on more than a dozen occasions in the last four years I've
24 gotten calls from friends, or friends of friends, that you
25 would never expect who are going through problems, and we

1 accept them to help.

2 And I'd love to see our judiciary system
3 step in with some kind of veterans court as well. That's
4 probably too long an answer to your question, but it's
5 something I care deeply about. So thank you.

6 CHAIRMAN RANKIN: Well, very good. Thank
7 you. Unless there are other questions? Representative
8 Rutherford.

9 REPRESENTATIVE RUTHERFORD: And, Derek, you
10 and I have got two, three, four cases -- I'm not sure
11 anymore -- but I do appreciate talking to you. Every time
12 I talk to you, I seem to learn something from every
13 conversation.

14 And I am pleased to see your performance,
15 today, as I believe the this group can take something from
16 how well you did today, how good a job you did at answering
17 the questions. And looking at your resume, you are exactly
18 the reason why we have tried to turn this into that which
19 attracts people like you.

20 And you are an outstanding candidate,
21 outstanding lawyer. And I say that as from someone who's
22 been on the other side, and continues to be on to other
23 side -- I believe we've got a sentencing tomorrow. But I
24 enjoyed you, and I believe everybody did here today. So I
25 appreciate you coming in. And thank you for offering to

1 this.

2 MR. SHOEMAKE: Thank you, Representative. I
3 appreciate it.

4 CHAIRMAN RANKIN: All right. Unless there's
5 anything else. Ms. Shoemake?

6 MS. SHOEMAKE: Yes, sir.

7 MR. CHAIRMAN: Is it Shoemake or Shoemach.

8 MR. SHOEMAKE: Shoemake. Shoemake.

9 Actually it was Shoo-MAY, several generations ago, a French
10 Huguenot came over and they butchered it to Shoemake. And
11 so that's what we are now.

12 CHAIRMAN RANKIN: Would you like to ask --
13 have any questions, send us, write them down, that you
14 would like us to ask of your husband?

15 MR. SHOEMAKE: I think time is up.

16 CHAIRMAN RANKIN: All right, folks. And
17 both of you, thank you all for being here and being so
18 early and so willing to engage in this. And this has been
19 a most lively discussion. So to both of you, thank you for
20 being here. And we appreciate you brining the rock behind
21 you, the force behind you.

22 MR. SHOEMAKE: No doubt. No doubt. Thank
23 you.

24 CHAIRMAN RANKIN: So this will conclude this
25 portion of our screening process. And we want to remind

1 you that part of our evaluative criteria that we take very
2 seriously both the letter and the spirit of the South
3 Carolina ethics laws. Any violation of those or appearance
4 of impropriety would be deemed very serious and weight --
5 worthy of heavy deliberations within our screening process
6 in the event that we would have to call you back.

7 Do you understand that this record will not
8 be closed until the formal release of the report of
9 qualifications? And so in the unlikely event that we would
10 need to call you back, you understand that we can do that,
11 correct?

12 MR. SHOEMAKE: Yes, sir.

13 CHAIRMAN RANKIN: All right. Shoemakes,
14 thank you all both for being here. And you'll see
15 Representative Rutherford tomorrow, perhaps. If I see you
16 on the road, I'll blow the horn.

17 MR. SHOEMAKE: Thank you, sir. I appreciate
18 it.

19 (Candidate excused.)

20 CHAIRMAN RANKIN: Based on a motion and
21 second, we are going to go into executive session at this
22 time.

23 (Off the record from 2:39 p.m. to 3:18 p.m.)

24 CHAIRMAN RANKIN: And we are back on the
25 record. During executive session, no votes were taken, no

1 decisions were made. And we are ready to proceed with the
2 next candidate. And that is Judge Miller, Sir, if you will
3 raise your right hand.

4 WHEREUPON,

5 THE HONORABLE EDWARD WALTER "NED" MILLER,
6 being duly sworn and cautioned to speak the truth, the
7 whole truth and nothing but the truth.

8 CHAIRMAN RANKIN: Have a seat. Before you
9 are the documents that you had previously prepared. And I
10 want to make sure that no additions or corrections need to
11 be made to those before we put them in the record.

12 JUDGE MILLER: Yes, sir. I think they're
13 fine.

14 CHAIRMAN RANKIN: All right. And no
15 objection to them being included?

16 JUDGE MILLER: No, sir.

17 CHAIRMAN RANKIN: Very well.

18 (EXHIBIT NO. 21 - JUDICIAL MERIT SELECTION
19 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
20 HONORABLE EDWARD WALTER "NED" MILLER)

21 (EXHIBIT NO. 22 - JUDICIAL MERIT SELECTION
22 COMMISSION SWORN STATEMENT OF THE HONORABLE
23 EDWARD WALTER "NED" MILLER)

24 CHAIRMAN RANKIN: Judge Miller, you last
25 were screened with the JMSC, how long ago?

1 JUDGE MILLER: Six years.

2 CHAIRMAN RANKIN: Seems like weeks, perhaps,
3 right?

4 JUDGE MILLER: Yeah, time is flying by.
5 Yes, sir.

6 CHAIRMAN RANKIN: Very well. Well, welcome
7 back. And I just want to start by first reminding you how
8 we do this in our efforts to thoroughly investigate your
9 candidacy and your continued service on the bench. You're
10 aware that we focus on nine evaluative criteria. And we
11 also include your ballot box surveys, a study of your
12 application materials, a verification of your compliance
13 with the state ethics laws, a search of newspaper articles
14 in which your name appears, studies of previous screenings,
15 and a check for economic conflicts of interest.

16 There are three affidavits in opposition to
17 your campaign or your reelection -- we'll take those up
18 separately -- and those are met with witnesses, each
19 testifying.

20 Other than that, do you have anyone that you
21 have brought with you today?

22 JUDGE MILLER: No, sir, I do not.

23 CHAIRMAN RANKIN: Very well. All right.
24 You, sir, have the opportunity to make a brief opening
25 statement, if you'd like. Otherwise, we'll turn it over

1 for questions by staff and by members of the Commission.
2 The floor is yours.

3 JUDGE MILLER: Well, thank you very much,
4 Senator. I just would say that serving as a circuit judge
5 has been the highlight of my career. I find it to be a
6 challenge, and something that I thoroughly enjoy. And I
7 hope that you all will see fit to reappoint me to the
8 Commission, or nominate me for election. And I appreciate
9 you allowing me to be here. Thank you.

10 MR. CHAIRMAN: Very well. All right. Thank
11 you.

12 MS. WILKINSON: Good afternoon, Judge
13 Miller.

14 JUDGE MILLER: Yes, ma'am.
15 EXAMINATION BY MS. WILKINSON:

16 Q. Judge Miller, what do you think your reputation
17 is among attorneys who practice before you?

18 A. Well, I've been doing this for quite a while, so
19 I suspect it's a -- I've got a varied reputation, I would
20 think. But I hope that I'm viewed as fair and patient,
21 well versed in the subjects that come before me. And I
22 hope that I'm perceived as listening and being thoughtful
23 when I made a decision.

24 Q. The Commission received 790 ballot box surveys
25 regarding you, with 65 additional comments. The ballot box

1 surveys, for example, contained the following positive
2 comments:

3 "Judge Miller is one of that very best trial
4 judges in the state. He's smart, able to handle
5 contentious lawyers with ease. A nice -- he has a nice
6 touch with everyone in the courtroom, a good sense of humor
7 at just the right time, and a wonderful person. Judge
8 Miller has handled every hearing I have ever had before
9 him, in a very fair and reasonable manner. While I did not
10 get the result I hoped for, at every turn I've always felt
11 as though Judge Miller was trying to make the right
12 decision. Judge Miller is one of the best among the roster
13 of great judges in the Upstate. His ability and
14 willingness to address complex civil issues with a
15 pragmatic approach are qualities that make him an
16 invaluable part of the state court system. I would
17 enthusiastically welcome his return as a business court
18 judge in the Upstate."

19 Fourteen of the written comments did express
20 concern. Some of the comments indicated that you are
21 biased towards certain attorneys, and show favoritism in
22 the courtroom and in your rulings in the cases in which
23 these attorneys are involved. How would you respond to
24 those concerns?

25 A. Well, I -- I would disagree with that, with

1 respect to the findings. I don't deny that there are
2 attorneys that have appeared in front of me, who I
3 recognize as being excellent, outstanding attorneys, and
4 others who -- I mean, just to be perfectly honest, others
5 who I don't find to be quite as competent. But I do try to
6 treat every case fairly and make a decision based on the
7 merits of the case.

8 **Q. The majority of ballot box concerns indicated**
9 **that you have a poor -- the majority of ballot box concerns**
10 **indicated that you have poor judicial temperament, and that**
11 **you often exhibit a lack of patience and a sense of**
12 **frustration, and you can be at times callous and uncaring.**
13 **What response would you offer to the concerns regarding**
14 **your temperament?**

15 A. Well, I think that is a -- kind of a recent
16 development. In June of 2018, my wife of forty years died.
17 And I went through a low patch. She suffered from head and
18 neck cancer for twenty-six years. And I think that was a
19 very difficult time, and I'm not sure I even realized that
20 my mood, perhaps, had changed.

21 But I think I'm recovering from that. And but I
22 do think that's -- looking back on it, I recognize that I
23 think I was a little cantankerous during that time, I
24 guess.

25 **Q. Lastly, a few comments mentioned that your facial**

1 expressions and body language had indicated how you were
2 feeling about a case or a particular attorney or litigant.
3 How would you respond to the concerns raised about body
4 language and facial expressions?

5 A. Gosh, I don't know. I guess I could wear a mask.
6 I don't think that -- I know I -- I believe I know the case
7 that arose -- from which that comment arose, and it was
8 shortly after -- it was in June of 2018. I don't believe I
9 -- my conduct was quite as egregious as that comment would
10 indicate. I certainly try to be as impassive and even-
11 keeled as I can be in the courtroom.

12 MS. WILKINSON: Mr. Chairman, I would note
13 that the Upstate Citizens Committee reported Judge Miller
14 as qualified in the evaluative criteria of constitutional
15 qualifications, physical health, mental stability, and
16 experience. The Committee reported Judge Miller well
17 qualified in the evaluative criteria of ethical fitness,
18 professional and academic ability, character, reputation,
19 and judicial temperament.

20 Mr. Chairman, at this time, I would ask that
21 we move to the complaints.

22 CHAIRMAN RANKIN: All right. Judge Miller,
23 if you'll take a seat back there on the front row.

24 JUDGE MILLER: Yes, sir.

25 CHAIRMAN RANKIN: If you'll get right on the

1 front row there.

2 JUDGE MILLER: Okay.

3 CHAIRMAN RANKIN: And we have a Mr. Field
4 and -- Arthur Field and his wife, Ms. Taillon. Am I
5 pronouncing that correctly? I'm sorry, I've got -- raise
6 your hand if you're Mr. Field. Ms. Taillon, raise your
7 hand. All right. You all have a sit and continue to sit
8 there. We're going to take up Ms. Bryant.

9 MS. WILKINSON: Mr. Bryant.

10 CHAIRMAN RANKIN: Mr. Bryant. Come on
11 forward, if you will, sir. Before you take a seat, sir, if
12 you'll remain standing.

13 MR. BRYANT: Sure.

14 CHAIRMAN RANKIN: Take your mask off for the
15 court reporter's benefit.

16 MR. BRYANT: Thank you.

17 CHAIRMAN RANKIN: Thank you. Raise your
18 right hand.

19 WHEREUPON,

20 RICKEY BRYANT, being duly sworn and
21 cautioned to speak the truth, the whole truth and nothing
22 but the truth.

23 CHAIRMAN RANKIN: Very well. Have a seat,
24 sir.

25 MR. BRYANT: If you'll give me just one

1 second. I've filed --

2 CHAIRMAN RANKIN: Well, I'm going to kind of
3 direct this a little, if you don't mind. And I just want
4 to make sure --

5 MS. WILKINSON: Mr. Chairman, I'm happy to
6 give an overview of it complaint, if you would like.

7 CHAIRMAN RANKIN: Sir, if you'll just bear
8 with us.

9 MR. BRYANT: Will do.

10 CHAIRMAN RANKIN: Go ahead.

11 MS. WILKINSON: Mr. Chairman, Mr. Rickey
12 Bryant has filed a complaint regarding Judge Miller's
13 conduct relating to a case in which Mr. Bryant's wife,
14 Brenda Bryant, was the plaintiff.

15 When Judge Miller was screened by the
16 Commission in 2014, both Ms. Bryant and Mr. Bryant made
17 complaints resulting from the same case. Ms. Bryant chose
18 not to attend the 2014 hearing, and her complaint was
19 dismissed.

20 Mr. Bryant testified before the Commission
21 in 2014, and his complaint was subsequently dismissed by
22 the Commission, in part due to the fact that he had not
23 been in the courtroom to witness the actions of which Ms.
24 Bryant complained, and he was not a party to the case.

25 Mr. Bryant's complaint for this round of

1 screening contains the same grievances as those presented
2 six years ago. Both complaints of Mr. Bryant and Ms.
3 Bryant -- and a complaint of Mr. Bryant six years ago
4 center on -- centers on several of Judge Miller's rulings
5 in the case throughout the years, particularly a bench
6 warrant which was issued in April of 2012.

7 CHAIRMAN RANKIN: All right. If you will,
8 Mr. Bryant --

9 MR. BRYANT: Yes.

10 CHAIRMAN RANKIN: -- is that a fair
11 recitation of the history or the facts of this complaint?

12 MR. BRYANT: It is not exactly fair.

13 CHAIRMAN RANKIN: Well, this is a new group,
14 but we are bound by the decisions and the actions taken --

15 MR. BRYANT: Right.

16 CHAIRMAN RANKIN: -- in previous instances.
17 Is there any new material that you would like --

18 MR. BRYANT: Well, there is material this
19 time, that I can present. Last time, we were actually
20 misinformed by the then-chairman of the committee, as far
21 as Jane Shuler, the attorney, said that Larry Martin
22 instructed her that we could file documentation in a way
23 that was not being -- that we could not sure.

24 And we were told that we could
25 electronically file them. No, we couldn't. We were also

1 told that I could use documentation that she presented
2 electronically. No, I couldn't. So therefore, no, it is
3 not a fair evaluation.

4 CHAIRMAN RANKIN: So did you testify at the
5 prior screening back what --

6 MR. BRYANT: I did -- I did testify.

7 CHAIRMAN RANKIN: And did you have a
8 complaint that you submitted?

9 MR. BRYANT: I did have a complaint.

10 CHAIRMAN RANKIN: All right. And were there
11 questions asked of you --

12 REPRESENTATIVE RUTHERFORD: Mr. Chairman,
13 I'm sorry. If you would, he hadn't been sworn.

14 MR. CHAIRMAN: Yeah, he was.

15 REPRESENTATIVE RUTHERFORD: Okay. That's
16 fine.

17 CHAIRMAN RANKIN: So Mr. Bryant, you
18 understand my question? In terms of interaction with the
19 Committee, questions were posed to you, and you gave
20 answers?

21 MR. BRYANT: Yeah, some. Yes.

22 CHAIRMAN RANKIN: All right. Some. I mean,
23 did you believe that based on the interaction with the
24 committee, that in your ability to present to the
25 committee, did you feel that you had the full opportunity

1 to tell your side of the story?

2 MR. BRYANT: No. I didn't want to tell it.
3 I wanted to show it.

4 CHAIRMAN RANKIN: You were present at the
5 hearing?

6 MR. BRYANT: I was present at the hearing.

7 CHAIRMAN RANKIN: You didn't speak?

8 MR. BRYANT: I did speak.

9 CHAIRMAN RANKIN: So what did you not tell,
10 that you would have shown in addition to?

11 MR. BRYANT: I did not have documentation
12 like I have today.

13 CHAIRMAN RANKIN: But the contents of that
14 documentation, is there anything different that you would
15 say about it today, that you didn't say --

16 MR. BRYANT: Yes.

17 CHAIRMAN RANKIN: -- in 2012? All right.
18 So every so briefly, if you will, just tell us what the
19 documentation that you would have shown to them before,
20 that you didn't get to talk about fully. Tell us what that
21 documentation shows.

22 MR. BRYANT: All right. The documentation
23 is that -- would be the actual lawsuit, which was
24 discussed, okay? The actual lawsuit is Exhibit B. It also
25 is in its entirety, that can be pulled from the courthouse,

1 which does not have a certificate of service to it.

2 All right. According to the rules, that
3 everyone that is a part of this lawsuit or -- that's going
4 to be a lawsuit, it was not a completed lawsuit. It was a
5 non-commenced action. It had not been served. It did not
6 have a certificate of service.

7 And it was not going to be served because
8 they actually filed it to toll it time so it could be
9 redone, examined in a way that it could be presented where
10 it was.

11 Also, it was deemed a frivolous lawsuit and
12 it should not have even have been in court. A overzealous
13 attorney saw a newsfeed and put it -- went to the
14 courthouse, got the documents. He was never served. It
15 was never a certificate of service.

16 And according to the rules, unless it's
17 completely -- or served in its entirety, it is not a
18 lawsuit. And I have the rules in here to -- to show that,
19 if you want me to refer to it. I mean, I have a table of
20 contents in my packet, that you can go to.

21 Also, as far as the hearings, the attorneys
22 should have been either sanctioned or motion dismissed
23 'cause his was a frivolous case there -- or motion, rather.
24 His was frivolous because the lawsuit had not been
25 commenced. It was his that was frivolous.

1 And also the -- let me see where I'm at.
2 Also, this -- it wasn't shown at that hearing, but I did
3 make the complaint about the warrant that was issued, was
4 issued in the time frame that the case was under appeal
5 from the Court of Appeals in South Carolina.

6 I also had the order and the remittance
7 showing when it was dismissed in my exhibits, okay?
8 Therefore, that is an illegal bench warrant because the
9 case was under appeal. He had no jurisdiction to go into
10 anything -- a hearing or anything. And therefore, the
11 bench warrant was illegal. And that's in my documentations
12 also.

13 Also, if the case would have been frivolous
14 -- I have a letter in here, right next to the lawsuit, by
15 Robin Stillwell, who is a judge now. He was my wife's
16 attorney. He wrote the guardian on the concerns of the
17 reason that Stephanie was to be moved. And Tracy Parsons
18 was the guardian. And this is the lady that the attorney
19 was representing at the time that he filed the motion,
20 okay?

21 All right. This all led up to the filings
22 of the bench warrant, and led up to it being placed
23 illegally into the NCIC, which is my Exhibit F here. It
24 also shows you where it was, fugitive warrant, and the
25 sentencing on it was death to one year for a civil contempt

1 that was not a legal bench warrant. Death to one year.
2 It's on the documentation.

3 CHAIRMAN RANKIN: All right. Mr. Bryant,
4 that documentation -- again, are you telling us that you
5 had not submitted that --

6 MR. BRYANT: It is submitted to you all now.
7 I submitted it this past week.

8 CHAIRMAN RANKIN: All right. And we'll put
9 that in the record at this point, in addition to your
10 affidavit, so we'll have it for this record. But my
11 question to you: Did you or your wife put in this
12 documentation before, when you filed your original
13 complaint against --

14 MR. BRYANT: Did we put it in? No.

15 CHAIRMAN RANKIN: Okay. All right. So it
16 is in --

17 MR. BRYANT: We thought we did. But like I
18 said, we got duped.

19 CHAIRMAN RANKIN: So it's in --

20 MR. BRYANT: We did not.

21 CHAIRMAN RANKIN: It is in the record now.

22 MR. BRYANT: It is in the record now.

23 CHAIRMAN RANKIN: All right.

24 (EXHIBIT NO. 23 - MILLER COMPLAINT)

25 (EXHIBIT NO. 26 - MILLER RESPONSE)

1 MR. BRYANT: That's why this is a whole new
2 ball game. I mean, last time was a dog and pony show.
3 This time, I don't expect that. Documentation. Proof.

4 CHAIRMAN RANKIN: All right, sir. Other
5 than the documentation which you have now successfully put
6 into the record, is there anything in addition to the facts
7 which this commission considered before, that you feel like
8 we need to have before us?

9 MR. BRYANT: Well, also in this
10 documentation is a letter from the Attorney General's
11 Office to Mark Hill on this NCIC, about the criminal and
12 the civil, about how it should never have been entered in.
13 And it's all because of this illegal bench warrant from a
14 case that hadn't even been commenced going this far.

15 And this is ridiculous. This is courtroom
16 manner that should not be in any state in the United
17 States. It should not be. But like I said, this exhibit
18 here, I've highlighted everything that you need to see on
19 it. I mean, you can take it and read it for yourself.

20 And then I've got here the commencement --
21 the rules in there, it will tell you the this was not a
22 lawsuit. It was not a commenced lawsuit. It will tell you
23 that. These are South Carolina Rules of Civil Procedure.
24 None of this was entered in last time. That's why I am
25 going through this, this time.

1 I went through it last time -- like I said,
2 it was a dog and pony show. Because Larry Martin, the head
3 -- Jane Shuler was taking orders from him, told us not --
4 to do it in an improper way. And, therefore, we got duped.

5 CHAIRMAN RANKIN: And did you need an
6 attorney representing you? Or did Ms. Bryant have an
7 attorney --

8 MR. BRYANT: At what time, sir?

9 CHAIRMAN RANKIN: At any point --

10 MR. BRYANT: In the case?

11 CHAIRMAN RANKIN: Yes, sir.

12 MR. BRYANT: Yes, we did.

13 CHAIRMAN RANKIN: All right. And you --

14 MR. BRYANT: She quit because this judge
15 made such a fool out of her in court. She felt like she was -
16 -

17 CHAIRMAN RANKIN: Who was that attorney?

18 MR. BRYANT: Alice Perkins.

19 CHAIRMAN RANKIN: Do you have an affidavit
20 from her?

21 MR. BRYANT: It was -- last time, Larry
22 Martin told Jane Shuler -- she was going to testify last
23 time. Larry Martin told Jane Shuler, "Tell her not to
24 bother to testify. We've got enough."

25 CHAIRMAN RANKIN: But do you have an

1 affidavit from --

2 MR. BRYANT: No, I don't.

3 CHAIRMAN RANKIN: Okay. All right, sir.
4 Anything else? Again, we've got the records, they're now
5 in part of this record --

6 MR. BRYANT: Yes, sir. My question to you -
7 - they're in the records. Are you going to look at them?

8 CHAIRMAN RANKIN: That's up to the
9 Commission to decide. And so unless there's anything else
10 that you'd like to say in support of your complaint. And I
11 don't want to cut you off, but I do want to invite any
12 member of the commission, if they have questions.

13 MR. BRYANT: Well, the only thing I have to
14 say is, this has been going on for eight years, from the
15 lawsuit that never was commenced, from a bench warrant that
16 was illegal because it was under appeal. What more should
17 I have to say?

18 My wife's been living in exile out of this
19 state for almost eight years. I've had three heart
20 attacks, massive heart attacks. I've been alone. I've
21 been in intensive care alone. And that's not -- that's
22 not the way it's supposed to be over a lawsuit never
23 commenced.

24 CHAIRMAN RANKIN: Your ex-wife or your --

25 MR. BRYANT: My wife.

1 CHAIRMAN RANKIN: And you know where she is?

2 MR. BRYANT: I know where she is. I go to
3 see her.

4 CHAIRMAN RANKIN: Do you want to tell us
5 where she is, or you don't -- that's not a part of --

6 MR. BRYANT: That's not a part of it.

7 CHAIRMAN RANKIN: Why is she not -- why
8 would you all not tell where she is? Is she avoiding --

9 MR. BRYANT: No. No, she's not avoiding
10 anything. As a matter of fact, she's called Judge Miller
11 on several occasions, called him after his wife died, and
12 give him condolences. You can ask him those questions.

13 She's asked -- she's begged him, she told
14 him the last time I was in the hospital with a heart
15 attack, said, "Let me come home. Drop the bench warrant,
16 please. Let me come home. My husband's in intensive
17 care."

18 CHAIRMAN RANKIN: Since this issue of the
19 bench warrant -- which again was eight years ago?

20 MR. BRYANT: About eight years ago.

21 CHAIRMAN RANKIN: Have you hired -- or has
22 she hired an attorney to go before -- or the same attorney
23 to go before Judge Miller to have the bench warrant --

24 MR. BRYANT: The same attorney quit, I told
25 you, because of the way she was treated in --

1 CHAIRMAN RANKIN: But there are other
2 attorneys in Greenville.

3 MR. BRYANT: Oh, yes, there's other
4 attorneys -- well, she's not from Greenville.

5 CHAIRMAN RANKIN: Well, wherever she is,
6 have you or your wife availed yourself of due process and
7 it right to go before this judge since 2012, or any other
8 judge?

9 MR. BRYANT: My wife has pro se filed
10 motions to dismiss, and Judge Miller has told her, "No way.
11 You're going to jail."

12 CHAIRMAN RANKIN: Thank you, sir. Any
13 questions from anybody of Mr. Bryant?

14 (Hearing none.)

15 CHAIRMAN RANKIN: The appeal that you've
16 discussed, that has been ruled upon? Or is that still
17 pending?

18 MR. BRYANT: No. She was put under a bench
19 warrant before she could complete it. It was an attempt to
20 appeal, which stays everything. She was put out of town --
21 out of state -- well, she found out when the NCIC and all,
22 she got stopped in North Carolina for a -- they thought she
23 was involved in a hit-and-run, which she wasn't, and it
24 came up on the NCIC. And they saw that, guns drawn. Death
25 to one year. Oh, my gosh, we've got a hardened criminal

1 for a civil case.

2 CHAIRMAN RANKIN: That appeal was deemed
3 untimely; is that correct?

4 MR. BRYANT: No. No, it was not. As a
5 matter of fact, the letter is in there telling why.

6 CHAIRMAN RANKIN: But has it -- has any
7 attorney prosecuted that appeal on your behalf?

8 MR. BRYANT: No, that was pro se. And like
9 I said, she found 'cause she had a bench warrant against
10 her, and she feared coming back to the state for being
11 arrested, so she couldn't --

12 MR. CHAIRMAN: So there is no appeal.

13 MR. BRYANT: There is no appeal now.

14 CHAIRMAN RANKIN: All right. Thank you very
15 much, Mr. Bryant. Any other -- any questions by anybody?

16 (Hearing none.)

17 CHAIRMAN RANKIN: Thank you, sir.

18 MR. BRYANT: All right. And, yes, I -- I am
19 upset about it.

20 CHAIRMAN RANKIN: Thank you. Judge Miller,
21 you are still under oath.

22 JUDGE MILLER: Yes, sir.

23 BY MS. WILKINSON:

24 Q. Judge Miller, you've heard Mr. Bryant's
25 complaints. How wouldn't respond to those complaints

1 **today?**

2 A. Well, nothing has change since the last
3 screening. This was a -- it was an action in probate court
4 with respect to their incapacitated adult daughter. There
5 was litigation in probate court involving the same parties
6 -- the party the Mr. Bryant referenced, that the lawsuit
7 was initiated against.

8 In probate court, prior to the lawsuit being
9 initiated, they reached a settlement. And it was, I
10 believe, in a -- I didn't bring all that with me. But in
11 the order, and there was a transcript in front of Judge
12 Edward Sauvain, in which they released all claims against
13 everybody and it was settlement.

14 The next week, I think, or shortly thereafter,
15 Ms. Bryant filed a lawsuit on Friday afternoon, went to the
16 -- called the local television station, went to the steps
17 of the county courthouse and had a press conference about
18 it.

19 The lawyer representing, Ms. Parsons, saw the
20 newscast that night, went the next week, picked up the
21 complaint, filed a motion to dismiss. I happened to be
22 hearing common pleas non-jury the week that motion was set,
23 and I granted the motion to dismiss and I awarded them
24 attorneys fees.

25 I believe the appeal that -- I don't have the

1 documents with me. And didn't really review them, but I
2 believe the appeal was filed out of time. Ms. Perkins was
3 an attorney from Lexington, she has been disbarred.

4 And he's correct that she calls my office. I
5 don't speak with Ms. Bryant. My law clerks over the years
6 have spoken with her. And I -- she -- before I -- I'm
7 trying to remember. I'm thinking about it this week, how
8 many times I've ever issued a contempt of court order.

9 And I think in each of the two complaints, today,
10 I've done it. And I can think of two other cases over
11 eighteen years that I've done it. I do not file or find
12 people in contempt of court.

13 But she just on the record flatly told me that
14 she would not comply with the order of the court, she would
15 not contact the attorney, she would not attempt to work out
16 some resolution to it.

17 And that's the history of the case, as I remember
18 it. And I have never -- I do not believe I have ever
19 spoken with her, personally, over the phone.

20 MS. WILKINSON: Mr. Chairman, I have no
21 questions.

22 CHAIRMAN RANKIN: Any questions of the --
23 members of the Commission for Judge Miller?

24 (Hearing none.)

25 CHAIRMAN RANKIN: All right. Judge Miller,

1 if you'll stand down.

2 JUDGE MILLER: Yes, sir.

3 CHAIRMAN RANKIN: I'm going to ask Ms.
4 Taillon and Mr. Field to come up and be sworn in. I'm
5 going to ask you both to raise your right hand. Sir, your
6 name, please?

7 MR. FIELD: Arthur Field. Dr. Field.

8 CHAIRMAN RANKIN: Speak into the mic, if you
9 will.

10 MR. FIELD: Dr. Arthur Field.

11 CHAIRMAN RANKIN: And, ma'am, your name?

12 MS. TAILLON: Kathryn Taillon.

13 WHEREUPON,

14 ARTHUR FIELD AND KATHRYN TAILLON, both being
15 duly sworn and cautioned to speak the truth, the whole
16 truth and nothing but the truth.

17 CHAIRMAN RANKIN: Very well. You all both
18 have a seat. And you all are, for the record, Arthur Field
19 and --

20 MS. TAILLON: Kathryn Taillon.

21 CHAIRMAN RANKIN: Kathryn --

22 MS. TAILLON: Taillon.

23 CHAIRMAN RANKIN: Taillon.

24 MS. TAILLON: Yes.

25 CHAIRMAN RANKIN: And you all are husband

1 and wife?

2 MS. TAILLON: Yes.

3 CHAIRMAN RANKIN: Very well.

4 MS. WILKINSON: Mr. Chairman.

5 CHAIRMAN RANKIN: All right.

6 MS. WILKINSON: Mr. Field and his wife, Ms.
7 Taillon, have filed separate complaints against Judge
8 Miller regarding the same case. At this time, I'd like to
9 provide an overview of the complaints and note that the
10 case is ongoing.

11 These complaints filed by Mr. Field and his
12 wife, Ms. Taillon, arise from a complex civil case which
13 includes a class action lawsuit. The underlying civil case
14 in the complaint was brought as a result of Mr. Field's
15 action -- Mr. Field's actions while he was president of
16 Capital Investment Funding, LLC, referred to as CIF.

17 As president of CIF, Mr. Field solicited
18 money from individuals, representing that these funds would
19 be invested to produce high yield returns to the investors.
20 The company failed and approximately 680 investors lost
21 their entire investment.

22 A class action lawsuit was filed, several
23 investors opted out of the class and brought accompanying
24 actions. Judge Miller's lengthy involvement in the case
25 began days before a previously scheduled settlement

1 hearing.

2 The class action suit had been mediated by
3 retired Appellate Court Judge Sam Stillwell, and was nearly
4 completely settled at the time of the hearing. Judge
5 Miller signed an order approving the global mediated
6 settlement agreement in 2009.

7 And I'll just note here, a second mediated
8 settlement agreement was approved in 2017. As a result of
9 the signed order regarding a 2007 settlement, a receiver
10 was assigned to the case, and Mr. Field was obligated to
11 cooperate fully with the receiver. Judge Miller was to
12 oversee the marshaling of the assets.

13 Mr. Chairman, Mr. Fields submitted two
14 complaint affidavits. The first complaint affidavit is
15 comprised of several alleged violations of the Judicial
16 Canons, but no analysis is offered. Many of these are
17 based on Mr. Field's opinion and belief.

18 The second complaint affidavit focuses on ex
19 parte meetings with the receiver and members of the
20 Attorney General's staff, as well as recusal motions where
21 the judge did not recuse himself. He did recuse himself at
22 the -- after the last motion was filed in September of
23 2020.

24 At that time he did go to the Chief Justice
25 and asked to be reassigned. The case was reassigned to

1 retired Chief Justice Toal, and a hearing has been
2 scheduled for December.

3 At this time, I'm going to go over Mr.
4 Field's concerns. I will provide those in a summary for
5 you.

6 Mr. Field accuses Judge Miller of
7 consistently, and I quote "consistently," acting in a
8 combative and aggressive -- with a combative and aggressive
9 attitude towards Mr. Field and his attorneys. He alleges
10 that Judge Miller stated during a March 2017 hearing, that
11 Mr. Field, quote, "Would be writing that book from prison,"
12 end quote, and then had the statement deleted from the
13 official transcript. That is the allegation.

14 Along the same lines, he's accuses him on
15 name-calling, such as at a hearing in September of 2013,
16 where he states that the judge called him a, quote/unquote,
17 criminal and, quote, accused him of stealing \$40 million,
18 end quote. This hearing was after the guilty plea -- a
19 guilty plea at which Mr. Field plead guilty to fourteen
20 counts, including conspiracy, forgery, and securities
21 fraud.

22 Mr. Field states that Judge Miller's
23 comments, statements, actions and demeanor, according to
24 Mr. Field, Ms. Taillon, and their daughter, and their
25 attorneys, were, quote, vastly beyond the limit set forth

1 by the Judicial Canons, and shocked the attorneys and
2 public.

3 Further, Mr. Field alleges that Judge
4 Miller's conduct demonstrated extreme bias, lack of respect
5 for witnesses, the facts, the evidence, and the law.

6 Mr. Field also alleges several occasions in
7 which the judge took part in ex parte communications with
8 the receiver. Mr. Field alleges that Judge Miller altered
9 transcripts on multiple hearings.

10 Mr. Field alleges that while he and his wife
11 were reviewing the file in the Greenville County clerk's
12 office, he found a note affixed to a 2012 motion for
13 recusal which instructed the clerk to put the documents in
14 the file but not to clock them.

15 Mr. Field states that Judge Miller caused
16 him to be in prison on a criminal contempt based upon
17 statements in court related to a canceled State Farm policy
18 on his house in Florida, after a \$17,000 check had been
19 issued to Mr. Field's daughter on a claim of damage to the
20 roof of the house.

21 He states that Judge Miller denied bail,
22 claiming Field was a, quote, menace and threat to society.
23 Mr. Field also states that there was no basis for this
24 contempt action.

25 Mr. Field states that Judge Miller

1 castigated his attorney, Micah Caskey, and Allison Field,
2 his daughter's attorney, in an e-mail in January of 2018,
3 for exercising their legislative privilege, which Mr. Field
4 alleges clearly shows bias against them.

5 Mr. Chairman, we do not have a copy of the
6 e-mail.

7 Finally, Mr. Field reports that Judge
8 Miller's actions were retaliatory responses to a 2012
9 grievance Mr. Field filed against Judge Miller.

10 Mr. Field, the Commission has before it your
11 two affidavits of complaint. We also have numerous letters
12 provided by you, as well as numerous filings and hundreds
13 of pages of transcripts of hearings over the past eight
14 years, which you submitted as supporting documents.

15 Mr. Chairman, if I can just point out to the
16 committee, we've made copies of everything that Mr. Field
17 has submitted. And I have a notebook here that contains
18 all the copies. Also, the copies are in a folder on your
19 computer.

20 CHAIRMAN RANKIN: All right. And at this
21 time, we would put them in --

22 MS. WILKINSON: Yes, sir. At this time I
23 would move that those be entered into the record.

24 CHAIRMAN RANKIN: Any objection by anybody.
25 (Hearing none.)

1 CHAIRMAN RANKIN: Mr. Field and Ms.
2 Taillon, you all obviously want these records made a part
3 of our record, correct?

4 MR. FIELD: Yes, Your Honor.

5 CHAIRMAN RANKIN: You don't object to that.

6 MR. FIELD: No objection.

7 MS. TAILLON: No objection.

8 CHAIRMAN RANKIN: All right. Thank you.

9 (EXHIBIT NO. 24 - FIELD COMPLAINT)

10 (FIELD/TAILLON EXHIBIT NO. 25 - TAILLON
11 COMPLAINT)

12 MS. WILKINSON: Mr. Field, the Commission's
13 purpose is to review the qualifications of the candidate,
14 based on the nine evaluative criteria: one, constitutional
15 qualifications; two, ethical fitness; three, professional
16 and academic ability; four, character; five, reputation;
17 six, physically; seven, mental stability; eight,
18 experience; and nine, judicial temperament.

19 The Commission is here -- not here to re-
20 litigate the case, and they do not have the ability to
21 change what has thus far occurred in the case.

22 Is there anything that you wish to testify
23 to, today, that is not already included in your complaint
24 and the documents that you have submitted to the
25 Commission?

1 MR. FIELD: Yes. I'd like to supplement the
2 record. I'd like to review it and highlight some of the
3 key statements that you omitted, and -- and show how that
4 goes to the nine criteria -- or at least four of those
5 criteria. So I would like to take a few minutes of the
6 Commission's time to do that.

7 CHAIRMAN RANKIN: And when you say
8 "supplement," you -- are you intending to introduce
9 additional documents?

10 MR. FIELD: Well, there are statements and -
11 - that from the transcripts, not -- not additional. But
12 high -- I would like to highlight from the transcripts that
13 are important.

14 CHAIRMAN RANKIN: We have got the
15 transcripts. And you have already highlighted those for --

16 MR. FIELD: Well, not all of it. So I would
17 like to go over it, if that's all right with you.

18 CHAIRMAN RANKIN: Ever so briefly. Again,
19 we don't want to --

20 MR. FIELD: Well, it's --

21 CHAIRMAN RANKIN: -- unless your --

22 MR. FIELD: -- very important.

23 CHAIRMAN RANKIN: We're glad to hear from
24 you. But you don't need to tell us what's already in the
25 record.

1 MR. FIELD: Okay. Well, the -- there's --
2 there were numerous ex parte communications made, which are
3 clear a violation of Canons (3)(b)(4), (5), and (7). Canon
4 (3)(b)(7) specifically forbids all ex parte communications,
5 except for those involving scheduling, and requires any ex
6 parte communications to be immediately disclosed.

7 In the 2011 hearing, at which I was not
8 present, but my wife was, and the transcript is Exhibit A,
9 Judge Miller repeatedly alluded to the ex parte
10 communications he had with the receiver and the Attorney
11 General.

12 He states on page 3, lines 8 to 12, "You
13 made investments with the intent to rely on those
14 investments, and they're not there. They've been
15 inappropriately removed from your possession. Everyone
16 involved in this case is aware of that."

17 It should be noted that was -- there was
18 never any evidentiary hearing whatsoever in the matter of
19 Toms v. Capital Investment Funding. It went straight from
20 the pleading stage to the settlement stage. And there was
21 never any evidence introduced, so there's no way that Judge
22 Miller or any person knows what happened to CIF at that
23 point in time.

24 He also introduced the Attorney General, and
25 repeatedly told people to go speak to the Attorney General.

1 He said --

2 CHAIRMAN RANKIN: Mr. Field, let me
3 interrupt you, if I may. Mr. Field, excuse me.

4 MR. FIELD: Yeah.

5 CHAIRMAN RANKIN: Because I did want to get
6 on the record, first, your wife's complaint. Because they
7 are largely one and the same. You would agree?

8 MR. FIELD: Yes.

9 MS. TAILLON: Yes.

10 CHAIRMAN RANKIN: All right. So before you
11 continue, I want to get the similar background for your
12 wife's. And then, together, you will be able to present
13 again. And it will be a little more seamless for us, if
14 you don't mind. So go ahead.

15 MR. FIELD: Mr. Rankin, to aid you, we've
16 condensed it into one presentation, to speed things up.

17 CHAIRMAN RANKIN: Well, that would be great.
18 And whoever wants to speak on behalf of both of you, what I
19 want to do is get in the record your complaint as well.
20 And so then we move to -- and whatever explanation you may
21 want to offer to us.

22 MS. WILKINSON: Chairman Rankin, Ms. Taillon
23 also filed an affidavit of complaint. I'll give you a
24 quick overview of her complaint. It does arise from the
25 same case and set of circumstances as her husband's

1 complaint.

2 One of your complaints is in regards to a
3 informal hearing -- excuse me -- an informal meeting of
4 note-holders in 2011, to which I believe Mr. Field was
5 referring, that was held, according to Ms. Taillon, quote,
6 said that the class who had yet to receive any money would
7 feel as if something was being done, end quote.

8 Ms. Taillon finds issue with the comments
9 made by Judge Miller during the meeting, which she said
10 conveyed the sentiment that Mr. Field was a criminal who
11 stole money.

12 Also, the comments Judge Miller made during
13 the 2011 meeting led her to believe that Judge Miller had
14 inappropriate amount of interaction with the Attorney
15 General's prosecutors, who were present at the meeting as
16 it related to the criminal case, and that Judge Miller's
17 conduct during the meeting suggested he played a
18 significant role in causing Mr. Field to be indicted in
19 2012.

20 Ms. Taillon complained that at a 2016
21 hearing, Judge Miller demeaned Mr. Field and his family, by
22 letting people in the gallery demean them. Ms. Taillon
23 complained that this also happened at a previous hearing.

24 Ms. Taillon also alleges, just as her
25 husband does, that Judge Miller reformed the transcript and

1 improperly struck affidavits of citizens from the record
2 because they attested to his comments and demeanor.

3 Ms. Taillon, the Commission does have before
4 it, your affidavit of complaint and the numerous letters
5 provided by you, and the supporting documents. Those are
6 on everyone's computer in the electronic file. We also
7 have them here on hard copy. They are what's comprised of
8 -- they're in this notebook.

9 CHAIRMAN RANKIN: And we'll put them in the
10 record as well.

11 MS. TAILLON: Yes.

12 MS. WILKINSON: Yes, sir.

13 CHAIRMAN RANKIN: With no objection.

14 MR. FIELD: If I may continue.

15 MS. WILKINSON: I have nothing further.

16 CHAIRMAN RANKIN: Now, Mr. -- and I confuse
17 you, pardon me, with Arthur Miller --

18 MR. FIELD: Yes.

19 CHAIRMAN RANKIN: -- the late, great author.
20 And so that's -- I have done that throughout this
21 investigation.

22 MR. FIELD: Or Arthur Fiedler, the
23 conductor.

24 CHAIRMAN RANKIN: I've got that too. I've
25 got a beautiful picture of the area that he plays in

1 Boston. It's a beautiful place. They donated it -- built
2 it in his name. So either invocation is a good -- a good
3 musical or literary invocation.

4 MR. FIELD: You may not know, but I
5 conducted a Pops orchestra.

6 CHAIRMAN RANKIN: Very good. So for the
7 record, you will be speaking on behalf of your wife as
8 well, correct?

9 MS. TAILLON: Yes.

10 CHAIRMAN RANKIN: Very well. All right.
11 Conductor, continue.

12 MR. FIELD: Thank you. Thank you, Mr.
13 Rankin. In Exhibit C, page 10, lines 12 through 14, Judge
14 Miller admitted the ex parte communications. He said,
15 "Unfairly regular communication with the receiver in this
16 case, Mr. Field has alleged this is an improper ex parte
17 communication."

18 No exception exists in (3)(b)(7) for
19 communications to a receiver. There's ample case law
20 throughout the country, that if you want to talk to a
21 receiver, you do it in open court on the record with the
22 parties notified. You don't do it in chambers.

23 Judge Miller also stated in Exhibit A, page
24 67, line 5, that -- and this was an amazing statement to
25 make in front of the Attorney General: "In 2009, Mr. Field

1 refused to give up his Fifth Amendment rights. If he's
2 innocent, I don't know why he would need those."

3 He continued at page 69, line 16, "I would
4 just say that his shell game would have continued on
5 without anybody knowing had the economy not gone south.
6 That's my judgment in the matter," thereby demonstrating
7 clear bias.

8 He then disclosed or hinted at, and led the
9 Attorney General to disclose the secret grand jury
10 proceedings that were going on, investigating me. The
11 statutes forbid such disclosure.

12 He said on page 68, line 22, "I shouldn't
13 say this, but when this amount of money is gone,
14 authorities look into it. Again, Mr. Waters is here if you
15 all want to speak to him." That would be the Assistant
16 Attorney General, Creighton Waters."

17 He permitted Waters to speak on pages 7 all
18 the way through the end of page 8. He said also -- and the
19 other thing I would point out to you is the fact that Mr.
20 Waters is here. And you all just have to make a reasonable
21 inference about that.

22 He told the note-holders, the creditors of
23 CIF, who were the plaintiffs in the case, to only rely on
24 the receiver and AAG Waters. He said, "Again, let me
25 remind you, don't waste any time speaking with your own

1 advisors."

2 Then we discovered this only recently, this
3 came to light after the Supreme Court ruled in my favor in
4 2020, and I received Brady disclosure. And this was
5 attached to, I believe, as Exhibit K on my supplement.
6 April 19th and 26th --

7 CHAIRMAN RANKIN: Mr. Field, I do want to
8 remind you, we've got it. Highlight as you like, but don't
9 re-tell us what we already have.

10 MR. FIELD: Okay.

11 MR. CHAIRMAN: Okay. So --

12 MR. FIELD: all right.

13 CHAIRMAN RANKIN: -- in your efforts to
14 summarize the highlights for us, that's what I would like
15 you to --

16 MR. FIELD: Well, okay.

17 CHAIRMAN RANKIN: -- please do.

18 MR. FIELD: Okay. I would point out that
19 there is on the second page, a heading that says "Meeting
20 with Judge Miller." And on the front it shows the
21 attendees of the meeting being the receiver and the members
22 of the Attorney General's staff, in what I assume was Judge
23 Miller's chambers.

24 On the second page, the item No. 11, that
25 would be the important -- most important one, is entitled

1 "Arthur Field, CIF Record Subpoena Rule to Show Cause,"
2 with the receiver, the Attorney General, and Judge Miller
3 program a ruled to show cause against me, which was
4 eventually held, and Judge Miller presided over, and found
5 me in contempt. I guess I'm the other person he finds in
6 contempt. He found me in contempt four separate occasions,
7 as I recall. It was -- that hearing was conducted in 2013.

8 And a judge has to perform his duties
9 impartially and fairly. It's vital to protect the
10 judiciary from being in disrepute. The hearing begins with
11 numerous statements that were indicated I had stole \$40
12 million. I was never accused of a financial crime. I was
13 never accused of taking a penny, I was never indicted for
14 taking a penny.

15 CHAIRMAN RANKIN: What did you plead guilty
16 to?

17 MR. FIELD: I pleaded guilty to omitting
18 three sentences from a prospectus, that led to counts of
19 securities fraud. And the forgery count was for zero
20 dollars, based on my signing a stage name from New York on
21 a checking account that the bank knew was my checking
22 account.

23 CHAIRMAN RANKIN: Was anyone involved with
24 this business, also indicted?

25 MR. FIELD: No. Only the attorney who

1 represented the borrower from the business, he was
2 indicted. And I made a proffer with the state and
3 cooperated with the state, and he received a lengthy
4 sentence.

5 CHAIRMAN RANKIN: So his --

6 MR. FIELD: Attorney Scott Pfeiffer.

7 CHAIRMAN RANKIN: This case is pending in
8 the sense that a receiver has been appointed. And the
9 victims -- and you might say alleged victims, are
10 endeavoring to get their money back.

11 MR. FIELD: Well, no. The alleged victims
12 have long since given up as far as I can tell. There was a
13 receiver for eleven years, who's collected over \$6 million,
14 approximately, kept \$5 million for himself and his lawyers,
15 we think, and distributed one million. We have tried for
16 eleven --

17 CHAIRMAN RANKIN: And they are -- they are
18 trying to get that money back from you?

19 MR. FIELD: No. Well, the -- no, that's all
20 gone. I'm done. I was dismissed with prejudice in 2017.
21 We gave up our house. We gave up half a million dollars
22 besides. We paid a substantial amount, my wife and I. My
23 child, my son turned over millions of dollars. None of
24 which, not one penny, has been distributed to any of the
25 note holders.

1 CHAIRMAN RANKIN: But that's not our
2 concern, is it?

3 MR. FIELD: Exactly.

4 CHAIRMAN RANKIN: You are the one that they
5 got the money back from.

6 MR. FIELD: Yes, sir.

7 CHAIRMAN RANKIN: And you're it one that
8 they are alleging -- or there's some record as to your
9 culpability in either --

10 MR. FIELD: They allege --

11 CHAIRMAN RANKIN: -- criminally or civilly
12 obtaining the money improperly.

13 MR. FIELD: They allege -- they allege
14 culpability. There was never any hearing concerning
15 evidence. We simply settled the case. Because we all
16 believed it was in the best interest of all parties to
17 settle.

18 CHAIRMAN RANKIN: You live in South
19 Carolina?

20 MR. FIELD: No, I live in Florida.

21 CHAIRMAN RANKIN: Okay.

22 MR. FIELD: I'm a Florida citizen.

23 CHAIRMAN RANKIN: You introduced yourself as
24 a doctor.

25 MR. FIELD: Yes, sir.

1 CHAIRMAN RANKIN: A medical doctor?

2 MR. FIELD: No, three Ph.D.'s.

3 CHAIRMAN RANKIN: All right. You are --

4 MR. FIELD: Clemson.

5 CHAIRMAN RANKIN: And what degree? A Ph.D.
6 in --

7 MR. FIELD: Statistics, operations of
8 research, and management. And I have my law degree.

9 CHAIRMAN RANKIN: All right. And your law
10 degree -- you can never take that away. But you don't have
11 any privileges to practice with that degree in any state?

12 MR. FIELD: No. I voluntarily surrendered
13 my privileges in Connecticut and in New Jersey. I am up
14 for reinstatement in Connecticut. The only problem is this
15 never-ending matter makes it difficult. But that isn't an
16 issue in this.

17 CHAIRMAN RANKIN: So the funds that you
18 voluntarily gave back to somebody totaled what?

19 MR. FIELD: We gave back 1.4 million between
20 us. My daughter gave back 1.1 million. My son gave 2.8
21 million. When I turned over the company, I turned over
22 600,000 in cash to the receiver. I turned over properties
23 that I had an interest in worth \$2 million.

24 He gave out \$1 million once in 2014. And
25 all attempts for discovery to get an accounting have been

1 thwarted by Judge Miller. And in 2012, the very last
2 report of the receiver was filed. There has been no
3 accounting since.

4 CHAIRMAN RANKIN: All right. And, again,
5 I'm not trying to cut you off, but again we've got your
6 complaint; you don't need to give us page and verse. But
7 wrap it up, if you will, with the --

8 MR. FIELD: All right. The -- if I may. In
9 the hearing for the contempt, there were reasonable
10 continuance requests made. They were all denied. There
11 was a surprise witness. There was a request for a
12 continuance. That was denied.

13 The evidence was accepted into the record
14 over the objection without the attorney being able to even
15 see the evidence. Judge Miller wouldn't even let him look
16 at the documents that were being submitted. This happened
17 again in 2018, when Judge Miller received 500 pages without
18 Attorney Caskey even being able to look at them. And once
19 you've seen documents, you can't unsee the documents.

20 Judge Miller repeatedly stated that I had
21 stolen the \$40 million. And when questioned by Attorney
22 Martin, did he have any evidence that I took any money,
23 Judge Miller just rudely yelled at him and told him to sit
24 down. He has screamed at my attorneys many times in court.
25 Screamed at them.

1 In 2016, I was involuntarily committed to a
2 hospital. The hospital notified Judge Miller one day in
3 advance of the contempt hearing -- the third contempt
4 hearing, that I was unavailable. Judge Miller was then
5 given proof of this unavailability, not only from the
6 hospital but from Attorney Tom Stephenson, who stood in the
7 courtroom and said he was -- knew for a fact and had
8 evidence from the hospital.

9 Judge Miller, on Exhibit C, page 14, lines 3
10 to 10, said that he didn't believe that I was involuntarily
11 committed, and called me a liar, and that I had monkeyed
12 with the judicial system repeatedly.

13 He admitted 29 exhibits and hours of
14 testimony while neither I nor Attorney Martin was present
15 in the courtroom, and just took these exhibits in. I never
16 got to see them.

17 There was -- in 2017, in March, was when he
18 -- the receiver was presenting the global settlement to the
19 fairness hearing, and I could hear Judge Miller, as could
20 other people, say in reference to a book I was to write as
21 part of the settlement, Judge Miller will be writing -- or
22 Judge Miller said, "Arthur Field will be writing that book
23 in prison."

24 That wasn't relevant at the time. And when
25 I called him out on it, he got angry at me. When I asked

1 the court reporter to transcribe that, he in a subsequent
2 hearing yelled at me and told me I had no right to have
3 what he said on the bench transcribed.

4 I have every right to have what he says on
5 the bench transcribed. There's no privilege for a
6 statement made to a law clerk if everyone can hear it. It
7 didn't involve scheduling. It wasn't a question of law.
8 It was a comment indicating that he wanted to put me in
9 prison. Which in July 2018, he finally did.

10 The contempt hearing was held and all of
11 these exhibits were admitted. And at that very most, there
12 was a check missing for three days, that Attorney Bannister
13 admitted he had and had delivered seven months earlier.

14 The entire contempt was over how did an
15 insurance policy get cancelled, to which my response was --
16 and he told me he was going to hold me in contempt if I
17 spoke. And I said, not very brightly -- I said, "I don't
18 know how it got cancelled. But as soon as it got
19 cancelled, it got reinstated and the check got turned over
20 to Attorney Bannister, who has been holding it. It was for
21 a repair to a roof and there was a contract for the
22 repair."

23 CHAIRMAN RANKIN: We've got that.

24 MR. FIELD: Right. So I got held in
25 contempt for that and sent prison for six months. Under

1 Turner v. Rogers, which is a U.S. Supreme Court case, I had
2 the absolute right when the appeal was filed to be
3 released. That is a fundamental Constitutional right to
4 avoid mootness, so you don't sit in jail and then you win
5 the appeal to no effect. He refused to let me out.

6 Seven months in prison was no joy,
7 especially for me. I believe -- and when -- and the time
8 one we tried to have a court reporter transcribe the
9 hearing, he threatened to hold me in contempt and threw the
10 court reporter out of the courtroom, even though it is a
11 fundamental right to make a transcript of your own
12 proceeding. This went on for nine years.

13 I'm going to wrap it up here. I want you to
14 understand, please, that if -- anybody can have a bad day.
15 Anybody can have a few comments off the record that are
16 inappropriate. Anybody can have an upsettedness because
17 one's wife is ill. I am sympathetic to that.

18 But this was nine years, over and over and
19 over again, against me, my attorney, my other attorney, my
20 wife, my child, my other child, their attorneys. It just
21 never stopped. And he helped the other side all the time.
22 Justice Toal has made it clear in the In Re Campbell case
23 that, that is egregious.

24 I do it for the people of South Carolina.
25 This should not happen. Maybe it's only happened to me,

1 maybe it happened to the last gentleman, but if it can
2 happen twice in an eight-year period, how many times has it
3 happened that nobody knew about this commission and nobody
4 knew they could stand up and complain?

5 How many times in the future will it happen
6 if justice -- if Judge Miller has another bad day? This
7 isn't how you run a courtroom. I practiced law for 35
8 years and I never, ever was treated like this. And I never
9 saw anything this egregious. Thank you for hearing me out.
10 I appreciate it.

11 CHAIRMAN RANKIN: Mr. Field, did you -- have
12 you ever filed a grievance before the ODC, for either your
13 attorney or against a sitting judge before?

14 MR. FIELD: Yes. In my experience, I have
15 filed two grievances in my lifetime, if I recall correctly.
16 One was against now Justice Few, for whom I have great
17 respect. I filed that based on a ex parte communication
18 that he engaged in with the Attorney General.

19 And after I had an opportunity to review the
20 transcript, and found out that he had done everything he
21 could to mitigation that ex parte communication, and had
22 indeed disclosed it. Because I wasn't present when those
23 occurred, I withdrew the grievance and wrote Judge Few --
24 then Justice Few a letter of apology.

25 And I filed a grievance against Judge Miller

1 in 2012, which I believe is the source of all -- yeah,
2 2012, after the December 2011 hearing, because I was
3 incensed at the denigration of my Fifth Amendment rights
4 which -- and I -- this is not involved in all this.

5 When we settled the case in 2007 and judge -
6 - 2009, and Judge Miller was involved in that fairness
7 hearing, it was Judge Miller, indeed, who said he would
8 protect my Fifth Amendment rights, because I did not want
9 to turn over the documents. And he said that he would make
10 sure that nothing ever happened to them. No sooner did I
11 turn them over, then they were seized.

12 CHAIRMAN RANKIN: And you filed grievances
13 against your attorneys, or any other attorney, before the
14 ODC?

15 MR. FIELD: Not to my knowledge.

16 CHAIRMAN RANKIN: And in this instance, this
17 case is pending, still, because of the receiver's work,
18 right?

19 MR. FIELD: Well, it's pending in the sense
20 that it never seems to go away. It was dismissed with
21 prejudice in 2017, but it -- somehow the dock -- and the
22 federal court has ruled that case is closed. But somehow
23 the docket number of 2008-CP-23-3665 goes on and on forever
24 and gets used.

25 It has now been turned over to Judge --

1 former Justice Toal. And I believe that it will simply be
2 dismissed because the federal court has already ruled the
3 case is done.

4 CHAIRMAN RANKIN: So Justice Few worked as a
5 Circuit Court judge at the time in connection with this
6 same litigation?

7 MR. FIELD: Yes, he did.

8 CHAIRMAN RANKIN: All right. And did you --
9 have you filed motions for recusal against then Judge Few,
10 Judge Gary Hill, ever?

11 MR. FIELD: No.

12 CHAIRMAN RANKIN: Ever any motion for --

13 MR. FIELD: A motion for recusal against
14 Judge Few, based on the grievance, which he agreed to. He
15 agreed that, that was appropriate. But Judge Gary Hill,
16 certainly not.

17 CHAIRMAN RANKIN: Never --

18 MR. FIELD: Judge Gary Hill would have
19 recused himself voluntarily, because he was my wife's boss.
20 And that would have obviously been a conflict of interest.
21 And we have --

22 CHAIRMAN RANKIN: And you have sought in
23 this instance as well, I guess, with then Judge Few, but
24 now with Judge Miller, that he be recused, correct? Did
25 you seek recusal by him --

1 MR. FIELD: My lawyers have sought recusal
2 at least eleven times.

3 CHAIRMAN RANKIN: Okay.

4 MR. FIELD: And, again, this time when it
5 again came in front of Judge Miller, because this has been
6 an a unbelievable bias.

7 CHAIRMAN RANKIN: Who are your attorneys
8 presently?

9 MR. FIELD: The Honorable Micajah Caskey,
10 and still Bradford Martin, who filed a motion to be
11 relieved as counsel a year ago. And Judge Miller will not
12 address it.

13 CHAIRMAN RANKIN: All right. Thank you all.
14 Anything further that you need before I turn it over to
15 members of the Commission? If not, I will invite any
16 questions or comments that the Commission members may have
17 at this time. Anything further?

18 MS. WILKINSON: Mr. Chairman, I would just
19 note for the record that staff has done a search of the
20 public index of Greenville County, and it's our
21 understanding there are four motions to recuse -- at least
22 four motions to recuse have been filed -- formally filed:
23 two against Judge Miller, one against Judge Few, and one
24 against Judge Gary Hill.

25 A number of grievances have been filed, all

1 subsequently dismissed. There has been at least one, as
2 has been discussed, against now Justice Few, at least two
3 against Judge Miller, and pursuant to an affidavit of the
4 receiver, Jerry Saad, which is in the record. Grievances
5 were filed against the attorneys representative CIF, all of
6 which were summarily dismissed.

7 There were several attorneys representing
8 CIF. And a grievance was filed against the receiver, Mr.
9 Jerry Saad.

10 CHAIRMAN RANKIN: Those grievances have been
11 filed by who?

12 MS. WILKINSON: Those grievances by Mr.
13 Field and his counsel.

14 MR. FIELD: Mr. Rankin, that's incorrect.
15 The confusion arises from the fact that, that's my son not
16 me. And we would never have moved to recuse Gary Hill. We
17 would have gladly had Gary Hill on the bench, but obviously
18 could not. Those are incorrect, I never grieved any of the
19 attorneys in this case.

20 CHAIRMAN RANKIN: Your son has the same --
21 has the same name?

22 MR. FIELD: No. It's David Field. And for
23 some reason they keep serving David Field as me. He's in
24 the court record as me. It says "David Field as Arthur
25 Field."

1 MR. CHAIRMAN: Does he live in South
2 Carolina?

3 MR. FIELD: He lives in South Carolina, but
4 there --

5 CHAIRMAN RANKIN: And you -- you have to
6 right to file --

7 MR. FIELD: No, but I wanted to make clear
8 that we never filed any grievances against the lawyer or
9 against Mr. Saad. We filed -- you know, my son filed a
10 complaint with the Certified Public Accountancy Board
11 against Mr. Saad, and that all stemmed from an independent
12 case that he was involved in. But we've never filed, so
13 those are inaccurate.

14 CHAIRMAN RANKIN: Okay. Thank you.

15 MS. WILKINSON: Mr. Chairman, I would again
16 note for the record that Mr. Field did plead guilty in May
17 of 2013, to two counts of criminal conspiracy, one count of
18 forgery, and eleven counts of felony security fraud, for
19 charges stemming from the grand jury investigation brought
20 as a result of the conduct that was also the underlying
21 reason for many of the civil lawsuits which have been
22 filed.

23 Mr. Field, is that correct?

24 MR. FIELD: Yes, ma'am.

25 MS. WILKINSON: Mr. Field, you were

1 sentenced to ten years, suspended on 26 months, with
2 restitution to be paid during five years of probation. Is
3 that correct?

4 MR. FIELD: Yes, ma'am.

5 MS. WILKINSON: Mr. Field, was a civil
6 judgment rendered against you in approximately -- or in
7 approximately in the amount of \$1.5 million for the amount
8 of restitution that was left unpaid?

9 MR. FIELD: It was invalid, but it was. It
10 was never served on me. And we received it months later,
11 so it couldn't be appealed.

12 But there is a civil judgment, except that
13 the civil judgment was forgiven in the 2017 dismissal with
14 prejudice. The settlement agreement specifically relieved
15 me of all claims, and now then considered future derived
16 from or anything else, at great length.

17 So that civil judgment is pyrrhic at best.
18 It was simply there to, if you will, appease the Attorney
19 General as part of the arrangement between us and the
20 Attorney General. Mr. Saad and his attorneys agreed that
21 there would be no further action whatsoever on any judgment
22 against me or my wife after that point.

23 MS. WILKINSON: Mr. Field, our search of
24 records indicate that at least six times there's been a
25 rule to show cause filed against you, seeking contempt of

1 court sanctions regarding the class action lawsuit, between
2 the years of 2012 and 2018. Is that correct?

3 MR. FIELD: At least. Every time they fear
4 they're losing in one of the cases, they file a rule to
5 show cause against me. It should be pointed out that every
6 case that was filed against me, every civil case in federal
7 court was dismissed with prejudice in my favor. Every
8 single one.

9 MS. WILKINSON: Mr. Chairman, I have no
10 further questions of Mr. Field.

11 CHAIRMAN RANKIN: In that last exchange, Mr.
12 Field, is it fair to say that you settled those cases --

13 MR. FIELD: No.

14 CHAIRMAN RANKIN: -- and that's why they
15 were dismissed with --

16 MR. FIELD: No, it's not fair to say that.
17 In the 6:12 -- 6:12-cv-03401-BHH, U.S. District Court
18 dismissed with prejudice. 6:13-cv-2267-BHH, dismissed with
19 prejudice. 6:14-cv-02267 -- or 02326, dismissed with
20 prejudice. The only one that was settled was the 2015-CP-
21 01263 case. Because we got to the point where every time
22 we won, they just refiled the case somewhere else.

23 CHAIRMAN RANKIN: Is there a pending
24 judgment against you for funds that are still unpaid by
25 you?

1 MR. FIELD: There is no judgment to which I
2 agree is valid, because it has been dismissed with
3 prejudice.

4 CHAIRMAN RANKIN: Not whether you agreed it
5 --

6 MR. FIELD: There is a judgment from
7 Spartanburg County, strangely enough.

8 CHAIRMAN RANKIN: For what amount?

9 MR. FIELD: That was filed in Spartanburg
10 County for a balance of restitution.

11 CHAIRMAN RANKIN: How much?

12 MR. FIELD: 1.7 million

13 CHAIRMAN RANKIN: When did you move to
14 Florida?

15 MR. FIELD: 2011.

16 CHAIRMAN RANKIN: All right, sir. Any
17 questions of anybody on the Commission has? If not, thank
18 you both for being here.

19 MR. FIELD: Thank you for hearing us.

20 MS. TAILLON: Thank you.

21 MR. CHAIRMAN: We'll hear now from Judge
22 Miller.

23 MR. FIELD: I just wanted to know if she
24 wanted --

25 CHAIRMAN RANKIN: Ma'am, your husband has

1 said all that you want to say, is that fair to say?

2 MS. TAILLON: Yes, that is true. I do have
3 one thing to say about the Gary Hill recusal. I worked for
4 Gary Hill, as my husband stated. I remember when that case
5 started, and Gary Hill recused himself. And I believe he
6 stated it was because I was his employee.

7 CHAIRMAN RANKIN: Okay. Thank you. Thank
8 you both.

9 MR. FIELD: Are we excused?

10 CHAIRMAN RANKIN: You are. But you're
11 welcome to say if you'd like. You drove her from Florida.
12 Thank you for getting here on time and early.

13 MR. FIELD: Early.

14 CHAIRMAN RANKIN: Very well.

15 MR. FIELD: Thank you.

16 CHAIRMAN RANKIN: Judge Miller.

17 MR. FIELD: Oh, one thing. Did you need the
18 originals of any of those records? We brought them.

19 CHAIRMAN RANKIN: We've got -- we don't need
20 originals. We got -- we've got receipt of everything that
21 you've submitted electronically.

22 MR. FIELD: I just wanted to make sure
23 before we walked out the door.

24 CHAIRMAN RANKIN: Very well. Take care.

25 MR. FIELD: Thank you. Thank you,

1 Commission.

2 BY MS. WILKINSON:

3 Q. Judge Miller, you've heard Mr. Field's complaints
4 and Ms. Taillon -- Ms. Taillon's complaints. Did you
5 provide a written response to the Commission regarding
6 these complaints?

7 A. Yes, ma'am, I did.

8 Q. And how would you respond to those complaints
9 today?

10 A. Well, I would incorporate my written response.
11 And I never yelled or screamed in court. I may have gotten
12 firm, and I may have what he perceived as having a sharp
13 tone. This was after -- the way this case -- this case
14 originated out of Horry County.

15 There was a lawsuit filed here. Judge Baxley
16 transferred the case to Greenville County. Judge Few was
17 assigned the case. He took -- it was a complex case. He
18 took -- he handled the case. And the case was mediated, it
19 was set to be settled, and then Mr. Field filed his
20 grievance against Judge Few.

21 Judge Few recused himself. And shortly before
22 the settlement hearing, it was assigned to me. I didn't
23 seek it out. I didn't know Arthur Field, didn't know
24 anything about it.

25 I walked into the courtroom and it was filled

1 with -- there were 680 investors from all over the State of
2 South Carolina. It was not 40 million. I think I said
3 that, so I was in error. I think it was 38 and a half
4 million dollars that was criminal misappropriated from
5 these people.

6 They were very upset. I'm in the courtroom in
7 front of a lot of lawyers. There were -- I can't remember
8 all the lawyers that were in there. They were in -- they
9 were contained in the mediated global settlement agreement,
10 which I have right here, I can look it up.

11 But the Attorney General showed up because there
12 was an investigation going on. I had no idea about that.
13 And the case was very close to settling, but Mr. Field
14 refused to do it because he didn't want any records turned
15 over to it -- to the Attorney General.

16 So we had a meeting back in a jury room, with all
17 the lawyers and Mr. Field, who I believe was pro se, and I
18 insisted that any agreement that there be a provision that
19 his Fifth Amendment rights be protected. Which we did.

20 This is a long, convoluted case. And the case
21 settled. It was a class action and the case settled. A
22 receiver was appointed. My job, the only job I've ever had
23 in this whole eleven years, has been to monitor the
24 receiver.

25 So the state -- the Attorney General subpoenaed

1 the receiver, tried to subpoena the records. We got into a
2 -- I tried to defend and protect Mr. Field, pursuant to the
3 agreement, and I believe there was some accommodation
4 reached.

5 But what I -- what I remember about that part of
6 it was that corporate records are not -- do not have a
7 claim to the Fifth Amendment. So a number of those records
8 got turned over. He has claimed that I was -- or Ms.
9 Taillon claimed that I was the one that instigated -- or
10 was responsible for the indictment being issued. That is
11 totally false. The case progressed.

12 The receiver did a great job, I think. He's
13 still doing a great job, very thorough, trying to chase
14 down the assets.

15 MR. CHAIRMAN: Who is the receiver?

16 JUDGE MILLER: His name is Jerry Saad. He's
17 a -- he's a CPA in Greenville

18 A. Judge Few had arranged that he be appointed as
19 receiver. So at the settlement hearing, I followed through
20 with that and had him appointed.

21 I wasn't -- and it is my position, and I believe
22 Rule 66 would bear this out, and I think the case would
23 bear out, that the receiver acts as the arm of the court.
24 So any communication that I had with the receiver was not
25 ex parte.

1 Mr. Field seems to imply that I had some kind of
2 conspiracy against him. I did not. We were trying to
3 collect -- marshal the assets for distribution to the -- to
4 the victims or to the investors.

5 The CIF, his corporation, was modeled on Home
6 Gold. And it was very much -- I'm not the only judge to
7 have said that it was a Ponzi scheme and he was robbing
8 Peter to pay Paul. The South Carolina Revenue Board, I
9 believe, came in and said -- or Securities Commission said
10 -- stopped him from soliciting any more funds. And at that
11 time, he couldn't -- he couldn't rob Peter, and so he
12 couldn't pay Paul.

13 I mean, how much -- I'll be happy to keep going.
14 If there's specific allegations, I'd be -- I'll be happy to
15 answer them too. But I didn't yell at -- I believe I ever
16 yelled in court. I don't do that.

17 I look back in hindsight and there are some --
18 perhaps some unnecessary comments think made, that I
19 regret. And if I could go back and re-do it, I wouldn't
20 have used those particular -- that particular verbiage.

21 But Dr. Field, and this is outlined in the
22 various submissions from the attorney for the class and
23 from the receiver, obstructed most of his efforts to try
24 and collect funds. And it was very frustrating.

25 And with respect to the two -- the criminal

1 contempt in which I found him in direct criminal contempt,
2 by that time the second settlement agreement which settled
3 District Court cases, it's contained on the -- on the face
4 of the agreement, where he was -- Mr. Field was -- Dr.
5 Field was being sued in federal court.

6 There were -- I think two or three of those were
7 included in the global settlement. But in that settlement,
8 Dr. Field agreed to turn over the house, which was located
9 in a community in Greenville called Thornblade, that he
10 would list the receiver, CIF as a mortgagor on it.

11 He went -- there was some -- there was a hail
12 storm, there was damage to the roof. He got an estimate.
13 He found out that he could collect, and he went to the
14 insurance company and had CIF removed as a -- as a
15 mortgagor and as an insured.

16 He filed a claim. Somehow the lawyers for the
17 receiver found out about it, so he went back to State Farm
18 Insurance Company and got CIF reinstated and tried to
19 manipulate the administrative staff there to describe how
20 it happened, how they were removed and how they were put
21 back on.

22 Well, we -- he got up at a hearing, I can't
23 remember the exact date, and volunteered that it was some
24 clerical error on the -- caused by the insurance company.
25 So I said, "Okay. We're going to go find out."

1 And we did that. It turns out -- and in the
2 meantime, the check which was issued, and I have a copy of
3 it, for \$17,414 was sent to Dr. Field and his daughter, I
4 believe, and Ms. Taillon. They cashed the check.

5 They didn't tell CIF about it. And this was in
6 response to the -- right after the global settlement
7 agreement. When they found out about it, then we were able
8 to recover it. We had a hearing with the -- with the
9 insurance people. They testified. Dr. Field did not show
10 up at the hearing, and I held in contempt of court for
11 lying, and sentenced him to six months.

12 And I had not -- prior to that, I had not -- I'd
13 never imposed any sanctions on Dr. Field for any of his
14 conduct, which led the receiver and the attorneys to file
15 various motions to compel, or rules to show cause.

16 CHAIRMAN RANKIN: In regard, Judge Miller --

17 JUDGE MILLER: Yes, sir.

18 CHAIRMAN RANKIN: -- it's, again, our
19 purview here what do we have to work with --

20 JUDGE MILLER: Yes.

21 CHAIRMAN RANKIN: -- and again, the nine
22 evaluative criteria, as we try to distill what we're heard
23 and the voluminous records that have been submitted within
24 the realm of what is ours to address.

25 JUDGE MILLER: Yes, sir.

1 CHAIRMAN RANKIN: I have struggled to figure
2 out whether the complaint is one of temperament. And so if
3 -- which is a great concern of this body.

4 JUDGE MILLER: Yes, sir.

5 CHAIRMAN RANKIN: For a new judge, a judge
6 wannabe, temperament is an incredibly important thing.

7 JUDGE MILLER: Yes, sir.

8 CHAIRMAN RANKIN: Because again you are --
9 absent a magistrate level, you're what the majority of our
10 litigants, our jurors see on a day-to-day basic, for you to
11 give confidence to them about the state of the judiciary
12 are great concerns.

13 So if -- and I note that Mr. -- or Dr. Field
14 and Mrs. Taillon have left the room.

15 JUDGE MILLER: Yes, sir.

16 CHAIRMAN RANKIN: We're not broadcasting
17 this for anyone else to hear. So if they were here, maybe
18 we would get a "amen" or a thumbs up or a nod of the head.
19 So again, it is interesting that they've left. Maybe they
20 don't want to hear what you have to say.

21 But for at least our purposes, if this is a
22 temperament problem, where you are effectively -- again,
23 just kind of paraphrasing their theme, you're running
24 roughshod over them, being short, being -- struggling with
25 the -- your wife's illness and ultimate death, again, that

1 tragedy. If it is temperament, speak to us in our role as
2 trying to help discern whether you've got the right
3 temperament.

4 JUDGE MILLER: Okay. Yes, sir.

5 CHAIRMAN RANKIN: That was a long question.
6 But if you follow what I'm asking, it would help me at
7 least grapple with that. Again, if I'm correct and that's
8 their concern.

9 JUDGE MILLER: Yes, sir. I think that if
10 you -- there are thousands of pages of transcript. If you
11 were review all those pages, I think you would see that I
12 was respectful. I did -- I was courteous to them.

13 And so I did -- I acknowledge, I'm not going
14 to lie, that he was very frustrating. He frustrated all
15 the efforts of the receiver. And of course they came to
16 me, that's when I would be involved in it. I would hear
17 about the -- what he was not doing pursuant to the court
18 sanctioned settlement in which he agreed to do -- to help
19 and assist.

20 Additionally, all of the -- not all of it,
21 but the many times in these hearings, the victims of this
22 crime would be there. And they were actually the people
23 that I was concerned about. They were the ones that the
24 receivership is designed to benefit, and so I don't think
25 any -- any of them would complain about my temperament.

1 They were more interested in a pound of
2 flesh from Dr. Field. They were very, very upset about it.
3 And so I was trying to navigate a course between the class
4 and between trying to obtain and marshal the assets.

5 I don't -- I just have never considered
6 myself to have a temperament issue. And I acknowledge over
7 the last couple of years, because of the tragedy, that --
8 because of my wife's death, that I have -- I recognize that
9 now. And when I was in the middle of it, I didn't even --
10 I didn't know it. But I would not characterize myself as
11 having a bad temperament. But that's me.

12 And, you know, I'm not sure what anybody
13 else would say. I know that Dr. Field and his wife don't
14 like me. And I believe the reason that they filed this
15 complaint was the pending action is that the receiver has
16 filed -- has filed an action to domesticate the civil
17 judgment from South Carolina in Florida, so they are
18 pursuing the home in Florida.

19 The home in Florida was purchased by cash --
20 with cash in 2011. Arthur Field didn't move there in 2011.
21 He's been a South Carolina citizen until recently, until he
22 finished his probation. So they are -- they are pursuing
23 the case in Florida.

24 Dr. Field filed actions in federal court,
25 and they were dismissed. He has filed actions up here in

1 federal court, and it's been dismissed. So that is the
2 pending action that the receiver is pursuing at this time
3 is to have -- and why retired Chief Justice Toal is in the
4 case.

5 There is the Florida court, because of what
6 Dr. Field represented to the Florida court, thinks that the
7 South Carolina judgment is no good. So they are asking --
8 and he has referred it back to South Carolina for them to -
9 - for South Carolina to issue what is called a declaratory
10 order that says that, yes, it's a valid -- a valid judgment
11 -- civil judgment.

12 So when that was filed, they filed it at the
13 end of 2019. Couldn't have the hearing at that time
14 because of that legislative immunity. At the end -- and
15 then Covid was a part of this too. But then they asked for
16 a hearing again in -- the receiver asked for a hearing, and
17 we set a hearing. And then when I think all this -- these
18 actions got filed and that's when I heard about it again.

19 CHAIRMAN RANKIN: And, again, well off our -
20 - or out of our wheelhouse in terms of, again, these
21 criteria and what we're looking at --

22 JUDGE MILLER: Yes, sir. I'm sorry I --

23 CHAIRMAN RANKIN: No, no. I'm -- not your
24 response, but my question. And perhaps much of what we've
25 heard today, unless it deals with, again, one of the nine

1 areas that we look at. And for damn sure, not only you
2 made the newspaper, but Mr. Field -- or Dr. Field has as
3 well, so this is not some surprise outlier of subject.

4 Perhaps this complaint might be deemed as an
5 outlier, but -- and I guess for the record, let me just
6 say, in your years of servicing on the bench have you ever
7 had a complaint filed against you, other than Mr. Bryant's
8 two thousand --

9 JUDGE MILLER: You mean ODC?

10 CHAIRMAN RANKIN: ODC -- no, I'm talking
11 about before the Commission.

12 JUDGE MILLER: Oh, well, I did last time
13 with Mr. Bryant.

14 CHAIRMAN RANKIN: Other than Mr. Bryant?

15 JUDGE MILLER: No, sir, I have not.

16 CHAIRMAN RANKIN: So now, again, I'm
17 violating this, I'm kind of out of this -- out of our nine
18 areas. But I'm curious, has anybody -- either the
19 receiver, the victims, those who are seeking payment,
20 either one complained about your service, or more
21 importantly, taking Dr. Field's complaint that it won't
22 end, taking -- the receiver or the victims taking you to
23 task for just extending this for folly?

24 JUDGE MILLER: No, sir, I don't believe so.
25 And I think that the receiver file -- in the -- in the

1 submissions is an affidavit from the receiver, also
2 Attorney Stan Case from Spartanburg, and they -- I think
3 they have described my temperament and demeanor throughout
4 the course of the case.

5 And I acknowledge I am -- I am certainly not
6 perfect. And I -- this has caused me to do a lot of self-
7 examination. And I think that's a good thing. And I know
8 that there are ways and areas in which I need to improve.
9 And given the chance, I will -- I will certainly do that.

10 CHAIRMAN RANKIN: The comment that this
11 won't end, perhaps, is because the victims are still
12 seeking the be repaid.

13 JUDGE MILLER: Yes, sir. They -- I don't
14 believe the amounts -- I didn't bring an accounting with me
15 from the receiver, but I don't believe the amounts that Dr.
16 Field referenced are accurate. Most of the monies were --
17 they had -- the receiver had to sue, had to sell property,
18 and it -- it was arduous. And I believe that had Dr. Field
19 come forward and truly cooperated, this case would have
20 been over long ago. But that is not how it has played out.

21 CHAIRMAN RANKIN: Sharon, do you have any
22 more questions?

23 MS. WILKINSON: Mr. Chairman, I just want to
24 make sure that Judge Miller's written responses which he
25 had submitted to the Commission prior to this are made a

1 part of the record.

2 CHAIRMAN RANKIN: You don't object to that?

3 JUDGE MILLER: No, sir. I do not.

4 CHAIRMAN RANKIN: All right. Then they will
5 be made a part of the record. All right. Questions from
6 members of the Commission? Representative Smith.

7 REPRESENTATIVE SMITH: Let me just ask --
8 and I'm going to concentrate on Mr. Field. I was about to
9 call him Mr. Miller too. I won't make the same mistake.
10 So when Mr. Field filed a complaint against
11 you with the ODC in 2012, did he also make a motion to
12 recuse you?

13 JUDGE MILLER: I would suspect he did. I
14 don't -- I don't have that right in front of me. And I --
15 if I can comment on that, he has a -- had a history of
16 using recusal motions, continuous motions, grievances as a
17 -- as a strategy.

18 And that's borne out in the -- in the
19 plaintiff, that being the receiver's response to the latest
20 motion to recuse, about his history as an attorney before
21 he was disbarred, and also in this case.

22 REPRESENTATIVE SMITH: And that's kind of
23 the point that I see from the submissions that we have in
24 front of the Commission. 'Cause the easy thing is, Judge
25 Miller, as in every judge is -- you know, from my

1 experience, is when asked to recuse yourself, get off the
2 case; you got plenty of other cases you can handle.

3 JUDGE MILLER: Yes, sir.

4 REPRESENTATIVE SMITH: But I was presuming,
5 and that's what I'm trying to understand, is that you took
6 this more as a strategic move by Mr. Field to just keep
7 going down the line till he got a judge to which he thought
8 would be --

9 JUDGE MILLER: Yes, sir.

10 REPRESENTATIVE SMITH: -- thought would be
11 in his corner or more sympathetic to him.

12 JUDGE MILLER: Yes, sir. I did -- and
13 that's -- you know, maybe I should have gotten out a long
14 time ago. But the receiver and their lawyers wanted me to
15 stay in because of the complexity of it, and I understood
16 it. I was not -- I wasn't -- I didn't participate in any
17 of the actions that they pursued to recover assets. I just
18 monitored their conduct.

19 REPRESENTATIVE SMITH: So in cases -- and
20 you mentioned this earlier, Judge Few, now Justice Few, got
21 assigned the case, and it was designated as complex.

22 JUDGE MILLER: Yes, sir.

23 REPRESENTATIVE SMITH: And, obviously, when
24 you have a receiver court -- that's what we call it, right?

25 JUDGE MILLER: Yes.

1 REPRESENTATIVE SMITH: A receiver court,
2 that's that one -- that's the court the judge who is over
3 the receivership, right?

4 JUDGE MILLER: Yes, sir.

5 REPRESENTATIVE SMITH: And so at that point
6 it is your job to make sure that the receiver marshals the
7 assets and distributes them where they should be
8 distributed.

9 JUDGE MILLER: Yes, sir.

10 REPRESENTATIVE SMITH: And they have to --
11 they have -- they have a duty -- a fiduciary duty the to
12 receivership and/or to the -- to the, in this case the
13 victims, to make sure that they aggressively pursue the
14 assets in order for the restitution to occur.

15 JUDGE MILLER: Yes, sir. That's my
16 understanding.

17 REPRESENTATIVE SMITH: And so with that
18 happening in a receivership, it's important that a judge --
19 it's not just rotating around from you happen to be at a
20 hearing, common pleas, non-jury motions in January. And
21 then come March we have, you know Judge Stillwell come up
22 or -- that's not -- receiverships don't operate in that
23 fashion, do they?

24 JUDGE MILLER: Yes, sir. That's correct.

25 VICE CHAIRMAN SMITH: And so, you know, I

1 guess -- you know, and I'll just be forthright with you, in
2 my initial reaction to all this is: Why didn't you just
3 recuse yourself?

4 But then I think what I want to make sure
5 that this record is complete in this, is what we have seen
6 is that there are complaints and evidence that there were
7 issues with Mr. Field's using the ODC system as a weapon in
8 order to have a judge moved on or recused. And that not
9 only happened in these cases, it appears that it's happened
10 in other jurisdictions too. Is that your understanding?

11 JUDGE MILLER: Yes, sir. That's correct.

12 VICE CHAIRMAN SMITH: All right. In regards
13 to your temperament, I presume I'm kind of -- this is,
14 basically, Mr. Bryant's complaint and covering your
15 complaint. I look on here and I -- and it's not old age
16 and it's a -- so I'm not commenting on your age, but you're
17 68 years old.

18 JUDGE MILLER: Correct.

19 VICE CHAIRMAN SMITH: Mandatory retirement
20 is at --

21 JUDGE MILLER: I have to admit that.

22 VICE CHAIRMAN SMITH: Yes. Mandatory
23 retirement is at 72.

24 JUDGE MILLER: Yes, sir.

25 VICE CHAIRMAN SMITH: So this is your last

1 hurrah in front of this commission.

2 JUDGE MILLER: Yes, sir.

3 VICE CHAIRMAN SMITH: And so tell this
4 commission -- you know, you've said, and I appreciate your
5 comments, that -- and first, let me say this: I did not
6 know anything about your wife, and I am so sorry to hear
7 that. And I can only imagine the pain and the difficulty
8 that one endures. And that's certainly -- you know, you
9 want always to strive to be a -- be the best you can be as
10 a judge.

11 JUDGE MILLER: Yes.

12 VICE CHAIRMAN SMITH: But sometimes
13 circumstances deliver you some bad news, and it causes us
14 all to have a bad day from time to time. And I certainly
15 understand that. And it doesn't sound like you're making
16 excuses for it. You're just saying, "Look, it happened."

17 What assurances are you going to give this
18 commission, that at the end of all this, I'm not
19 accountable to anybody except to my profession and to my --
20 and to the judiciary, you don't have to come back here
21 again what that -- with -- that this is not going to be the
22 way that you operate in the future for your last four years
23 on the bench?

24 JUDGE MILLER: Well, I give you my word. I
25 have -- I think if you review most of my career, I think

1 I'm pretty well liked by the Bar. And this case has pushed
2 the limits, pushed the envelope for me.

3 And but I give you my word that -- and I
4 tell you, the -- it has caused me to look at myself and
5 recognize that I need to be more aware and more astute and
6 more conscious of those issues. Because I -- if you give
7 me the opportunity, I would like to finish my career and --
8 with a good reputation, not with a old sourpuss reputation
9 or however you want to describe it.

10 VICE CHAIRMAN SMITH: Well, and I would
11 point out we look at your ballot box comments.

12 JUDGE MILLER: Yes, sir.

13 VICE CHAIRMAN SMITH: And those are -- those
14 are anonymous comments. And sometimes we get accused of
15 letting the secretive process guide some of the questions
16 and/or decisions that this commission makes. And when I
17 look at this and the -- there's a specific one on judicial
18 temperament.

19 And so when I look at this, you have 467
20 people that responded to this said that you have -- you are
21 well qualified. And the people who said you're unqualified
22 is 15. So 1.9 percent. So that would seem to have an
23 indication that the people who appear in front of you --
24 and I've never appeared in front of you, that I'm aware of.

25 But people who appear in front of you are

1 that ones that think you do a very good job, and don't have
2 any concerns about your temperament.

3 So, you know, when I look at this it is -- I
4 guess what you're saying is, you know, "I had some bad
5 days, and things went astray, but those are outliers over
6 my whole judicial career."

7 JUDGE MILLER: Yes, sir. I appreciate that.
8 I believe that's correct.

9 VICE CHAIRMAN SMITH: Now, I have some
10 struggles with this, and I -- Mr. Bryant brought some new
11 information up here, so I certainly -- I reviewed that.
12 And it's helpful for me. But I -- you know, the one thing
13 I am missing in all this, and it may have happened in 2014
14 -- yeah, 2014 when this hearing was, and I don't -- I'm not
15 privy to it. I wasn't on the commission at the time. I
16 don't have the initial order in the case that dismisses the
17 case.

18 I do see that after you issue an order, that
19 this is about a -- you know, it's basically, in essence,
20 you sanctioned -- I don't know if you sanctioned under Rule
21 11, or whether you sanctioned under the Frivolous Civil
22 Proceedings Sanctions Act, and awarded attorneys fees and
23 then -- this bench warrant is a result of a civil contempt
24 hearing brought by the attorney, to force the award of
25 attorneys fees; is that right?

1 JUDGE MILLER: Yes, sir. And it dragged on.
2 There were numerous hearings. And I think there were other
3 hearings in front of other judges. I think Judge Wellmaker
4 heard one. I think maybe Judge Hill. And I -- there was a
5 transcript -- I thought I submitted it last time, which I
6 pleaded with her to contact the attorney and work something
7 out. And she just absolutely refused to do that.

8 And that's when I -- it was either, okay,
9 it's okay, you can walk out and just not obey an order of
10 the court, or I would have to impose a sanction. And
11 that's what I did.

12 VICE CHAIRMAN SMITH: Do you recall whether
13 it -- it looked like it was an attorney -- the complaint
14 that Mr. Bryant brought here was an attorney filed a
15 complaint -- which you said she subsequently was disbarred.
16 But regardless, she filed a -- did you sanction them under
17 Rule 11, or under the Frivolous Civil Proceeding Sanctions
18 Act? If you recall.

19 JUDGE MILLER: I'm sorry, I do not recall.
20 I do not. I'm sorry.

21 VICE CHAIRMAN SMITH: Well, do you recall
22 whether they were represented by an attorney at that
23 hearing where you dismissed it under the Sanctions Act?

24 JUDGE MILLER: Yes. I think Ms. Perkins was
25 there and -- with Ms. Bryant.

1 VICE CHAIRMAN SMITH: All right. And I see
2 the remittitur, and it looks like some filing errors. We
3 all get those from the Supreme Court or the Court of
4 Appeals --

5 JUDGE MILLER: Yes.

6 VICE CHAIRMAN SMITH: -- who practice over
7 there. But it looked like it was dismissed. I couldn't
8 tell. I mean, it looked like an appeal was taken, but it
9 was administratively dismissed for failure to comply with
10 the rules.

11 JUDGE MILLER: Yes, sir. Again, I don't
12 really remember that. I thought it was filed out of time,
13 but --

14 VICE CHAIRMAN SMITH: And that's what I see.

15 JUDGE MILLER: Yeah.

16 VICE CHAIRMAN SMITH: I just was -- but
17 nonetheless, an appeal was taken and due process was given.

18 JUDGE MILLER: Yes, sir. Yes, sir.

19 VICE CHAIRMAN SMITH: All right. Thank you.

20 CHAIRMAN RANKIN: Representative Murphy.

21 REPRESENTATIVE MURPHY: Thank you, Mr.

22 Chairman. Thank you, Judge Miller.

23 JUDGE MILLER: Yes, sir, Mr. Murphy.

24 REPRESENTATIVE MURPHY: And I wanted to make
25 sure that -- to kind of piggyback on some of what

1 Representative Smith said. And I want to make sure that
2 the record is clear here, 'cause I -- in addition to all of
3 the materials that we've reviewed on this complaint from
4 Mr. Field and his wife, Ms. Taillon, I find it very
5 informative is the affidavit of Jerry Sadd, the receiver --

6 JUDGE MILLER: Yes.

7 REPRESENTATIVE MURPHY: -- in this case,
8 which was about four pages, it was filed October 14th,
9 2020. And I'm not going to read the entire affidavit, but
10 in the affidavit he states:

11 "Based on my eleven years of dealing with
12 him, I believe Judge Miller to be highly intelligent, a
13 high skilled jurist who has exhibited incredible patience
14 throughout an eleven-year ordeal. A case that was
15 originally expected to be settled in less than three years,
16 but through the escapades of Mr. Field, has extended into
17 its twelfth year, and is now only at its end."

18 He also says that, "Judge Miller's actions
19 over the course of eleven years have been prudent and
20 proper without emotional influence, but with reflection of
21 facts and evidence duly presented. In my opinion, no other
22 jurist would have acted with any more caution or
23 deliberation given the same circumstances."

24 He further stated, "I believe that Mr.
25 Field's recent actions in filing grievances against Judge

1 Miller, and to seek his recusal from the Toms case, are a
2 direct response to the civil action that the receiver filed
3 in Florida, in an attempt to marshal the assets."

4 JUDGE MILLER: Yes, sir.

5 REPRESENTATIVE MURPHY: And I just think
6 that the record needed to be clear on that. Because I
7 can't speak for the entire Commission, but my review of the
8 record, the testimony of Mr. Field, I just don't find him
9 to be a very credible witness. Again, that is me. I'm one
10 member of the Commission.

11 JUDGE MILLER: Yes, sir.

12 REPRESENTATIVE MURPHY: But I do -- I do not
13 find -- when I review the entire record that he has
14 presented before this commission, I do not find him to be
15 credible in the complaints that he has levied against you.
16 And I do not see anything in this particular action, that
17 you could have done any differently.

18 And I know as a Circuit Court judge, when
19 you're handed a complex case, the last thing you want to do
20 after being involved in it for eleven years, is to have to
21 turn that over to another judge, that basically has to
22 reinvent the wheel and plow the same ground again. So I
23 commend you for your actions on that.

24 And I just wanted to make sure that the
25 record was clear. 'Cause I -- I appreciated the affidavit

1 that was -- that you submitted in support, particularly Mr.
2 Saad's. So thank you for that.

3 JUDGE MILLER: Thank you very much, sir.

4 CHAIRMAN RANKIN: Representative Smith.

5 VICE CHAIRMAN SMITH: Sorry, Judge Miller.
6 I meant to ask you this, 'cause one thing did strike me.
7 And you as the receiver court oversee the assets and you
8 oversee the distributions, and nothing can occur without
9 your approval, right?

10 JUDGE MILLER: Yes, sir.

11 VICE CHAIRMAN SMITH: All right. So was Mr.
12 Field right when he said six million collected and only one
13 million got distributed? 'Cause that would be very
14 concerning to me if that's the case.

15 JUDGE MILLER: I don't think that, that's
16 correct. I don't -- I don't have the accounting. I know
17 that a lot of funds were expended on attorneys fees because
18 of all the obstructive actions that Mr. Field took, so
19 there's been costs associated with that. I don't -- but I
20 don't have the numbers --

21 VICE CHAIRMAN SMITH: Five million dollars'
22 worth of cost, you think?

23 JUDGE MILLER: I don't think so.

24 VICE CHAIRMAN SMITH: Okay. I'm interested
25 in seeing that, because, you know, attorneys fees come

1 through you.

2 JUDGE MILLER: Yes, sir.

3 VICE CHAIRMAN SMITH: And you can't -- the
4 receiver can't pay anybody without your permission.

5 JUDGE MILLER: Yes, sir.

6 VICE CHAIRMAN SMITH: So I mean, attorneys
7 obviously don't work for free. And because somebody's a
8 victim of a financial crime, you know, doesn't mean that
9 you get free assistance. It begins with the receivership,
10 I understand all of that.

11 And, you know, most of these things
12 sometimes work on contingencies or hourly billing. But I
13 would like to understand whether -- you know, it's not here
14 or there in regards to the complaint, but it is important
15 to me as -- you know, as someone who would believe that you
16 need to make sure that the victims are protected, first and
17 foremost. And that would be your duty. You're the
18 gatekeeper in that --

19 JUDGE MILLER: Yes, sir.

20 VICE CHAIRMAN SMITH: -- as the receiver to
21 the court.

22 JUDGE MILLER: Yes, sir. I would just note
23 -- I know the receiver is not taken a -- has not been paid
24 in four years.

25 VICE CHAIRMAN SMITH: Yes, sir. You know,

1 and they're required to give you accountings, right?

2 JUDGE MILLER: Yes, sir.

3 VICE CHAIRMAN SMITH: Okay. Did you get to
4 Sharon, the latest accounting in that document?

5 JUDGE MILLER: I can -- yes, sir.

6 VICE CHAIRMAN SMITH: If you can get that to
7 her, please. And we'll look on-line too. We'll look on-
8 line also.

9 JUDGE MILLER: Okay.

10 CHAIRMAN RANKIN: Senator Talley.

11 SENATOR TALLEY: Judge Miller.

12 JUDGE MILLER: Yes, sir.

13 SENATOR TALLEY: Good afternoon. Good
14 evening. Thank you for being here.

15 JUDGE MILLER: Yes, sir.

16 SENATOR TALLEY: We've got a lot of
17 information, obviously, that we're looking at. There's one
18 thing I just wanted to get your response to, it's in both
19 Dr. Field and his wife's complaint, and it relates to what
20 appears to be a rule to show cause hearing that was filed
21 on behalf of the receiver through an attorney, George
22 Brandt -- Buck Brandt.

23 JUDGE MILLER: Yes.

24 SENATOR TALLEY: And a hearing took place on
25 September 29th, he alluded to it, and she does in her

1 written complaint, that, that hearing went forward after, I
2 believe, Tom Stephenson of the Greenville Bar came on
3 behalf of her and said he's been committed, whether
4 voluntarily or involuntarily, and they made an issue about
5 going forward with that hearing. Can you speak to that?
6 Do you recall that?

7 JUDGE MILLER: Yes, sir. I recall it. And
8 I have the transcript in my car.

9 SENATOR TALLEY: We have the transcript.

10 JUDGE MILLER: Oh, okay.

11 SENATOR TALLEY: Yes, sir.

12 JUDGE MILLER: Okay. And he -- I don't
13 remember the exact purpose of the rule to show cause. But
14 he -- we didn't have -- he was -- we had Tom's -- excuse me
15 -- Mr. Stephenson's representation that he was committed to
16 Carolina Behavioral Health, I think was what it was,
17 something like that, to a mental health facility.

18 But we were there. We took the testimony
19 from Ms. Taillon. And Mr. Stephenson was representing her
20 at that hearing. There was a never-ending objection about
21 that. And I think that if you review the transcript,
22 you'll see that she was treated with respect by Mr. Brandt
23 and by me.

24 And there were -- there was no objection --
25 I don't believe there was an objection registered with

1 taking her testimony. It was often difficult to get
2 everyone together at those hearings, so we went ahead and
3 got that out of the way. And that's what I remember. Is
4 that -- I hope that answers your question.

5 SENATOR TALLEY: Mr. Chairman, thank you.
6 It appears that she did have counsel at the hearing, a Mr.
7 Stephenson, as I indicated.

8 JUDGE MILLER: Yes, sir.

9 SENATOR TALLEY: And I don't -- I don't see
10 any objection in the parts of the transcript that I've been
11 able to review, as we sit here. I'm just -- I'm just
12 curious since that was something that was specifically
13 mentioned in both of their complaints. But do you recall
14 any filings by Dr. Field --

15 JUDGE MILLER: No, I don't --

16 SENATOR TALLEY: -- in regards to that?

17 JUDGE MILLER: No, sir, I don't. I don't
18 believe he did. But I -- that's just out of memory. There
19 was so much -- I forget one, we did a little search, there
20 was 5,300 pages in the public index, and over 900 filings.
21 It's just voluminous.

22 SENATOR TALLEY: Thank you, Judge. Mr.
23 Chairman.

24 CHAIRMAN RANKIN: Mr. Safran.

25 MR. SAFRAN: Thank you, Mr. Chairman.

1 Judge, I just have a couple of questions.

2 JUDGE MILLER: Yes, sir.

3 MR. SAFRAN: I wanted to address the
4 situation going back a little bit to Mr. Bryant and Ms.
5 Bryant. And, you know, I certainly can understand his
6 angst for what's gone on. At least in terms of what he's
7 perceiving is something that would be attributable to you.

8 I've looked at it four corners of the order,
9 that basically was issued in terms of the contempt, and I
10 think it clearly says that she had the right to purge
11 herself of the contempt by compliance. That's basically
12 standard language for civil contempt, isn't it?

13 JUDGE MILLER: Yes, sir.

14 MR. SAFRAN: And, I mean, you've signed
15 orders of that nature, countless times over your career,
16 haven't you?

17 JUDGE MILLER: I'm not a big -- I'm not big
18 on orders of contempt.

19 MR. SAFRAN: All right. So then it's not a
20 habit, basically.

21 JUDGE MILLER: No, sir.

22 MR. SAFRAN: Let's just say whenever you
23 have, that's basically the language that would go in an
24 order.

25 JUDGE MILLER: Yes, sir. That's correct.

1 MR. SAFRAN: Okay. Once that order's issued
2 and it goes wherever, do you have anything to do with the
3 order as far as controlling what's disseminated, i.e., on
4 the NCIC? You don't get involved in that part, do you?

5 JUDGE MILLER: No, sir, I don't. I've never
6 seen the NCIC. I don't know what --

7 MR. SAFRAN: Well, and so that's my point is
8 that once this thing is issued it's -- you've made your
9 ruling. And wherever it may go, to be filtered elsewhere,
10 that is out of your hands, correct?

11 JUDGE MILLER: Yes, sir.

12 MR. SAFRAN: You don't have an obligation or
13 really an opportunity to do any oversight of where it's
14 gone after that. And you really, as a judge, are waiting,
15 if the time ever comes, where the person may appear in
16 front of you, to see if they're either there the purge
17 themselves of contempt, by way of some explanation or
18 compliance, correct?

19 JUDGE MILLER: Yes, sir.

20 MR. SAFRAN: Okay. And, again, we were
21 presented with some documents here, and I hear what Mr.
22 Bryant was saying, but there's a document from the State of
23 North Carolina, where I think he's referring to this idea
24 of death, you don't have anything to do with this form in
25 North Carolina, do you?

1 JUDGE MILLER: No, sir, I don't.

2 MR. SAFRAN: All right. And so any notion
3 that this is life, death, whatever, that didn't come from
4 you, correct?

5 JUDGE MILLER: Yes, sir. That's correct.

6 MR. SAFRAN: The only thing you ever signed
7 was the order that said, "I found you in contempt and you
8 may purge yourself of the contempt by complying with what I
9 previously ordered in terms of sanctions." That's it.

10 JUDGE MILLER: Yes, sir.

11 MR. SAFRAN: Fair?

12 JUDGE MILLER: Yes, sir.

13 MR. SAFRAN: All right. So despite the fact
14 that somebody down the line, they have used the form or
15 done something that potentially -- I think I read the
16 Attorney General's office said really shouldn't have been
17 done, it was long out of your hands by the time those
18 things happened.

19 JUDGE MILLER: Yes, sir. That's correct.

20 MR. SAFRAN: And, frankly, until some
21 complaint came up, did you ever know it had occurred?

22 JUDGE MILLER: No, sir, I did not.

23 MR. SAFRAN: All right. Let me ask you
24 also, as far as the situation with Mr. Field -- or Dr.
25 Field, he impressed me as a very intelligent gentleman.

1 Has that been kind of your impression in the period of time
2 that you've been dealing with him?

3 JUDGE MILLER: Yes, sir. He has a lot of
4 intelligence.

5 MR. SAFRAN: And, you know, he professed to
6 us, today, and I don't dispute him, to have basically
7 received three post graduate degrees, and I think he said
8 three doctorates. At least that's what I heard.

9 JUDGE MILLER: I've heard he had a Ph.D.
10 That's the first time I've heard he had three today, but --

11 MR. SAFRAN: Well, at least --

12 JUDGE MILLER: Yes, I mean, if it's --

13 MR. SAFRAN: He certainly impressed me as
14 being well spoken, as also being somebody who was
15 possessing a great deal of ability and mental acumen.
16 Again, has that been your impression of him over these
17 years during his appearances in court?

18 JUDGE MILLER: Yes, sir.

19 MR. SAFRAN: And he was licensed as an
20 attorney in at least two states, wasn't he?

21 JUDGE MILLER: Yes, sir. That's correct.

22 MR. SAFRAN: Now, I understood previously
23 that he had said that he had resigned from Connecticut,
24 which at least documents I see certainly validate that. He
25 also said something to the effect that he had also,

1 somehow, done something similar, at least that was my
2 impression, in the State of New Jersey.

3 On the other hand, I look at documents that
4 were presented from the State of New Jersey, and they use
5 the word "permanent disbarment." In your experience as a
6 judge or as a lawyer in South Carolina, is permanent
7 disbarment generally something that is a voluntary thing,
8 unless they got the goods on you?

9 JUDGE MILLER: Not in -- not in my
10 experience. No, sir.

11 MR. SAFRAN: All right. And so again,
12 basically, we're sitting here looking at the situation
13 where you, in the initial -- I guess for lack of a better
14 word, offenses. Because they were ultimately things he
15 plead to and constitute convictions, don't they?

16 JUDGE MILLER: Yes, sir.

17 MR. SAFRAN: There was a relatively involved
18 scheme to manipulate money away from people, steal. Is
19 that basically what he was doing?

20 JUDGE MILLER: Yes, sir.

21 MR. SAFRAN: And so he plead guilty to
22 stealing, true?

23 JUDGE MILLER: Well, it's a -- yes, sir, it
24 could be characterized that way. But someone else might --

25 MR. SAFRAN: Well, let's put it this way: He

1 plead guilty to some securities violations, he plead guilty
2 to some conspiracies, okay? Is that more accurate?

3 JUDGE MILLER: Yes, sir. Which resulted in
4 the -- a criminal misappropriation of 38 and a half million
5 dollars.

6 MR. SAFRAN: Well, and I guess my question
7 is, is that for -- regardless of whatever ultimately
8 happened is, there was ultimately an agreement that "I did
9 something incorrect. I plead guilty to it."

10 JUDGE MILLER: Yes, sir.

11 MR. SAFRAN: Is that fair?

12 JUDGE MILLER: Yes, sir.

13 MR. SAFRAN: All right. And, again, from
14 your perception of what occurred, both from the civil and
15 criminal side in that, was it a relatively complex and a --
16 something that took a relatively bright person to be able
17 to even think of?

18 JUDGE MILLER: Yes, sir. It was very
19 involved and convoluted and involved numerous, I consider
20 them to be shell corporations.

21 MR. SAFRAN: And, again, I'm not -- whatever
22 he plead to, I don't want to get -- we're not here to
23 rehash that. I guess my point simply is, is that whatever
24 ultimately happened, was not something that a dimwit could
25 do. Is that pretty fair?

1 JUDGE MILLER: No, sir.

2 MR. SAFRAN: And I guess my point is, is
3 that here we are sitting here today, and we've seen these
4 affidavits that come in from the receiver, and we've heard
5 what's going on. And hasn't there also been this whole
6 process of, at least conceivably, a manipulation of the
7 court system through way of grievances, through way of
8 these proceedings, effectively, to also have an impact on
9 what is still outstanding in terms of the litigation?

10 JUDGE MILLER: Yes, sir. I would agree with
11 that.

12 MR. SAFRAN: All right. And so, again, is
13 what's going in the respect any different than what went
14 on, at least generally, that led to the offenses being
15 plead to in the first place? I think pretty much --

16 JUDGE MILLER: Yes, sir. It's sort of a
17 horse of the same color.

18 MR. SAFRAN: All right. So again -- and,
19 again, we're not here retrying anybody. We're not here to
20 -- whatever's happened has happened. What I'm simply
21 trying to establish is that, at least from your background
22 in dealing with this case all the way through, that kind of
23 what we're seeing here today is also similar to what
24 initially was alleged in the first place, as far as someone
25 using their vast intelligence in order to kind of

1 accomplish a purpose that might not necessarily have been
2 in some peoples' estimation kosher. Fair?

3 JUDGE MILLER: Yes, sir. I would agree with
4 that.

5 MR. SAFRAN: All right. I want to kind of
6 ask again in follow up to Representative Smith. You know,
7 there's a concern we have here, and we've voiced it before,
8 so we're not sitting here saying it's unique to you. So
9 I'm -- I agree with him.

10 Where we get concerned is that if there are
11 some offences that are alleged, if there are people who
12 come in with legitimate complaints and concerns, you know,
13 we want to know that, hey, are we just going to be in your
14 rearview mirror once this thing is over is and nothing else
15 can happen. I mean, you understand why we're concerned
16 about that?

17 JUDGE MILLER: Yes, sir. I do.

18 MR. SAFRAN: And I guess -- obviously, I
19 think I may have appeared in front you thirty years ago,
20 and I haven't had anything to do -- or with you since.
21 I've heard good things. I've read these bench -- or these
22 Bar comments, and I agree with what Chair -- or Vice
23 Chairman Smith says.

24 They come across as being very complimentary
25 in terms of the things we look for: ethical, demeanor,

1 honesty. I mean, they're all high marks. And so I don't
2 think somebody, necessarily, after that length of time with
3 those kind of impressions is, you know, all of a sudden
4 just going to become some renegade. And I'm assuming
5 that's not going to happen with you.

6 JUDGE MILLER: I give my word, it won't. I
7 don't know what else to tell you. This is the way I've
8 been my whole life. And I'll just try to continue to do
9 that.

10 MR. SAFRAN: Well, and I guess as you went
11 through a tough time, you know, with your wife, I'm
12 assuming you're empathetic to Mr. Bryant, what he's gone
13 through with his wife.

14 JUDGE MILLER: I am.

15 MR. SAFRAN: You know, 'cause it sounds like
16 it's been a really rough go for him. And I guess what I'm
17 trying to establish, though, is, is that despite his
18 legitimate concerns, at least from what I'm seeing, unless,
19 you know, we find otherwise, it appears what some of -- the
20 crux of what he's upset about, again, are things that
21 really weren't within your hands once you ruled. Is that
22 fair?

23 JUDGE MILLER: Yes, sir.

24 MR. SAFRAN: The only other thing I'll ask
25 you is this. I know we as a state, we promise a competent

1 judiciary but not a perfect one. I'm sure you've been
2 appealed in the past, haven't you?

3 JUDGE MILLER: Several times. Yes, sir.

4 MR. SAFRAN: And I don't know that anybody's
5 got a perfect record on appeal as a trial judge. Do you
6 know any?

7 JUDGE MILLER: No, sir. I haven't met them
8 yet.

9 MR. SAFRAN: Okay. And so that's what the
10 appellate process is for, which is basically to correct
11 errors. Are we all pretty much in agreement on that?

12 JUDGE MILLER: Yes, sir.

13 MR. SAFRAN: And, unfortunately, those --
14 that appeal didn't get filed timely. But isn't -- if
15 there's something that they believe was done legally and
16 correctly, isn't that the avenue in this case, or in any
17 case through the system that we've established?

18 JUDGE MILLER: Yes, sir.

19 MR. SAFRAN: And so I guess, as sad as it
20 may be, is there anything unique about the fact that there
21 was not a resolution maybe in someone's favor on appeal?
22 That happens, doesn't it?

23 JUDGE MILLER: Yes, sir. It does.

24 MR. SAFRAN: And sometimes it may be because
25 of debt or of -- I guess deficiencies in the process of the

1 appeal itself.

2 JUDGE MILLER: Yes.

3 MR. SAFRAN: And I think, again, Ms. Bryant
4 started out with a lawyer, didn't she?

5 JUDGE MILLER: Yes, sir.

6 MR. SAFRAN: All right. I mean, and I guess
7 that lawyer had some involvement in the case, and certainly
8 if they had chosen, they could have retained somebody else
9 to pursue an appeal or anything else they wanted to.

10 JUDGE MILLER: Yes, sir.

11 MR. SAFRAN: And I mean, I'm not just
12 singling them out. Isn't that what happens pretty much
13 with anybody in your courtroom?

14 JUDGE MILLER: Yes, sir. That's correct.

15 MR. SAFRAN: And that happens pretty
16 routinely, doesn't it?

17 JUDGE MILLER: It does.

18 MR. SAFRAN: And you have been reversed in
19 the past, haven't you?

20 JUDGE MILLER: Yes, sir.

21 MR. SAFRAN: Okay. So again, when you get
22 reversed, you know, they don't basically kick you out the
23 door, do they?

24 JUDGE MILLER: No, sir.

25 MR. SAFRAN: All right. Thank you for your

1 candor. And certainly, again, I thank you for
2 acknowledging that certainly Mr. Bryant had some reason,
3 you know, to be frustrated. But obviously, I think we're
4 trying to ferret out that maybe it may not be sourced in
5 the same way he's assuming.

6 JUDGE MILLER: Yes, sir.

7 MR. SAFRAN: Thank you.

8 JUDGE MILLER: Thank you very much. Yes,
9 sir.

10 CHAIRMAN RANKIN: Judge, I want to touch on
11 a couple of things here. And, perhaps, at least regarding
12 Mr. Field and Ms. Taillon, and the victims, and the
13 receiver. You might have this titled to your eleven-year
14 quest: No good deed goes unpunished.

15 JUDGE MILLER: Yes, sir.

16 CHAIRMAN RANKIN: Again, I'm not assigning
17 merit where it shouldn't be. Because I, too, struggle with
18 the credibility of Mr. -- or Dr. Field. But that brings us
19 to, again, this conversation that we have with all judges
20 or judge candidates.

21 And I don't know that I've ever appeared
22 before you, you have a reputation that is what many, in
23 fact most, would hold up as the mark of service. And so
24 you have gotten wonderful comments.

25 There are -- there is a strain or a theme,

1 though, aside from the complaints that we've heard today,
2 about -- again, as I said at the outset, what are the
3 complaints. Is it temperament, is it whatever?

4 But that effectively, again, though, in the
5 very distinct minority, portray you as a judge who is --
6 for a young attorney coming in, who might not have their
7 case prepared as well as that seasoned attorney who -- at
8 your outset, you recognize those who do and those who
9 don't, they may frustrate you, those who don't.

10 I would suggest to you, as a young attorney
11 coming before you, either they are better -- they better be
12 prepared. Because if they're not, they may be embarrassed
13 in front of their client. You've had that happen with you,
14 perhaps, when you were starting out as a young attorney?

15 JUDGE MILLER: Yes, sir. I have quite a bit
16 of scar tissue.

17 CHAIRMAN RANKIN: And the scar tissues is
18 ultimately going to -- one kick by the mule, hopefully,
19 prevents a second, right?

20 JUDGE MILLER: Yes, sir.

21 CHAIRMAN RANKIN: But to the -- to the new
22 attorney coming in, again, if there's this perception that
23 -- and your testimony, again at the outset, I guess they're
24 going to be damn sure that they are extremely prepared,
25 less they get the not-so-good side of Judge Miller.

1 JUDGE MILLER: I don't -- I don't think that
2 I castigate them. And I do make a habit -- we don't try
3 too many civil cases anymore. But the criminal cases that
4 come in front of me, when a young lawyer tries a case, and
5 that jury is out, I make a habit of speaking with them and
6 telling them what I thought -- where their strengths were
7 and where they needed to improve.

8 And I am certainly not personally
9 denigrating anybody. So I hope I didn't give that
10 impression.

11 CHAIRMAN RANKIN: Well, and, again, I'm just
12 voicing the anonymous and, again, distinctly in the
13 minority comments. Because overwhelmingly, "Fair.
14 Reasonable. Witty." And so sometimes wit, it lands
15 poorly. I've got such an incredible wit that so few people
16 understand me.

17 JUDGE MILLER: We'd probably get along
18 really well, Senator.

19 CHAIRMAN RANKIN: But that -- again,
20 sometimes folks just don't get me, and so either they'll
21 catch up or whatever. But it is important to me, you're
22 hearing this now, kind of voiced by a number of us, because
23 it is your last shot, our last shot.

24 We are trying to instill all of these things
25 that you have heard, and that we try to impart to make sure

1 that the folks in the courtroom, the jurors, the litigants,
2 everyone is treated fairly and is given a fair shot. Not
3 that the person may be the most prepared or the most
4 seasoned, but is -- facts dictating fairness and justice
5 from you.

6 So help us with the record, other than your
7 word, which, again, I take full stock. Help us with what
8 judge you would want to be most associated with, again, as
9 you --

10 JUDGE MILLER: Well, I --

11 CHAIRMAN RANKIN: -- end out your career in
12 terms of people that hold -- or judges that are held in
13 such high regard.

14 JUDGE MILLER: Yes, sir.

15 CHAIRMAN RANKIN: Who are your models? Who
16 are your mentors?

17 JUDGE MILLER: Well, I've spent my whole
18 career based in Greenville. And I think we've had a lot of
19 really good judges come through Greenville. But when I
20 think about the circuit judges who age up, of course
21 there's Judge Eppes. But there is no one on the planet who
22 can be like Judge Frank Eppes.

23 And then there's Judge Victor Pyle, who I
24 tried many, many cases in front of. And I watched him
25 throughout his career, and greatly admired his demeanor and

1 restraint and his ability and his temperament.

2 We've had -- I would -- Judge Bill Traxler
3 was there, I greatly admired him. And Justice Kittredge,
4 who I tried numerous cases in front of, is another one who
5 I would admire.

6 So I'm not interested in -- I'm interested,
7 if you give me another opportunity, in closing out my
8 career on a good note, where my fellow lawyers, members of
9 the Bar will look up to me and have a high opinion of my
10 ability and my temperament. So that is important to me.
11 And I hope I can do that. I believe I can.

12 CHAIRMAN RANKIN: You have two children,
13 grown, adult-age children, one of whom lives in Horry
14 County, works in Myrtle Beach?

15 JUDGE MILLER: Yes, sir.

16 CHAIRMAN RANKIN: I'm familiar with -- my
17 wife recently retired from the board at the Chapin Art
18 Museum.

19 JUDGE MILLER: Yes, sir.

20 CHAIRMAN RANKIN: And a son who is an
21 attorney or assistant solicitor.

22 JUDGE MILLER: Yes, sir.

23 CHAIRMAN RANKIN: They're not with you here
24 today. They could be as other folks have brought their
25 family members to smile and stand or sit in support of.

1 Obviously, you have a legacy created. Your children -- our
2 children are our legacy.

3 JUDGE MILLER: Yes, sir.

4 CHAIRMAN RANKIN: Our words, our deeds, our
5 actions are our legacy. And so, again, as you have served,
6 I guess, perhaps, the subtle prod might be in terms of
7 meeting justice and interacting with all the litigants,
8 remember when you were a new, young attorney, and your
9 first days in the courtroom.

10 And treat everyone as, again you say that
11 you have, and, perhaps, like I need to do, these folks will
12 attest, lighten up on the attempt at wit, and smile and
13 encourage and be the -- what everything else is -- the
14 majority of these folks are saying about you.

15 So, yeah, with that, I will turn it over to
16 any other members for any final questions. Representative
17 Murphy.

18 REPRESENTATIVE MURPHY: I just wanted to --
19 in response to Judge Miller, and in response a question by
20 Representative Smith he had asked about, I guess, an
21 accounting. So I went back through -- I've been looking
22 through the public records in Greenville, and it appears
23 back in 2014, there was an order of disbursement signed by
24 you --

25 JUDGE MILLER: Yes, sir.

1 REPRESENTATIVE MURPHY: -- for the
2 disbursement of a million -- one million dollars of the
3 settlement proceeds, or the assets that were marshaled.

4 JUDGE MILLER: Right.

5 REPRESENTATIVE MURPHY: It appears the
6 attorneys, as you had suggested, were working on a
7 contingency. So they did receive one-third of that. The
8 remainder was disbursed to the investors and the
9 plaintiffs.

10 In 2017, there was a filed motion by the
11 plaintiffs to enforce the global settlement agreement.
12 Since that time there have been -- that is where we found
13 ourselves with the various rules with the Fields Family not
14 complying with the terms of the agreement, and basically,
15 it appears, putting up roadblocks to the enforcement of the
16 global settlement agreement.

17 So it appears that at this point, of the
18 monies that have been compiled by the receiver, only one
19 million has been disbursed. But it does not appear from my
20 review of the public records, that there has been any fault
21 of the plaintiffs or the receiver. It has been the actions
22 of the Field -- Mr. Field, his wife, and other members of
23 his family.

24 JUDGE MILLER: I believe so. And I'll get
25 Mr. Saad to -- he's very meticulous. So I will get a -- an

1 accounting.

2 REPRESENTATIVE MURPHY: I just want to make
3 sure that the record was clear before we --

4 JUDGE MILLER: Oh, okay. Yes, sir.

5 REPRESENTATIVE MURPHY: -- finished this
6 hearing.

7 CHAIRMAN RANKIN: Mr. Strom.

8 MR. STROM: Good afternoon, Judge.

9 JUDGE MILLER: Yes, sir.

10 MR. STROM: I've been listening to all this,
11 and this -- this is where I think this boils down in my
12 mind. You have a class actions that settled in front of
13 you. You got the receiver in the courtroom, the Attorney
14 General's office shows up, you've got a courtroom full of
15 victims wanting to understand what's going on and where
16 their money is.

17 The Attorney General, by statute, can't
18 comment whether there's an investigation or not. The
19 receiver is just getting started. And I'm just trying to
20 think about how I would feel if I was sitting up on the
21 bench; you've got citizens out there, and you're trying to
22 give them at some level, some explanation; is that right?

23 JUDGE MILLER: Yes, sir. An assurance.

24 MR. STROM: And because of the way our
25 lawsuits are handled, the Attorney General is not going to

1 say anything, and Mr. Saad certainly doesn't want to get
2 into an individual discussions with all these people.

3 He's obviously got a plan, but -- and he
4 enjoys an excellent reputation, I agree with that. And you
5 just kind of were in a quagmire on what to do. And I do
6 think that you probably said some things that you regret.

7 But I can see how, in this unique situation,
8 somebody can make a mistake or somebody could get a little
9 frustrated. That is not your reputation. I don't know if
10 I've ever appeared before you, maybe once. But I know your
11 reputation up in Greenville, and it's excellent.

12 And so I see this as an anomaly case, way
13 outside the box, and I think you probably could have
14 handled some things better. And you've given your word to
15 us that this -- you've learned that lesson, and if we're
16 out of the box, we're still going to make sure that we're
17 really, really thoughtful about courtesy to everybody.

18 JUDGE MILLER: Yes, sir. I will.

19 MR. STROM: Thank you, sir.

20 JUDGE MILLER: Yes, sir.

21 CHAIRMAN RANKIN: Mr. Safran.

22 MR. SAFRAN: Just two quick things. First,
23 let me correct myself. It seems like thirty years, I can't
24 remember how many it is, but it's been a long time. I want
25 to make sure that I'm clear at that, that I'm -- I've been

1 doing it thirty-seven. So it's been a while since probably
2 first when you got on the bench.

3 JUDGE MILLER: Yes, sir.

4 MR. SAFRAN: And that was many years ago.
5 And the other thing is this, I just want to make sure we're
6 clear. I agree with Mr. Strom, I think you've indicated
7 that there was thing said, and there were moments where you
8 wish you could take them back.

9 JUDGE MILLER: Yes, sir.

10 MR. SAFRAN: And that's in each of these
11 situations to some extent, correct?

12 JUDGE MILLER: Yes, sir.

13 MR. SAFRAN: All right. And, you know,
14 again, I think people need to understand that we certainly
15 recognize that anybody comes here has a right to voice
16 their complaints, has a right to be heard.

17 But at the same time, I think what -- my
18 point is this: We've got multiple forums that handle
19 aspects of grievances, whether they be the judge is wrong
20 in his ruling, or, ethically, the judge has done something.

21 And then we're not really here in this room
22 to go back and relitigate those things. There are appeals
23 done every day for a purpose. There is a disciplinary
24 council that is there to really focus on issues of ethics
25 and bad behavior.

1 And I guess that's the thing, is while
2 people come here, I think they look at us too many times as
3 being the one that can go back and effectively change
4 everything that these other places that are more or less
5 created for those specific purposes, that we can somehow go
6 back and change it all.

7 And I guess, Judge, are you aware, and I
8 guess would you agree, that while lay-people, they don't
9 understand that there are different areas and that,
10 unfortunately, we're not here to go back and re-do all this
11 stuff.

12 JUDGE MILLER: Yes, sir. I would -- I would
13 agree with that. Yes, sir.

14 MR. SAFRAN: And I guess, unfortunately,
15 it's just something the public's not completely clear on,
16 that, you know, we don't necessarily go back and try these
17 things again.

18 JUDGE MILLER: Yes, sir.

19 MR. SAFRAN: But again, all things said, I
20 think you've already mentioned Mr. Bryant, and I'm assuming
21 again with Dr. Field, it got over the course of years where
22 I'm sure it probably pushed you to the edge of -- the edge
23 of the cliff as far being frustrated.

24 JUDGE MILLER: Yes, sir. I did -- he was --
25 he could be very frustrating.

1 MR. SAFRAN: I understand that. And, again,
2 I don't think any of us here is expecting perfection. But
3 we do recognize that as a judge there is a higher standard
4 than maybe we would be off the street, or just us sitting
5 here today, correct?

6 JUDGE MILLER: Yes, sir.

7 MR. SAFRAN: And it's regrettable that maybe
8 some of those things occurred. But I think hearing from
9 you, you acknowledge them and understand it going forward,
10 that a lesson's been learned.

11 JUDGE MILLER: Yes, sir. I hope to grow --

12 MR. SAFRAN: Thank you for --

13 JUDGE MILLER: -- and improve from that.

14 MR. SAFRAN: Thank you.

15 CHAIRMAN RANKIN: All right. Anybody else?
16 Any questions or comments by our Commission members?

17 (Hearing none.)

18 CHAIRMAN RANKIN: There being none. Judge
19 Miller, we do have a couple of housekeeping things to take
20 care of.

21 JUDGE MILLER: Yes, sir.

22 BY MS. WILKINSON:

23 Q. Judge Miller.

24 A. Yes, ma'am.

25 Q. As the chairman said, we do have a few

1 housekeeping issues to discuss. Since submitting your
2 letter of intent have you -- since submitting your letter
3 of intent have you contacted any members of the Commission
4 about your candidacy?

5 A. No, ma'am.

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

9 A. Yes, ma'am.

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

14 A. No, ma'am.

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

19 A. No, ma'am.

20 Q. Have you reviewed and do you understand the
21 Commission's guidelines on pledging in South Carolina Code
22 Section 2-19-70, Subsection E?

23 A. Yes, ma'am, I do.

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

1 investigation today of the candidate were incorporated into
2 the questioning of him today.

3 CHAIRMAN RANKIN: All right. Thank you.
4 And, Judge Miller, you've been here a long time today. And
5 I don't know if there's anything else you would like to
6 add, but we are about to close the record in terms of this
7 portion of our screening process. Anything further you'd
8 like to add?

9 JUDGE MILLER: No, sir. I just appreciate
10 your attention to the matter.

11 CHAIRMAN RANKIN: Very well. So again, this
12 portion of our screening process is concluded. Pursuant to
13 our criteria and our focus, you are aware that we view both
14 the spirit and the letter of the South Carolina ethics laws
15 as very important --

16 JUDGE MILLER: Yes, sir.

17 CHAIRMAN RANKIN: -- and must be adhered to.
18 Any violation or appearance of impropriety in the regard
19 will be deemed very serious and deserving of great
20 consideration in further deliberative screening processes
21 by us.

22 And so you know, in the event that we would
23 need to call you back, we would have the right because the
24 record will remain open till the formal release of the
25 record of qualifications. You are aware of that, correct?

1 JUDGE MILLER: Yes, sir. I am.

2 CHAIRMAN RANKIN: Very well. All right,
3 sir. Thank you again for your service. Thank you again
4 for candor today, your openness, and hopefully we will see
5 you down the road --

6 JUDGE MILLER: Yes, sir.

7 CHAIRMAN RANKIN: -- in continued service
8 and continued work on behalf of South Carolina.

9 JUDGE MILLER: Thank you very much.

10 CHAIRMAN RANKIN: Thank you so much. And
11 that will conclude this portion. And we will -- we are
12 going to be done for the day, I do believe.

13 (Candidate excused.)

14 CHAIRMAN RANKIN: All right. Thank you,
15 Ladies and Gentlemen. We'll see you all in the morning.

16 (OFF THE RECORD AT 5:35 P.M.)

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