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JUDICIAL MERIT SELECTION COMMISSION

PUBLIC HEARINGS

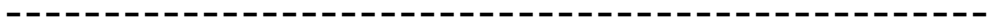
Monday, April 18, 2011

9:15 a.m.



Gressette Building, Room 207
Columbia, South Carolina

REPORTED BY: YVONNE R. BOHANNON
Registered Merit Reporter,
Certified Realtime Reporter



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1 MEMBERS IN ATTENDANCE:

2

SENATOR GLENN F. McCONNELL, CHAIRMAN

3

REPRESENTATIVE F.G. DELLENEY, JR.,
VICE-CHAIRMAN

4

5

REPRESENTATIVE ALAN D. CLEMMONS

6

PROFESSOR JOHN P. FREEMAN

7

JOHN DAVIS HARRELL, ESQUIRE

8

SENATOR JOHN M. "JAKE" KNOTTS, JR.

9

REPRESENTATIVE DAVID J. MACK, III

10

AMY JOHNSON McLESTER

11

SENATOR FLOYD NICHOLSON

12

H. DONALD SELLERS, ESQUIRE

13

14 COUNSEL:

15

JANE SHULER, CHIEF COUNSEL

16

BONNIE ANZELMO

17

EMMA DEAN

18

PATRICK G. DENNIS

19

BRADLEY S. WRIGHT

20

21

(INDEX AT REAR OF TRANSCRIPT)

22

23

24

25

1 REPRESENTATIVE DELLENEY: We'll call
2 the Judicial Merit Selection Commission to order.
3 The Judicial Merit Selection Commission is called
4 pursuant to Chapter 19 of Title 2 of the South
5 Carolina Code of Laws requiring the review of
6 candidates for judicial office. The function of
7 the Commission is not to choose between candidates
8 but, rather, declare whether or not the candidates
9 who offer for positions on the bench in our
10 judgment are qualified to fill the positions they
11 seek.

12 The inquiry we undertake is a thorough
13 one and is centered under the Commission's nine
14 evaluative criteria which include a complete
15 personal and professional background check on each
16 candidate.

17 These public hearings are convened for
18 the purpose of screening candidates. Today we will
19 screen three vacancies for the family court and two
20 vacancies for master-in-equity.

21 Now, counsel, Ms. Shuler, advises me
22 that we have some matters to take up in executive
23 session.

24 Is there a motion that we go into
25 executive session?

1 SENATOR KNOTTS: So moved.

2 MR. HARRELL: So moved -- seconded.

3 REPRESENTATIVE DELLENEY: All right.

4 All in favor, aye.

5 We are now in executive session.

6 (The Committee went into executive
7 session.)

8 MS. SHULER: The proposed rule changes
9 to the Citizens Committee for Judicial
10 Qualifications Rules -- and we would add a rule
11 that states that each citizens -- each member of
12 the Citizens Committee must actively participate in
13 the process, and if they miss two unexcused,
14 consecutive meetings of the Citizens Committee,
15 then --

16 SENATORS KNOTTS: In a year.

17 MS. SHULER: -- in a year, then they
18 will be removed from the Citizens Committee.

19 Also the Citizens Committee chair must
20 submit an attendance record of each member who
21 participated at the end of each screening.

22 REPRESENTATIVE DELLENEY: Any questions
23 about the rule change? Any further discussions
24 about the rule change?

25 SENATORS KNOTTS: Do you want to put in

1 there where attendance records should be submitted
2 to --

3 MS. SHULER: Must be submitted to
4 staff.

5 REPRESENTATIVE DELLENEY: Okay. All in
6 favor of the rule change, aye. Opposed.

7 The ayes have it.

8 SENATORS KNOTTS: Mr. Chairman.
9 Mr. Chairman.

10 REPRESENTATIVE DELLENEY: Yeah.

11 SENATORS KNOTTS: In the name of
12 transparency, do we need to raise our hands for the
13 record?

14 MS. SHULER: Yes. Let's do that.

15 REPRESENTATIVE DELLENEY: I think it's
16 unanimous. Let's take another one.

17 Okay. Our first candidate is -- we
18 need to accept the Citizens Report, don't we?

19 MS. SHULER: We do.

20 REPRESENTATIVE DELLENEY: All right.
21 Ms. Shuler.

22 MS. SHULER: I would like to have offer
23 and have made exhibits to the record the following:
24 the Citizens Committee Report for the spring 2011
25 from the Low Country Citizens Committee and six

1 reports; the Midlands Citizens Committee, one
2 report; the Pee Dee Citizens Committee, five
3 reports; and the Upstate Citizens Committee, four
4 reports.

5 The Low Country Citizens Committee, let
6 me amend that. I'd like to have Ms. Badgett's
7 report withdrawn from the record, so there will be
8 five reports.

9 REPRESENTATIVE DELLENEY: Are there any
10 objections to these reports?

11 All right. Hearing none, I ask at this
12 time that the Low Country Citizens Report which
13 is -- consists of five reports, the Pee Dee
14 Citizens Committee which consists of five reports,
15 and the Upstate Citizens Committee which consists
16 of four reports for the spring 2011 elections and
17 screening be marked as exhibits and entered --
18 entered into the public hearing record.

19 (EXH. 1, Citizens Committee Reports,
20 admitted.)

21 REPRESENTATIVE DELLENEY: All right.
22 Are we ready for our -- would you bring in
23 Mr. Braddock.

24 SENATORS KNOTTS: Mr. Chairman, we just
25 had one person that has withdrawn so far?

1 MS. SHULER: We had one candidate
2 withdraw earlier before.

3 SENATORS KNOTTS: She's not on here.

4 MS. SHULER: She's not on there.

5 REPRESENTATIVE DELLENEY: Good morning,
6 Mr. Braddock.

7 MR. BRADDOCK: Morning.

8 REPRESENTATIVE DELLENEY: If you would,
9 sir, raise your right hand to be sworn.

10 (Bryan W. Braddock was duly sworn,
11 after which testimony began at 9:34 a.m.)

12 REPRESENTATIVE DELLENEY: Thank you,
13 sir.

14 The Judicial Merit Selection Commission
15 has thoroughly investigated your qualifications for
16 service on the bench. Our inquiry has primarily
17 focused on our nine evaluative criteria which
18 include a survey of the bench and bar, a thorough
19 study -- study of your application materials,
20 verification of your compliance with state ethics
21 laws, the search of newspaper articles in which
22 your name may have appeared, a study of any
23 previous screenings, and a check of -- for economic
24 conflicts of interest.

25 We have not received any affidavits in

1 opposition to your election, and there are no
2 witnesses to testify.

3 Do you have a brief opening statement
4 you'd like to make?

5 MR. BRADDOCK: No.

6 REPRESENTATIVE DELLENEY: Thank you,
7 sir.

8 If you would, answer any questions
9 Bonnie Anzelmo might have for you.

10 MS. ANZELMO: Thank you.

11 Mr. Chairman and members of the
12 Commission, I have a few procedural matters to take
13 care of with this candidate.

14 Mr. Braddock, you have before you the
15 personal data questionnaire you submitted as a part
16 of your application and your amendment. Are there
17 any additional amendments that you would like to
18 make at this time to your personal data
19 questionnaire?

20 MR. BRADDOCK: No, ma'am.

21 MS. ANZELMO: Mr. Chairman, I would
22 like to ask that Mr. Braddock's personal data
23 questionnaire and amendment be entered as an
24 exhibit into the hearing record.

25 REPRESENTATIVE DELLENEY: It will be

1 entered in the record at this point in the
2 transcript without objection.

3 (EXH. 2, Amendment to the Personal Data
4 Questionnaire of Mr. Bryan W. Braddock, admitted.)

5 (EXH. 3, Personal Data Questionnaire of
6 Mr. Bryan W. Braddock, admitted.)

7 MS. ANZELMO: Mr. Braddock, you have
8 before you the sworn statement that you provided
9 with detailed answers to over 30 questions
10 regarding judicial conduct, statutory
11 qualifications, office administration, and
12 temperament. Are there any amendments you would
13 like to make at this time to your sworn statement?

14 MR. BRADDOCK: No, ma'am.

15 MS. ANZELMO: At this time,
16 Mr. Chairman, I would like to ask that
17 Mr. Braddock's sworn statement be entered as an
18 exhibit into the hearing record.

19 REPRESENTATIVE DELLENEY: Without
20 objection, it will be entered into the transcript
21 at this point.

22 (EXH. 4, Sworn Statement of Bryan
23 Wesley Braddock, admitted.)

24 MS. ANZELMO: I note for the record
25 that based on the testimony contained in

1 Mr. Braddock's personal data questionnaire which
2 has been included in the record with his consent,
3 Mr. Bryan Braddock meets the statutory requirements
4 for this position regarding age, residence, and
5 years of practice.

6 Mr. Braddock, will you please tell the
7 Commission the city and judicial circuit in which
8 you reside.

9 MR. BRADDOCK: I live in Hartsville,
10 South Carolina, which is within Darlington County
11 which is within the fourth judicial circuit.

12 MS. ANZELMO: Thank you.

13 Mr. Braddock, why do you do you want to
14 serve as a family court judge?

15 MR. BRADDOCK: Well, I -- I'm a family
16 court attorney, and -- and when I say that, that
17 actually means something to those who practice law.
18 I'm not merely an attorney who does some family
19 court. I am a family court attorney. That's 85 --
20 80 to 85 percent of my practice is exclusively in
21 the family court. That's primarily what I consider
22 myself. That's the court in which I practice, I
23 have the most experience, I feel I'm most
24 qualified, and really that's the only court in
25 which I desire to be a judge.

1 MS. ANZELMO: Can you explain -- sorry.
2 Can you explain to the Commission how you feel your
3 legal and professional experience thus far will
4 assist you to be an effective judge.

5 MR. BRADDOCK: Well, I -- I did have
6 the opportunity of course to clerk for a circuit
7 court judge for one year upon obtaining my jurist
8 doctorate. That was a very valuable experience. I
9 got to observe from Judge Paul Burch who I have
10 great respect -- for whom I have great respect, his
11 judicial temperament, the manner in which he
12 interacted with not only attorneys but the staff.
13 That was very valuable.

14 Since then I have primarily practiced
15 within the family court, as I indicated. Through
16 these years I've handled virtually every type of
17 family court case that they have. Every facet of a
18 family court case I've handled at one point or
19 another. I can think of the types of family court
20 matters on one hand that I have not been personally
21 involved in. So I feel like I have a very wide
22 array of experience within the family court.

23 I've interacted with numerous other
24 attorneys, older attorneys, have gathered
25 experience from trying cases against them,

1 mediating cases against them. I practiced in
2 approximately, let's see, five circuits within
3 South Carolina where I practiced extensively, and
4 so I know the judges, the attorneys. I have a
5 familiarity with the different manners in which the
6 judges hold court. And I just feel very
7 comfortable being a family court judge.

8 MS. ANZELMO: Are there any areas,
9 including subjective areas of law, for which you
10 would need to additionally prepare to serve as a
11 judge and how you would handle that additional
12 preparation?

13 MR. BRADDOCK: Well, just being
14 straightforward, I never have been involved in
15 international adoption. I understand there are
16 additional requirements and standards for
17 international adoptions. I've handled many regular
18 adoptions, family adoptions, third-party non-family
19 adoptions as well. I've never been involved in
20 international adoption. That's the one area that
21 really jumps out at me.

22 I'd probably need to make sure --
23 but -- but adoptions are handled differently by
24 judges anyway. Even a regular adoption -- Judge
25 Murdock himself, whose seat of course I'm running

1 for, was very, very particular in the manner in
2 which he -- he handled adoptions. Every time there
3 was an adoption he got the file ahead of time and
4 went through a checklist, I mean, weeks ahead of
5 time to make sure everything was done just exactly
6 perfectly because the -- an adoption really is of
7 all the cases a family court judge handles perhaps
8 the one that you want to ensure most of all that
9 everything is done properly.

10 So that would be the one area of law I
11 think that I probably would need to review and
12 become more familiar.

13 MS. ANZELMO: Although you address this
14 in your sworn affidavit, could you please explain
15 to the members of the Commission what you think is
16 the appropriate demeanor for a judge.

17 MR. BRADDOCK: A judge should give
18 respect. A judge should demand respect. A judge
19 should have an appropriate temperament, should have
20 patience with the -- both the litigants, the
21 witnesses, and the counsel. A judge should always
22 carry himself publicly inside and outside the
23 courtroom in a manner which would -- which reflects
24 the importance and the honor of the position in
25 which they hold.

1 Obviously having knowledge of the law,
2 being familiar with the law, staying up with any
3 legislative or judicial changes, being familiar
4 with the law and being familiar with procedural and
5 substantive parts of the law.

6 MS. ANZELMO: Thank you.

7 When you leave the bench, what would
8 you like for your legacy to be as a judge on the
9 family court?

10 MR. BRADDOCK: That I was fair. I
11 mean, the family court is a -- is a court of equity
12 and -- and of all the courts I do believe it to be
13 the most equitable because of the discretion the
14 judge has to actually make decisions and create a
15 result which serves the best interest of all the
16 parties involved, as well as the children that are
17 involved in the process.

18 If they look back at me at the end and
19 say he was fair, that's probably -- if I could pick
20 one word, that would be the best word.

21 MS. ANZELMO: What suggestions would
22 you offer for improving the backlog of cases on the
23 docket in family court?

24 MR. BRADDOCK: Well, the first thing
25 that jumps to -- to mind is the -- utilizing the

1 mediation process within the family court. I have
2 found mediation to be extremely helpful in cases in
3 which I've been involved. Florence County is a
4 mandatory mediation county for family court. And
5 it has been amazing to me the number of cases where
6 people would come into a temporary hearing and the
7 two parties they couldn't agree on anything,
8 anything, and you send them to an experienced
9 mediator who goes over the issues with them, and by
10 the time the mediator is done, they're sending back
11 a report that they've resolved all the issues
12 between these parties.

13 And that's as quickly, you know, as two
14 weeks or four weeks later, and they've gotten these
15 people to come to a meeting to the minds on the
16 issues. And sometimes you can say we sort of cut
17 through the emotions and -- and get the parties to
18 sort of focus on the real issues, which I think
19 it's invaluable.

20 As attorneys representing the parties
21 sometimes we -- well, we sort of have to be
22 antagonistic by nature for the most part because
23 we're representing our clients. We're representing
24 them. It's nice to have that individual who is
25 coming in from a third-party perspective and can

1 say to the parties, "I'm not here for you. I'm not
2 here for you. I'm here to help both of you, and
3 I'm not either one of your advocates," and it's
4 amazing how helpful that can be in resolving these
5 incredibly emotional issues.

6 MS. ANZELMO: Mr. Braddock, your SLED
7 check revealed a case in which you and your law
8 firm were named as defendants concerning an unpaid
9 loan. Would you please explain your involvement in
10 this case to the Commission and would you please
11 tell the Commission the current status of the
12 lawsuit.

13 MR. BRADDOCK: Yes, ma'am. It is no
14 longer a lawsuit. It was entered as a judgment. I
15 have to go back a little bit. In 2005 I left the
16 Saleeby & Cox law firm in Hartsville and moved over
17 to Florence, went in with two other attorneys which
18 would be Craig Young and Lee Miller. That was in
19 August of 2005.

20 For about a year, year and a half
21 everything went fine. During that period of time
22 we obtained a unsecured loan in the name -- all
23 three names as well as the law firm with which we
24 financed Craig Young's -- primarily used it to
25 finance his nursing home negligent practice which

1 requires retention of numerous experts and
2 expensive -- it's an expense -- expensive area of
3 law in which to practice.

4 About a year and a half after being
5 over there, Craig experienced some very serious
6 medical issues, also had some personal issues which
7 intensified his medical issues. And we were forced
8 to utilize the -- the loan to supplement the income
9 for the firm in order to keep his paralegal on
10 staff and to pay certain bills while he was out
11 unable to support the firm financially.

12 He returned in I believe August of
13 2008, August or September, took full-time practice,
14 but then on November 14th, 2008, he went home. It
15 was a Friday. He went home to take a nap during
16 the day, and he didn't wake up. He passed away.

17 So quite unexpected obviously.
18 Financially we were unprepared for that. His
19 income of course was completely gone. And so the
20 two remaining partners were left with a substantial
21 financial burden which we've attempted to handle
22 for a period of time. Eventually in essence agreed
23 to resolve it by means of judgment. That was late
24 last year.

25 We have recently reached an agreement

1 with the bank that holds the judgment. We've paid
2 a substantial amount of money to have the judgment
3 withdrawn, and there is a payment of \$20,000 that's
4 owed by the end of this year from the firm that
5 will permanently resolve that issue. That's --
6 that's how it came about and that's where it
7 stands.

8 MS. ANZELMO: Thank you.

9 Mr. Chairman, I would like to request
10 that we now go into executive session to handle one
11 matter.

12 REPRESENTATIVE DELLENEY: Do I hear a
13 motion that we go?

14 SENATORS KNOTTS: So moved.

15 REPRESENTATIVE MACK: Second.

16 REPRESENTATIVE DELLENEY: All in favor.
17 We're now in executive session.

18 (The Committee went into executive
19 session.)

20 MS. ANZELMO: Thank you, Mr. Braddock.
21 Have you sought or received the pledge
22 of any legislator prior to this date?

23 MR. BRADDOCK: No, ma'am.

24 MS. ANZELMO: Have you sought or have
25 you been offered a conditional pledge of support of

1 any legislator pending the outcome of your
2 screening?

3 MR. BRADDOCK: No, ma'am.

4 MS. ANZELMO: Have you asked any third
5 parties to contact members of the General Assembly
6 on your behalf?

7 MR. BRADDOCK: No, ma'am.

8 MS. ANZELMO: Have you contacted any
9 members of the Commission?

10 MR. BRADDOCK: No, ma'am.

11 MS. ANZELMO: Do you understand that
12 you are prohibited from seeking a pledge or a
13 commitment until 48 hours after the formal release
14 of the Commission's report?

15 MR. BRADDOCK: Yes, ma'am.

16 MS. ANZELMO: Have you reviewed the
17 Commission's guidelines on pledging?

18 MR. BRADDOCK: Yes.

19 MS. ANZELMO: As a follow-up, are you
20 aware of the penalties for violating the pledging
21 rules; that is, it is a misdemeanor and upon
22 conviction the violator must be fined not more than
23 \$1,000 or imprisoned not more than 90 days?

24 MR. BRADDOCK: Yes, ma'am.

25 MS. ANZELMO: I would note that the Pee

1 Dee Citizens Committee found Mr. Braddock qualified
2 in the areas of Constitutional qualifications,
3 physical health and mental stability. The
4 Committee found him well-qualified in the areas of
5 ethical fitness, professional and academic ability,
6 character, reputation, experience, and judicial
7 temperament.

8 The Committee stated in summary,
9 "Mr. Braddock is an excellent candidate who the --
10 who, although younger than one might expect for a
11 judicial candidate, has extensive experience in
12 family court litigation which erased our initial
13 concern."

14 I would just note for the record that
15 any concerns raised during the investigation
16 regarding this candidate were raised -- were
17 incorporated into the questioning of him today.

18 Mr. Chairman, I have no further
19 questions.

20 REPRESENTATIVE DELLENEY: Does any
21 member of the Commission have any further questions
22 for Mr. Braddock?

23 Mr. Knotts -- Senator Knotts.

24 SENATORS KNOTTS: Mr. Braddock, what is
25 your work ethic?

1 MR. BRADDOCK: I would like to think I
2 have a very -- very strong work ethic. I believe
3 that comes from my upbringing. My father worked
4 for 35 years in the mill at Sonoco as a millworker.
5 My mom stayed at home with five children. She sold
6 Tupperware and did things on the side to try to
7 supplement the family income.

8 But I have what I consider to be a
9 very -- I'm proud of having a very blue collar
10 upbringing, and along with that, I have what I
11 believe to be a blue collar work ethic which is you
12 work until the job is done and however many hours
13 that takes and as hard as you can.

14 Regularly I work -- I live about 35 to
15 40 minutes from my office. I get up in the
16 morning. I head to the office. I work a full day.
17 I usually don't leave the office until 6:00, 6:30,
18 come home, spend some time with the family because
19 you -- you've got to keep the family involved in
20 the entire picture.

21 I have two children, six and a half,
22 three and a half, and once they're in bed, most
23 nights I head back up to my office and work for a
24 few more hours.

25 SENATORS KNOTTS: And you practiced in

1 the family court for how long?

2 MR. BRADDOCK: Well, since I started
3 practicing --

4 SENATORS KNOTTS: How many years?

5 MR. BRADDOCK: Well, since -- '99 is
6 when I actually became a full-time attorney. I
7 spent one year before that with -- as a judicial
8 clerk.

9 SENATORS KNOTTS: What's your idea of
10 the hours of the judge on a bench?

11 MR. BRADDOCK: What is required.
12 Whatever is required to satisfy what needs to be
13 done. If you're there until 7:00 or eight o'clock
14 at night -- I've been there that late --

15 SENATORS KNOTTS: What about in the
16 morning?

17 MR. BRADDOCK: Usually the -- usually
18 in the morning you're going to have to be there by
19 nine o'clock because the reality is all the cases
20 usually aren't scheduled until 9:30. It's very
21 common to have DSS or DJJ or some other type of
22 emergency hearing that's brought before you at
23 9:15, nine o'clock.

24 SENATORS KNOTTS: In looking through
25 all the records that I've got here, you mentioned

1 everything about family court accept a guardian ad
2 litem. Why did you leave that out? Is that not
3 important or do -- or do you just feel like that
4 that's just one of the things that family court has
5 to deal with?

6 MR. BRADDOCK: I feel that they're
7 incredibly important.

8 SENATOR KNOTTS: Right.

9 MR. BRADDOCK: I mean, they're the
10 child's advocate in the proceeding when the child
11 is involved. They're -- they're advocacy is
12 instrumental. I've never gone through the training
13 to actually be -- to formally be a guardian ad
14 litem.

15 SENATORS KNOTTS: Have you used them?

16 MR. BRADDOCK: Absolutely.

17 SENATORS KNOTTS: Have they been
18 assigned in your cases?

19 MR. BRADDOCK: Oh, yes, sir.
20 Absolutely. Right now I probably have 50 cases in
21 which guardians are involved, at least.

22 SENATORS KNOTTS: Why did you not
23 mention it in your -- all your paperwork?

24 MR. BRADDOCK: I'm not sure. I guess
25 because I've never served in that capacity myself

1 except in a DSS case. And DSS cases I have
2 actually served as a guardian, but since I've never
3 actually served in that capacity, I guess I didn't
4 mention it because my -- my application primarily
5 focused on my experience personally as opposed to
6 an attorney utilizing a guardian ad litem. So
7 that's -- that was the perspective from which I was
8 approaching.

9 SENATORS KNOTTS: So your experience in
10 regard to utilizing guardian ad litem appointed in
11 your cases, has it been good experiences or bad
12 experiences or --

13 MR. BRADDOCK: Almost uniformly good.
14 In the Pee Dee area there are less guardian ad
15 litem. We have both lay guardians as well as
16 attorney guardians. The attorneys who are
17 actually, as I stated, family court attorneys, we
18 generally know who the really good guardians are
19 and we tend to utilize those over and over.

20 SENATORS KNOTTS: What do you -- give
21 me your definition of a good guardian ad litem and
22 how -- how that person should handle a case. If
23 you were a judge and assigned somebody to be a
24 guardian ad litem, what would you expect out of
25 that guardian ad litem?

1 MR. BRADDOCK: To be thorough, to be
2 fair, to come into the case initially with an open
3 mind toward all parties regardless of gender,
4 regardless of age, not to come in with any
5 presumptions as far as who the better custodian is
6 as far as what an appropriate arrangement is until
7 they've fully investigated the individual case.
8 It's got to be a case-by-case approach.

9 They need to be thorough, and they need
10 to meet with the parties and meet with the child or
11 children. You need to make sure you inspect the
12 parties formally with scheduled visits. I think
13 any good guardian is going to have surprise visits
14 and surprise the -- the parties and see what type
15 of environment is there when they're not expecting
16 the guardian.

17 A -- a guardian is going to go to the
18 children's schools if the children are of school
19 age, speak with the teachers, review medical
20 records, review educational records, do whatever is
21 necessary to get a full and complete picture before
22 issuing any type of report or reporting to the
23 Court in the matter.

24 SENATORS KNOTTS: And what you just
25 said, you would require as a sitting family court

1 judge that that be done?

2 MR. BRADDOCK: Absolutely.

3 SENATORS KNOTTS: One of the reasons I
4 ask you that, one of the biggest complaints we have
5 up here is lawyer guardian ad litem not having the
6 time to be a guardian ad litem and not making
7 visits, and some of the people say, "Well, they
8 never came to my house. They never visited my
9 home, never did anything that we know of," and
10 they've -- give a position of the child. And
11 that's the reason I asked you those questions.

12 MR. BRADDOCK: Yes.

13 SENATORS KNOTTS: But you would require
14 a full, thorough investigation by a guardian ad
15 litem if he was -- if he or she was appointed, and
16 if they're lawyers, would you take into
17 consideration the time that they spent on previous
18 cases as to whether or not you would appoint
19 them --

20 MR. BRADDOCK: Absolutely --

21 SENATORS KNOTTS: -- have a reputation
22 for not visiting?

23 MR. BRADDOCK: Yes, sir. I mean, I
24 would never -- and if, in fact, the parties wanted
25 to agree to a guardian, I might confer with them

1 about any reservations I had in that regard.

2 I feel that that's my duty as a judge
3 to make sure that the Court is utilizing guardians
4 because the -- the judge has to be able to trust
5 the guardian. The judge -- the judge believes the
6 guardian is not credible, then they really don't
7 serve a purpose in the process.

8 SENATORS KNOTTS: Thank you.

9 REPRESENTATIVE DELLENEY: Any further
10 questions of Mr. Braddock?

11 There being none, Mr. Braddock, I'd
12 like to at this time thank you for subjecting
13 yourself to the process and offering yourself to be
14 a family court judge.

15 That concludes this portion of your
16 screening. As you know, the record will be closed,
17 but we can -- we reserve the right to reopen it and
18 call you back down here if anything should arise or
19 come to our attention prior to the time that the
20 report actually matures and becomes a report of the
21 Commission. At that point -- at that point it
22 can't be reopened.

23 And I will remind you about the 48-hour
24 rule and ask you to be mindful of that.

25 And thank you for being with us today,

1 and I hope you have a safe trip back home.

2 MR. BRADDOCK: Thank you, sir.

3 (Off the record.)

4 JUDGE BRIGMAN: Good morning.

5 REPRESENTATIVE DELLENEY: Morning,

6 ma'am.

7 We have with us this morning the
8 Honorable Cely Anne Baker Brigman who seeks a
9 position on the family court fourth judicial
10 circuit, seat number two.

11 If you would, please, ma'am, please
12 raise your right hand to be sworn.

13 (Cely Anne Baker Brigman was duly
14 sworn, after which testimony began at 9:58 a.m.)

15 REPRESENTATIVE DELLENEY: Thank you,
16 ma'am.

17 The Judicial Merit Selection Commission
18 has thoroughly investigated your qualification for
19 service on the bench. Our investigation has
20 primarily focussed on nine evaluative criteria
21 which have included a survey of the bench and bar,
22 a thorough study of your application materials,
23 verification of your compliance with state ethics
24 laws, the search of any newspaper articles in which
25 your name may have appeared, a study of any

1 previous screenings, and a check for economic
2 conflicts of interest.

3 We have no affidavits filed in
4 opposition to your candidacy, and there are no
5 witnesses here to testify.

6 Do you have a brief opening statement
7 you would like to make?

8 JUDGE BRIGMAN: Yes, sir. I would just
9 like to thank the Commission for allowing me the
10 opportunity to be here today.

11 And to the senators and the
12 representatives in the room, I've been coming up
13 here for the last few months a couple of times a
14 week and have really learned a new appreciation for
15 what it is that you do here for the citizens of
16 this state. The time and the sacrifices that that
17 must mean for you for what you do back home is
18 incredible, and I just would like you to know that
19 and that I appreciate the opportunity to appear
20 here today.

21 REPRESENTATIVE DELLENEY: Thank you,
22 ma'am.

23 If you would, answer any questions our
24 counsel Mr. Patrick Dennis might have for you.

25 JUDGE BRIGMAN: Yes, sir.

1 MR. DENNIS: Mr. Chairman and members
2 of the Commission, I have just a few procedural
3 matters to take care of with this candidate.

4 Ms. Brigman, you should have before you
5 your personal data questionnaire that you submitted
6 as a part of your application. Are there any
7 amendments that you'd like to make to your PDQ at
8 this time?

9 JUDGE BRIGMAN: I filed an amended
10 statement of economic interest with --

11 MR. DENNIS: Yeah, we've received that.
12 That's not part of your PDQ.

13 JUDGE BRIGMAN: Okay. Okay. Then, no,
14 sir.

15 MR. DENNIS: Thank you.

16 Mr. Chairman, I'd like to ask that
17 Ms. Brigman's personal data questionnaire be
18 entered as an exhibit into the record.

19 REPRESENTATIVE DELLENEY: Without
20 objection it will be entered in the record --
21 record at this point.

22 (EXH. 5, Personal Data Questionnaire of
23 Ms. Cely Anne Baker Brigman, admitted.)

24 MR. DENNIS: Ms. Brigman, you also have
25 before you the sworn statement you provided with

1 detailed answers to over 30 questions regarding
2 judicial conduct, statutory qualifications, office
3 administration, and temperament. Are there any
4 amendments that you would like to make to that
5 document at this time?

6 JUDGE BRIGMAN: No, sir.

7 MR. DENNIS: At this time,
8 Mr. Chairman, I would ask that Ms. Brigman's sworn
9 statement be entered as an exhibit into the hearing
10 record.

11 REPRESENTATIVE DELLENEY: Ms. Brigman's
12 sworn statement will be entered in the record at
13 this point in the transcript without objection.

14 (EXH. 6, Sworn Statement of Cely Anne
15 Baker Brigman, admitted.)

16 MR. DENNIS: Mr. Chairman, I would note
17 for the record that based on the testimony
18 contained in the candidate's PDQ which has been
19 included in the record with the candidate's
20 consent, Ms. Brigman meets the statutory
21 requirement for this position regarding age,
22 residence, and years of practice.

23 Ms. Brigman, will you please state the
24 city and circuit in which you reside.

25 JUDGE BRIGMAN: I reside in Darlington,

1 South Carolina. That is the fourth judicial
2 circuit.

3 MR. DENNIS: Thank you, ma'am.

4 After practicing law for 25 years, why
5 would you now like to serve as a family court
6 judge?

7 JUDGE BRIGMAN: Over the 25 years that
8 I've practiced law, the last ten or so have been
9 primarily in the family court. For about the last
10 eight years I've also been the chief magistrate for
11 Darlington County. I think my experience and
12 education in my practice combined with my judicial
13 experience qualifies me to serve as a family court
14 judge.

15 I think that I have the demeanor and
16 the qualifications to do that. I think it's a
17 natural progression for me career-wise. My
18 children are grown. I have the time and the energy
19 to devote to it. And it's a position that I would
20 very much like to hold.

21 MR. DENNIS: Ms. Brigman, are there any
22 areas, including subjective areas of the law, that
23 you would need to additionally prepare for in order
24 to serve as a judge and how would you handle that
25 additional preparation?

1 JUDGE BRIGMAN: In terms of the areas
2 of family court, I -- I've pretty much practiced in
3 all areas that the family court has handled over
4 the years. The last several years probably the
5 area I've done the least would be juvenile issues,
6 issues dealing with juveniles. As far as
7 preparation, I think that would just be a matter of
8 study and observation to prepare for that area.

9 MR. DENNIS: Thank you.

10 Ms. Brigman, although you address this
11 in your sworn affidavit, could you please explain
12 to the members of the Commission what you think an
13 appropriate demeanor for the judge -- for a judge
14 is.

15 JUDGE BRIGMAN: Yes. I mean, obviously
16 I think judges need to be evenhanded and fair. I
17 think for purposes of family court empathy is an
18 important quality for a judge.

19 Most folks that appear in family court
20 don't really want to be there, or they're there
21 because of some traumatic issues going on in their
22 lives. Family court -- family court judges can
23 impact the most important parts of people's lives,
24 their children, their homes, their finances, and I
25 think we as judges need to understand that, to be

1 there to listen, to -- hopefully so that when the
2 litigants come away from that proceeding, they'll
3 feel like they had a judge who listened and gave
4 them a fair day in court.

5 I don't think really anger has any
6 place as far as a judge's demeanor. We certainly
7 as people get angry, but I think outbursts from
8 judges in the courtroom are not appropriate and I
9 would certainly hope to try to avoid any --
10 anything like that.

11 MR. DENNIS: Ms. Brigman, what
12 suggestions would you offer for improving the
13 backlog of cases on the docket in family court?

14 JUDGE BRIGMAN: In our circuit we don't
15 really have as big a problem with backlog as I
16 think they do in some of the larger circuits. But
17 one thing I have thought about, in cases where you
18 have a hearing that has been scheduled for two days
19 or three days or a big block of time, with
20 everything family court has to handle from DSS to
21 juveniles to clerk's petitions, two or three days
22 out of the week is a lot of time to lose if the
23 case settles.

24 I would like to look at the feasibility
25 of establishing a backup docket like they do in

1 circuit court, to have a plan in place if these
2 cases were to settle, that we would have two or
3 three cases lined up to go in behind those so that
4 you don't have downtime -- a three-day downtime.

5 Also I would personally make myself
6 available to attorneys to get things worked in
7 as -- as the day -- as the day falls apart which it
8 does a lot, to let the attorneys know that I am
9 available if they need to call and get something
10 before me at the last minute or -- or to work
11 something in.

12 MR. DENNIS: Thank you, Ms. Brigman.

13 One last question. As you and I
14 discussed previously this morning, your PDQ
15 indicates that you graduated from law school in
16 1985 but were admitted to the bar in 1986.

17 JUDGE BRIGMAN: Correct.

18 MR. DENNIS: Could you please explain
19 to the Commission why that is.

20 JUDGE BRIGMAN: I went straight through
21 law school. I went to summer school two summers in
22 a row and graduated in December of '85, took the
23 bar in February of '86 and was admitted in May.

24 MR. DENNIS: Thank you so much,
25 Ms. Brigman. Just a couple housekeeping issues to

1 run through with you real quickly.

2 Have you sought or received the pledge
3 of any legislator prior to this date?

4 JUDGE BRIGMAN: No, I have not.

5 MR. DENNIS: Have you sought or have
6 you been offered a conditional pledge of support of
7 any legislator pending the outcome of your
8 screening?

9 JUDGE BRIGMAN: No, I have not.

10 MR. DENNIS: Have you asked any third
11 parties to contact members of the General Assembly
12 on your behalf?

13 JUDGE BRIGMAN: No, I have not.

14 MR. DENNIS: Have you contacted any
15 members of the Commission?

16 JUDGE BRIGMAN: No, I have not.

17 MR. DENNIS: Do you understand that you
18 are prohibited from seeking a pledge or commitment
19 until 48 hours after the formal release of the
20 Commission's report?

21 JUDGE BRIGMAN: Yes, I do.

22 MR. DENNIS: Have you reviewed the
23 Commission's guidelines on pledging?

24 JUDGE BRIGMAN: Yes, I have.

25 MR. DENNIS: As a follow-up, are you

1 aware of the penalties for violating the pledging
2 rules; that is, it's a misdemeanor and upon
3 conviction the violator must be fined not more than
4 \$1,000 or imprisoned not more than 90 days?

5 JUDGE BRIGMAN: I am aware of that,
6 yes.

7 MR. DENNIS: Thank you, Ms. Brigman.

8 I would note that the Pee Dee Citizens
9 Committee found Ms. Brigman to be qualified in
10 regards to the evaluative criteria of
11 Constitutional qualifications, physical health, and
12 mental stability. The Committee found Ms. Brigman
13 to be well-qualified in the remaining evaluative
14 criteria of ethical fitness, professional and
15 academic ability, character, reputation,
16 experience, and judicial temperament.

17 I would just note for the record that
18 any concerns raised during the investigation
19 regarding this candidate were incorporated into the
20 questioning of the candidate today.

21 And, Mr. Chairman, that is all I have
22 at this time.

23 REPRESENTATIVE DELLENEY: Does any
24 member of the Commission have any further questions
25 of Judge Brigman?

1 Senator Knotts.

2 SENATORS KNOTTS: Ms. Brigman, thank
3 you for applying.

4 Explain your backup docket theory. How
5 would you set up a backup docket? We have one in
6 Lexington, and it sort of has some problems and has
7 some good parts too, but --

8 JUDGE BRIGMAN: We -- I guess it's one
9 of those things until you get there and try it you
10 don't really know, but my -- my thought on that
11 would be if I've got a case scheduled for two days,
12 to also schedule as a backup maybe two or three
13 cases for each day. If the case settles, those
14 lawyers and litigants would be on notice that
15 they're up next and would be notified that they
16 should be prepared to go forward if the case
17 originally scheduled falls apart or settles.

18 SENATORS KNOTTS: Would it come off of
19 the regular -- would it come off of the regular
20 docket schedule or would you have a backup docket
21 of people who maybe want to -- they've got
22 everything settled and all they need is a judge to
23 get before to sign a divorce decree or they've got
24 a -- something that will take a half day or two
25 days -- I mean, one day?

1 JUDGE BRIGMAN: I -- I think you could
2 do that either way, just depending on what your
3 backlog is and what hearing requests have come into
4 the clerk's office. If you've got hearing requests
5 pending that have not been able to be scheduled,
6 you could perhaps place some of those in -- in
7 those empty days as backups.

8 SENATORS KNOTTS: The problem with --
9 one of the problems we had in Lexington County was
10 having a backup docket and the person would be at
11 work and would not know until the person actually
12 settled -- settled in court, and then they would be
13 on -- have to go straight to the courthouse, drop
14 what they were doing.

15 It would leave the employer -- in one
16 case the person was unloading a truckload of steel.
17 They had a driver there from out of state, had a
18 crane operator, and it was a two-man operation, and
19 of course it makes it close his self down --

20 JUDGE BRIGMAN: Right.

21 SENATOR KNOTTS: -- for half -- for the
22 rest of the day --

23 JUDGE BRIGMAN: Right.

24 SENATOR KNOTTS: -- you know, and
25 that's one of the problems you got to look at on

1 those. You don't intend to do something like that,
2 do you, that would --

3 JUDGE BRIGMAN: I wouldn't -- I
4 wouldn't, Senator Knotts -- and I appreciate you
5 making me aware of those kind of things. I think
6 those are the kind of issues that need to be
7 considered when you develop that plan.

8 SENATORS KNOTTS: And having practiced
9 in family court, you would do whatever time it
10 takes to -- as a work -- work ethic on the bench
11 to -- to be a full-time judge?

12 JUDGE BRIGMAN: Absolutely.
13 Absolutely. I'm -- I'm not afraid of working.
14 I've worked all my life.

15 SENATORS KNOTTS: Do you work on
16 Fridays?

17 JUDGE BRIGMAN: Absolutely.
18 Absolute --

19 SENATORS KNOTTS: Mondays?

20 JUDGE BRIGMAN: Mondays. I work -- I
21 work five days, sometimes six or seven days a week.
22 With -- I practice law four days of the week. I'm
23 in the magistrate's office one day a week and every
24 fifth weekend doing bond hearings. So I'm there
25 generally early and stay late.

1 I do better when I have something to
2 do. I'm not very good with downtime.

3 In our circuit some of the counties
4 don't schedule cases after one o'clock on Friday,
5 which I think is not a good idea. I don't really
6 know the reasoning behind that. But Friday
7 afternoons would be a great way to spend either
8 some of your smaller -- putting settlements on the
9 record or either pre-trying cases to get ready for
10 the next week to see what the possibility that
11 cases are going to fall apart.

12 SENATORS KNOTTS: Thank you.

13 REPRESENTATIVE DELLENEY: Any --
14 anybody else have any questions for Judge Brigman?

15 There being none, thank you, Judge
16 Brigman, for appearing before us today.

17 And this concludes this portion of your
18 screening, the public hearing part of your
19 screening. The record will be closed but we
20 reserve the right to reopen the record and invite
21 you back for further questioning if something were
22 to arise, which I don't anticipate that happening,
23 but it has in -- occasionally.

24 But in any event, I would remind you
25 about the 48-hour rule.

1 JUDGE BRIGMAN: Yes, sir.

2 REPRESENTATIVE DELLENEY: And thank you
3 for offering to serve, and I hope you have a safe
4 trip back home.

5 JUDGE BRIGMAN: Thank you. Thank all
6 of you for your time.

7 REPRESENTATIVE DELLENEY: Okay. Next
8 we have "Jay" Ervin.

9 MR. ERVIN: Morning.

10 REPRESENTATIVE DELLENEY: Morning, sir.

11 We have before us this morning Mr. John
12 McIver Jay Ervin, III.

13 If you would, Mr. Ervin, please raise
14 your right hand to be sworn.

15 (John McIver Ervin, III, was duly
16 sworn, after which testimony began at 10:13 a.m.)

17 REPRESENTATIVE DELLENEY: Thank you,
18 sir.

19 The Judicial Merit Selection Commission
20 has thoroughly investigated your qualifications for
21 service on the bench. Our inquiry has primarily
22 focused on our nine evaluative criteria which
23 include a survey of the bench and bar, a thorough
24 study of your application materials, verification
25 of your compliance with state ethics laws, a study

1 of newspaper articles in which your name may have
2 appeared, and a check for any economic conflicts of
3 interest.

4 We have no opposition -- no affidavits
5 filed in opposition to your candidacy or election,
6 and there are no witnesses here to testify.

7 Do you have a brief opening statement
8 you'd like to make?

9 MR. ERVIN: Just, first of all, as to
10 this position, I'm primarily interested because I
11 believe I would enjoy it and I think I would be
12 very good at it. I've handled all types of cases
13 in my practice from -- ranging from family court,
14 to criminal court, to appellate court, and federal
15 court. I think that wide range of experience would
16 translate into me being a good jurist. Other than
17 that, I have nothing else to say at this time.

18 REPRESENTATIVE DELLENEY: Thank you,
19 Mr. Ervin.

20 If you would, please answer any
21 questions our able counsel Ms. Anzelmo might have
22 for you.

23 MS. ANZELMO: Mr. Chairman, members of
24 the Commission, I have a few procedural matters to
25 take care of first.

1 Mr. Ervin, you have before you your
2 personal data questionnaire and -- that you
3 submitted as part of your application and your
4 amendment. Are there any additional amendments you
5 would like to make at this time?

6 MR. ERVIN: No, ma'am.

7 MS. ANZELMO: Mr. Chairman, I would
8 like to ask that Mr. Ervin's personal data
9 questionnaire and his amendment be entered as an
10 exhibit into the hearing record.

11 REPRESENTATIVE DELLENEY: It will be
12 done at this point in the transcript without
13 objection.

14 (EXH. 7, Amendment to the Personal Data
15 Questionnaire of Mr. John McIver Ervin, III,
16 admitted.)

17 (EXH. 8, Personal Data Questionnaire of
18 Mr. John McIver Ervin, III, admitted.)

19 MS. ANZELMO: Mr. Ervin, you now have
20 before you the sworn statement that you provided
21 with detailed answers to over 30 questions
22 regarding judicial conduct, statutory
23 qualifications, office administration, and
24 temperament. Are there any amendments that you
25 would like to make at this time to your sworn

1 statement?

2 MR. ERVIN: No, ma'am.

3 MS. ANZELMO: At this time,
4 Mr. Chairman, I would like to ask that Mr. Ervin's
5 sworn statement be entered as an exhibit into the
6 hearing record.

7 REPRESENTATIVE DELLENEY: The sworn
8 statement will also be entered into the record at
9 this point in the transcript without objection.

10 (EXH. 9, Sworn Statement of John McIver
11 Ervin, III, admitted.)

12 MS. ANZELMO: I note for the record
13 that based on the testimony contained in
14 Mr. Ervin's personal data questionnaire which has
15 been included in the record with his consent,
16 Mr. John McIver Ervin, III, meets the statutory
17 requirements for this position regarding age,
18 residence, and years of practice.

19 Mr. Ervin, will you please state the
20 city and judicial circuit in which you reside.

21 MR. ERVIN: I live in Darlington and
22 that's the fourth circuit.

23 MS. ANZELMO: Thank you.

24 Mr. Ervin, why do you want to serve as
25 a family court judge?

1 MR. ERVIN: Well, as I indicated
2 earlier, I think my experience and temperament
3 would lend itself well to being a good family court
4 judge, and I think I would enjoy it and bring that
5 vigor to the court.

6 MS. ANZELMO: Can you explain to the
7 Commission how you feel your legal and professional
8 experience thus far will assist you to be an
9 effective judge.

10 MR. ERVIN: Well, I think any time
11 you've got experience in a number of courts, not
12 just family court, but quite a bit of experience in
13 civil and criminal court, that you basically come
14 to deal with people from all walks of life, and --
15 and you have to do that as a jurist.

16 You'd have to show respect to all
17 litigants, to the parties, and try to deal with
18 people in an even keel fashion, and that's one of
19 the most important facets of being a judge in any
20 court, but even more importantly in family court
21 because you're dealing with very important issues
22 when you're talking about children and marital
23 assets and things of that nature that people care
24 very deeply about. That's where emotions probably
25 run the highest, in the family court arena.

1 MS. ANZELMO: Are there any areas,
2 including subjective areas of law, that you would
3 need additional preparation for in order to serve
4 as a family court judge and how would you handle
5 that additional preparation?

6 MR. ERVIN: Well, if I needed to attend
7 any additional CLEs, I would. Excuse me. But I
8 think overall my experience in the family court
9 arena has been pretty broad. I've handled every
10 type of family court case imaginable. So I can't
11 think of any specific area that I would need
12 training in, but certainly there would be judicial
13 CLEs that you would attend that would update you on
14 any statutory or, you know, case law changes that
15 have occurred in -- in the years ahead. But other
16 than that, I can't imagine that there would be any
17 additional work that would have to be done.

18 I do that now, by the way. I mean, I
19 read the advance sheets and keep up with the -- the
20 decisions of the Court of Appeals and Supreme
21 Court.

22 MS. ANZELMO: Thank you.

23 Although you address this in your sworn
24 affidavit, could you please explain to the members
25 of the Commission what you think is the appropriate

1 demeanor for a judge.

2 MR. ERVIN: Well, you have to maintain
3 control over the courtroom, and that's certainly
4 very important. In other words, you do have to be
5 firm but fair. And when I say firm but fair, I
6 mean that you can't relax the courtroom to the
7 extent that people feel like they can act out, but
8 at the same time, you have to show the appropriate
9 respect for everyone in the courtroom, from the
10 bailiff to the witness to --

11 MS. ANZELMO: When you leave --

12 MR. ERVIN: -- lawyers as well.

13 MS. ANZELMO: Thank you.

14 When you leave the bench, what would
15 you like for your legacy to be as a judge on the
16 family court?

17 MR. ERVIN: Fair, thoughtful, diligent,
18 and zealous.

19 MS. ANZELMO: What suggestions would
20 you offer for improving the backlog of cases on the
21 docket in family court?

22 MR. ERVIN: You would probably, first
23 of all, want to look at mandatory arbitration and
24 mediation in family court, stricter guidelines for
25 pretrial conferences to make sure that the

1 attorneys who are requesting the hearings allocate
2 the appropriate amount of time. So those are two
3 immediate improvements I can think of that might
4 help reduce the backlog.

5 MS. ANZELMO: Your SLED check revealed
6 that you were convicted of a reckless driving
7 charge in 1980. Would you please explain to the
8 Commission the circumstances arriving --
9 surrounding this charge and conviction.

10 MR. ERVIN: That was just something
11 stupid I did when I was at Carolina. We had just
12 beaten the Russians in ice hockey and I did a
13 doughnut in my car. And much to my chagrin, a
14 police officer was observing it, and I had to pay a
15 \$50 fine and plead guilty in the city of Columbia
16 to the Court.

17 It was stupid and I paid for it. Not
18 only with the fine, but the increase in my
19 insurance premium which my father found out about
20 and was not too happy about.

21 MS. ANZELMO: Thank you.

22 Have you sought or received the pledge
23 of any legislator prior to this date?

24 MR. ERVIN: No, ma'am.

25 MS. ANZELMO: Have you sought or have

1 you been offered a conditional pledge of support of
2 any legislator pending the outcome of your
3 screening?

4 MR. ERVIN: No, ma'am.

5 MS. ANZELMO: Have you asked any third
6 parties to contact members of the General Assembly
7 on your behalf?

8 MR. ERVIN: No, ma'am.

9 MS. ANZELMO: Have you contacted any
10 members of the Commission?

11 MR. ERVIN: No, ma'am.

12 MS. ANZELMO: Do you understand that
13 you're prohibited from seeking a pledge or
14 commitment until 48 hours after the formal release
15 of the Commission's report?

16 MR. ERVIN: Yes, ma'am.

17 MS. ANZELMO: Have you reviewed the
18 Commission's guidelines on pledging?

19 MR. ERVIN: I have.

20 MS. ANZELMO: As a follow-up, are you
21 aware of the penalties for violating the pledging
22 rules; that is, it is a misdemeanor and upon
23 conviction the violator must be fined not more than
24 \$1,000 or imprisoned not more than 90 days?

25 MR. ERVIN: Yes, ma'am.

1 MS. ANZELMO: I would note that the Pee
2 Dee Citizens Committee found Mr. Ervin qualified in
3 all nine evaluative criteria. Those criteria are
4 Constitutional qualifications, physical health,
5 mental stability, ethical fitness, professional and
6 academic ability, character, reputation,
7 experience, and judicial temperament.

8 The Committee expressed that
9 Mr. Ervin's experience appears to be a bit more
10 weighted in criminal matters, both in and out of
11 family court. This concern was addressed in the
12 interview, and he noted that this has been
13 attributed to the poor economy which has been a
14 negative impact on domestic litigation in the past
15 few years.

16 I would just note for the record that
17 any concerns raised during the investigation
18 regarding Mr. Ervin were incorporated into the
19 questioning of him today.

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

22 REPRESENTATIVE DELLENEY: Does any
23 member of the Commission have any questions for
24 Mr. Ervin?

25 Senator Knotts.

1 SENATORS KNOTTS: What -- how -- thank
2 you, Mr. Ervin.

3 How would you handle appointments of
4 guardian ad litem? I don't see it in your
5 questionnaire.

6 MR. ERVIN: When you say how would I
7 handle it, I would, first of all, look to the
8 background of the people who are seeking the
9 appointment. Quite oftentimes the parties consent
10 to the appointment of a guardian ad litem. That's
11 the normal scenario.

12 In other words, there are several names
13 suggested by the Court. If the attorneys can't
14 agree on the appropriate person or attorney to be
15 the guardian ad litem -- and of course you don't
16 have to be an attorney to be a guardian ad litem,
17 but many of them are. And more and more are now
18 becoming somewhat specialized in that area and
19 doing a lot of guardian ad litem.

20 So if the parties could not agree,
21 usually in various counties there are people who do
22 that in a number of cases and they developed a
23 reputation, so I would look to the people that are
24 best qualified in that particular area, and if I
25 didn't know, I would look to the legal community to

1 provide me with the names of qualified guardians.

2 SENATORS KNOTTS: What would be some of
3 the main requirements that you would require of --
4 of a guardian ad litem that was appointed to a case
5 or either agreed upon by both parties?

6 MR. ERVIN: Well, you would --

7 SENATORS KNOTTS: What would you look
8 at to make sure that the child's interest was --
9 was in the best interest of the Court and how they
10 came to that conclusion?

11 MR. ERVIN: Well, you would want him to
12 be qualified. First of all, in other words, to be
13 certified and check they've attended the
14 appropriate training required for guardian ad
15 litem and also that they have experience, and if
16 they didn't have adequate experience, they would
17 have to have some type of recommendation and,
18 again, training before I would consider appointing
19 them as a guardian ad litem in any family court
20 case.

21 SENATORS KNOTTS: How about the
22 previous history of how many times they've visited
23 a house or -- or visited a family to make a
24 decision? I'm sure you've seen in your law
25 practice over the years that a lot of guardian ad

1 litem never meet with a family and then come into
2 court and make a recommendation on the child, and
3 that's one of the problems that we have.

4 MR. ERVIN: I can honestly say that
5 I've served as a guardian ad litem. I've never
6 gone into court not having met with the people
7 that -- that are prospective parents of an adoptee
8 or any other role as a guardian. You have to meet
9 with them. That's a prerequisite, and if you don't
10 do that, you're not really being an effective
11 guardian ad litem.

12 I think if a home is involved and a
13 child --

14 SENATORS KNOTTS: Tell me what you
15 would do in your past experience in being a
16 guardian -- guardian ad litem, what you actually
17 did to ensure that the child's interest -- who did
18 you meet with? How many times did you meet with
19 them?

20 MR. ERVIN: Well, I think it depends on
21 the circumstance, but you definitely go look at the
22 home. You definitely meet with the prospective
23 parents, and sometimes you might be serving as the
24 guardian ad litem when it's a step-parent adoption
25 and the -- the natural or biological parent

1 consents to the adoption. You go to the home and
2 you meet with the parents, and that's -- the
3 step-parent and that's sufficient.

4 But there -- it just depends on the
5 facts of each individual case. It's a fact-driven
6 decision that the guardian has to make. But the
7 judge should be concerned that a particular case in
8 front of him that the guardian fills that role
9 based on the unique facts of that case.

10 So it's hard to generalize, but what I
11 would say is if I felt like -- if I was the judge
12 and I felt like that particular case warranted a
13 more in-depth investigation by the guardian and it
14 had not been conducted, then I would voice those
15 concerns and take appropriate measures to ensure
16 that it was.

17 SENATORS KNOTTS: And I know when you
18 worked in the solicitor's office in -- in
19 Columbia --

20 MR. ERVIN: Yes.

21 SENATORS KNOTTS: -- or the
22 magistrate's office, you did a lot of family court
23 DSS cases and stuff like that.

24 MR. ERVIN: Probably more of that in
25 Darlington actually. In Richland County I very,

1 very rarely went to family court. Lynne Rogers was
2 the family court prosecutor, and Dayton Riddle
3 who's now in Lexington was in the family court
4 arena. In Columbia I was more -- I was the drug
5 prosecutor for Richland County, worked with -- with
6 their narcotics unit, and I also handled violent
7 crimes and murders and things of that nature, armed
8 robberies, rapes.

9 And when I went to Darlington, my
10 duties were a little bit more spread out. I did
11 part-time general sessions work handling really the
12 majority of the cases that were tried, and I also
13 handled the DSS and the DJJ cases then, all of
14 them. So that was my real first time exposure to
15 the -- all the family court work.

16 SENATORS KNOTTS: So would you say your
17 most experience is in criminal law prosecution or
18 would it be in family court?

19 MR. ERVIN: Well, no, I wouldn't say
20 either. I started out in prosecution, but that's
21 been over 20 years now.

22 SENATORS KNOTTS: Right.

23 MR. ERVIN: I spent the first -- I
24 guess the formative years as a -- as a lawyer, I
25 started out as a law clerk, but then -- about seven

1 years as a prosecutor. Then I began defending
2 criminal cases, representing litigants in family
3 court as soon as I moved back to Darlington because
4 I was part-time with the -- with the solicitor's
5 office, although it occupied a lot of my time. I
6 started representing people in domestic cases then
7 and other private litigants in family court.

8 So really over the last 20 something
9 odd years I've been involved in family court work.
10 And I divided it -- I don't have the information in
11 front of me, and I think you do as to the
12 percentages, and I think it's a pretty even
13 percentage.

14 One thing I've noticed since the
15 recession is that the number of domestic filings
16 decreased, and it wasn't something that was
17 occurring in just South Carolina. I read a Wall
18 Street Journal article they were down 50 percent
19 nationwide, and that's simply because people don't
20 want to get divorced right now because their
21 marital assets have plummeted. And they're either
22 separating -- and not going through legal
23 proceedings or they're making due with it.

24 So that -- that volume has reduced
25 somewhat, but, you know, I do a significant amount

1 of domestic work, and, again, I -- I feel like I've
2 handled all the relevant type of cases that a
3 family court judge experiences.

4 SENATORS KNOTTS: As a private attorney
5 what do you expect the hours of a -- a family court
6 judge should be?

7 MR. ERVIN: Well, I mean, the normal
8 hours would be -- they start in Darlington in our
9 circuit usually at either 9:00 or 9:30 and go to
10 5:00 or later if required. I think it, again,
11 depends on -- on the docket and the disposition of
12 cases. If you had to go a little bit later, you
13 would have to do that, but it would be something --
14 you have to take into consideration the parties to
15 the lawsuit and their schedules and children and
16 things of that nature. I mean, you can't, you
17 know, travel on other people's schedules either.

18 SENATORS KNOTTS: And the last
19 question. How would you handle attorneys that you
20 were familiar with that continuously asked for
21 continuances to delay the actual proceeding from
22 going on?

23 MR. ERVIN: My tolerance for that would
24 not be very high. I have noticed in -- in my years
25 of practicing and any of the people in the room

1 that are lawyers, familiar with lawyers, there tend
2 to be certain attorneys that abuse that, and you've
3 got to at some point call them to the mat, so to
4 speak, and I wouldn't be hesitant to do that.

5 SENATORS KNOTTS: Okay.

6 MR. ERVIN: I think that's -- that's
7 something that has to be addressed. It's not
8 something I've ever developed a reputation for
9 doing it. Barring illness or some serious
10 narrative reason for a motion to continue, then --
11 then it wouldn't be granted.

12 SENATORS KNOTTS: Thank you.

13 MR. ERVIN: Yes, sir.

14 REPRESENTATIVE DELLENEY: Any other
15 member -- yes, sir, Professor Freeman.

16 PROFESSOR FREEMAN: Just very quickly.

17 Sir, in your PDQ -- in your PDQ I
18 notice -- I want to commend you for 17 CLEs in the
19 last five years, but I didn't see any of your CLEs
20 that dealt specifically with family law issues. Am
21 I missing something? Would you comment on that?

22 MR. ERVIN: No, sir, you're probably
23 not missing anything. As I said, I -- I read the
24 advance sheets. I keep up with those.

25 And if you'll also notice from

1 reviewing the CLEs -- I say this not in a
2 disparaging way toward the bar, but most of the
3 CLEs I've attended, a lot of them have dealt with
4 federal criminal law, and those are good seminars.
5 They're interesting. They're stimulating. You
6 have speakers from all over the country.

7 Quite frankly, some of our bar seminars
8 are regurgitant. They're not very interesting.
9 They're boring.

10 PROFESSOR FREEMAN: Those are the ones
11 I don't speak at, right?

12 MR. ERVIN: Yes, sir. But there --
13 there is one that you'll note that I attended in
14 Greenwood that Rauch Wise puts on. It's very good,
15 and it is done in conjunction with a barbecue
16 cook-off and they have blues bands there. It's
17 just a fun occasion. I like that particular
18 seminar.

19 But -- but I tend to do the same types
20 of -- ones -- as a young lawyer I did go to all the
21 bar seminars, and, again, I don't mean to sound too
22 critical, but they are sometimes just the same
23 thing, another day. And I tend to mix it up. But
24 I do not have a problem attending any domestic CLEs
25 that are required as a family court judge.

1 REPRESENTATIVE DELLENEY: Any other
2 member of the Commission have any questions for
3 Mr. Ervin?

4 There being none, Mr. Ervin, we'd like
5 to thank you for appearing before us today and for
6 offering yourself for the position on the family
7 court.

8 This concludes this portion of your --
9 the screening process. The record will be closed
10 in your public hearing. However, we do reserve the
11 right to reopen and to recall you down here if the
12 need arises. That has happened a few times, but
13 it's not very often and I don't expect it to happen
14 in your case, but if we wanted to do that, we
15 could.

16 I would remind you about the 48-hour
17 rule. And thank you, again, for your willingness
18 to serve, and I hope you have a safe trip home.

19 MR. ERVIN: Thank you all very much.

20 (Off the record.)

21 REPRESENTATIVE DELLENEY: Good morning,
22 Judge McIntyre. How are you?

23 JUDGE McINTYRE: I'm fine. How are
24 y'all?

25 REPRESENTATIVE DELLENEY: We're glad to

1 have you before us this morning.

2 We have before us the Honorable Salley
3 Huggins McIntyre who seeks a position on the family
4 court, fourth judicial circuit, seat number two.

5 If you would, Judge McIntyre, raise
6 your right hand to be sworn.

7 (Salley Huggins McIntyre was duly
8 sworn, after which testimony began at 10:34 a.m.)

9 REPRESENTATIVE DELLENEY: Thank you,
10 ma'am.

11 The Judicial Merit Selection Commission
12 has thoroughly investigated your qualification for
13 service on the bench. Our inquiry has primarily
14 focused on nine evaluative criteria which include a
15 survey of the bench and bar, a thorough study of
16 your application materials, verification of your
17 compliance with state ethics laws, a search of any
18 newspaper article in which your name may have
19 appeared, and a check for economic conflicts of
20 interest, and a study of any previous screenings.

21 There are no affidavits filed in
22 opposition to your nomination or election, and
23 there are no witnesses here to testify.

24 Do you have a brief opening statement
25 you'd like to make?

1 JUDGE McINTYRE: Yes. I'd like to
2 thank you again, the commissioners, for all they've
3 done. I know it's a very grueling process for
4 y'all as much as it is to us. I brought my husband
5 with me today. And just thank y'all for all that
6 you've done.

7 REPRESENTATIVE DELLENEY: Thank you,
8 ma'am.

9 At this time, if you would, answer any
10 questions our able counsel Ms. Emma Dean may have
11 for you.

12 MS. DEAN: Mr. Chairman and members of
13 the Commission, I have a few procedural matters to
14 take care of for this candidate.

15 Judge McIntyre, you have before you the
16 personal data questionnaire you submitted as part
17 of your application. Are there any additional
18 amendments that you would like to make at this time
19 to your PDQ?

20 JUDGE McINTYRE: No.

21 MS. DEAN: Mr. Chairman, I would like
22 to ask that Judge McIntyre's personal data
23 questionnaire be entered as an exhibit into the
24 hearing record.

25 REPRESENTATIVE DELLENEY: It will be

1 entered in the record at this point in the
2 transcript without objection.

3 (EXH. 10, Personal Data Questionnaire
4 of Ms. Salley Huggins McIntyre, admitted.)

5 MS. DEAN: Judge McIntyre, you have
6 before you the sworn statement you provided with
7 detailed answers to over 30 questions regarding
8 judicial conduct, statutory qualifications, office
9 administration, and temperament. Are there any
10 additional amendments you would like to make at
11 this time to your sworn statement?

12 JUDGE McINTYRE: No.

13 MS. DEAN: At this time, Mr. Chairman,
14 I would ask that Judge McIntyre's sworn statement
15 be entered into the record as an exhibit.

16 REPRESENTATIVE DELLENEY: Judge
17 McIntyre's sworn statement will also be entered in
18 the record at this point in the transcript without
19 objection.

20 (EXH. 11, Sworn Statement of Salley
21 Huggins McIntyre, admitted.)

22 MS. DEAN: One final procedural matter.
23 I note for the record that based on the testimony
24 contained in the candidate's personal data
25 questionnaire which has been included in the record

1 with the candidate's consent, Judge McIntyre meets
2 the statutory requirements for this position
3 regarding age, residency, and years of practice.

4 Judge McIntyre, please state for the
5 record the city and judicial circuit in which you
6 reside.

7 JUDGE McINTYRE: I live in Dillon,
8 South Carolina, and I'm seeking the seat of fourth
9 circuit family court, seat two.

10 MS. DEAN: Judge McIntyre have you
11 served as an associate probate judge in Dillon
12 County?

13 JUDGE McINTYRE: Yes.

14 MS. DEAN: Judge McIntyre, why do you
15 now want to serve as family court judge?

16 JUDGE McINTYRE: Through my career and
17 always in my life I've done a lot of volunteer
18 work. I've done a lot of public service work, and
19 I've continued since my term serving as associate
20 probate judge with -- with pay. I volunteered to
21 continue with six months to help the new judge make
22 the transition into the position of probate judge
23 just because I feel like that would be a disservice
24 to our community if she didn't have some training
25 in handling some of the hearings. They've kept me

1 quite busy through my pro bono work, maybe more so
2 than when I was actually getting paid.

3 What I would like to do is continue my
4 public service work. I think that serving on the
5 bench I could continue to help children and
6 families from the other side of the bench.

7 MS. DEAN: Judge McIntyre, can you
8 explain to the Commission how you feel your legal
9 and professional experience thus far will assist
10 you to be an effective judge.

11 JUDGE McINTYRE: I've done a lot of
12 work in the -- I have done a lot of work with the
13 guardian ad litem program in Dillon for -- I've
14 done volunteer work for -- since 1996. Just
15 started in the past couple years being paid for my
16 work with the guardian ad litem program which
17 certainly doesn't account for the amount of time
18 that I've done. I've had a lot of experience not
19 only in abuse and neglect, but in equitable
20 distribution and child support.

21 I think that my experience as a probate
22 judge has given me the opportunity to deal with
23 people and families in very emotional situations
24 which is the same thing that you deal with in
25 family court.

1 MS. DEAN: And, Judge McIntyre, are
2 there any areas, including subjective areas of law,
3 that you would need to additionally prepare for in
4 order to serve as a judge and how would you handle
5 that additional preparation?

6 JUDGE McINTYRE: I think that my
7 weakness would be in juvenile court simply because
8 I do the pro bono work for the -- have done the pro
9 bono work for the guardian ad litem for an extended
10 period of time. I've not been appointed on any
11 juvenile matters.

12 And quite sometime -- because we have
13 public defenders in Dillon County and all the other
14 circuits, you very seldom get appointed unless you
15 just happen to be in the courtroom and they need
16 someone. That would be the one time -- one thing
17 that I would need to beef up on a little bit.

18 I have a lot of paperwork to read on --
19 on juveniles. I have a cousin that's an
20 assistant -- assistant solicitor and prosecutes all
21 the juveniles, and he's willing to help me get more
22 prepared in that area.

23 MS. DEAN: Although you address this in
24 your sworn affidavit, could you please explain to
25 the members of the Commission what you think is the

1 appropriate demeanor of a judge.

2 JUDGE McINTYRE: I think that the
3 appropriate demeanor of a judge is, you know, what
4 you see in and out of courtroom is what -- what
5 that person is. I think you conduct yourself in a
6 way at your children's ball games, at schools, at
7 church the same way you want the Court to perceive
8 you when you're before them holding -- having a
9 hearing.

10 I think it's always to be fair and
11 impartial. I'm the type person that what you see
12 is what you get. I don't change that much. You
13 always know where you stand with me. And I don't
14 do things in an angry way because I always tell my
15 children we can agree to disagree. But I think
16 that being fair and impartial at all times.

17 MS. DEAN: When you leave the bench,
18 what would you like your legacy as family court
19 judge to be?

20 JUDGE McINTYRE: That I was always
21 fair. I was always the same, and that you knew
22 what to expect from me because I was always who I
23 was on and off the bench.

24 MS. DEAN: Thank you.

25 What suggestions would you offer for

1 improving the backlog of cases before the family
2 court?

3 JUDGE McINTYRE: In Dillon we don't
4 have a backlog. Lately we've had -- this past week
5 we had court and had two days that were cancelled.
6 What I would like to see is that if you have a day
7 in advance that you know you're not going to have
8 court, allow yourself to go to another county to
9 hold court for them.

10 An additional thing that I think would
11 help Dillon is Darlington and Chesterfield County
12 both have drug court. Dillon does not have a drug
13 court. Marlboro County is in the process of
14 establishing it through their probate system.
15 Their probate judge is beginning to do that. We
16 don't have anybody in Dillon that's volunteered to
17 do drug court -- handle drug court.

18 MS. DEAN: Thank you, Judge McIntyre.

19 At this time I just have -- have some
20 more housekeeping issues.

21 Have you sought or received the pledge
22 of any legislator prior to this date?

23 JUDGE McINTYRE: No.

24 MS. DEAN: Have you sought or have you
25 been offered a conditional pledge of support of any

1 legislator pending the outcome of your screening?

2 JUDGE McINTYRE: No.

3 MS. DEAN: Have you asked any third
4 parties to contact members of the General Assembly
5 on your behalf?

6 JUDGE McINTYRE: No.

7 MS. DEAN: Have you contacted any
8 members of the Commission?

9 JUDGE McINTYRE: No.

10 MS. DEAN: Do you understand that you
11 are prohibited from seeking a pledge or commitment
12 until 48 hours after the formal release of the
13 Commission's report?

14 JUDGE McINTYRE: Yes.

15 MS. DEAN: Have you reviewed the
16 Commission's guidelines on pledging?

17 JUDGE McINTYRE: Yes.

18 MS. DEAN: As a follow-up, are you
19 aware of the penalties for violating the pledging
20 rules; that is, it is a misdemeanor and upon
21 conviction the violator must be fined not more than
22 \$1,000 or imprisoned not more than 90 days?

23 JUDGE McINTYRE: Yes.

24 MS. DEAN: I would note for the record
25 that the Pee Dee Citizens Committee reported that

1 Judge McIntyre is qualified regarding
2 Constitutional qualifications, physical health, and
3 mental stability. Further, the Citizens Committee
4 reported that Judge McIntyre is well-qualified
5 regarding ethical fitness, professional and
6 academic ability, character, reputation,
7 experience, and judicial temperament. Further, the
8 Pee Dee Citizens Committee reported that Judge
9 McIntyre is an excellent candidate for this
10 position.

11 I would just note for the record that
12 any concerns raised during the investigation
13 regarding the candidate were incorporated into the
14 questioning of the candidate today.

15 Mr. Chairman, I have no further
16 questions.

17 REPRESENTATIVE DELLENEY: Any member of
18 the Commission have any questions of Judge
19 McIntyre?

20 Senator Knotts.

21 SENATORS KNOTTS: Thank you,
22 Ms. McIntyre.

23 I see that you've -- you're very proud
24 of your experience as a guardian ad litem.

25 JUDGE McINTYRE: Yes.

1 SENATORS KNOTTS: And obviously from
2 reading what you've got, you feel a great need for
3 that you and -- and you would utilize it as a
4 family court judge in the best interest of the
5 child. Is that the way I read what you're putting
6 down?

7 JUDGE McINTYRE: Yes, sir.

8 REPRESENTATIVE DELLENEY: In your
9 experience as a guardian ad litem, have you ever
10 had a case that went before a judge where you did
11 not make any visitation to the child or the child's
12 homes, both parents, or to the school or wherever
13 you needed to go?

14 JUDGE McINTYRE: No, sir. I've done --
15 a majority of my guardian work has been through the
16 DSS program where I serve as the attorney for the
17 guardian ad litem program. I've had several,
18 several cases where I'm actually the guardian where
19 I do make home visits, review medical records, talk
20 with any doctors they go to a regular basis to make
21 sure that they have gone, have had their shots.

22 I've always visited the home of both
23 the mother and the father and the school. I think
24 that's what you have to do to be an effective
25 guardian.

1 SENATORS KNOTTS: And you would require
2 that as a judge on the bench?

3 JUDGE McINTYRE: Yes, sir.

4 SENATORS KNOTTS: Thank you.

5 REPRESENTATIVE DELLENEY: Any other
6 member of the Commission have any questions for
7 Judge McIntyre?

8 There being none, Judge McIntyre, we
9 thank you for your willing to serve and for
10 participating with us this morning.

11 And this concludes this portion of your
12 public hearing screening process. At this point
13 the record will be closed, but we reserve the right
14 to reopen the record and recall you if the need
15 arises. It hasn't arisen many times, but it has
16 occasionally in the past. I don't expect it in
17 your situation.

18 But with that, I would remind you of
19 the 48-hour rule, and thank you again for coming
20 down here to be with us this morning, and I hope
21 you have a safe trip back home.

22 JUDGE McINTYRE: Can I say one more
23 thing?

24 REPRESENTATIVE DELLENEY: Yes, ma'am.

25 JUDGE McINTYRE: I wanted to thank

1 Laurie. She was sitting over here to the right and
2 I didn't see her, but she has been most wonderful.

3 REPRESENTATIVE DELLENEY: Thank you,
4 ma'am.

5 JUDGE McINTYRE: Thank you.

6 (Off the record.)

7 REPRESENTATIVE DELLENEY: Good morning,
8 sir.

9 MR. STANTON: Morning.

10 REPRESENTATIVE DELLENEY: This morning
11 we have with us Mr. James Alexander "Alex" Stanton,
12 IV, who seeks the position with the family court,
13 fourth judicial circuit, seat number two.

14 If you would, Mr. Stanton, please raise
15 your right hand to be sworn.

16 (James Alexander Stanton, IV, was duly
17 sworn, after which testimony began at 10:47 a.m.)

18 REPRESENTATIVE DELLENEY: Thank you,
19 sir.

20 The Judicial Merit Selection Commission
21 has thoroughly investigated your qualifications for
22 service on the bench. Our evaluation was primarily
23 concerning nine evaluative criteria which have
24 included a survey of the bench and bar, a thorough
25 study of your application materials, verification

1 of your compliance with state ethics laws, a search
2 of newspaper articles in which your name may have
3 appeared, a study of any previous screenings, and a
4 check for economic conflicts of interest.

5 We have no affidavits filed in
6 opposition to your candidacy or election, and we
7 have no witnesses to testify.

8 Do you have a brief opening statement
9 you'd like to make?

10 MR. STANTON: I just appreciate the
11 opportunity to come before you today as becoming a
12 family court judge is something I've wanted to do
13 for -- for many years. In our fourth circuit we
14 have had a very stable, so to speak, family court
15 judgeship where they've served for a good number of
16 long years.

17 And during my law practice I've been
18 involved in a lot of public service situations, and
19 it's something that I want to continue that, and I
20 believe with my knowledge, experience understanding
21 of the family court law and my compassion for
22 people with that, it's something that I really
23 would like to do.

24 REPRESENTATIVE DELLENEY: Thank you,
25 Mr. Stanton.

1 At this time please answer any
2 questions our able counsel might have for you.

3 MR. STANTON: Yes, sir.

4 MR. WRIGHT: Morning, Mr. Stanton.

5 Mr. Chairman and members of the
6 Commission, I have a few procedural matters I would
7 like to take care of with this candidate.

8 Mr. Stanton, you have before you the
9 personal data questionnaire you submitted as part
10 of your application. Are there any additional
11 amendments that you'd like to make at this time to
12 your PDQ?

13 MR. STANTON: No, sir.

14 MR. WRIGHT: Mr. Chairman, I would ask
15 that Mr. Stanton's personal data questionnaire be
16 entered as an exhibit into the record.

17 REPRESENTATIVE DELLENEY: It will be
18 done at this point in the transcript without
19 objection.

20 (EXH. 12, Personal Data Questionnaire
21 of Mr. James Alexander "Alex" Stanton, IV,
22 admitted.)

23 MR. WRIGHT: Mr. Stanton, you have
24 before you the sworn statement you provided with
25 detailed answers to over 30 questions regarding

1 judicial conduct, statutory qualifications, office
2 administration, and temperament. Are there any
3 additional amendments you'd like to make at this
4 time to your sworn statement?

5 MR. STANTON: No, sir.

6 MR. WRIGHT: At this time,
7 Mr. Chairman, I would ask that Mr. Stanton's sworn
8 statement be entered as an exhibit into the hearing
9 record.

10 REPRESENTATIVE DELLENEY: Mr. Stanton's
11 sworn statement will also be entered into the
12 record at this point in the transcript without
13 objection.

14 (EXH. 13, Sworn Statement of James
15 Alexander Stanton, IV, (Alex), admitted.)

16 MR. WRIGHT: One final procedural
17 matter. I note for the record that based on the
18 testimony contained in the candidate's PDQ which
19 has been entered in the record with the candidate's
20 consent, Mr. Stanton's meets the statutory
21 requirements for this position regarding age,
22 residence, and years of practice.

23 Mr. Stanton, would you state for the
24 record the city and circuit in which you currently
25 reside.

1 MR. STANTON: I reside in Hartsville,
2 South Carolina, which is in Darlington County which
3 is in the fourth judicial circuit.

4 MR. WRIGHT: Thank you, sir.

5 Mr. Stanton, why do you now want to
6 serve as a family court judge?

7 MR. STANTON: I briefly touched on that
8 earlier in my -- in my sort of opening remarks, but
9 I believe that with my years of experience and
10 practice in family court law, along with other
11 areas of the law, that -- that I have certainly
12 enough experience.

13 I'm very knowledge in family court law,
14 and I believe that most people's first, you know,
15 time dealing with the law deals so much with the
16 family court, and I believe with my knowledge and
17 my ability to make decisions that I would be able
18 to render fair and impartial decisions to the
19 citizens of the fourth circuit or wherever else I
20 might be sent to serve.

21 MR. WRIGHT: Mr. Stanton, are there any
22 areas that you would need to additionally prepare
23 for in order to serve as a judge and how would you
24 handle that additional preparation?

25 MR. STANTON: At this point I -- I

1 believe that -- that -- I have been involved in
2 family court law. I -- I maintain reading of the
3 advance sheets and things of that sort and keep up
4 with any changes in the family court law, that it'd
5 just be a matter of continuing what I have been
6 doing as far as to keep abreast of any new
7 developments.

8 MR. WRIGHT: Mr. Stanton, could you
9 please explain to the members of the Commission
10 what you think is the appropriate demeanor for a
11 judge.

12 MR. STANTON: I believe a judge needs
13 to be calm. He needs to be courteous to -- to the
14 litigants and also to the parties and the court
15 personnel. I believe he needs to have an even
16 temperament and be able to absorb the information
17 presented in a calm and proper manner.

18 MR. WRIGHT: Mr. Stanton, when you
19 leave the bench, what would you like your legacy to
20 be as a judge on the family court?

21 MR. STANTON: That Alex would have been
22 a judge that did the best that he could to render
23 impartial and thoughtful and -- decisions.

24 MR. WRIGHT: Mr. Stanton, are there any
25 decisions you would offer for improving the backlog

1 of cases on the docket in family court?

2 MR. STANTON: This is something all us
3 family court practitioners have faced, and I think
4 it goes into a matter of scheduling.

5 Besides your regular divorces and
6 things of that sort, we have so many days that are
7 set aside for your Department of Social Services
8 cases, your nonsupport cases and your juvenile
9 cases that it's just very difficult I believe to be
10 able to devote the amount of time that we need to
11 each one of the -- one of these areas. So I think
12 one thing is in trying to improve upon the
13 scheduling of the cases.

14 I know in our circuit that when someone
15 has a case that's going to request more than an
16 hour to have the case heard, you have a pretrial,
17 and I know the lawyers in -- in our circuit have
18 pretty much tried to -- to be honest with the time
19 frame that they need to make a guess on, "Well, I'm
20 going to need two hours, three hours." But, again,
21 those are guesses.

22 And so many times you'll have a case
23 that will get started. You'll run out of time. It
24 may be three or four weeks before you can actually
25 come back and finish the case, which is not fair to

1 the judge or the litigants or the attorneys and so
2 we get restarted again.

3 So I'm not sure of the solution, but I
4 just think we need to work somehow or another on a
5 better scheduling aspect of it.

6 MR. WRIGHT: Thank you, Mr. Stanton.

7 I have a few additional housekeeping
8 issues.

9 Have you sought or received the pledge
10 of any legislator prior to this date?

11 MR. STANTON: No, sir.

12 MR. WRIGHT: Have you sought or have
13 you been offered a conditional pledge of support
14 from any legislator pending the outcome of your
15 screening?

16 MR. STANTON: No, sir.

17 MR. WRIGHT: Have you asked any third
18 parties to contact members of the General Assembly
19 on your behalf?

20 MR. STANTON: No, sir.

21 MR. WRIGHT: Have you contacted any
22 members of the Commission?

23 MR. STANTON: No, sir.

24 MR. WRIGHT: Do you understand that you
25 are prohibited from seeking a pledge or commitment

1 until 48 hours after the formal release of the
2 Commission's report?

3 MR. STANTON: Yes, sir.

4 MR. WRIGHT: Have you reviewed the
5 Commission's guidelines on pledging?

6 MR. STANTON: Yes, sir.

7 MR. WRIGHT: As a follow-up, are you
8 aware of the penalties for violating the pledging
9 rules; that is, it is a misdemeanor and upon
10 conviction the violator must be fined not more than
11 \$1,000 or imprisoned not more than 90 days?

12 MR. STANTON: Yes, sir.

13 MR. WRIGHT: I would note that the Pee
14 Dee Citizens Committee reported Mr. Stanton to be
15 either qualified or a well-qualified candidate in
16 each of the nine evaluative criteria. In
17 particular with respect to reputation, the
18 Committee stated that Mr. Stanton is well-respected
19 by his peers, and with respect to judicial
20 temperament, the Committee stated that typically
21 Mr. Stanton is even tempered but yet admits to a
22 bit of impatience or unwillingness to work to one's
23 full potential which the Committee deemed to be a
24 positive attribute. The Committee also stated,
25 "He's very much a gentleman, courteous, and patient

1 throughout the course of our interview.

2 I would also note for the record that
3 any concerns raised during the investigation
4 regarding Mr. Stanton were incorporated into the
5 questioning of the candidate today.

6 Mr. Chairman, I have no further
7 questions.

8 REPRESENTATIVE DELLENEY: Thank you,
9 Brad.

10 Any member of the Commission have any
11 questions for Mr. Stanton?

12 SENATORS KNOTTS: Mr. Chairman.

13 REPRESENTATIVE DELLENEY: Senator
14 Knotts.

15 SENATORS KNOTTS: According to some of
16 the questions I was going to ask, do we need to go
17 into executive session? It's under the report
18 here.

19 I have just been advised we do not have
20 to. So I just want to make sure we don't violate
21 anybody's rights or the rules of the Committee.

22 REPRESENTATIVE DELLENEY: Yes, sir.

23 SENATORS KNOTTS: Mr. Stanton, thank
24 you for applying again, and I'd like to ask you a
25 few questions here that I just want to make sure

1 that it's clear in my mind.

2 Your arrest for DUI on April the 14th,
3 1990, basically says that you were found guilty by
4 a jury, but the verdict was dismissed and a new
5 trial was granted and that the case was later
6 dismissed by the North Myrtle Beach municipal
7 court.

8 In that trial were you present?

9 MR. STANTON: Yes, sir.

10 SENATORS KNOTTS: Was a directed
11 verdict requested prior to going to the jury on
12 that matter?

13 MR. STANTON: I feel sure it was. Paul
14 Joseph from Myrtle Beach was my attorney. And as a
15 matter of fact when we went down for the -- the
16 trial, we -- I had been under the understanding
17 that we were going to actually just view a video or
18 something like that, and so we did -- I did not
19 have witnesses with me, but they went -- we went to
20 trial that day. So I feel sure all those
21 procedural things were done because a circuit court
22 judge later on reversed that conviction.

23 SENATOR KNOTTS: Okay. So what you're
24 telling -- what you're telling us is that the jury
25 found you guilty, but then you appealed it --

1 MR. STANTON: Yes, sir.

2 SENATOR KNOTTS: -- to a circuit court
3 judge?

4 MR. STANTON: Yes, sir.

5 SENATOR KNOTTS: And the circuit court
6 judge ordered a new trial?

7 MR. STANTON: That's correct, yes, sir.

8 SENATOR KNOTTS: And how did it become
9 dismissed at the North Myrtle Beach municipal
10 court? Did you have another trial or --

11 MR. STANTON: No, sir. The prosecutor
12 for the city of North Myrtle Beach decided to
13 dismiss the case. And it's one file that I wish I
14 could find in my office. If you're a lawyer
15 there's always a file that seems to get swallowed
16 up in the old dark hole.

17 But I could not find the order of
18 dismissal, and I've contacted on the last screening
19 the city of North Myrtle Beach. They don't have
20 any records of any conviction or anything with
21 that. The Highway Department records do not
22 reflect anything on my highway record about that
23 also.

24 SENATOR KNOTTS: Okay. Tell me about
25 the suit that was filed against you in 2000 --

1 regarding the custody and the irrevocable trust.

2 MR. STANTON: All right. Sometime I
3 imagine it was back in the -- roughly the late
4 '80s, early '90s, a gentleman named William Byerly
5 had requested that I prepare an irrevocable trust
6 for him, which I did, and one of the unusual
7 features of it is that it said that the only
8 distributions that could be made were from income
9 and not principal.

10 The initial designated trustee served
11 for a period of time and then declined to serve.
12 The second trust -- trustee served for a period of
13 time -- time and then declined to serve.
14 Mr. Byerly having been a friend of mine requested
15 that I serve as a trustee and -- and I did.

16 And at this time Mr. Byerly was
17 basically physically unable to earn a living. He
18 had a little bit of Social Security income and that
19 was it. There was no money in the trust at the
20 time that I became trustee. There were a couple of
21 different parcels of real estate that were in
22 there. During the course of serving as trustee,
23 one lot was sold and -- and it generated three or
24 \$4,000, and then later on another lot was sold and
25 it generated another four or \$5,000. Then there

1 was a lot next to a bank in Hartsville that
2 generated about 18 some odd thousand dollars.

3 During the period of time, Mr. Byerly
4 would periodically come to me and request for a
5 distribution, and I made distributions to him in
6 small amounts, maybe 125 to \$500 periodically, and
7 then there was one larger distribution made of
8 13,000 so he could purchase a mobile home.

9 I should have reread the trust
10 agreement at the time I became the trustee since --
11 since I had prepared it, and I then would have
12 realized that the provisions prohibited me from
13 making distributions from the principal of it. So
14 therefore there was no question that I did, in
15 fact, make distributions from the principal
16 unknowingly or recalling that it had been part of
17 the trust agreement.

18 When I was contacted by an attorney
19 here in Columbia, I then turned it over to my
20 malpractice carrier, and they had hired Mr. Finley
21 Clarke of Florence to represent me. We did not
22 contest the situation that I did make distributions
23 from principal to the beneficiary of the trust when
24 I was only allowed to do the -- the income. I did
25 not receive any trustee fees. However, I did

1 receive a few fees from it relating to these real
2 estate deeds and things of that sort.

3 SENATOR KNOTTS: Do I understand you to
4 say that you -- that you prepared the original --

5 MR. STANTON: Yes, sir, I prepared the
6 original trust agreement.

7 SENATOR KNOTTS: And you did not
8 realize that -- that this clause was in it?

9 MR. STANTON: No, sir, I did not
10 recall. That's the only trust that I had ever
11 prepared that had a limitation of just distribution
12 of income rather than -- plus most of them have
13 discretionary distributions of principal. This is
14 the only one that did not have that in there.

15 SENATOR KNOTTS: And you did not
16 remember it?

17 MR. STANTON: No, sir, I did not
18 remember it, and I was remiss quite frankly in not
19 having reviewed it prior to serving as a trustee.

20 SENATOR KNOTTS: Why did you wait so
21 long to decide to run for family court judge?

22 MR. STANTON: Senator Knotts, the
23 primary reason is that we have had a very stable
24 situation in our county with family court judges.
25 Judge Spruill had served for a long period of time.

1 The seat that I'm running for now, Judge Murdock,
2 he was a former partner of mine. He had been
3 serving since '92. Judge Henderson had been
4 serving sometime since probably the -- the early
5 '90s also.

6 So there has not been a vacancy,
7 Senator, in our fourth circuit until the last time
8 two years ago when Judge Spruill decided to retire.
9 It's something I've wanted to do, but there was
10 just not an availability of a judgeship in our
11 circuit to try to obtain.

12 SENATOR KNOTTS: Okay. Have you
13 utilized or have you ever been a guardian ad litem?

14 MR. STANTON: Yes, sir, I've served as
15 a guardian ad litem, and I've also utilized a
16 guardian ad litem services in many cases, yes, sir.

17 SENATOR KNOTTS: When you was a
18 guardian -- served as a guardian ad litem, did you
19 in all -- in all your cases that you serve go and
20 visit both the fam -- both homes of the proposed
21 individual --

22 MR. STANTON: Yes, sir.

23 SENATOR KNOTTS: -- the home of the
24 parents?

25 MR. STANTON: Yes, sir, I did that, and

1 also normally if the children were school age, I
2 talked to the folks -- the school officials, and I
3 also talked to any one of the individuals from both
4 sides that they said had information that might
5 be -- have a bearing on the child custody matter.

6 SENATOR KNOTTS: And what was the
7 average -- the obvious time -- time that Judge
8 Spruill's office was open for -- for family court?

9 MR. STANTON: As far as a family court,
10 most of the time -- are you talking about the time
11 that court was being held?

12 SENATOR KNOTTS: The workweek.

13 MR. STANTON: All right. The workweek
14 normally began on Monday either at 9:30 or 10:00,
15 and in our circuits the courts normally wound up
16 around one o'clock, two o'clock, and it was right
17 around the lunch hour.

18 SENATOR KNOTTS: And that's how many
19 days a week?

20 MR. STANTON: That's five days a week,
21 yes, sir.

22 SENATOR KNOTTS: Why would it only run
23 a half a day --

24 MR. STANTON: Sir --

25 SENATOR KNOTTS: -- or three or four

1 hours a day?

2 MR. STANTON: No, they ran until five
3 o'clock Mondays through Thursdays, and on Fridays
4 is when normally the Court would break down around
5 one o'clock to two o'clock.

6 SENATOR KNOTTS: And was anything held
7 like small hearings for just signage of divorce
8 documents that just only needed 15, 20 minutes?
9 Was that utilized on Friday afternoon or was it
10 just Friday afternoon, time to go home?

11 MR. STANTON: Friday afternoon I'm
12 assuming was time go back to your office to finish
13 what needed to be done, but normally there were not
14 hearings scheduled for Friday afternoon. That goes
15 back to one of the things I mentioned about
16 scheduling, that some uncontested matters or
17 approval of agreements and things of that sort that
18 would might not take more than about 15 minutes, I
19 think that's a period of time when those could be
20 heard and would help free up other time in the
21 other parts of the weekly schedule.

22 SENATOR KNOTTS: Thank you.

23 MR. STANTON: Thank you.

24 REPRESENTATIVE DELLENEY: Any other
25 members of the Commission have any questions for

1 Mr. Stanton?

2 There being none, thank you,
3 Mr. Stanton, for appearing before us today and for
4 offering yourself as a candidate for the family
5 court.

6 As you know, this ends this portion of
7 the screening process. We will close the record in
8 your public hearing at this point, but we do
9 reserve the right to reopen the record and to bring
10 you back down here and ask you more questions if
11 the need arises. I don't expect it to arise in
12 your case.

13 With that, I would remind you of the
14 48-hour rule, and hope you have a safe trip home.

15 MR. STANTON: Thank you very much.
16 Appreciate y'all's service.

17 REPRESENTATIVE DELLENEY: We're going
18 to take a five-minute break.

19 (A recess transpired.)

20 REPRESENTATIVE DELLENEY: Mr. Sellers,
21 you have something you'd like to put on the record?

22 MR. SELLERS: I do.

23 My firm has a contract with a lawyer to
24 provide -- to serve when anybody in the firm is
25 appointed, and I learned this morning that that

1 person is Thomas Quinn. I didn't -- if Jane hadn't
2 have told me that, I wouldn't have even known it.
3 But Mr. Quinn apparently has a contract with our
4 law firm --

5 MS. SHULER: To do DSS cases.

6 MR. SELLERS: -- to do DSS cases, yeah.

7 I wouldn't know him from an Adam's
8 house cat. I've never dealt with any of those --
9 any of that. I don't get appointed. I've aged out
10 of that requirement, so I just wanted to alert the
11 Commission.

12 I frankly don't think it's a conflict,
13 but you might want to ask him if he thinks it is or
14 if he has any issue with that and I'll recuse
15 myself.

16 PROFESSOR FREEMAN: Just for the
17 record, I don't have any problem with that at all.
18 I don't think it's an issue if you don't. It
19 doesn't affect you at all.

20 MR. SELLERS: I wouldn't know him from
21 Adam's house cat.

22 REPRESENTATIVE DELLENEY: Good morning.

23 MS. CHRISTOPHILLIS: Good morning.

24 REPRESENTATIVE DELLENEY: We have with
25 us this morning Ms. Catherine Carr Christophillis

1 which seeks a position on the family court, 13th
2 judicial circuit, seat number three.

3 If you would, Ms. Christophillis, would
4 you raise your right hand to be sworn.

5 (Catherine C. Christophillis was duly
6 sworn, after which testimony began at 11:21 a.m.)

7 REPRESENTATIVE DELLENEY: Thank you,
8 ma'am.

9 The Judicial Merit Selection Commission
10 has thoroughly investigated your qualifications for
11 service on the bench. Our inquiry has primarily
12 focused on our nine evaluative criteria which
13 includes a survey of the bench and bar, a thorough
14 study of your application materials, verification
15 with your compliance with state ethics laws, a
16 search of any newspaper articles in which your name
17 may have appeared, a study of any previous
18 screenings, and a study -- or a check for economic
19 conflicts of interest.

20 We do not have any affidavits filed in
21 opposition to your election or candidacy, and there
22 are no witnesses to testify.

23 Do you have a brief opening statement
24 you'd like to make?

25 MS. CHRISTOPHILLIS: No, I'm just glad

1 to be here, and I know I'll answer any questions
2 that Ms. Dean has, and I'll be glad to answer any
3 questions that anyone on the Commission would have
4 for me.

5 REPRESENTATIVE DELLENEY: Thank you,
6 ma'am.

7 If would you, at this time answer any
8 questions Ms. Dean may have for you.

9 MS. CHRISTOPHILLIS: Thank you.

10 MS. DEAN: Thank you, Mr. Chairman.

11 Mr. Chairman and members of the
12 Commission, I have a few procedural matters to take
13 care of with this candidate.

14 Ms. Christophillis, you have before you
15 the personal data questionnaire you submitted as
16 part of your application. Are there any additional
17 amendments you'd like to make at this time?

18 MS. CHRISTOPHILLIS: No, there are not.

19 MS. DEAN: Mr. Chairman, I would like
20 to ask that Ms. Christophillis's -- I'm sorry --
21 personal data questionnaire be entered as an
22 exhibit into the hearing record.

23 REPRESENTATIVE DELLENEY:
24 Ms. Christophillis's personal data questionnaire
25 will be entered into the hearing at this point in

1 the transcript without objection.

2 Is that correct?

3 MS. CHRISTOPHILLIS: That's correct.

4 Thank you.

5 REPRESENTATIVE DELLENEY: Thank you,

6 ma'am.

7 (EXH. 14, Personal Data Questionnaire
8 of Ms. Catherine C. Christophillis, admitted.)

9 MS. DEAN: Ms. Christophillis, you have
10 been -- you have now before you the sworn statement
11 you provided with detailed answers to over 30
12 questions regarding judicial conduct, statutory
13 qualifications, office administration, and
14 temperament. Are there any additional amendments
15 you would like to make to this sworn statement?

16 MS. CHRISTOPHILLIS: No, there are not.

17 MS. DEAN: At this time, Mr. Chairman,
18 I would ask that the sworn statement be entered as
19 an exhibit to the hearing record.

20 REPRESENTATIVE DELLENEY:

21 Ms. Christophillis -- Ms. Christophillis's sworn
22 statement will be entered into the record at this
23 point in the transcript without objection.

24 MS. CHRISTOPHILLIS: Correct, thank
25 you.

1 (EXH. 15, Sworn Statement of Catherine
2 C. Christophillis, admitted.)

3 MS. DEAN: One final procedural matter.
4 I note for the record that based on the testimony
5 contained in the candidate's PDQ which has been
6 included in the record with the candidate's
7 consent, Ms. Christophillis meets the statutory
8 requirements for this position regarding age,
9 residency, and years of practice.

10 Ms. Christophillis, will you please now
11 state the city and judicial circuit in which you
12 reside.

13 MS. CHRISTOPHILLIS: Yes, I reside in
14 the city of Greenville, South Carolina, and it's
15 the 13th judicial circuit, seat three in the family
16 court.

17 MS. DEAN: Now, Ms. Christophillis, why
18 do you now want to serve as a family court judge?

19 MS. CHRISTOPHILLIS: I would like to
20 continue my service to my county and my state. I
21 have been practicing law for 33 years, and 12 of
22 those as a prosecutor involving child abuse and
23 neglect and 20 as a practitioner in family court
24 handling any kind of case there is in family court.

25 And I've been quite active in

1 children's issues and family issues for my career
2 as well as a lot of state boards and boards in
3 Greenville County serving my county and state. And
4 I believe I would like to take the experience that
5 I've gained and continue that service to help the
6 people in my county through being a fair and
7 impartial judge in family court.

8 MS. DEAN: Thank you.

9 Are there any areas, including
10 subjective areas of law, that you would need
11 additional preparation for in order to serve as a
12 judge and how would you handle that additional
13 preparation?

14 MS. CHRISTOPHILLIS: I don't believe
15 there would be any additional preparation. I would
16 of course submit myself to any type of training
17 that the judiciary would offer in continuing legal
18 education, as well as any type of CLE programs that
19 would be beneficial for the administration of
20 justice and would enjoy that -- those
21 opportunities.

22 But I believe that I handled every kind
23 of case in family court, that I -- that I feel very
24 prepared to be handle -- to continue to handle
25 those.

1 MS. DEAN: Thank you.

2 Ms. Christophillis, although you
3 address this in your sworn affidavit already, could
4 you please explain to the members of the Commission
5 what you think is the appropriate demeanor of a
6 judge.

7 MS. CHRISTOPHILLIS: The appropriate
8 demeanor of a judge is to be thorough, impartial,
9 fair, to be respectful to all the litigants, the
10 witnesses that come before them, to be efficient
11 and timely and run the court without delay for all
12 the participants, and be -- I think you can be
13 efficient as well as being understanding and
14 compassionate, and that's what I would intend to
15 do.

16 MS. DEAN: When you leave the bench,
17 what would you like your legacy as a family court
18 judge to be?

19 MS. CHRISTOPHILLIS: That I served the
20 people well, that they all had their day in court,
21 that they felt that they had been respected, that
22 the bar and other members of the bench would feel
23 respected, and that hopefully I can initiate some
24 things maybe to help the docket move along and help
25 some things -- issues that I have seen as a

1 practitioner for the length of time that I have.

2 But I think it's mainly that -- that
3 she did her job fairly and impartially and -- and
4 helped the people that were before me.

5 MS. DEAN: Okay. Thank you.

6 What suggestions would you offer for
7 improving the backlog of cases on the family court
8 docket?

9 MS. CHRISTOPHILLIS: There are several
10 things that I would look at. One would be the
11 implementation of pretrial written briefs in
12 complicated, contested cases. I think this would
13 help in moving along the docket and narrowing the
14 issues that would come before the Court on
15 contested cases.

16 This practice is used a lot at the
17 circuit court level, and I have seen other
18 jurisdictions outside of Greenville in family court
19 that have implemented the same type of procedure,
20 and it's one that I think would narrow issues
21 and -- and help further delays. If you know how
22 many witnesses, et cetera, that are coming before
23 the Court and other things, it makes attorneys
24 really be very specific on what the issues are
25 before the Court so that there won't be a lot of

1 delays in that.

2 That's one area, and I am very
3 interested in look into the issue of juvenile drug
4 court and drug court in the areas of child abuse
5 neglect cases which I did prosecute for some time.
6 I've done a lot of research on the drug courts. I
7 know that Judge Williams still does the drug court
8 in Richland County, and it is an excellent way to
9 provide services to juveniles and as well as
10 parents who have a drug or alcohol condition that
11 is -- is impairing them from being the fullest
12 parent that they can. And it has worked in other
13 jurisdictions to help case -- help the case log and
14 the backlog of cases, rather, and provide a lot of
15 services for people to help the recidivism rate.

16 And I think that that would be
17 something I'd like to look at, as well as the issue
18 of looking at arbitration in certain areas,
19 particularly division of property where a judge
20 wouldn't have to divide the pots and pans, so to
21 speak, but could use -- we've used a lot of
22 mediation in -- Greenville is one of the counties
23 for mandatory mediation, and that's been very
24 successful for helping our docket.

25 And I think we could look at the issue

1 of arbitration in turning cases. We have a lot of
2 retired judges in our area, and I would like --
3 that's something else I think would be helpful in
4 improving the docket.

5 MS. DEAN: Thank you.

6 Ms. Christophillis, as we previously
7 discussed, the Upstate Citizens Committee found you
8 to be qualified regarding judicial temperament.
9 The Committee stated it had no concerns regarding
10 your civility.

11 The Committee only stated that comments
12 were received regarding your decision making
13 ability, and this criticism, if any, may be
14 attributed only to your communication. Would you
15 like to respond to that.

16 MS. CHRISTOPHILLIS: Yes, I think that
17 if you look at the history of my career -- first of
18 all, I consider myself to be very, very decisive.
19 I'm able to make decisions on very difficult cases
20 at certain times. For instance, on some of the
21 cases that I prosecute as well as a lot of the
22 cases that I defended I think speaks for itself,
23 and that's in my PDQ.

24 And the service that I've had to my
25 community has put me on lots of boards as chairman.

1 I end up being chairman of a lot of things. So I
2 do think I have the ability to be quite decisive
3 when I have all the -- the facts. I've served as
4 chairman of the Child State Fatalities Committee
5 for seven years for the state, and we had to make
6 extremely difficult decisions.

7 I -- I think that where -- the thing
8 about this issue when you mention it, perhaps the
9 fact that I am appointed by a lot of judges to
10 serve as a guardian ad litem in the private --
11 not -- not the abuse/neglect cases, but private
12 contested custody and visitation issues might be an
13 area where one could perceive that you wouldn't be
14 able to make decisive decisions. However, I'd look
15 at it totally different because we are under a
16 state statute that governs a private guardian ad
17 litem, and it's very important to abide by that
18 statute.

19 I have been appointed in very -- very
20 high profile, difficult cases where I've had to
21 under the guardian statute talk to many, many
22 witnesses, have psych -- have psychological
23 evaluations done, talk to psychiatrists, school
24 teachers, delve into all kind of records, including
25 criminal records, and that takes a lot of time.

1 Under the guardian statute the guardian
2 doesn't make the decision. This is what a lot of
3 people misconceive, the guard -- the role of the
4 guardian. The guardian statute is quite clear in
5 that the -- only the judge makes the final decision
6 about custody and visitation, not the guardian.
7 The guardian's role is to do an impartial and fair
8 investigation and gather all the facts, to -- and
9 only make a recommendation one -- when the case has
10 been heard on the merits, all the witnesses have
11 testified on both sides, and then only if the judge
12 requests your opinion as the guardian ad litem and
13 then you can testify and then you're subject to
14 cross-examination.

15 I think what happens is that people,
16 particularly in the high profile cases, as a
17 guardian they -- they want -- they're advocating
18 and they want their information -- or they think
19 they want you to have an opinion pretty quickly.
20 Well, you can't do that, and you -- you have to
21 abide by what the statute says and gather all that
22 information.

23 So I think there could be a
24 misinterpretation of that or a misunderstanding of
25 what the role of the guardian is. That's the only

1 thing where -- where I don't think it's a lack of
2 decisiveness. I think it's pretty much taking the
3 law of this state and applying the facts and
4 gathering the facts to make a total recommendation
5 ultimately to a judge of what's in the best
6 interest of children.

7 MS. DEAN: Thank you.

8 I just have a few more housekeeping
9 issues now.

10 Have you sought or received the pledge
11 of any legislator prior to this date?

12 MS. CHRISTOPHILLIS: No, I have not.

13 MS. DEAN: Have you sought or have you
14 been offered a conditional pledge of support of any
15 legislator pending the outcome of your screening?

16 MS. CHRISTOPHILLIS: No, I have not.

17 MS. DEAN: Have you asked any third
18 parties to contact members of the General Assembly
19 on your behalf?

20 MS. CHRISTOPHILLIS: No, I have not.

21 MS. DEAN: Have you contacted any
22 members of the Commission?

23 MS. CHRISTOPHILLIS: No, I have not.

24 MS. DEAN: Do you understand that you
25 are prohibited from seeking a pledge or commitment

1 until 48 hours after the formal release of the
2 Commission's report?

3 MS. CHRISTOPHILLIS: Yes, I am.

4 MS. DEAN: And have you reviewed the
5 Commission's guidelines on pledging?

6 MS. CHRISTOPHILLIS: Yes, I have.

7 MS. DEAN: As a follow-up to that, are
8 you aware of the penalties for violating the
9 pledging rules; that is, it is a misdemeanor and
10 upon conviction the violator must be fined not more
11 than \$1,000 or imprisoned not more than 90 days?

12 MS. CHRISTOPHILLIS: Yes.

13 MS. DEAN: I would note that the
14 Upstate Citizens Committee's report found that
15 Ms. Christophillis is well-qualified regarding
16 ethical fitness, professionalism and academic
17 ability, character, reputation, and experience. As
18 discussed earlier, the Upstate Citizens Committee
19 found Ms. Christophillis to be qualified regarding
20 judicial temperament.

21 I would just note for the record that
22 any concerns raised during the investigation
23 regarding the candidate were incorporated into the
24 questioning today.

25 Mr. Chairman, I have no further

1 questions.

2 REPRESENTATIVE DELLENEY: Thank you,
3 Ms. Dean.

4 Does any member of the Commission have
5 any questions for Ms. Christophillis?

6 Senator Knotts.

7 SENATORS KNOTTS: Thank you,
8 Ms. Christophillis, for applying for -- to be a
9 judge -- a family court judge.

10 You've got a great -- great bit of
11 experience as a guardian ad litem from your
12 testimony.

13 MS. CHRISTOPHILLIS: Yes, I have.

14 SENATOR KNOTTS: And you say you're not
15 to give an opinion unless the judge asks for it?

16 MS. CHRISTOPHILLIS: Yes. Under the
17 new statute you -- at the -- at the final hearing
18 on the merits, you have to wait until you file your
19 report, and then all the testimony on both sides of
20 the case must be heard, and then at the end of that
21 the judge may request your opinion. At that time
22 you testify and then each attorney would also be
23 able to cross-examine.

24 Now -- now, during the pendency of the
25 case before a final hearing is held, a guardian can

1 make recommendations as to issues such as
2 counseling if counseling is appropriate or if a
3 drug testing is appropriate so that they follow-up
4 certain facts that lead them to those kind of
5 issues. They also could file a motion and submit
6 affidavits on a -- as a temporary basis, but
7 they're not to make a -- a final recommendation on
8 the merits of the case until after a whole -- a
9 hearing has been held.

10 SENATOR KNOTTS: Have you ever been --
11 been involved in the case as a guardian ad litem
12 where you did not visit the children's home or --
13 or the parents or the --

14 MS. CHRISTOPHILLIS: No, I always visit
15 the children's home. It is part of what I do.
16 Interview the children. I -- I never have the
17 children come to my office. I would always go to
18 their home where each parent are, and then I also
19 usually go to the schools so that I can interview
20 the children with -- without either parent. You
21 know, I like to see what they say when they're not
22 with -- with the father or the mother.

23 SENATOR KNOTTS: You --

24 MS. CHRISTOPHILLIS: But I do go and --
25 and visit them at their homes, yes, sir.

1 SENATOR KNOTTS: Do you believe that
2 that is a necessary tool that has to be utilized
3 where you visit -- visit both parents in the event
4 that they're separated, both of them's home?

5 MS. CHRISTOPHILLIS: I -- I think so,
6 unless there's -- sometimes there's extenuating
7 circumstances or if one parent lives out of the
8 state. And I've actually had to go out of the
9 state on certain cases, but if they live pretty far
10 and there's not the money to allow me to go like to
11 Vermont or someplace like that, I would get other
12 information like videotapes, other information
13 about the school, photographs. There's a way to
14 get other information.

15 Sometimes you can't go to the place
16 under certain circumstances, but most -- mostly you
17 can do that. I do think it's very important
18 because you want to see every -- both parents'
19 environment as you, you know, are going through
20 your investigation. It's important I think to see
21 the children interacting with the different parents
22 in their own environment.

23 SENATOR KNOTTS: So if the -- if the
24 homes are within a reasonable distance -- are
25 located in South Carolina, you feel the guardian ad

1 litem should spend time enough to go and visit the
2 home?

3 MS. CHRISTOPHILLIS: I think so. I --
4 I absolutely believe that, unless there's some
5 reason -- if one parent were, you know, in jail or,
6 you know, something like that, but, yeah if --
7 under usual circumstances if they're -- they both
8 have residents in --

9 SENATOR KNOTTS: I certainly understand
10 you wouldn't go --

11 MS. CHRISTOPHILLIS: Yeah.

12 SENATOR KNOTTS: -- to visit the jail
13 because that's not going to be the child's home.

14 MS. CHRISTOPHILLIS: Right. So -- but
15 under most circumstances -- I mean, in the majority
16 of the cases that I have, yes, I go to both -- both
17 parents' home on a -- on a regular basis. I've
18 been all over the county, yes.

19 SENATOR KNOTTS: What percentage of the
20 cases have you been involved in as a guardian ad
21 litem where the judge actually asks your opinion
22 and agrees with it?

23 MS. CHRISTOPHILLIS: All the cases I've
24 been in they've asked my opinion.

25 SENATOR KNOTTS: How many or --

1 MS. CHRISTOPHILLIS: I --

2 SENATOR KNOTTS: -- a percentage of
3 your time would you say they agreed with or
4 disagreed with?

5 MS. CHRISTOPHILLIS: I would say all of
6 the times they've agreed with my opinion. A lot of
7 cases, though, we were able to settle.

8 That's another thing that I feel that's
9 important. Once I get the information I do share
10 it with the attorneys. I'm not making a
11 recommendation, but I am sharing it. And I've had
12 a lot of cases as well that have been able to
13 settle without actually having a -- a final hearing
14 on the merits, or we just have an agreement and we
15 read it on the record.

16 SENATOR KNOTTS: And you would still
17 require that -- that expertise testimony and the
18 ethical way you went about doing it if you was a
19 family court judge to guardian ad litem that was
20 appointed or --

21 MS. CHRISTOPHILLIS: Yes, sir.
22 Absolutely.

23 SENATOR KNOTTS: And what would be your
24 work -- workweek?

25 MS. CHRISTOPHILLIS: As much as it

1 takes. I --

2 SENATOR KNOTTS: What is as much as it
3 takes?

4 MS. CHRISTOPHILLIS: Well, I think --
5 in other words, it's not just a 9:00 to 5:00. If a
6 hearing were to go over and that's important to get
7 that information in, I would -- I would go over the
8 five o'clock. I've done that many, many times in
9 my practice. And I -- I think it's important to
10 get that case heard for the families and the
11 children involved.

12 I also shared my interest in drug
13 courts. I would be interested in doing that of
14 course after-hours, so to speak. So I'm willing to
15 do over the 40 hours if -- if -- if it requires
16 that, because what happens is that if you start a
17 contested custody case on one day and you don't
18 finish it, then what happens is the docket is
19 already scheduled for the rest of the week. So you
20 can't just come in the next morning and hear that
21 case. You have to wait months to get it back on
22 the docket, and that's pretty devastating sometimes
23 to people -- the litigants involved and children
24 involved in the case.

25 SENATOR KNOTTS: Why would you have to

1 wait months?

2 MS. CHRISTOPHILLIS: Because the
3 docket -- the docket is already out for the whole
4 week, and sometimes the docket has already been
5 set, and so you -- it's not like other courts.
6 Every day there's a docket. Or perhaps attorneys
7 didn't request enough time because you can get two,
8 three or even a week's stay of trial if you request
9 it in the beginning. But sometimes -- nobody
10 really knows sometimes how long the testimony might
11 take.

12 So I think it's important to try and
13 finish a case as quickly as possible and not have
14 those gaps. So I would do everything I could to
15 try and make that happen.

16 SENATOR KNOTTS: So you would let
17 your -- your attorneys run your court -- court as
18 the times that you've got allotted?

19 MS. CHRISTOPHILLIS: No. Not
20 necessarily because what I'm saying is if --

21 SENATOR KNOTTS: How would you
22 determine that the time that the judge -- I mean,
23 that the lawyer said he needed was the actual time?
24 Would you have some type of pretrial or --

25 MS. CHRISTOPHILLIS: Yes, that's what I

1 had -- I had testified earlier today that one of my
2 concerns is that if it's a contested case, if it
3 hasn't been decided or settled in mediation, then
4 they must give a pretrial written brief and you
5 have to have a pretrial hearing on every case prior
6 to getting scheduled for the -- a long merits
7 hearing, because I think then you can be more
8 accurate as to how many witnesses there are going
9 to be, they're calling duplicate witnesses that are
10 going to be the same thing, if they have -- if
11 there's any -- what -- the evidence could already
12 be marked for identification, could already --
13 there's a lot of things I think you could do as far
14 as making sure that when you go to trial that you
15 really are asking for a day, you do really need a
16 day or maybe you need longer.

17 The judge could also at a pretrial
18 hearing say, "Well, it looks to me like you've got
19 so many witnesses, so -- so many issues that I'm --
20 I want it longer than what you requested. You
21 requested a day. I think it's going to have to be
22 on the docket for two days." So you have more
23 control over that once you have that pretrial
24 conference, but you must have the pretrial
25 conference to -- to know what is before you and --

1 and how you can help set that and control the
2 docket better than it is now. I do believe that.

3 SENATOR KNOTTS: Some of the -- some of
4 the complaints we've had in the past -- and I've
5 looked into it over the last summer. A lot of
6 attorneys will tell the judge they need a two-day
7 trial or a three-day trial, and then they'll
8 have -- it will come up and then the -- their
9 client -- their clients are calling complaining why
10 the judge is continuing the case, and they never
11 find out until we look into it that their own
12 attorney continued the case.

13 And basically how you would handle
14 attorneys that are constantly asking for
15 continuances? And would you require them to notify
16 their own clients that they asked for the case to
17 be continued or how would you handle those
18 professional continuing lawyers is what I call
19 them.

20 MS. CHRISTOPHILLIS: Well, hopefully we
21 can nip it in the bud by having a pretrial
22 conference, but if not, then -- then what you can
23 do as a judge -- you have to sign an order
24 continuing it. So if you have to sign an order,
25 you can say in the order that this order must be

1 served on each party, not just the attorneys --

2 SENATOR KNOTTS: Okay.

3 MS. CHRISTOPHILLIS: -- so that the --
4 everyone will know -- will be on the same sheet, so
5 to speak.

6 But I think you could handle it that
7 way, but hopefully with the -- with what I'm
8 talking about -- no, we do in Greenville have an A,
9 B, C, D. We'll have scheduled cases behind the
10 main case so that the docket won't break down and
11 we'll keep hoping to consider other cases. So I
12 think that's beneficial. But I do think these
13 pretrial hearings would be really important. It
14 would make a difference.

15 SENATOR KNOTTS: How would you handle
16 cases that only -- both sides have worked it out
17 and both the lawyers agree and -- and all they're
18 wanting for is -- both sides want the divorce and
19 they can't get in court for a five-minute hearing,
20 how would you handle those cases?

21 MS. CHRISTOPHILLIS: Well, we have a
22 settlement docket that lawyers can get on or -- and
23 they also know that if -- if -- I think what we
24 could do also as far as in addition to the
25 settlement docket is just inform attorneys and get

1 the word out to the bar that if we have a
2 breakdown -- for instance, if we have three cases
3 that all are settled, which happens -- and so
4 therefore you've got a whole day of docket. You
5 can have e-mail to all the attorneys and just say,
6 "If you've got a uncontested one-year separation
7 divorce and you already have an agreement, if you
8 can get the parties there, we'll hear it." So --

9 SENATOR KNOTTS: Would you set aside a
10 day of the week for that or would you be having to
11 fill in where it creates a problem for the employer
12 if the person is on standby to have to leave at a
13 moment's notice?

14 MS. CHRISTOPHILLIS: Well, usually we
15 have Fridays set aside for that, Friday mornings,
16 and -- and then any other time, but I do think --

17 SENATOR KNOTTS: How about Friday
18 afternoons?

19 MS. CHRISTOPHILLIS: Friday afternoon
20 you can hear emergency hearings. We always have a
21 judge on duty, but, I mean, I would be glad to work
22 Friday afternoons, Senator.

23 SENATOR KNOTTS: Do you say you have a
24 judge on duty?

25 MS. CHRISTOPHILLIS: Yes. We don't --

1 we don't --

2 SENATOR KNOTTS: You don't have all the
3 judges in family court working on Friday afternoon?

4 MS. CHRISTOPHILLIS: We have -- we have
5 them there and they're -- we don't usually have
6 hearings unless they're hearings that are emergency
7 or -- or overlapped another day. That's the way
8 the docket is now. I think that we could schedule
9 hearings on that day, particularly these -- well,
10 any kind of hearings, quite frankly, we could have
11 on that day.

12 So I think you can have a set aside day
13 for the uncontested cases, but I think you could
14 also work them in as -- as you can. We have a lot
15 of requests. I know I've brought cases over when
16 I've known people want to go out of town or they're
17 in the service. They're only here for a short
18 period of time. They want their hearing to be
19 held. So we're able to get in touch with our --

20 SENATOR KNOTTS: How many family court
21 judges do you have in your circuit?

22 MS. CHRISTOPHILLIS: We have six total.
23 We are missing one obviously, but we have one --
24 our circuit includes Pickens County as well, so we
25 have --

1 SENATOR KNOTTS: So you have seven?

2 MS. CHRISTOPHILLIS: We have -- no, we
3 have six. We have one in Pickens and five in
4 Greenville. And of course the seat three --

5 SENATOR KNOTTS: One vacant.

6 MS. CHRISTOPHILLIS: -- is vacant right
7 now, but --

8 SENATOR KNOTTS: So that's seven -- or
9 six.

10 MS. CHRISTOPHILLIS: Six.

11 SENATOR KNOTTS: Okay. And you only
12 have one on call or on duty on Friday afternoon?

13 MS. CHRISTOPHILLIS: I'm -- I'm not
14 exactly positive about that. I know we can always
15 find a judge when we need a judge. There are a lot
16 in their chambers. They're not always having
17 hearings is -- is what -- the appropriate way to
18 answer that I think. They're in their -- they're
19 there, and I think if we could do more --

20 SENATOR KNOTTS: Well, if I call up
21 there next Friday in your circuit, there's six
22 judges or five judges or whatever -- however many
23 you figure out you have now, there's five available
24 judges or has four of them gone home?

25 MS. CHRISTOPHILLIS: They should be

1 there.

2 SENATOR KNOTTS: Should be there.

3 MS. CHRISTOPHILLIS: I mean, as far as
4 I know, unless --

5 SENATOR KNOTTS: In your experience --

6 MS. CHRISTOPHILLIS: Yes.

7 SENATOR KNOTTS: -- in dealing with
8 them, have they always been there?

9 MS. CHRISTOPHILLIS: I've always been
10 able to get anything done that our -- that I've
11 requested --

12 SENATOR KNOTTS: Okay.

13 MS. CHRISTOPHILLIS: -- be it an
14 emergency hearing or a case we wanted to put on the
15 record that was settled.

16 SENATOR KNOTTS: And you plan to work
17 on Fridays?

18 MS. CHRISTOPHILLIS: Yes, sir, if I
19 need to do that, I plan to do that. I've always
20 done that.

21 SENATOR KNOTTS: If -- if you -- the
22 workweek is Monday through Friday. Do you plan to
23 work on Fridays all day?

24 MS. CHRISTOPHILLIS: Yes, I do.

25 SENATOR KNOTTS: Okay. Thank you.

1 REPRESENTATIVE DELLENEY: Any other
2 member of the Commission have any questions for
3 Ms. Christophillis?

4 There being none, thank you,
5 Ms. Christophillis, for appearing before us today
6 and for your willingness to serve.

7 And this concludes this portion of the
8 screening process for you. We will close the
9 public hearing portion of your screening process.
10 However, we reserve the right to reopen it and to
11 call you back if we have additional questions. Of
12 course I don't expect that to happen in your case.
13 It has been a fairly rare occurrence that has
14 happened in the history of the Commission.
15 However, we do reserve that right.

16 And I would remind you about the
17 48-hour rule, and hope that you and your husband
18 have a safe trip back to Greenville.

19 MS. CHRISTOPHILLIS: All right. Thank
20 you. I don't think -- I failed to introduce my
21 husband. It's Taki Christophillis, and I'm sorry,
22 I didn't introduce him earlier, but --

23 REPRESENTATIVE DELLENEY: Well, I
24 should have asked you.

25 MS. CHRISTOPHILLIS: Thank you. Thank

1 you.

2 REPRESENTATIVE DELLENEY: Thank you.

3 (Off the record.)

4 REPRESENTATIVE DELLENEY: How are you
5 doing, Mr. Phillips?

6 MR. PHILLIPS: Good to see you. Do you
7 mind if I sit down?

8 REPRESENTATIVE DELLENEY: Yes, sir.

9 We have with us today Mr. Harry L.
10 "Don" Phillips, Jr., who seeks a judicial position
11 on the family court, 13th judicial circuit, seat
12 number three.

13 If you would, Mr. Phillips, please
14 raise your right hand to be sworn.

15 (Harry L. Phillips, Jr., was duly
16 sworn, after which testimony began at 11:52 a.m.)

17 REPRESENTATIVE DELLENEY: Thank you,
18 sir.

19 The Judicial Merit Selection Commission
20 has thoroughly investigated your qualifications for
21 service on the bench. Our inquiry has primarily
22 focused on our nine evaluative criteria which have
23 included a survey of the bench and bar, a study of
24 your application materials, verification of
25 compliance with state ethics law, the search of any

1 newspaper articles in which your name may have
2 appeared, a study of any previous screenings, as
3 well as a con -- a check of economic conflicts of
4 interest.

5 There are no affidavits received in
6 opposition to your candidacy or election, and we
7 have no witnesses here to testify.

8 Do you have a brief opening statement
9 you'd like to make?

10 MR. PHILLIPS: I'm glad to be here. I
11 enjoy -- as much as we can enjoy the process. I
12 enjoyed it last time. It was fortunate in
13 Greenville we had another opportunity in such a
14 short period of time for the family court.

15 I -- I've been in DSS for ten years and
16 I was in private practice for ten years prior to
17 that, so I've had experience on both sides and
18 hopefully I'm -- have the opportunity to maybe
19 continue on the bench with the government service
20 that I already have. I guess that sums it up.

21 REPRESENTATIVE DELLENEY: Thank you,
22 sir.

23 If you would, any -- answer questions
24 from counsel.

25 MR. PHILLIPS: Yeah.

1 MR. WRIGHT: Good morning,
2 Mr. Phillips. How are you?

3 MR. PHILLIPS: Fine. How are you
4 doing?

5 MR. WRIGHT: Mr. Chairman and members
6 of the Commission, I have a few procedural matters
7 to take care of with this candidate.

8 Mr. Phillips, you have before you the
9 personal data questionnaire you submitted as part
10 of your application. Are there any additional
11 amendments that you'd like to make at this time to
12 your PDQ?

13 MR. PHILLIPS: No.

14 MR. WRIGHT: Mr. Chairman, I would like
15 to ask that Mr. Phillips' personal data
16 questionnaire be entered as an exhibit into the
17 hearing record.

18 REPRESENTATIVE DELLENEY: Mr. Phillips'
19 personal data questionnaire will be entered into
20 the record of this hearing at this point in the
21 transcript without objection.

22 (EXH. 16, Personal Data Questionnaire
23 of Mr. Harry L. "Don" Phillips, Jr., admitted.)

24 MR. WRIGHT: Mr. Phillips, you also
25 have before you the sworn statement you provided

1 with detailed answers to over 30 questions
2 regarding judicial conduct, statutory
3 qualifications, office administration, and
4 temperament. Are there any amendments that you
5 would like to make at this time to your sworn
6 statement?

7 MR. PHILLIPS: No.

8 MR. WRIGHT: Mr. Chairman, I would ask
9 that Mr. Phillips' sworn statement be entered as an
10 exhibit into the hearing record.

11 REPRESENTATIVE DELLENEY: Mr. Phillips'
12 sworn statement will be entered into the hearing
13 record at this point in the transcript without
14 objection.

15 (EXH. 17, Sworn Statement of Harry L.
16 Phillips, Jr. -- "Don", admitted.)

17 MR. WRIGHT: One final procedural
18 matter. I note for the record that based on the
19 testimony contained in the candidate's PDQ which
20 has been included in the record with the
21 candidate's consent, Mr. Phillips meets the
22 statutory requirements for this position regarding
23 age, residence, and years of practice.

24 Mr. Phillips, can you state for the
25 record the city and circuit in which you currently

1 reside.

2 MR. PHILLIPS: It's Greenville, South
3 Carolina. It's the 13th judicial circuit.

4 MR. WRIGHT: Mr. Phillips, why do you
5 now want to serve as a family court judge?

6 MR. PHILLIPS: Again, without
7 reiterating my opening statement, I have been
8 counsel for the Department of Social Services for
9 the past ten years. I'm now the managing attorney
10 at our office. Prior to that I was in private
11 practice and I represented private litigants in
12 divorce cases and some common pleas work, and I'd
13 also represent folks on the opposite side of DSS.

14 I have enjoyed my work in family court.
15 I've enjoyed meeting all the attorneys there. We
16 have a good bar in Greenville and Pickens which is
17 also in the 13th circuit. I feel like I've had
18 experience on a wide variety of family court
19 matters and I could bring a lot to the table. I
20 would like to finish out my service on the bench,
21 if possible. And I feel like, again, I have a lot
22 of experience in different areas and bring a lot of
23 insight to that position.

24 MR. WRIGHT: Mr. Phillips, are there
25 any areas that you feel you would need to

1 additionally prepare for in order to serve as a
2 judge and, if so, how would you handle that
3 preparation?

4 MR. PHILLIPS: Probably on the criminal
5 side. Unfortunately a lot of our kids in foster
6 care have run-ins with the law, so we get brought
7 into some criminal cases in that regard. And also
8 there's questions about where the children are
9 going to go after they've been arrested, and not
10 surprisingly there's a lot of family dysfunction
11 and we get brought into those cases.

12 So I've had experience with criminal
13 cases from that standpoint, but as far as trying a
14 criminal case, my -- my practice has been in the
15 civil side, and I have tried to read as much as
16 possible and pay close attention when I'm down
17 there and ask the attorneys that practice there
18 both from the solicitor's side and the public
19 defender's side about procedural matters and things
20 of that nature and some of the things that happened
21 with the juveniles there. So that's how I plan to
22 address that lack of intensive focus on my
23 practice.

24 MR. WRIGHT: Mr. Phillips, although you
25 address this in your sworn affidavit, could you

1 explain to the members of the Commission what you
2 think is the appropriate demeanor for a judge.

3 MR. PHILLIPS: It's -- the appropriate
4 demeanor for the judge is to be fair and in control
5 of the courtroom. It's -- since they're all bench
6 trials in the family court unlike general sessions
7 or common pleas, and in family court is the only
8 connection a lot of folks ever have with the
9 judicial system other than serving on juries. It's
10 very important that they feel like they've been
11 treated fairly.

12 This is a low point in most folks'
13 lives. Other than the adoption, which is about the
14 only happy thing I've ever seen gone on down there,
15 other than some people getting away from a bad
16 marriage -- I've seen some people happy about that
17 apparently, but other than that, you're there
18 because the Department of Social Services is
19 involved in your life or your child has gotten in
20 trouble some on the criminal side, or you've got
21 some terrible divorce or custody case going on.

22 And so people are angry, upset.
23 There's competing families often for custody of
24 these children, and people need to feel like
25 they -- they've gotten a fair -- a fair shot.

1 Now, that being said, you have to
2 assume control of the -- of the court. They're
3 looking to you to make a decision. You -- you're
4 there to pull the trigger. Again, there's no jury
5 and people need some relief because things have
6 gotten bad enough for them to end up in court to
7 start with.

8 So the judge needs to be stern in that
9 regard but fair and listen to everybody, all within
10 the rules of court. I mean, there are rules that
11 apply down there. It's not just a general melee
12 for everybody. You've got to hold everybody to the
13 rules, and that's -- that's the way I think you
14 should run a courtroom.

15 MR. WRIGHT: Mr. Phillips, when you
16 leave the bench, what would you like your legacy to
17 be on family court?

18 MR. PHILLIPS: I would like for
19 everyone to think that I was -- another in the line
20 of good Greenville judges that we've had, that I
21 was fair and impartial, and I did the best job that
22 I could do with the framework that we have. Again,
23 there are -- you make decisions on very short
24 periods of time with the information that you've
25 got, and they're life altering decisions for

1 somebody, if you're thinking about I'm going to
2 give somebody their children to one side or the
3 other and that's going to affect these children,
4 everybody else.

5 So -- but you have short periods of
6 time often to make these decisions, but to be
7 informed as you can be and make decisions you think
8 is best for everybody concerned. That -- that
9 would probably -- and I would like for everybody to
10 think of me that he did that.

11 MR. WRIGHT: Mr. Phillips, what
12 suggestions would you offer for improving the
13 backlog of cases on the docket in family court?

14 REPRESENTATIVE DELLENEY: There --
15 that -- I'm going to assume that there's not going
16 to be any monetary help. That's probably a fair
17 assumption to hire any more judges. I -- I know
18 I'm the only one answering questions here, so I
19 would assume that we're not going to have any help
20 with more judges because of the financial
21 situation.

22 What's worked well -- the mediation is
23 really worked well in Greenville. I think you
24 could apply it to institutional cases such as the
25 Department of Social Services. We have a large

1 volume of cases. Most of them end up settling when
2 it's all said and done, but we go through a lot of
3 court time to get there.

4 The -- another thing that's been very
5 good in Greenville is the -- is the -- what they
6 call the rocket docket, the real short uncontested
7 docket. They've made additional time for that.
8 And I think they hear them about every five
9 minutes, and that's really moved a lot of cases
10 through.

11 But I think we may need to move some
12 alternative dispute resolution into family court
13 more than what we have done and even on the
14 institutional side. That's as brief answer as I
15 can get or that was my thoughts about it.

16 MR. WRIGHT: Thank you, Mr. Phillips.

17 I just have a few more housekeeping
18 issues.

19 Have you sought or received the pledge
20 of any legislator prior to this date?

21 MR. PHILLIPS: No.

22 MR. WRIGHT: Have you sought or have
23 you been offered a conditional pledge of support of
24 any legislator pending the outcome of your
25 screening?

1 MR. PHILLIPS: No.

2 MR. WRIGHT: Have you asked any third
3 parties to contact members of the General Assembly
4 on your behalf?

5 MR. PHILLIPS: No.

6 MR. WRIGHT: Have you contacted any
7 members of the Commission?

8 MR. PHILLIPS: No.

9 MR. WRIGHT: Do you understand that you
10 are prohibited from seeking a pledge or commitment
11 until 48 hours after the formal release of the
12 Commission's report?

13 MR. PHILLIPS: Yes, I understand that.

14 MR. WRIGHT: Have you reviewed the
15 Commission's guidelines on pledging?

16 MR. PHILLIPS: Yes.

17 MR. WRIGHT: As a follow-up, are you
18 aware the penalties for violating the pledging
19 rules; that is, it is a misdemeanor and upon
20 conviction the violator must be fined not more than
21 \$1,000 or imprisoned not more than 90 days?

22 MR. PHILLIPS: Yes.

23 MR. WRIGHT: I would note that the
24 Upstate Citizens Committee reported that
25 Mr. Phillips is either qualified or well-qualified

1 in each of the nine evaluative criteria, and the
2 Committee also reported they believe Mr. Phillips
3 would make an excellent family court judge.

4 I would also note for the record that
5 any concerns raised in the investigation regarding
6 the candidate were incorporated into the
7 questioning of the candidate today.

8 Mr. Chairman, I have no further
9 questions.

10 REPRESENTATIVE DELLENEY: Any member of
11 the Commission have any questions?

12 Senator Knotts.

13 SENATORS KNOTTS: Mr. Phillips, you
14 stated in your answers in your questionnaire that
15 if you had a former partner or an associate that
16 you would recuse yourself. How long would you stop
17 hearing cases? Would it be a period of time or
18 forever while you were on the bench?

19 MR. PHILLIPS: For private practice, it
20 would probably be forever. With the institutional
21 docket, I practice with other attorneys for the
22 Department of Social Services. I'd have to at some
23 point hear those cases. I don't think we could
24 afford in Greenville or any other counties I'd be
25 sent to for me just to be taken out of the rotation

1 for that.

2 I think the last judge we had in
3 Greenville it was at least a year that she didn't
4 hear any cases that involved her government service
5 practice. And then from -- if there was any
6 particular case she knew about the family, then
7 that was -- she didn't hear those cases period.

8 SENATOR KNOTTS: So what my question is
9 is putting you on the bench is not going to put --
10 put those lawyers out of business in your court for
11 a year or so, is it? I mean, you being a DSS
12 caseworker, I'm sure you have practiced law with
13 every law firm that practiced family court in
14 Greenville --

15 MR. PHILLIPS: I --

16 SENATOR KNOTTS: -- over the years.

17 MR. PHILLIPS: I have. They have been
18 on the other side of me for just about all of them
19 once or twice in family court.

20 SENATOR KNOTTS: So you would be
21 reasonable with that, wouldn't you? I mean, I
22 don't want to put a judge on a bench anywhere in
23 this state that's going to put all family
24 practice -- family court practicing attorneys in
25 that area from hearing your case -- being heard

1 before you for --

2 MR. PHILLIPS: What I meant by I guess
3 attorneys I had worked with as far as being in the
4 same firm because I've been in two firms that had
5 family court practitioners, not folks that were
6 necessarily on the other side of cases from me.
7 I'm sorry if I -- if I didn't clarify that.

8 SENATOR KNOTTS: You seemed sort of
9 like in your questionnaire one -- one question was
10 you would announce your association and recuse
11 yourself, and the others you said you would not
12 hear the cases. And I was just wondering how long
13 because --

14 MR. PHILLIPS: For the --

15 SENATOR KNOTTS: -- you could be fair
16 even if you -- if you had to hear a case?

17 MR. PHILLIPS: Yes, sir.

18 SENATOR KNOTTS: Okay.

19 MR. PHILLIPS: And I'm sorry if I
20 wasn't clear about that.

21 SENATOR KNOTTS: Let me ask you this.
22 In cases where kid -- kids are taken out of the
23 home because of some misconduct of the parents,
24 it's not always the children's fault that they're
25 taken out of the home, but whenever all the

1 children are taken out and put in a foster home,
2 what's your position on keeping the family
3 together, the children part?

4 MR. PHILLIPS: Well, as an attorney for
5 the agency, I don't make the social work decision.
6 My job is to represent them to -- as an attorney
7 representing a client. As far as trying to --

8 SENATOR KNOTTS: But you do have to
9 have some judge's approval, right?

10 MR. PHILLIPS: That's correct, Senator.

11 SENATOR KNOTTS: As a judge what would
12 be your --

13 MR. PHILLIPS: To try to keep -- and
14 what -- this is what we try to do, is try to keep
15 those children together to the extent possible.
16 We've had -- to be honest with you, we've had
17 children that have come from large family groups of
18 maybe seven kids, and we just do not have a place
19 to put all seven of those children. The older ones
20 sometimes will go to group homes, and the young
21 ones will go to foster homes.

22 We try to get them together, but to
23 find a foster home that can take that many children
24 is sometimes impossible to do. So we try to keep
25 at least groups of the children together. Now --

1 and then work very hard to try to find a relative
2 that can take everybody. And that -- I think
3 that -- that would be the approach that I would
4 take on the bench as well. It's important to keep
5 the children together.

6 Now, we have had situations where
7 children have been abusive to other siblings and
8 we've tried to keep them apart. Unfortunately if
9 the children have been abused, they will turn into
10 abusers, especially some of the older ones. And
11 we've had to take the other children's safety into
12 consideration on some of our cases, but that would
13 be -- I would try to keep them together to the
14 extent possible because I think it's important to
15 do that.

16 SENATOR KNOTTS: Do you prefer group
17 homes, foster homes or other family members that
18 could take the child? What would be your priority
19 in that?

20 MR. PHILLIPS: Family members. If I
21 had to rank them, it would be family members first.
22 That tends to diffuse the situation. If you --
23 visitation can increase. We're very limited on
24 what our visitation for foster care children is.
25 Currently it's twice a month for one hour. And

1 that's not a lot of time with the children.

2 So if we can get them with family
3 members and relatives, then they can have as much
4 visitation as those relatives are willing to
5 supervise. And that tends to calm the situation
6 down. We can keep the children often in the same
7 school, because when they come in foster, you're
8 going to go to school wherever the home is located.

9 The second priority would probably be
10 foster homes, and then the last would be the group
11 home. I'm not disparaging the group homes. I
12 mean, I think they do a good job. They tend to
13 have older children. Some of the 16, 17-years-olds
14 don't do -- don't do well in an individual home.
15 They've got some issues that have been going on for
16 years. They tend to respond better in a group
17 home.

18 But that -- that would be the ranking I
19 would have, Senator.

20 SENATOR KNOTTS: How is your tolerance
21 against people who don't pay child support on a
22 regular basis?

23 MR. PHILLIPS: Do I like them not
24 paying child support or --

25 SENATOR KNOTTS: No, what's your --

1 what's your tolerance on it? I don't think you
2 like it --

3 PROFESSOR FREEMAN: Don't like them.

4 SENATOR KNOTTS: I don't see you --

5 MR. PHILLIPS: I'm not in favor of them
6 not paying child support, if that's -- if that's
7 the answer you're looking for. They need to pay
8 child support, and they need to support their
9 children.

10 One thing that gets overlooked in these
11 hearings and one of the -- it's a huge financial
12 burden, and the child support -- they're not going
13 to come close to what you spend on those children
14 most of the time, and they need the money. And I
15 would be -- I would be pretty stringent in
16 enforcing child support.

17 SENATOR KNOTTS: If you -- if you
18 sentence somebody to pay a hundred dollars a week
19 or \$200 a week, whatever you sentence them, and you
20 find out that they're not paying it, there's a rule
21 to show cause, and then they come up to -- you come
22 up with the money and the next time a couple weeks
23 later -- I mean, a couple months later they're back
24 there, again, the same boat, another rule to show
25 cause, and you just keep having the revolving door

1 for this person, how much tolerance would you have
2 for something like that?

3 MR. PHILLIPS: It's hard for me to say.
4 My blanket would be -- would be that my tolerance
5 would decrease significantly every time I had to
6 see that person again. That's probably the fairest
7 answer I could give.

8 Now, he would probably start -- the
9 second time it wouldn't be a very pleasant
10 encounter, I don't think, unless they had been in a
11 wreck, or if they come in in a body cast, I might
12 feel a little differently about it. But --

13 SENATOR KNOTTS: You believe that they
14 should carry out your order, right?

15 MR. PHILLIPS: I do believe that.
16 Especially if somebody has been lenient to you the
17 first time and you've ponied up. We need to stop
18 the merry go round. Because even if they're
19 catching up the payments, that -- that custodial
20 party is doing without the money for that period of
21 time, and they get behind and it snowballs. So
22 they need the money paid on time. And if they're
23 coming up with the money, it looks like they had a
24 way to pay it to start with.

25 SENATOR KNOTTS: How about the people

1 that you order to pay child support and they leave
2 town for 15 years and they're caught with a \$70,000
3 child support, never -- never paid any, and they
4 finally pick them up like we do over in Lexington
5 County, what you think about that?

6 MR. PHILLIPS: I don't like that at
7 all. They're going to -- they owe the money. It
8 doesn't go away. The attitude of some of the folks
9 I've seen down there seems to be "If I kind of move
10 to some state that doesn't --" it's hard to track
11 them. "Then if I just show back up later as an
12 adult, then all the money is just gone."

13 But that's not true. You owe the money
14 and you owe everything associated with that. And
15 I'd be very -- very tough on those folks because
16 that parent has suffered for a long time without
17 the support those children need.

18 SENATOR KNOTTS: Your work ethic, you
19 feel a family court should hold on the bench -- if
20 you're appointed a judge, what would be your
21 work -- week work ethic?

22 MR. PHILLIPS: For the week?

23 SENATOR KNOTTS: Yes, sir.

24 MR. PHILLIPS: Is to work.

25 SENATOR KNOTTS: When would you go to

1 work?

2 MR. PHILLIPS: I'd go to work -- we
3 usually start at 8:30. You'd better be there ready
4 to go at 8:30. It's not show up at 8:30, but you
5 be ready to call your first case because everybody
6 is out there waiting for you and attorneys are out
7 there and they've got other things to do. And the
8 state is paying you to do a job, and -- and you
9 stay until Friday at five o'clock when everybody
10 gets off.

11 If -- if it requires more time than
12 that to get the job done, that's your
13 responsibility to see that those tasks that the
14 state is giving you gets done.

15 SENATOR KNOTTS: And how would you
16 handle cases of people who have got a -- a -- both
17 sides are settled and all they want is a judge's
18 signed order?

19 MR. PHILLIPS: You mean --

20 SENATOR KNOTTS: Five minutes, 15
21 minutes --

22 MR. PHILLIPS: If -- if I can
23 reasonably accommodate them, if it will move
24 another case on, I'm -- I'm willing to hear it. If
25 I can grab up a court reporter and everybody is

1 ready to go and people can get on with their lives,
2 especially in family court, I'm willing to take the
3 time to do that.

4 SENATOR KNOTTS: Thank you.

5 REPRESENTATIVE DELLENEY: Any other
6 member of the Commission have any questions for
7 Mr. Phillips?

8 There being none, Mr. Phillips, thank
9 you for being with us this afternoon.

10 And this concludes this portion of the
11 screening process, the public hearing portion.
12 We'll close the record at this time. That doesn't
13 stop us from reconvening or bringing you back down
14 here to ask you more questions if the need arises.
15 Of course I don't expect that to happen in your
16 case.

17 And I would advise -- remind you about
18 the 48-hour rule, and thank you for your
19 willingness to serve, and hope you have a safe trip
20 back home.

21 MR. PHILLIPS: Thank you. Appreciate
22 it.

23 (Off the record.)

24 REPRESENTATIVE DELLENEY: Good
25 afternoon, Mr. Quinn.

1 MR. QUINN: Senator, afternoon.

2 REPRESENTATIVE DELLENEY: I'm a house
3 member. I've been called worse.

4 Today we -- this afternoon we have
5 Thomas J. Quinn who seeks the position on the
6 family court, circuit number 13, seat number three.

7 If you would, at this time please raise
8 your right hand to be sworn.

9 (Thomas J. Quinn was duly sworn, after
10 which testimony began at 12:14 p.m.)

11 REPRESENTATIVE DELLENEY: Thank you,
12 sir.

13 The Judicial Merit Selection Commission
14 has thoroughly investigated your qualification for
15 service on the bench. Our inquiry has primarily
16 focused our nine evaluative criteria which include
17 a survey of the bench and bar, a thorough study of
18 your application materials, verification of your
19 compliance with state ethics laws, a search of any
20 newspaper articles in which your name may have
21 appeared, a study of any previous screenings, and a
22 check for economic conflicts of interest.

23 There are no affidavits filed in
24 opposition to your candidacy or your election, and
25 there are no witnesses present to testify.

1 Do you have a brief opening statement
2 you would like to make?

3 MR. QUINN: If I might. I would like
4 to thank the members today for giving me this
5 opportunity, and I also want to thank all the
6 people that have been involved.

7 Ms. Anzelmo and everyone has been just
8 as pleasant and helpful as can be, and I want to
9 thank each of them.

10 REPRESENTATIVE DELLENEY: Thank you,
11 sir.

12 If you would, at this time answer any
13 questions Ms. Anzelmo might have for you.

14 MS. ANZELMO: Mr. Chairman and members
15 of the Commission, I have a few procedural matters
16 to take care of first.

17 Mr. Quinn, you have before you the
18 personal data questionnaire you submitted as part
19 of your application and your amendment. Are there
20 any additional amendments that you would like to
21 make at this time to your personal data
22 questionnaire?

23 MR. QUINN: No. Thank you.

24 MS. ANZELMO: Mr. Chairman, I would
25 like to ask that Mr. Quinn's personal data

1 questionnaire and his amendment be entered as an
2 exhibit into the hearing record.

3 REPRESENTATIVE DELLENEY: Those
4 documents will be entered into the record in the
5 transcript at this point without objection.

6 (EXH. 18, Amendment to the Personal
7 Data Questionnaire of Mr. Thomas J. Quinn,
8 admitted.)

9 (EXH. 19, Personal Data Questionnaire
10 of Mr. Thomas J. Quinn, admitted.)

11 MS. ANZELMO: Mr. Quinn, you now have
12 before you the sworn statement you provided with
13 detailed answers to over 30 questions regarding
14 judicial conduct, statutory qualifications, office
15 administration, and temperament. Are there any
16 amendments you would like to make at this time to
17 your sworn statement?

18 MR. QUINN: No. Thank you.

19 MS. ANZELMO: At this time,
20 Mr. Chairman, I'd like to ask that Mr. Quinn's
21 sworn statement be entered as an exhibit into the
22 hearing record.

23 REPRESENTATIVE DELLENEY: Mr. Quinn's
24 sworn statement will also be entered into the
25 record at this point in the transcript without

1 objection.

2 (EXH. 20, Sworn Statement of Thomas J.
3 Quinn, admitted.)

4 MS. ANZELMO: I note for the record
5 that based on the testimony contained in
6 Mr. Quinn's personal data questionnaire which has
7 been included in the record with his content,
8 Mr. Thomas J. Quinn meets the statutory
9 requirements for this position regarding age,
10 residence, and years of practice.

11 Mr. Quinn, will you please state the
12 city and judicial circuit in which you reside.

13 MR. QUINN: I live in Greenville, South
14 Carolina. That's the 13th judicial circuit.

15 MS. ANZELMO: Thank you.

16 Mr. Quinn, why do you want to serve as
17 a family court judge?

18 MR. QUINN: I think the highest honor
19 an attorney can be given is the opportunity to
20 serve on the bench. I want to serve in family
21 court because I think it's the most important court
22 that we have. Family court deals with people on a
23 daily basis, has the opportunity to be involved
24 with and protect their children, and I think for
25 most people there's nothing more important than

1 their children, and I think therefore the family
2 court is the most important court on a day-to-day
3 basis that we have.

4 Additionally I do criminal court --
5 adult criminal court in general sessions and no
6 matter who you represent in criminal court, adult
7 court by the time you get them it is usually too
8 late to affect any real change in their personality
9 or any real change in their behavior. In family
10 court that's not true. Hopefully the person before
11 you is young enough and there are enough resources
12 to still be able to address whatever needs that
13 child might have to keep them from having a
14 lifetime of difficulty or being a life -- having a
15 life as a criminal.

16 And so I'd like the opportunity to
17 serve on the family court because of the impact
18 family court has on the people of South Carolina.

19 MS. ANZELMO: Can you explain to the
20 Commission how you feel your legal and professional
21 experience thus far will assist you to be an
22 effective judge.

23 MR. QUINN: I've been a lawyer for 32
24 years, and it may not mean anything much more than
25 just I'm old, but because of that, I've had the

1 opportunity to serve in family court, in general
2 sessions court, and common pleas. I have done
3 everything you can in family court from divorces,
4 through adoptions, through termination of parental
5 rights cases, and so I believe I am qualified by
6 experience in all the courts that would help me be
7 a family court judge.

8 MS. ANZELMO: Mr. Quinn, are there any
9 areas, including subjective areas of law, in which
10 you would need additional preparation to serve as a
11 judge and, if so, how would you handle that
12 additional preparation?

13 MR. QUINN: The additional preparation
14 I'd probably need at this point would be in cases
15 involving adoptions. I do termination of parental
16 rights actions through the Department of Social
17 Services, so I have been involved up until that
18 point. But it has been several years since I have
19 handled an adoption, and so adoptions is what I
20 probably would need to refresh myself on the law by
21 reviewing the law itself.

22 There are two attorneys who handle a
23 number of adoptions in Greenville. I would meet
24 with those attorneys and have them sort of tell me
25 what the lay of the land was and how those matters

1 were being handled in court.

2 MS. ANZELMO: Although you address this
3 in your sworn affidavit, could you please explain
4 to the members of the Commission what you think is
5 the appropriate demeanor for a judge.

6 MR. QUINN: For any judge, including
7 family court, I think the proper demeanor is to be
8 prompt, to be on time, to be patient, to give the
9 person their day in court. I think most people
10 that appear in any court but particularly in family
11 court want an opportunity to be heard. I think the
12 judge needs to be attentive to those people and be
13 courteous to them, to allow them to have the
14 opportunity to say whatever they think is important
15 to them, and have them know the judge is going to
16 consider it.

17 I think the judge needs to be calm.
18 Family court obviously is a place where emotions
19 can get heated very quickly, and I think the Court
20 needs to recognize that it may get heated and just
21 to be able to deal with it, to give people the
22 opportunity, as I said, to be heard.

23 MS. ANZELMO: When you leave the bench,
24 what would you like your legacy to be as a judge on
25 the family court?

1 MR. QUINN: I have cited in the
2 materials that have been passed out that when I
3 started a long time ago in Richland County, I
4 started in family court as a defense attorney and
5 then a prosecutor for a couple of years, solely in
6 family court, and our three judges there were Judge
7 Burnside, Judge Boulware and Judge Spigner, and
8 even now 30 years later I've cited them in my
9 materials as judges that I would love to be
10 regarded in the same breath as, people that were
11 good to me, good to clients, good to all the
12 attorneys that appeared before them.

13 They were very accommodating to a new
14 attorney to try to teach the new attorney the way
15 court should be run, what could be done, and yet
16 they were also good enough to allow me to present
17 my case. If I was going to have a legacy in family
18 court, I would hope that it would be that some
19 attorney ten or 20 years from now would sit here
20 and say that he wanted to be like Judge Quinn was.

21 MS. ANZELMO: What suggestions would
22 you offer for improving the backlog of cases on the
23 docket in the family court?

24 MR. QUINN: In Greenville County, we
25 have a very good bench, and we've adopted almost

1 all of the at least commonly accepted things that
2 we're doing in family court. We have a rocket
3 docket. We have an agreement docket. We're
4 setting cases as A, B and C trials. If case A
5 settles, you go to B case. So I don't know that
6 there are any other status methods that are not
7 being utilized in Greenville County.

8 The one thing I would think needs to be
9 done in Greenville County is we need to pay more
10 attention to the 365-day rule. We are getting many
11 times the status conferences being requested on 363
12 or 364th day so that the case is not struck in an
13 attempt to actually just delay the case or being
14 taken off the docket.

15 So in addition to working hard and --
16 and doing what I can to help other judges, I think
17 what -- the only thing that I'm aware of in
18 Greenville County would be to be involved with the
19 docket and to perhaps be more careful about the way
20 status conferences are run, maybe do them earlier
21 so that they're not being -- not delaying the case
22 at the last minute.

23 MS. ANZELMO: Mr. Quinn, as you are
24 aware, two bench and bar surveys were filed that
25 raised concerns about your candidacy for this

1 family court seat. The surveys allege that you are
2 dishonest, are unable to be impartial, are not
3 punctual, have improper temperament from a judge,
4 and would legislate from the bench. Would you like
5 to respond to these allegations?

6 MR. QUINN: Some of them are easy to
7 respond to. And I assume that at least one of the
8 people doesn't know me very well. Anyone that says
9 I'm not punctual just doesn't know me. I make a
10 point of being early. If you talk to any of the
11 people that work with me in the court system,
12 they'll tell you that I'm never late. It's not
13 part of my personality.

14 Judicial temperament, I hope I have the
15 right temperament. I believe I do. Obviously the
16 Commission has before it information from a number
17 of sources that I hope speaks to whether I have the
18 proper temperament or not. I know one of the
19 criticisms comes from a mediation, and in mediation
20 your role is somewhat different than it would be as
21 a judge because as a mediator you're trying to get
22 the parties to perhaps move toward an agreement.

23 And, I'm sorry, I forget what one of
24 the other criticisms is. Let me address the one
25 that is obviously the concern for me.

1 The acquisition of being dishonest is
2 just incredible. It is easy to say I am not
3 dishonest. Of course if I was, I guess that's what
4 I would say anyway. So that doesn't get the
5 Commission anywhere.

6 But one of the advantages I have is
7 having been a lawyer for 32 years -- and I know the
8 Commission has available to it the bar results, the
9 Citizens Committee results, and I hope and believe
10 that you have the South Carolina bar results, in
11 other words if there has ever been a grievance
12 filed against me or an ethical violation filed
13 against me or if anyone has ever raised this issue
14 before.

15 It is difficult, if not impossible, to
16 address the idea that you are dishonest without
17 knowing why somebody is saying that. I don't know
18 if the accusation is supposed to be that I'm -- I
19 was intellectually dishonest that took some
20 position that couldn't be justified or if I
21 actually was supposed to have lied to somebody and
22 I said I'm going to do this but I did something
23 else, or if I'm supposed to have caused somebody an
24 actual financial loss.

25 And apparently there's no way of

1 finding out what the accusation is. So
2 unfortunately the only way I can address that one
3 without knowing anything more about it, without
4 knowing why somebody would say such a thing is ask
5 the Commission to consider everything before them.
6 If an attorney honestly believed that another
7 attorney was dishonest, you would hope they would
8 have at least taken it to the bar or come before
9 this commission and say, "Look, you need to know
10 this fellow did this and it's dishonest." I mean,
11 it's not just we had a different position, but,
12 "He's a crook or he's a liar or he's --" something
13 not only where he shouldn't be a judge, he
14 shouldn't a lawyer.

15 And that of all of the accusations was
16 the one that floored me as I'm sure that
17 Ms. Anzelmo knows. I blanched in her office. I --
18 I don't understand that accusation. That one I
19 would hope the Commission would take a long, hard
20 look at.

21 Whether I have judicial temperament or
22 not, I hope the Commission will, again, look at my
23 record. I think I do. Apparently a couple people
24 disagree.

25 MS. ANZELMO: The other concern that

1 was raised is that you would legislate from the
2 bench. Would you offer a response to that?

3 MR. QUINN: Thank you. I'm sorry, I
4 didn't mean to step on you.

5 Yeah, I would not. That, again, comes
6 from the person who apparently disliked a matter in
7 which I did mediation. My guess is that during the
8 mediation I said to a party, "Well, this is what
9 the judge is going to do. If I was a judge, I
10 might not do it," but this was -- because I would
11 not legislate from the bench.

12 The Supreme Court has made it clear
13 that the Supreme Court interprets the law -- if
14 there's any interpretation necessary, that the
15 legislature makes the law and the judges are
16 supposed to follow it. Whoever that person is just
17 doesn't know me. My guess is that they met me once
18 in a mediation.

19 MS. ANZELMO: Thank you.

20 Have you sought or received the pledge
21 of any legislator prior to this date?

22 MR. QUINN: No.

23 MS. ANZELMO: Have you sought or have
24 you been offered a conditional pledge of support of
25 any legislator pending the outcome of your

1 screening?

2 MR. QUINN: No.

3 MS. ANZELMO: Have you asked any third
4 parties to contact members of the General Assembly
5 on your behalf?

6 MR. QUINN: No.

7 MS. ANZELMO: Have you contacted any
8 members of the Commission?

9 MR. QUINN: I have not.

10 MS. ANZELMO: Do you understand that
11 you are prohibited from seeking a pledge or
12 commitment until 48 hours after the formal release
13 of the Commission's report?

14 MR. QUINN: I do.

15 MS. ANZELMO: Have you reviewed the
16 Commission's guidelines on pledging?

17 MR. QUINN: I have.

18 MS. ANZELMO: As a follow-up, are you
19 aware the penalties for violating pledging rules
20 are a fine of not more than 10,000 -- I'm sorry, of
21 \$1,000 or imprisonment of not more than 90 days?

22 MR. QUINN: I do.

23 MS. ANZELMO: I would note that the
24 Upstate Citizens Committee found Mr. Quinn
25 qualified in the areas of Constitutional

1 qualifications, physical health, and mental
2 stability. The Committee found him well-qualified
3 in the areas of ethical fitness, professional and
4 academic ability, character, reputation,
5 experience, and judicial temperament.

6 The Committee commented that it was
7 extremely impressed with this candidate and that
8 all of the people the Committee contacted gave very
9 glowing responses. The Committee further stated
10 that Mr. Quinn's experience level is vast and
11 includes work as a public defender, prosecutor, and
12 in private practice. The Committee stated that
13 Mr. Quinn has extensive trial experience in all
14 courts throughout South Carolina, and the Committee
15 felt Mr. Quinn's heartfelt reasoning for wanting
16 this position was especially impressive.

17 I would note for the record that any
18 concerns raised during the investigation regarding
19 Mr. Quinn were incorporated into the questioning of
20 him today.

21 Mr. Chairman, I have no further
22 questions.

23 REPRESENTATIVE DELLENEY: Does any
24 member of the Commission have any questions for
25 Mr. Quinn?

1 Senator Knotts.

2 SENATORS KNOTTS: One question,
3 Mr. Quinn.

4 In listening to you, in -- in a town
5 like Greenville, if you was on the -- if you did
6 make it to be a judge and you found out who made
7 those accusations that you just described, how
8 would you handle it?

9 MR. QUINN: I'd recuse myself from any
10 of the cases involving that person. I think it's
11 the only way to do it. If you -- if you sit on a
12 case -- on a case involving that person, whatever
13 your ruling is would obviously be second guessed as
14 to was that ruling affected by the accusation made.
15 So I think the best thing to do would be to recuse
16 myself.

17 SENATOR KNOTTS: You'd just put it on
18 the record that you know that he had made the
19 accusation and you'd recuse yourself?

20 MR. QUINN: I would. And I don't know
21 if I'd repeat the accusation quite honestly. I
22 might just say that information had been provided
23 to the Commission that might have put me in an
24 unfavorable light, and so it's unfair for me to
25 hear the case.

1 SENATOR KNOTTS: Thank you.

2 REPRESENTATIVE DELLENEY: Any further
3 questions of Mr. Quinn?

4 Professor Freeman.

5 PROFESSOR FREEMAN: Yeah, one of the --
6 excuse me. One of the accusations is that "On many
7 occasions I've seen Mr. Quinn denigrate and
8 belittle individuals he was representing." Would
9 you respond to that?

10 I mean, that's a charge that's been
11 made against you. On many occasions you've run
12 down your clients to other people, which is a
13 pretty heinous thing to say about a lawyer because
14 lawyers aren't supposed to talk about their clients
15 to begin with, much less run them down to third
16 parties. Would you respond, please.

17 MR. QUINN: If called -- to respond
18 other than to say it doesn't happen. And -- and I
19 think if you look at my employment history, if
20 nothing else, it would make it clear that I have
21 been able to -- positions of some import, the
22 public defender in Richland County, the public
23 defender in Beaufort County, after that still then
24 be hired by other places which I assume checked my
25 credentials and tried to find out what kind of job

1 did Mr. Quinn do, was he a good fellow, a bad
2 fellow.

3 And being in private practice you
4 couldn't make a living doing that. I mean, you
5 certainly could not speak ill of your clients and
6 then have your clients refer you to other people or
7 use you again which is the bulk of my business, is
8 referrals or unfortunately in some criminal court
9 repeat business.

10 I won't say I have never done such a
11 thing. God forbid I may have said some client
12 didn't have enough sense to take a plea or
13 something when he should have. But I certainly
14 have not routinely or on many occasions or -- done
15 such a thing.

16 PROFESSOR FREEMAN: Thank you.

17 REPRESENTATIVE DELLENEY: Anyone else
18 have any questions for Mr. Quinn?

19 Yes, sir, Mr. Sellers.

20 MR. SELLERS: Mr. Quinn, I practice
21 with Haynsworth, Sinkler, Boyd, and I learned this
22 morning -- I don't know that you and I have never
23 met before.

24 MR. QUINN: No, sir, we have not.

25 MR. SELLERS: But I learned this

1 morning that you are the contract lawyer for the
2 firm that handles DSS. You have an appointment
3 with the firm.

4 MR. QUINN: Yes, sir.

5 MR. SELLERS: Do you have any problem
6 with me serving on this Committee?

7 MR. QUINN: No, not at all. But I did
8 think it should be brought to the Commission's
9 attention.

10 MR. SELLERS: I took care of that.

11 MR. QUINN: Thank you.

12 MR. SELLERS: And I argued had you not
13 done that, I wouldn't have mentioned it because I
14 didn't -- I knew we did that, but I have --
15 fortunately or unfortunately have aged out and
16 don't get those appointments, and before I did, I
17 handled my own. So I have never used your services
18 and have never met you, but I'm pleased to meet you
19 this morning. And thank you for answering the
20 question.

21 REPRESENTATIVE DELLENEY: Does anyone
22 else have any questions for Mr. Quinn?

23 There being no further questions,
24 Mr. Quinn, we'd like to thank you for appearing
25 before us today and for your willingness to offer

1 for family court.

2 And this concludes this portion of your
3 screening. At this point the public hearing part
4 of your screening for the record will be closed.
5 However, we reserve the right to reopen the public
6 hearing and recall you if need be, which I don't
7 anticipate that happening, but it could if we saw
8 the need.

9 And with that, I would remind you of
10 the 48-hour rule, and hope you have a safe trip
11 back to Greenville.

12 MR. QUINN: Thank you.

13 REPRESENTATIVE DELLENEY: Thank you,
14 sir.

15 MR. QUINN: Thank you all.

16 (Off the record.)

17 REPRESENTATIVE DELLENEY: Glad to have
18 you with us this afternoon.

19 We have with us the Honorable Michael
20 D. Stokes who seeks a position with the family
21 court, 13th judicial circuit, seat number three.

22 If you would please, sir, raise your
23 right hand to be sworn.

24 (Michael Don Stokes was duly sworn,
25 after which testimony began at 12:33 p.m.)

1 REPRESENTATIVE DELLENEY: Thank you,
2 sir.

3 The Judicial Merit Selection Commission
4 has thoroughly investigated your qualification for
5 service on the bench. Our inquiry has primarily
6 focused on nine evaluative criteria which have
7 included a survey of the bench and bar, a thorough
8 study of your application materials, verification
9 of your compliance with state ethics laws, a search
10 of any newspaper articles in which your name may
11 have appeared, a study of any previous screenings,
12 and a check for economic conflicts of interest.

13 There are no affidavits filed in
14 opposition to your candidacy or election, and there
15 are no witnesses here to testify.

16 Do you have a brief opening statement
17 you'd like to make?

18 JUDGE STOKES: No, Mr. Chairman. I'll
19 waive.

20 REPRESENTATIVE DELLENEY: Thank you,
21 sir.

22 If you would, please, at this time
23 answer any questions our able counsel Ms. Shuler
24 might have for you.

25 JUDGE STOKES: Yes.

1 MS. SHULER: Good afternoon, Judge
2 Stokes.

3 Mr. Chairman and members of the
4 Commission, I have a few procedural matters to take
5 care of with this candidate.

6 Judge Stokes, you have before you the
7 personal data questionnaire you submitted as part
8 of your application. Are there any additional
9 amendments that you would like to make at this time
10 to your personal data questionnaire?

11 JUDGE STOKES: No, ma'am. None that I
12 can think of.

13 MS. SHULER: Mr. Chairman, I would like
14 to ask that Mr. Stokes' PDQ be entered as an
15 exhibit into the hearing record.

16 REPRESENTATIVE DELLENEY: Mr. Stokes'
17 PDQ will be entered into the record at this point
18 in the transcript without any objection.

19 (EXH. 21, Personal Data Questionnaire
20 of Mr. Michael D. Stokes, admitted.)

21 MS. SHULER: Judge Stokes, you have
22 before you the sworn statement. You provided
23 detailed questions to over -- detailed answers to
24 over 30 questions regarding judicial conduct,
25 statutory qualifications, office administration,

1 and temperament. Are there any additional
2 amendments that you would like to make at this time
3 to your sworn statement?

4 JUDGE STOKES: No.

5 MS. SHULER: Mr. Chairman, I would like
6 to ask that Judge Stokes' sworn statement be
7 entered as an exhibit into the hearing record at
8 this time.

9 REPRESENTATIVE DELLENEY: Judge Stokes
10 will be entered into -- as an exhibit at this point
11 in the transcript without objection.

12 (EXH. 22, Sworn Statement of Michael
13 Don Stokes, admitted.)

14 MS. SHULER: One final procedural
15 matter. I note for the record that based on the
16 testimony contained in the candidate's PDQ which
17 has been included in the record, Mr. Stokes meets
18 the statutory requirements for this position
19 regarding age, residence, and years of practice.

20 Judge Stokes, please state the city and
21 circuit in which you reside.

22 JUDGE STOKES: I live in Travelers Rest
23 which is in Greenwood County which is the 13th
24 circuit.

25 MS. SHULER: Thank you.

1 Judge Stokes, after practicing law for
2 20 years and serving as a magistrate, why do you
3 want to now serve as a family court judge?

4 JUDGE STOKES: Yes, ma'am. It is --
5 the area of practice that I did in my private
6 practice is family court primarily. I have enjoyed
7 being a judge. I think I'm a proven judge because
8 the longer I've been on the bench, the better I've
9 gotten.

10 I am under no illusion that I'm going
11 to make the difference that some of these folks can
12 make over the lives of millions of people, but I do
13 believe that I could make an impact in my little
14 footnote in history with the hearing of these cases
15 one at a time, particular with the -- the children
16 and the litigants and the parties.

17 I'm very mindful that the family court
18 judges are literally holding these folks lives' in
19 his hands, sometimes even literally in their hands
20 in how these children will turn out that I will
21 never see. I would like to be of benefit to them.

22 Thirdly, I'm ready for a more
23 professional challenge. I've been a magistrate for
24 14 and a half years. I had additional duties put
25 on me other than just the normal magistrate. I

1 also do all the -- hold the county court for all
2 the ordinances and stuff like -- things of that
3 nature countywide, and I've also been put in charge
4 of the mediation program which was one of the pilot
5 programs for mediation, civil jury trials that the
6 chief justice has implemented.

7 And I thoroughly enjoyed these
8 additional challenges and would like to have some
9 more. I do not believe there's very much left for
10 me to do on the magistrate court bench other than
11 just try to serve ably which it's not a bad lot in
12 life to have to stay where I am and continue to do
13 what I do, but I would like an additional
14 challenge.

15 I think I'm somewhat unique in that I
16 have two special needs children, and I'm sensitive
17 to those situations. And I think that would bring
18 some insight into the bench that others may not
19 have the misfortune or fortune, according to how
20 you look at it, due to having that experience. I'd
21 like to share that.

22 MS. SHULER: Judge Stokes, can you
23 explain to the Commission with respect to your
24 legal experience in the area of family law how that
25 will assist you to be an effective judge.

1 JUDGE STOKES: Well, I lost count of
2 how many divorce cases I have done over the years.
3 It is -- you know, you just gain by experience. I
4 don't know how many cases I've done over the 20
5 years. So obviously there's an experience factor
6 there. There's some insight that comes with
7 experience.

8 I've also been a pretty good negotiator
9 in crafting some pretty unique and well-liked
10 settlements. I would hope to bring that to bear as
11 a judge to me and won't be working the settlements
12 perhaps but could maybe come up with some unique
13 ways to help these folks out of their predicament.

14 MS. SHULER: Thank you.

15 Judge Stokes, are there any areas of
16 the law that you would need to undertake an
17 additional preparation and, if so, how would you
18 handle that preparation?

19 JUDGE STOKES: I -- I have never done a
20 juvenile criminal case. I've done lots of criminal
21 cases. I know the fundamentals, no question about
22 that, in both summary court obviously and in
23 circuit court. But I would like to -- to watch a
24 few of these juvenile cases start to finish
25 beforehand.

1 Of course, you know, well -- well
2 familiar with the statutory procedure that you go
3 through. In looking at preparing for the test, I
4 wanted to be prepared for that question. But I --
5 I would like to observe some of those. I'm not
6 particularly hesitant and -- and believe I could
7 handle one, but I would like to see a couple before
8 I actually did one.

9 MS. SHULER: Thank you.

10 Judge Stokes, although you address this
11 in your sworn affidavit, what do you think is the
12 appropriate demeanor for a judge?

13 JUDGE STOKES: Well, this is one I've
14 had to learn over the years. When I was young and
15 dumb and started out, the judge isn't the all
16 mighty on high. And I had to learn that lesson the
17 hard way.

18 But he's the one that's going to have
19 to be compassionate. He's got to -- to realize
20 these people are under tremendous stress, that
21 they're probably in a situation they've never faced
22 before, never face again. Other than probably the
23 death of a personal close family member, it's never
24 going to get as bad as before.

25 And bearing that in mind, I think you

1 just got to be compassionate. You've got to be
2 patient. Sometimes you need to listen to something
3 that is not relevant, something that is not
4 germane, but if you let them talk for two minutes,
5 they'll feel a lot better, and that's the biggest
6 lesson I had to learn the hard way.

7 I wanted to keep things real -- real
8 stiff when I first started, and I would have cut
9 somebody off that was wanting to tell me about how
10 bad the car dealer really taught him when the whole
11 case was the four corners rule for the contract. I
12 would not do that today. I would let the gentleman
13 talk for a minute and a half, and, you know, he
14 would feel like he had a fair hearing. I think
15 that is something.

16 MS. SHULER: As a follow-up, Judge
17 Stokes, the Low -- the Upstate Citizens Committee
18 stated with regard to your judicial temperament,
19 "The Committee has been concerned during past
20 screenings about the candidate's ability to have an
21 even temperament. There have been reports of him
22 being discourteous to litigants and lawyers.
23 However, the candidate answered about this during
24 his interview. He acknowledged errors in judgment
25 in his early years as a magistrate but says he has

1 improved his skills in this area.

2 "He has provided documents relating to
3 mediation activities in the magistrate's court that
4 indicate satisfaction by those who have
5 participated in that process in the past six
6 months. During our first interview with the
7 candidate over two years ago the candidate did not
8 acknowledge any problem with temperament. He has
9 now acknowledged this may have been a problem in
10 the past but he has corrected it."

11 I would like to offer for the record --
12 and, Judge Stokes, you have it before you -- the
13 magistrate court mediation participant survey, July
14 2010 through January 2011. This is the same survey
15 that you provided to the Upstate Citizens
16 Committee. You also provided it to staff when you
17 interviewed. And while there are numerous
18 magistrates in Greenville, you are the only one,
19 it's my understanding, conducting the mediation,
20 and so this survey response is based solely about
21 how you have been handling mediation.

22 JUDGE STOKES: I'm the only judge that
23 has addressed the issue, yes, ma'am.

24 MS. SHULER: And in the survey it
25 states that you received -- 67.4 percent strongly

1 agree that the Court and staff was professional and
2 courteous. 67.4 strongly agree the judge's
3 instructions were clear and easily understood.

4 I would like to have this offered as an
5 exhibit into the record, Mr. Chairman.

6 REPRESENTATIVE DELLENEY: The document
7 will be made an exhibit into the record at this
8 point in the transcript.

9 (EXH. 23, Magistrate Court Mediation
10 Program Participant Survey July 2010 Through
11 January 2011 for Judge Stokes, admitted.)

12 MS. SHULER: Judge Stokes, do you have
13 any additional response that you would like to
14 offer with regard to the Upstate Citizens Committee
15 report on you concerning your judicial temperament?

16 And I would note that they found you
17 well-qualified in that area this time with this
18 explanation and the survey response that you
19 submitted.

20 JUDGE STOKES: Two things really more
21 clarification than addition. They -- we had a very
22 nice meeting this time. It was a conversation.
23 And they did officially go back to anyone who had
24 any objection to me in the past, and they have
25 withdrawn that objection. At this point they --

1 they were aware of nothing at this point in my
2 career that they would want to stand in the way,
3 and that was kind of them to do that. They didn't
4 have to go that far in their investigation, I know.

5 And, secondly, I've got to say I'm a
6 little bit proud of my numbers. That is not my
7 survey. But to tell you how it came about is the
8 mediation program that we're doing is under a grant
9 from the Hollyworth funds in Greenville, and they
10 require that a survey be done to -- to answer, and
11 that was one of the questions that they required.
12 As a matter of fact, the -- the survey was taken
13 before I knew what it even entailed because that
14 was not part of my duties to do the survey. That
15 was done by the mediation group.

16 But with -- but with that, I've got
17 two-thirds thinking I strongly agree and then
18 almost another -- another 25 percent saying at
19 least agree, and there's folks that didn't think
20 much of me, but I just -- that sort of comes with
21 the territory.

22 I've been burned by the hot stake. I
23 will not touch it again. I -- I will point out I
24 should not have been appointed to magistrate when I
25 was. I was 29, almost 30 years old. Those of you

1 who are senators -- forgive me if I'm preaching. I
2 had not lived enough life. I was not compassionate
3 with the hardships that other people had gone
4 through. I was of the opinion that if you didn't
5 have -- you didn't pay your rent, you were just
6 sorry. That's not how it really is, particularly
7 in this day and age. I've had to learn that.

8 I wasn't far down my walk with doing
9 unto others as having done unto you at that time.
10 But I apologize for that immaturity. I don't think
11 the last five or six, seven years you can find many
12 people that have anything bad to say about my
13 temperament, but it is an albatross I had to carry.
14 I would like to set it down and start new, but you
15 can't relive those years, so --

16 MS. SHULER: Thank you, Judge Stokes.

17 JUDGE STOKES: Yes, ma'am.

18 MS. SHULER: When -- what suggestions
19 would you offer for improving the backlog of cases
20 on the docket in family court?

21 JUDGE STOKES: I love mediation, and I
22 know something about mediation, in both family
23 courts, circuit court and enough magistrate's
24 court. I would recommend and would even be willing
25 to help put this together, if I were so fortunate,

1 that we do something similar to what we're doing in
2 magistrate's court with some of the DSS cases.
3 What we have found a lot of times is once the
4 action starts, they think they can't talk to the
5 other side, and -- and sometimes that is all it
6 takes to resolve the issue if they were just under
7 some kind of civil discourse go in and do that.

8 I do not think that the DSS type
9 situation, particularly with the pro ses, would
10 have like an 80 percent success rate like we're
11 having with the -- the magistrate's court because
12 obviously, you know, we're dealing with children
13 and stuff, and the emotions are higher than with
14 cars and contracts, and I understand that.

15 But -- but what we are finding is
16 sometimes these folks just want to have somebody
17 who has an air of official about them listen to
18 them for a few minutes, and they're really about as
19 happy with a mediator hearing than they are a
20 judge. And we're finding that. And I think some
21 of that is transferrable to DSS. Do I think it
22 would be as successful as we're doing? No. But it
23 won't get that exact. But I think it would be
24 worth looking into.

25 MS. SHULER: Thank you.

1 JUDGE STOKES: That's my mission.

2 MS. SHULER: Mr. Chairman, I'd like to
3 request that we now go into executive session to
4 handle one motion.

5 REPRESENTATIVE DELLENEY: Hear a motion
6 for executive session?

7 MR. SELLERS: So moved.

8 SENATOR NICHOLSON: So moved.

9 REPRESENTATIVE DELLENEY: All in favor.
10 We are now in executive session.

11 (The Committee went into executive
12 session.)

13 JUDGE STOKES: Shall we answer Mr. --
14 Senator Nicholson's question?

15 REPRESENTATIVE DELLENEY: Any other
16 questions?

17 Mr. Sellers.

18 MR. SELLERS: Judge Stokes, I'm reading
19 the survey --

20 JUDGE STOKES: Yes, sir.

21 MR. SELLERS: -- that you -- that you
22 put in evidence and trying to understand. Does the
23 mediation process work differently in -- in
24 magistrate's court than it does in criminal court?

25 JUDGE STOKES: Yes. Yes, sir. In the

1 magistrate's court, it is -- is under the guidance
2 of a judge who is present on site as opposed to the
3 mediator's office or something you would see at the
4 family court or a circuit court level.

5 So, yes, what it is, we summons them to
6 mediation, and then I explain to them what -- what
7 has to be done, how are they going to handle this,
8 and then -- then I send them out to a mediator, and
9 that mediator -- and they're under the -- under the
10 order they're required to mediate at least for 30
11 minutes. Most of them go an -- an hour or so. We
12 do not cut it off at 30 minutes. We've had
13 similar -- had attorneys that say, "We're just at
14 an impasse and, you know, we're going to quit
15 wasting y'all's time." That's the only one that
16 stops at 30 minutes.

17 Then they have to come back in, and if
18 they have a settlement, we immediately put it on
19 the record and -- and finish the case. And
20 everything in the whole county is transferred to my
21 court under my docket temporary, and, you know, if
22 there is a settlement or whatever, I can dispose of
23 the case.

24 If it is not, I have to question the
25 parties and -- and make sure that they mediated in

1 good faith, and to everyone's credit we have not
2 had any -- any situations where folks did not do
3 that, so it's worked well. And then -- then if
4 there is no settlement, we retransfer the case back
5 to the originating court, which in Greenville we
6 have four jury areas, so it gets tried in the
7 appropriate jury area.

8 MR. SELLERS: So your role is to
9 basically bring them in and introduce them to the
10 process and let a mediator handle --

11 JUDGE STOKES: The mediator has to
12 handle it because it's against the ethics for us to
13 mediate, and -- and then -- then I get the case
14 back and -- and dispose of it one way or the other.

15 MR. SELLERS: You put a settlement on
16 the record or you send it back where it came from?

17 JUDGE STOKES: Right.

18 MR. SELLERS: Okay. Thank you.

19 REPRESENTATIVE DELLENEY: Mr. Mack.

20 REPRESENTATIVE MACK: Thank you,
21 Mr. Chairman.

22 Judge Stokes, interested in following
23 up a little bit on the -- what you recognize as
24 errors in judgment, and first of all, let me
25 commend you because anyone that recognizes a

1 problem and looks to change it I think needs to be
2 commended.

3 I was curious in terms of how long ago
4 was it. You mentioned in your 20s and there's
5 something in the record that says about two years
6 ago. And about how long ago was it and what were
7 some of the things specifically that led you to the
8 change?

9 JUDGE STOKES: I was in federal court
10 and I was on the receiving end of it about ten
11 years ago and I didn't like it, and I didn't
12 believe the folks I was doing it to liked it any
13 better than I did. That's when I started changing.
14 And I'm from the upstate, so I want you lawyers to
15 know where I'm at.

16 REPRESENTATIVE MACK: Okay.

17 JUDGE STOKES: And I've seen some --
18 there was a circuit judge that I had some
19 experience with that was -- I didn't want to be
20 like him.

21 REPRESENTATIVE MACK: You said it was
22 about ten years ago?

23 JUDGE STOKES: That's when I first saw
24 the errors of my ways and started changing.

25 REPRESENTATIVE MACK: And when you came

1 before the Citizens -- the Upstate Citizens
2 Committee and they were getting this information,
3 was it less than ten years ago? What was that time
4 frame?

5 JUDGE STOKES: I didn't have one. They
6 did not -- did not share that with me. I've got to
7 assume it was from the earlier days because there
8 was grounds for reasoning. They did not share it
9 with me. I do not know.

10 REPRESENTATIVE MACK: Okay.

11 JUDGE STOKES: That's -- I had never
12 had anybody before I went to the Citizens Committee
13 because the bar has never given me bad marks at all
14 at any of the times I've been through. And until
15 then -- and I was more cognizant of it. It was an
16 internal situation where I had started bending, and
17 really I was a little bit surprised that I hadn't
18 corrected more of it by the time I got the decision
19 than the first time than I had. I have been super
20 conscious of it since then.

21 REPRESENTATIVE MACK: But from your
22 perspective you would say over the last ten years
23 you have been -- you recognized it and have been
24 pretty good?

25 JUDGE STOKES: I have gotten better

1 every day over the last ten years.

2 REPRESENTATIVE DELLENEY: Mr. Harrell.

3 MR. HARRELL: Judge Stokes --

4 JUDGE STOKES: Yes.

5 MR. HARRELL: -- the way I understand
6 your mediation process from Mr. Sellers' questions
7 is that you -- the cases come to you from the
8 different areas and then you send them off to try
9 to settle their dispute with the mediator. They
10 come back into your courtroom. If they're
11 successful, you put it on the record. If they're
12 not, then you ask them questions relative to what?

13 JUDGE STOKES: What went on in the
14 mediation as to was -- the mediation that took
15 place, would additional time be helpful, would
16 change of mediator be of any assistance, and -- but
17 I have them more at the beginning as -- far as my
18 interaction with them more at beginning than at the
19 end, because 80 percent of them are settling. It's
20 very straightforward.

21 MR. HARRELL: What do you -- what do
22 you do at the beginning of it?

23 JUDGE STOKES: We -- we -- well, any
24 pretrial matters have to be handled. And then --
25 then I have the parties before me and -- and, you

1 know, put them -- put them at ease, give them
2 instructions for the mediation, how -- how to
3 mediate, what mediation is, what it is not, what
4 role I play, what role the mediator plays, and I
5 would -- those -- those type things.

6 So I probably have each -- each group
7 15 to 20 minutes beforehand. Then I deal with the
8 questions. And a lot of them have no --
9 particularly the pro se. So, you know, it changes
10 each time because I'm getting various and sundry
11 questions to address.

12 MR. HARRELL: About 15 to 20 minutes
13 per -- per case?

14 JUDGE STOKES: Yes. We teach -- I'm
15 interacting with them that -- that long.

16 MR. HARRELL: And then when they're --
17 when they're finished, 15 to 20 minutes on the back
18 end too?

19 JUDGE STOKES: Really more. 15 to 20
20 minutes if they don't settle than if they do. If
21 they do settle, we pretty much just put an
22 agreement on the record which is pretty regular.

23 MR. HARRELL: And do you ever -- do you
24 ever chastise anyone for not reaching a settlement?

25 JUDGE STOKES: No. No. I'm not

1 required to -- I mean, you're not supposed to. You
2 don't have to.

3 MR. HARRELL: So it's pretty much just
4 an instruction session?

5 JUDGE STOKES: They're instructed, yes.

6 MR. HARRELL: And then a debriefing
7 session -- session at the end?

8 JUDGE STOKES: Pretty much, yes.

9 MR. HARRELL: And so between those two
10 sessions, that's -- that's all that this 67.4
11 percent is actually based on then?

12 JUDGE STOKES: Their interaction with
13 me, yes.

14 MR. HARRELL: Okay. Not any kind of
15 trial process.

16 JUDGE STOKES: No, I don't have that.
17 And like I say, I -- I -- this survey was done by
18 the -- the mediator program for the -- for the -- I
19 have not had a survey done -- I don't have any
20 money to pay for it. They -- they have the money
21 to pay for the survey for just regular cases. But
22 I was put in charge with the mediation basically
23 because they thought I could keep things calm and
24 easy and moving right along.

25 MR. HARRELL: Okay. Well, what I'm

1 interested in is that as a -- as a demonstration of
2 your increased tolerance for litigants and lawyers,
3 you gave this -- the screening Committee this
4 survey.

5 JUDGE STOKES: Uh-huh.

6 MR. HARRELL: And at first I thought,
7 "Oh, 67.4 percent." But now what I'm hearing is
8 that 67.4 percent of people that see you for 15
9 minutes while you dismiss them to the mediator and
10 then 15 minutes after you debrief them when they're
11 done. You don't deliver any bad news to them. You
12 don't have to help them question anybody. You
13 don't have to rule on any objections, correct?

14 JUDGE STOKES: Correct, I do not have
15 to -- well, in the -- in the cases that have
16 pretrial matters, yes. So about 25 to 30 percent
17 of the cases I do have to decide. I've had to --
18 to rule on a summary judgment because according to
19 the chief justice's order, we have to handle the
20 pretrial matters beforehand, and about 30 percent
21 of those cases will have some sort of pretrial
22 matter that I will have to attend before we get to
23 the mediation.

24 So I'm -- I'm on this mediation. I
25 have to do the pretrial conference motions. So in

1 25 percent of those, I am making a ruling or -- or
2 hearing argument and all that, yes, sir.

3 MR. HARRELL: Judge Stokes, I'm a
4 practicing litigator in Charleston, and nothing is
5 more frustrating for me than to -- to have a judge
6 who has poor judicial temperament, whether it's
7 expressed toward me, whether it's expressed toward
8 opposing counsel, and God forbid to one of the
9 parties, and so I'm really keen on -- on this idea.
10 And so I'm looking for something besides this --
11 this small little slice right here to -- to show me
12 that -- that you have the judicial temperament to
13 sit on the bench.

14 JUDGE STOKES: I -- I would go back to
15 the change in the report from the Citizens
16 Committee which they are looking into my overall
17 workload, and the -- and the facts that they have
18 are strongly -- well-qualified at this time after
19 interviewing even people who had reservations about
20 me earlier who have for the most part or entirely
21 said they have no more reservations.

22 I have no questionnaire or -- or survey
23 that I can refer you to other than just the general
24 reputation improvement that they can express, and
25 the bar has consistently found me qualified to --

1 to temperament.

2 All of it I understand is subjective.
3 What is rude to one person is businesslike to
4 another. You just have to -- to go down to the,
5 you know, lowest level where you would try your
6 best not to offend anyone, and that's where I
7 have -- I think I'm doing a much better job with
8 it.

9 MR. HARRELL: So nothing -- nothing
10 else or different to add other than what -- what
11 we've already gone over?

12 JUDGE STOKES: No, sir, I -- you know,
13 I'm not sure I'm understanding what exactly -- I
14 want to answer anything that you've got, but I'm
15 run -- I don't know what else to -- to look at.

16 MR. HARRELL: Well, I mean, I
17 understand that -- that -- that you -- you've told
18 me that the people on the screening Committee asked
19 people who had objections about you in the past.

20 JUDGE STOKES: Yes, sir.

21 MR. HARRELL: And you've shown me this
22 survey, but we figured out that -- other than those
23 two, is there anything that you could point to to
24 help me --

25 JUDGE STOKES: I do know that there was

1 a -- and I did not know about it until after it was
2 over. There was a campaign amongst some of the
3 lawyers and former judges in Greenville County
4 to -- to address the Citizens Committee and give --
5 give them their opinion of me. And from what I can
6 gather that was a -- it's flattering that they
7 would do that.

8 They're not -- they do not think that
9 I'm perfect by any means, and neither do I. I'm
10 sure I'll make a mistake tomorrow. But they --
11 they were just -- were just adamant in, you know,
12 "This is a good judge." I do not know if the
13 Citizens Committee kept those letters or whatever.
14 I do not even know, Mr. Harrell, who all sent one.
15 It all came back to me -- it was humbling that
16 people would do that. I did not ask for that. So
17 I don't know --

18 MR. HARRELL: Thank you, Judge Stokes.

19 JUDGE STOKES: Yes, sir.

20 REPRESENTATIVE DELLENEY: Senator
21 Knotts.

22 SENATORS KNOTTS: Thank you, Judge
23 Stokes.

24 How about your child support? How --
25 how do you feel about how -- your standards on

1 child -- child support?

2 JUDGE STOKES: On litigants that would
3 be required to pay it?

4 SENATOR KNOTTS: Yes, sir.

5 JUDGE STOKES: I think if you have the
6 ability to pay it, you should pay it. I don't
7 think that anybody is in disagreement with that.
8 Where I -- I think that the role -- the rub comes
9 in and the hardest choice is when you got a guy who
10 is paying partial and not paying all. And this has
11 been brought up to me.

12 Obviously he is not in compliance with
13 the order to pay, but if he is paying something, I
14 do not want to necessarily put him in jail where
15 those children aren't getting the something. I
16 would prefer to craft some kind of remedy that
17 would allow him to continue to pay something which
18 is a lot better than nothing for -- for the child
19 support as opposed to doing the civil contempt and
20 give him the keys to the jailhouse and you get out
21 when you pay it.

22 Now, that's not to say -- or to
23 criticize folks that do that. That is oftentimes
24 very effective in getting the back child support.
25 But I -- I just have the feeling that for some of

1 these folks who are -- particularly have a good
2 payment history in the past that are still paying
3 something that we're -- we're getting a little bit
4 harsh with some of that, that we maybe could do
5 some community service and allow this gentleman to
6 keep working because a lot of times when we put him
7 in jail, he's going to lose his job and everybody
8 is going to be worse off than they are.

9 The -- there is another aspect of the
10 child support as to imputing income where if
11 somebody who has willfully or purposefully reduced
12 their income just to try to avoid the order. I
13 don't particularly have a problem with imposing
14 something like that in the appropriate situation
15 into what they could and should be earning.

16 That's more or less my thinking on
17 that. Does that -- does that answer what you're
18 looking for?

19 SENATOR KNOTTS: Not exactly.

20 JUDGE STOKES: Okay.

21 SENATOR KNOTTS: What about the one
22 that intentionally evades paying child support?
23 He's already paid child support when the child is a
24 baby and he leaves the state for ten years and then
25 15 years and doesn't --

1 JUDGE STOKES: I believe --

2 SENATOR KNOTTS: -- they've taken --
3 they've taken drastic measures -- measures to --
4 where you have a job to take it out on -- out of
5 his job, and as soon as he finds out that he's
6 being taken out, he'll quit and go to another job
7 or another state and then how do they catch up with
8 him and he's got 40, \$50,000 back child support?
9 In some cases over in Lexington County it's been
10 over a hundred.

11 JUDGE STOKES: That is --

12 SENATOR KNOTTS: How do you think a
13 judge ought to handle that?

14 JUDGE STOKES: I'm not going to have a
15 whole lot of sympathy for -- for that situation.
16 He has purposefully evaded it. I would go to the
17 limit of my authority to punish him and the limit
18 of my authority to collect. If that means going to
19 jail, that means going to jail. I have done it
20 before. I can do it again. And if that means
21 garnishing, putting an order in, take his pay,
22 that's fine.

23 SENATOR KNOTTS: That's already failed.

24 JUDGE STOKES: That's already failed.
25 Order him to -- to keep his current job, or if he

1 loses his current job, then he's in contempt of
2 court. That encourages him to keep that, or then
3 he'll do a year in jail. I would use the full
4 extent of the authority.

5 SENATOR KNOTTS: How about going to a
6 state like Texas?

7 JUDGE STOKES: What, he goes to Texas?

8 SENATOR KNOTTS: A state like Texas
9 that don't honor child support in other states.
10 Hard to -- hard to get one back from Texas.

11 JUDGE STOKES: It's hard. Yes, sir. I
12 would impose --

13 SENATOR KNOTTS: How you going to keep
14 him in the state?

15 JUDGE STOKES: I would hold him in
16 contempt if he left the state. I would just --

17 SENATOR KNOTTS: Even though it took
18 you ten, 12 years to go find him the first time?

19 JUDGE STOKES: I don't.

20 SENATOR KNOTTS: So we look for him for
21 another ten years?

22 JUDGE STOKES: Yes, sir.

23 SENATOR KNOTTS: Why not put him to
24 jail to start with?

25 JUDGE STOKES: Oh, I was under the

1 impression I had already cleared that. He's going
2 to jail for his past behavior, but he can only be
3 there for so long. Then we're going to try to keep
4 him in -- in his job and keep him where we get our
5 hands on him.

6 SENATOR KNOTTS: Okay.

7 JUDGE STOKES: He's already -- at the
8 time I'm putting him under obligation to keep a job
9 in the state, I've already put him in jail as long
10 as I can. Now I've still got my hands on him,
11 trying to collect.

12 SENATOR KNOTTS: Okay. How about the
13 guardian ad litem, how would you utilize the
14 guardian ad litem program as a family court judge?

15 JUDGE STOKES: My experience with that
16 is they -- they do an extraordinarily good job,
17 both the lay guardians and -- and the -- the legal
18 ones.

19 I would want to do a thorough
20 investigation. I'm not so much sure that I just
21 want to be one of these that just awards custody
22 whichever way the guardian is leaning. I think I
23 would be under the obligation to fully hear their
24 report and make an independent assessment of the
25 guardian ad litem's report. And there's some

1 statutory requirements as to what has to be in it,
2 and I would -- I would want all those in -- in the
3 report before I made that decision.

4 SENATOR KNOTTS: Would you require them
5 to do a full, extensive investigation of both --
6 both households if you was going to ask them for
7 their opinion?

8 JUDGE STOKES: I think they should
9 visit both households, yes, I would, Senator
10 Knotts.

11 SENATOR KNOTTS: You think they would
12 or they're required to?

13 JUDGE STOKES: I think they're supposed
14 to before they ever get to me.

15 SENATOR KNOTTS: Oh, so --

16 JUDGE STOKES: I guess the answer to
17 the question is if they have not, we're going to
18 have a continuance and they're going to go check,
19 because that is -- that is fundamental. And I
20 would prefer they do it without anybody knowing
21 they're coming for two or three days. I would
22 prefer it would be 15, 20 minutes notice.

23 SENATOR KNOTTS: What is your office
24 hours as magistrate?

25 JUDGE STOKES: On Monday and Friday I

1 am there a full day. On Wednesdays I'm there from
2 8:00 until 12:30. And on Tuesday and Thursdays I'm
3 there from 1:30 to 5:30. I have -- it totals 35
4 hours.

5 SENATOR KNOTTS: Are you full-time?

6 JUDGE STOKES: No, sir.

7 SENATOR KNOTTS: You're not full-time?

8 JUDGE STOKES: I am part-time. I -- I
9 am classified part-time.

10 SENATOR KNOTTS: How do you think you
11 need to be classified as a family court judge?

12 JUDGE STOKES: Full-time.

13 SENATOR KNOTTS: Would it be those
14 hours?

15 JUDGE STOKES: It would not be those
16 hours. It's --

17 SENATOR KNOTTS: What would be your
18 hours?

19 JUDGE STOKES: I usually arrive at my
20 morning job at a few minutes before 8:00, and I
21 usually leave 5:30 or 6:00 every day, regardless of
22 what my hours are. I've been known to even be in
23 the magistrate's office on Saturday because I had
24 too much to do.

25 SENATOR KNOTTS: Last question. How

1 would you -- how would you handle cases where both
2 sides have negotiated and come to an agreement and
3 they have been waiting for months and months and
4 months just to get a judge to sign an order to
5 grant -- granting their final decree? What days of
6 the week would you set aside for that, or would you
7 just work it in the schedule or --

8 JUDGE STOKES: As I understand the
9 family court schedule, there's -- there's usually a
10 good bit on Friday afternoon that you could just
11 line those folks up. And I have always been an
12 advocate of that, and I do not -- in my 14 years
13 that somebody has an agreement they want to put on
14 the record and I've got a minute, I'm going to put
15 it on right then.

16 I imagine I would be one of those -- I
17 hope it would be a lawyer friendly judge that, you
18 know, if you -- you'll just come to the courthouse
19 and I've got a minute, we'll shoot you in there
20 because I've been on the judicial side and the
21 lawyer side, and that gets a case off the docket.
22 That makes everybody happy.

23 SENATOR KNOTTS: Thank you.

24 REPRESENTATIVE DELLENEY: We have some
25 housekeeping questions for you.

1 JUDGE STOKES: Yes, sir.

2 MS. SHULER: Have you sought or
3 received the pledge of any legislator prior to this
4 date?

5 JUDGE STOKES: No, ma'am.

6 MS. SHULER: Have you sought or have
7 you been offered a conditional pledge of support of
8 any legislator pending the outcome of your
9 screening?

10 JUDGE STOKES: No, ma'am.

11 MS. SHULER: Have you asked any third
12 parties to contact members of the General Assembly
13 on your behalf?

14 JUDGE STOKES: No, ma'am.

15 MS. SHULER: Have you contacted any
16 members of the Commission?

17 JUDGE STOKES: No, ma'am.

18 MS. SHULER: Do you understand that
19 you're prohibited from seeking a pledge or
20 commitment until 48 hours after the formal release
21 of the Commission's report?

22 JUDGE STOKES: Yes, ma'am.

23 MS. SHULER: Have you reviewed the
24 Commission's guidelines on pledging?

25 JUDGE STOKES: Yes, ma'am.

1 MS. SHULER: Are you aware that the
2 penalties for violating the rules are that it's a
3 misdemeanor and you could be upon conviction fined
4 not more than \$1,000 and imprisoned not more than
5 90 days?

6 JUDGE STOKES: Yes, sir.

7 MS. SHULER: I would note that the
8 Upstate Citizens Committee found Judge Stokes to be
9 qualified in regards to the evaluative criteria of
10 physical health and mental stability, reputation,
11 and experience. The Committee found Judge Stokes
12 to be well-qualified for ethical fitness,
13 professional and academic ability, character, and
14 judicial temperament.

15 I would note that they stated with
16 respect to reputation, "The Committee has become
17 aware during previous screenings that the candidate
18 has a reputation of being disrespectful of
19 litigants and attorneys. However, this reputation
20 evidence is approximately two years old. The
21 witnesses who reported this in prior screenings
22 were contacted and reported they had not heard any
23 specific instances of this type of behavior in the
24 past year or so."

25 I would just note for the record that

1 any concerns raised during the investigation
2 regarding this candidate were incorporated into the
3 questioning of the candidate today.

4 And, Mr. Chairman, I have no further
5 questions.

6 REPRESENTATIVE DELLENEY: Does any
7 member of the Commission have any further
8 questions?

9 There being none, Judge Stokes, we'd
10 like to thank you for offering to serve and for
11 appearing before us this afternoon.

12 This concludes this portion of the
13 screening process. We will close the record and
14 your public hearing screening process. However, we
15 reserve the right to reopen it if we need to do so
16 and bring you back down and ask you more questions.
17 I don't anticipate that happening in your case, but
18 we do have that right.

19 And with that, I'd remind you of the
20 48-hour rule, and I hope you have a safe trip back
21 to Greenville.

22 JUDGE STOKES: Thank you, sir.

23 REPRESENTATIVE DELLENEY: Thank you.

24 JUDGE STOKES: Thank you.

25 REPRESENTATIVE DELLENEY: Counsel

1 advises we do have a few matters to take up in
2 executive session. Do I hear a motion?

3 (Multiple speakers.)

4 UNIDENTIFIED SPEAKER: So moved.

5 UNIDENTIFIED SPEAKER: Seconded.

6 REPRESENTATIVE DELLENEY: All in favor.

7 (The Committee went into executive
8 session.)

9 REPRESENTATIVE DELLENEY: Okay.
10 Everybody ready to vote? Got your paperwork in
11 front of you?

12 All right. As far as the first -- the
13 fourth circuit, Braddock, Brigman, Ervin, McIntyre
14 and Stanton, does everybody agree that they're all
15 qualified?

16 Okay. The next question is Bryan W.
17 Braddock, all those that believe he should be
18 nominated raise your hand.

19 MS. SHULER: One.

20 REPRESENTATIVE DELLENEY: Okay. Next
21 is Cely Anne Baker Brigman. All those that believe
22 she ought to be -- or want to vote for her to be
23 nominated, raise your hand.

24 MS. SHULER: Seven.

25 REPRESENTATIVE DELLENEY: All right.

1 Next is John McIver "Jay" Ervin, III. All those
2 that want to nominate Mr. Ervin, raise your hand.

3 MS. SHULER: Two.

4 REPRESENTATIVE DELLENEY: All right.

5 Next is the Honorable Salley Huggins McIntyre. All
6 those who believe she should be nominated raise
7 your hand.

8 MS. SHULER: Nine.

9 REPRESENTATIVE DELLENEY: All those who
10 want to nominate James Alexander Stanton, IV, raise
11 your hand.

12 MS. SHULER: Eight.

13 REPRESENTATIVE DELLENEY: Okay. So we
14 have Brigman, McIntyre, and Stanton.

15 All right. The next group is the 14th
16 circuit, and is the first one -- everybody agree
17 they're all qualified?

18 SENATORS KNOTTS: So moved.

19 REPRESENTATIVE DELLENEY: All right.

20 Next was nominating them.

21 The first one on the list is Catherine
22 Carr Christophillis. All those that believe she
23 ought to be nominated raise your hand.

24 All right. Next is Harry Don Phillips,
25 Jr. All those that think he ought to be nominated.

1 MS. SHULER: Ten.

2 REPRESENTATIVE DELLENEY: Thomas J.
3 Quinn, all those that believe he ought to be
4 nominated.

5 SENATORS KNOTTS: Is that the bearded
6 guy?

7 SENATOR NICHOLSON: Yeah.

8 MS. SHULER: Ten.

9 REPRESENTATIVE DELLENEY: All those
10 that wish to nominate the Honorable Michael D.
11 Stokes raise your hand.

12 So the first three, Christophillis,
13 Phillips, and Quinn.

14 All right. I guess we'll be in lunch
15 for a little while.

16 (A lunch recess transpired.)

17 SENATOR McCONNELL: Good afternoon.
18 We'll go back on the record at this point.

19 We have with us Ms. Diane P. DeWitt.
20 Good to see you.

21 MS. DeWITT: Good afternoon.

22 SENATOR McCONNELL: Good afternoon to
23 you.

24 If you'd be so kind as to raise your
25 right hand.

1 (Diane P. DeWitt was duly sworn, after
2 which testimony began at 1:55 p.m.)

3 SENATOR McCONNELL: The Judicial Merit
4 Selection Commission has thoroughly investigated
5 your qualifications for the bench. Our inquires
6 focused on our nine evaluative criteria, and it has
7 included a survey of the bench and the bar, a
8 thorough study of your application materials, a
9 verification of your compliance with state ethics
10 laws, a search of newspaper articles in which your
11 name appears, the study of previous screenings, and
12 a check for economic conflicts of interest.

13 We have received no affidavits filed in
14 opposition to your election. No witnesses are
15 present to testify.

16 So I'd ask you if you have any brief
17 opening statement you'd like to make at this time.
18 Otherwise, we'll turn you over to counsel for a few
19 questions. And opening statements are purely
20 optional.

21 MS. DeWITT: Since we're running
22 behind, I will waive that opening.

23 SENATOR McCONNELL: Thank you.

24 MS. ANZELMO: Mr. Chairman and members
25 of the Commission, I have a few procedural matters

1 to take care of first.

2 Ms. Dewitt, you have before you the
3 personal data questionnaire that you submitted as
4 part of your application. Are there any amendments
5 that you would like to make at this time to your
6 personal data questionnaire?

7 MS. DeWITT: No.

8 MS. ANZELMO: Mr. Chairman, I would
9 like to ask that Ms. Dewitt's personal data
10 questionnaire be entered as an exhibit into the
11 hearing record.

12 SENATOR McCONNELL: Without objection,
13 so ordered.

14 (EXH. 24, Personal Data Questionnaire
15 of Ms. Diane P. Dewitt, admitted.)

16 MS. ANZELMO: Ms. DeWitt, you now have
17 before you the sworn statement you provided with
18 detailed answers to over 30 questions regarding
19 judicial conduct, statutory qualifications, office
20 administration, and temperament. Are there any
21 amendments you would like to make at this time to
22 your sworn statement?

23 MS. DeWITT: No.

24 MS. ANZELMO: At this time,
25 Mr. Chairman, I would like to ask that Ms. DeWitt's

1 sworn statement be entered as an exhibit into the
2 hearing record.

3 SENATOR McCONNELL: Without objection,
4 so ordered.

5 (EXH. 25, Sworn Statement of Diane P.
6 Dewitt, admitted.)

7 MS. ANZELMO: One final procedural
8 matter. I note for the record that based on the
9 testimony contained in Ms. DeWitt's personal
10 questionnaire which has been included in the record
11 with her consent, Ms. Diane P. DeWitt meets the
12 statutory requirements for this position regarding
13 age, residence, and years of practice.

14 Ms. DeWitt, will you please state the
15 city and judicial circuit in which you reside.

16 MS. DeWITT: I live in Beaufort which
17 is in Beaufort County, 14th judicial circuit.

18 MS. ANZELMO: Thank you.

19 Ms. DeWitt, why do you want to serve as
20 a family court judge?

21 MS. DeWITT: I have a desire to serve
22 the people of South Carolina in a capacity that I
23 believe would maximize my service by using the
24 knowledge and experience I have from practicing law
25 for the last 28 years, all of which has been in the

1 14th circuit. I practiced in every county in my
2 circuit, which is -- is really quite diverse.

3 Beaufort County demographically has
4 much -- is very different from the rural counties.
5 I think I've represented the poorest among the
6 citizens in the 14th circuit. I've also
7 represented some of the wealthiest. I believe I
8 have the skills and desire and the knowledge to be
9 a very fair and open-minded family court judge and
10 believe that my -- my skills are best put to use in
11 trying to help individuals resolve those types of
12 problems as they come into the family court.

13 MS. ANZELMO: Can you explain to the
14 Commission how you feel your legal and professional
15 experience thus far will assist you to be an
16 effective judge.

17 MS. DeWITT: The -- I've actually been
18 very fortunate to have had at least -- the first
19 ten years of my practice I worked initially as a
20 legal services attorney covering two of the rural
21 counties in the circuit. I represented indigents
22 in civil matters, such as Social Security appeals,
23 housing cases, and also extensively in family court
24 at a time when the Domestic Violence Act had just
25 been enacted.

1 And from there I ended up as a public
2 defender representing juveniles in family court, as
3 well as adults. And then in my private practice
4 for the past 18 years, I certainly have done a lot
5 on the civil side of the family court. I have
6 extensive experience in both the criminal and
7 juvenile side and the civil side of family court
8 which is divorces, custody, and also petitions for
9 name changes, and delayed birth certificates, some
10 small types of actions that a lot of people don't
11 even know are handled in the family court.

12 MS. ANZELMO: Are there any areas,
13 including subjective areas of the law, that you
14 would need to additionally prepare for and, if so,
15 how would you handle that additional preparation?

16 MS. DeWITT: I think I'm actually
17 prepared and have the knowledge and experience to
18 take the bench tomorrow. I have -- in my practice
19 I have checklists that I use for every type of case
20 that I handle, whether it's child abuse or neglect
21 or representing parents of children, or divorce,
22 property division, attorney's fees issues, juvenile
23 detention hearings.

24 I have the books and materials and
25 advance sheets all indexed, and I have everything I

1 need I think to -- to begin.

2 MS. ANZELMO: Although you address this
3 in your sworn affidavit, can you please explain to
4 the members of the Commission what you think is the
5 appropriate demeanor for a judge.

6 MS. DeWITT: I think first a judge
7 should be -- should be calm and maintain a calm
8 courtroom. A judge should be courteous and
9 respectful to all of the participants which would
10 include the court reporter, the bailiff, the
11 litigants certainly and their counsel. A judge
12 should be unbiased and open-minded. I think a
13 judge has to be firm and also decisive, and yet at
14 the same time every participant should be treated
15 with courtesy and respect.

16 MS. ANZELMO: When you leave the bench,
17 what would you like for your legacy to be as a
18 family court judge?

19 MS. DeWITT: That she worked hard,
20 listened attentively, was-open minded and fair.

21 MS. ANZELMO: What suggestions would
22 you offer for improving the backlog of cases in the
23 family court?

24 MS. DeWITT: I think that mandatory
25 mediation in my circuit has helped resolve certain

1 types of cases. The -- the thing that would help
2 the most right now is probably not possible, and
3 that would be -- I know in my circuit we need more
4 overtime and we need more judges, and I suspect
5 that that is true across the state. And so perhaps
6 one day when the state budget improves or the
7 economy improves, creating some more judgeships or
8 funds whereby retired judges could continue to help
9 with the backlog would help.

10 There may be certain types of cases
11 such as the child support enforcement cases that
12 could possibly be referred to administrative
13 hearing officers or -- I don't know if -- I don't
14 know that you would find enough attorneys to
15 volunteer to hear those cases without pay, but
16 that's also an idea that I've -- I've heard at the
17 conferences.

18 MS. ANZELMO: Ms. DeWitt, your SLED
19 check revealed a case in which you were named as a
20 defendant in your official capacity as public
21 defender in Beaufort County. This case was filed
22 by Jake Chisolm. Can you explain to the Commission
23 your involvement in the case.

24 MS. DeWITT: I wasn't aware of that
25 case until you showed me a document last week. I

1 do not believe I was ever served with that action.
2 I have no recollection of personally representing
3 Mr. Chisolm myself.

4 Based on the date of the document you
5 showed me, I cannot tell you if I was named because
6 I was his lawyer when I was a public defender or
7 because at the time it was filed there was an
8 assumption that I was still the public defender,
9 which I was not, or if I was named because I was
10 the chairperson of the Public Defender Corporation
11 for a long period of time after I left that office.

12 MS. ANZELMO: Thank you.

13 Just I have a few housekeeping issues
14 to take up with you.

15 Have you sought or received the pledge
16 of any legislator prior to this date?

17 MS. DeWITT: No.

18 MS. ANZELMO: Have you sought or have
19 you been offered a conditional pledge of support of
20 any legislator pending the outcome of your
21 screening?

22 MS. DeWITT: No.

23 MS. ANZELMO: Have you asked any third
24 parties to contact members of the General Assembly
25 on your behalf?

1 MS. DeWITT: No, I have not.

2 MS. ANZELMO: Have you contacted any
3 members of the Commission?

4 MS. DeWITT: No.

5 MS. ANZELMO: Do you understand that
6 you are prohibited from seeking a pledge or
7 commitment until 48 hours after the formal release
8 of the Commission's report?

9 MS. DeWITT: Yes, I do.

10 MS. ANZELMO: Have you reviewed the
11 Commission's guidelines on pledging?

12 MS. DeWITT: Yes, I have.

13 MS. ANZELMO: As a follow-up, are you
14 aware that the penalties for violating the pledging
15 rules are a fine of not more than \$1,000 or
16 imprisonment of not more than 90 days?

17 MS. DeWITT: Yes, I am.

18 MS. ANZELMO: I would note that the Low
19 Country Citizens Committee found Ms. DeWitt
20 qualified for all of the nine evaluative
21 categories. Those categories are Constitutional
22 qualifications, physical health, mental stability,
23 ethical fitness, professional and academic ability,
24 character, reputation, experience, and judicial --
25 judicial temperament.

1 I would note for the record that any
2 concerns raised during the investigation regarding
3 Ms. DeWitt were incorporated into the questioning
4 of her today.

5 Mr. Chairman, I have no further
6 questions.

7 SENATOR McCONNELL: All right. We'll
8 see if any members of the Commission have any
9 questions.

10 Anyone have a question?

11 If not, that concludes this stage of
12 the screening process. I would remind you that we
13 keep the files open, and we reserve the -- even
14 though we close, we technically reserve the right
15 to reopen them should any matter come up. That's
16 not to indicate that we know of any matter that's
17 pending.

18 Second, I'd like to remind you about
19 the 48-hour rule and remind you -- and ask you that
20 if anyone approaches you should you be screened out
21 wanting to help you, that you remind them that they
22 cannot be an advocate until the 48 hours.

23 MS. DeWITT: Yes, sir.

24 SENATOR McCONNELL: We would appreciate
25 that.

1 With that, you're free to go. We thank
2 you for coming. Have a good day.

3 MS. DeWITT: Thank you, sir.

4 (Off the record.)

5 SENATOR McCONNELL: Good afternoon.

6 We have before us Ms. Deborah Ann
7 Malphrus. She's offering for family court, 14th
8 circuit, seat number three.

9 If you'd be kind enough to raise your
10 right hand.

11 (Deborah A. Malphrus was duly sworn,
12 after which testimony began at 2:12 p.m.)

13 SENATOR McCONNELL: Thank you.

14 The Judicial Merit Selection Commission
15 has thoroughly investigated your qualifications for
16 the bench. Our inquires focused on our nine
17 evaluative criteria and has included a survey of
18 the bench and the bar, a thorough study of your
19 application materials, a verification of your
20 compliance with state ethics laws, a search of
21 newspaper articles in which your name appears, a
22 study of previous screenings, and a check for
23 economic conflicts of interest.

24 We have received no affidavits filed in
25 opposition to your election. No witnesses are

1 present to testify.

2 So I'd ask you if you have any brief
3 opening statement you may wish to give us -- it's
4 purely optional -- before I turn you over to
5 counsel for a few questions.

6 MS. MALPHRUS: I don't have an opening
7 statement, Chairman.

8 SENATOR McCONNELL: Thank you.

9 All right. Please answer our counsel's
10 questions.

11 MS. MALPHRUS: Thank you.

12 MS. SHULER: Good afternoon.

13 Mr. Chairman and members of the
14 Commission, I have a few procedural matters to
15 handle with this candidate.

16 Ms. Malphrus, you have before you the
17 personal data questionnaire and the April 12th,
18 2011, letter amendment you submitted as part of
19 your application. Are there any additional
20 amendments that you would like to make at this
21 time?

22 MS. MALPHRUS: No, ma'am.

23 MS. SHULER: Mr. Chairman, I would like
24 to ask that Ms. Malphrus' PDQ and her letter
25 amendment be entered into the record as an exhibit.

1 SENATOR McCONNELL: Without objection,
2 so ordered.

3 (EXH. 26, Amendment to the Personal
4 Data Questionnaire of Ms. Deborah A. Malphrus,
5 admitted.)

6 (EXH. 27, Personal Data Questionnaire
7 of Ms. Deborah A. Malphrus, admitted.)

8 MS. SHULER: Ms. Malphrus, you have
9 before you the sworn statement you provided with
10 detailed answers to over 30 questions regarding
11 judicial conduct, statutory qualifications, office
12 administration, and temperament. Are there any
13 additional amendments that you would like to make
14 at this time to your sworn statement?

15 MS. MALPHRUS: No, ma'am.

16 MS. SHULER: I would like to ask,
17 Mr. Chairman, that Ms. Malphrus' sworn statement
18 and amendment be entered into the record as an
19 exhibit.

20 SENATOR McCONNELL: Without objection,
21 so ordered.

22 (EXH. 28, Sworn Statement of Deborah
23 Ann Malphrus, admitted.)

24 MS. SHULER: One final procedural
25 matter. I note for the record that based on the

1 testimony contained in the candidate's PDQ which
2 has been included in the record, Ms. Malphrus meets
3 the statutory requirements for this position
4 regarding age, residence, and years of practice.

5 Ms. Malphrus, please state your city
6 and circuit in which you reside.

7 MS. MALPHRUS: I reside in Ridgeland,
8 Jasper County, and that is in the 14th judicial
9 circuit.

10 MS. SHULER: Thank you.

11 Ms. Malphrus, after practicing law for
12 21 years, why do you now want to serve as a family
13 court judge?

14 MS. MALPHRUS: You know, I love the
15 law, but I find that family court is my passion.
16 In family court you deal with the issues that are
17 for me most personally important. You deal with
18 families, children, relationships, property.

19 You also deal with other matters that
20 are important to me, and that's youth that are at
21 risk. In our juvenile justice decision -- excuse
22 me, division, you deal with families with children
23 that have been abused and neglected. You deal with
24 parents that are being accused of abuse and neglect
25 and suffer those obstacles to their parental

1 rights. I found in my 21 years of practice that
2 those are the things that inspire me where I find
3 my passion and my joy in my practice.

4 MS. SHULER: Thank you.

5 Ms. Malphrus, could you share with the
6 Commission your legal and professional experience
7 thus far that will assist you in serving as a
8 family court judge.

9 MS. MALPHRUS: Sure. I'd be happy to.

10 After law school I clerked for Judge
11 Carol Connor. That experience gave me the
12 opportunity to -- to learn what goes on in the
13 courtroom and also what goes on in the back room in
14 terms of being a judge.

15 So in the courtroom you're dealing with
16 evidentiary issues. You're dealing with lawyers
17 and litigants. In the back room you're dealing
18 with things like case management, docket
19 management, court administration, scheduling. And
20 that opportunity was invaluable for me to
21 experience both what -- what the public sees as a
22 judge and also the other responsibilities that a
23 judge holds.

24 After clerking for Judge Connor, I was
25 blessed to have the opportunity to work in the 14th

1 circuit solicitor's office under Solicitor Randolph
2 Murdaugh for a couple of years, and that's where I
3 got my experience -- my most experience with family
4 court was the juvenile prosecutor representing the
5 state and the Department of Juvenile Justice
6 proceedings.

7 I handled several waiver proceedings,
8 and that is where a youth who is ordinarily under
9 the jurisdiction of the family court is waived up
10 or moved to circuit court because of the severity
11 of the crime that he or she may have been accused
12 of or for other various reasons.

13 I also at that time began my
14 representation of the state and DSS abuse and
15 neglect proceedings, and that is something that I
16 continued even after I left the solicitor's office.
17 I represented DSS for approximately 15 years. In
18 addition to having a private practice, the state --
19 Jasper County and Hampton County DSS was a client
20 of mine.

21 And for 15 years I dealt with the
22 issues that I believe are probably the most
23 technical in family court, and that would be the
24 issues of terminating parental rights, the issues
25 of protecting children that have been abused and

1 neglected, the issues of trying to rehabilitate
2 families so that they can be rehabilitated and
3 children returned to their homes.

4 I found that that was something that
5 meant a lot to me greatly. I learned tremendously
6 about people during that process, during that 15
7 years.

8 And certainly since I've been in
9 private practice since '95 I've handled divorces.
10 I've represented husbands. I've represented wives.
11 I've represented children. I have handled
12 contested and uncontested adoptions. I have
13 represented grandparents in grandparents'
14 visitation rights.

15 I had a -- I had a family court judge
16 tell me one time that -- that legal issues in
17 family court aren't necessarily what is so
18 complicated, but it is the -- the human condition
19 or dealing with people that makes family court
20 complicated.

21 I found in my life and my experiences
22 that -- that I -- I think I have a knack for that.
23 I was a nurse -- trained as a nurse before law
24 school. It's something that I continued to do even
25 in law school, even -- even while a clerked for a

1 judge and in the solicitor's office. I had a real
2 draw to work with people.

3 I continue to do that as a volunteer
4 nurse at a free medical clinic. I volunteered just
5 this morning. I was volunteering at my son's
6 school. I feel drawn to working with children and
7 families and people that seem to be at a crisis or
8 facing some difficult times in their life.

9 MS. SHULER: Thank you, Ms. Malphrus.
10 Excuse me.

11 Are there any areas of the law that you
12 would need to additionally prepare for and, if so,
13 how would you handle that additional preparation?

14 MS. MALPHRUS: You know, I don't -- for
15 me personally I don't know that you ever feel like
16 you have all the experience that you need to have
17 in practicing law, and I would assume it would be
18 the same way on the bench.

19 Today in my practice I continue to
20 prepare for a case as if I don't -- I continue to
21 look at the law and prepare just like I don't know
22 anything about alimony or -- or custody issues, and
23 just when you think you do, our appellate courts
24 seem to issue an opinion that rewrites what you
25 think you understand about the law. So I think for

1 somebody to feel like they are -- are prepared and
2 have the experience that they need, they might
3 would think more about themselves than I do about
4 me.

5 But in terms of preparation, I read
6 advance sheets. I would certainly continue to do
7 that. I would continue to attend legal education
8 seminars and observe other proceedings to prepare
9 myself.

10 MS. SHULER: Thank you.

11 Although you address this in your sworn
12 affidavit, could you share with the Commission what
13 you believe to be the appropriate demeanor for a
14 judge.

15 MS. MALPHRUS: Certainly I think that a
16 judge has to be fair and impartial to the litigants
17 and the attorneys that come before them. I think
18 that that's probably first and foremost the
19 important thing for a -- for a judge to possess.
20 People have to have confidence in our system, and
21 people have to believe that judges are being
22 impartial and fair and unbiased.

23 I also think particularly in the family
24 court arena a judge needs to possess a good bit of
25 humility and empathy and the ability to -- to let

1 people know your experience and you understand what
2 they're going through. I think a judge needs to be
3 calm. I think a judge needs to be prepared and
4 prompt. I think a judge needs to be deliberative
5 in their decision making process.

6 I think it's real important that a
7 judge particularly in family court keep their
8 feelings of self-importance in check. A judge has
9 certainly a role in the courtroom proceeding that's
10 different from anybody else's, but a judge at the
11 end of the day is a person just like anybody else
12 in that courtroom, and I think it's important that
13 judges remember that, and you want to have
14 humility.

15 MS. SHULER: Thank you.

16 Ms. Malphrus, if you were selected to
17 the family court bench and when you leave the
18 bench, what would you like your legacy to be known
19 as?

20 MS. MALPHRUS: I would -- I would like
21 for my legacy to be known as someone that tried
22 hard to get it right, as a judge that treated
23 everyone fairly, as a judge that was kind, as a
24 judge that was intelligent and made well-reasoned
25 decisions, but above all as a judge that cared and

1 was fair.

2 MS. SHULER: Thank you.

3 Mr. Chairman, I would like to request
4 that we now go into executive session to handle one
5 matter.

6 SENATOR McCONNELL: Okay. Do I hear
7 such a notion?

8 SENATOR NICHOLSON: So moved.

9 SENATORS KNOTTS: All right. The
10 senator from Greenwood has moved it. The senator
11 from Lexington seconded it.

12 All in favor say aye. Opposed by nay.

13 Show it was unanimous.

14 Sergeant, please secure the chambers.

15 (The Committee went into executive
16 session.)

17 MS. SHULER: Ms. Malphrus, I have some
18 housekeeping issues to --

19 SENATOR McCONNELL: All right. We're
20 back in public session again.

21 Counsel.

22 MS. SHULER: Ms. Malphrus, I have some
23 housekeeping issues to cover with you.

24 Have you sought or received a pledge of
25 any legislator prior to this date?

1 MS. MALPHRUS: I have not.

2 MS. SHULER: Have you sought or have
3 you been offered a conditional pledge of support of
4 any legislator pending the outcome of your
5 screening?

6 MS. MALPHRUS: I have not.

7 MS. SHULER: Have you asked any third
8 party to contact members of the General Assembly on
9 your behalf?

10 MS. MALPHRUS: I have not.

11 MS. SHULER: Have you contacted any
12 members of the Commission?

13 MS. MALPHRUS: No, ma'am.

14 MS. SHULER: Do you understand that you
15 are prohibited from seeking a pledge or a
16 commitment until 48 hours after the formal release
17 of the Commission's report?

18 MS. MALPHRUS: I do.

19 MS. SHULER: Have you reviewed the
20 Commission's guidelines on pledging?

21 MS. MALPHRUS: Yes, ma'am.

22 MS. SHULER: Are you aware of the
23 penalties if you violate those pledging rules; that
24 is, it's a misdemeanor and you could be fined not
25 more than \$1,000 and imprisoned not more than 90

1 days?

2 MS. MALPHRUS: Yes, ma'am.

3 MS. SHULER: And I would note the Low
4 Country Citizens Committee found Ms. Malphrus to be
5 qualified in regards to the evaluative criteria of
6 physical health and mental stability. They found
7 her well-qualified in the remaining criteria of
8 Constitutional qualifications, ethical fitness,
9 professional and academic ability, character,
10 reputation, experience, and judicial temperament.

11 And, Mr. Chairman, I have no further
12 questions.

13 SENATOR McCONNELL: All right. Any
14 member of the Commission have a question?

15 The senator from Lexington.

16 SENATORS KNOTTS: Thank you, Ms. --
17 Ms. Malphrus.

18 On child support what's your feelings
19 on delinquent child support of people who basically
20 get behind or are on hard luck versus those that
21 potentially have total disregard for the child
22 support and leave the state, does everything they
23 can to keep from paying it and finally get caught
24 ten, 12 years later?

25 MS. MALPHRUS: Senator Knotts, I think

1 you -- you correctly identified the issues that --
2 that would have to be addressed. Is it someone who
3 has -- has fallen on hard times? Is there
4 something you can do to help that parent versus
5 those that simply disregard a court order and have
6 the ability to pay child support and do not?

7 Certainly I think you would have to
8 treat both of those situations differently, the
9 facts in each case. Each case is different, but I
10 would certainly like to believe that with that
11 parent who has fallen on hard times there can be
12 some method of helping them get caught up,
13 certainly not forgiving or excusing their child
14 support, but some method of helping them get caught
15 up with their payments.

16 Certainly I think the parent that just
17 disregards a court order would have to be dealt
18 with in a different manner.

19 SENATORS KNOTTS: What -- at what time
20 in your opinion would a person need to go to jail?

21 MS. MALPHRUS: You know, again, Senator
22 Knotts, I think you have to look at each case
23 differently. How many times have they been brought
24 before the family court previously for nonpayment
25 of their child support? What is their ability to

1 pay child support? Are there any unusual or
2 outstanding reasons that you feel like some sort of
3 leniency should be given -- given to them?

4 And I think ultimately what you -- what
5 your goal is is to be able to collect that child
6 support for the parent -- for the custodial parent.
7 And what I have noticed in family court
8 proceedings, anyway, is when -- when a judge issues
9 a sentence but then suspends it upon that parent's
10 payment of the back child support, oftentimes that
11 back child support will get paid.

12 SENATOR KNOTTS: Could you put somebody
13 in jail for not paying their child support?

14 MS. MALPHRUS: Oh, yes, sir. I was a
15 prosecutor for several years. I -- yes, I could
16 put a parent in jail for not paying child support.

17 SENATOR KNOTTS: What would be a good
18 reason for you to put somebody in jail for not
19 paying child support after you have given them
20 chances on top of chances? And how many chances do
21 you think they need?

22 MS. MALPHRUS: Again, Senator, I think
23 it depends on each case and someone's ability to
24 pay. I think if a gentleman or a mother has the
25 ability to pay child support and they have simply

1 for whatever reason disobeyed a court order though
2 they are -- have the means to be in compliance and
3 to support their children, I would think that
4 initially if they had the ability to pay then a
5 sentence ought to be imposed.

6 Now, I think that, again, if they come
7 into compliance with that court order, then I think
8 the sentence should be suspended. I think -- then
9 you're getting into the differences between civil
10 contempt and criminal contempt which is a bit more
11 to deal with.

12 SENATOR KNOTTS: How about the
13 intentional -- the person that is ordered to pay
14 child court -- child support when the kid is a
15 child and he leaves the state and he quits jobs
16 every time that they go to take the money out of
17 his paycheck, and ten years or 12 years down the
18 road they find him and he owed 50, 60, \$70,000?
19 How many chances are you going to give him?

20 MS. MALPHRUS: I think if he's gotten
21 50 or 60 or \$70,000 --

22 SENATOR KNOTTS: He don't have the
23 money. How many chances are you going to give him?

24 MS. MALPHRUS: I think it's probably
25 time for him to --

1 SENATOR KNOTTS: You think it's time
2 for him --

3 MS. MALPHRUS: Oh, no, I think it's
4 time for him to probably be inside of a -- inside
5 of a jail for not complying with a court order and
6 supporting his children.

7 SENATOR KNOTTS: How about guardian ad
8 litem cases, how -- how strong would you be on
9 taking the advice of a guardian ad litem
10 recommendation?

11 MS. MALPHRUS: I think ultimately --
12 having served as a guardian ad litem in many cases,
13 I think ultimately it is the judge's decision to
14 make a custody determination. I think it is
15 important to hear what the guardian ad litem's
16 investigation revealed, but I think ultimately it
17 is the judge's responsibility to make that
18 decision.

19 SENATOR KNOTTS: And then you say you
20 were the guardian ad litem in some cases?

21 MS. MALPHRUS: Many -- many times, yes,
22 sir.

23 SENATOR KNOTTS: Did you always visit
24 both parents' homes?

25 MS. MALPHRUS: Yes, sir, I have.

1 SENATOR KNOTTS: Did you spend adequate
2 time that you felt necessary to get a good decision
3 to give to the judge if he asked?

4 MS. MALPHRUS: Yes, sir, I -- I believe
5 that I always did.

6 SENATOR KNOTTS: Would you hold your
7 guardian ad litem to the same test?

8 MS. MALPHRUS: Absolutely.

9 SENATOR KNOTTS: What other areas do
10 you investigate -- investigate as a guardian ad
11 litem?

12 MS. MALPHRUS: I like to -- depending
13 on the age of the child that you are -- that you're
14 dealing with, I like to talk to school teachers. I
15 like to talk to church members. I like to talk
16 to -- I live in a small community. I like talk to
17 neighbors, to people -- to the people that see
18 these children, that know these parents, and not
19 necessarily just their family members, not
20 necessarily just their list of who they want you to
21 talk to.

22 I find it's helpful for me to ask, "Who
23 is your child's teacher? When is the last time
24 your child went to Sunday school?" Talk to -- "Who
25 are some of your coworkers? Who do you work with?"

1 Who do you answer to at your job?" Talk to those
2 people to find out about parents and children.

3 A lot of times the parents want to give
4 you a list of who they want you to talk to. I -- I
5 try to do more than that and talk to people that I
6 think are important such as school teachers.

7 SENATOR KNOTTS: Finally, your circuit
8 down around Jasper, down there, what's the work
9 hours of the family court judge?

10 MS. MALPHRUS: Well, the work hours of
11 the courtroom are -- are generally 9:00 to 5:00.
12 The work hours of the family court judge should be
13 and I believe for some are significantly more than
14 that. You know, you work until -- a judge has to
15 work until they're through. Now, that might mean
16 you leave the courtroom and you go home and you
17 look at your notes and you form decisions, you form
18 opinions. So your hours can be very lengthy until
19 it's all taken care of.

20 SENATOR KNOTTS: Thank you.

21 SENATOR McCONNELL: Are there any other
22 questions?

23 If not, this will conclude this stage
24 of the screening process. And I would remind you
25 that though the record may be closed, we reserve

1 the right to reopen it should there be something.
2 That's not to indicate there's anything out there.

3 Also want to remind you of the 48-hour
4 rule and ask you to be mindful of it, so mindful
5 that if this Committee screens you out and someone
6 inquires as to how they may assist you as your
7 advocate, that you would remind them of our 48-hour
8 rule.

9 With that, we thank you for offering
10 and for your service to South Carolina. Have a
11 good day.

12 MS. MALPHRUS: Thank you, sir.

13 SENATOR McCONNELL: Thank you.

14 (Off the record.)

15 SENATOR McCONNELL: We'll go back on
16 the record at this time.

17 And we have before us Mr. Maurice A.
18 Griffith who is offering for master-in-equity for
19 Aiken County.

20 If you'd be so kind as to raise your
21 right hand.

22 (Maurice A. Griffith was duly sworn,
23 after which testimony began at 2:38 p.m.)

24 SENATOR McCONNELL: Thank you.

25 The Judicial Merit Selection Commission

1 has thoroughly investigated your qualifications for
2 the bench. Our inquiries focused on our nine
3 evaluative criteria and has included a survey of
4 the bench and the bar, a thorough study of your
5 application materials, a verification of your
6 compliance with state ethics laws, a search of
7 newspaper articles in which your name appears, a
8 study of previous screenings, and a check for
9 economic conflicts of interest.

10 We have received no affidavits filed in
11 opposition to your election. No witnesses are
12 present to testify.

13 So I'd ask you if there's any opening
14 statement you want to give -- it's purely option --
15 before I turn you over to counsel for questions.

16 MR. GRIFFITH: Only to thank the
17 Committee for having me here today and having this
18 process set up. The first time I've gone through
19 it. And very thorough, and I -- I know it takes a
20 lot of work for the individuals throughout and I
21 appreciate the process.

22 SENATOR McCONNELL: All right. Please
23 answer counsel's questions.

24 MR. DENNIS: Mr. Chairman, just a few
25 procedural matters to go through with Mr. Griffith.

1 Mr. Griffith, you have before you the
2 personal data questionnaire you submitted as part
3 of your application and I believe an amendment to
4 that personal data questionnaire.

5 MR. GRIFFITH: Yes, sir.

6 MR. DENNIS: Are there any additional
7 amendments that you'd like to make to your PDQ at
8 this time?

9 MR. GRIFFITH: No, sir.

10 MR. DENNIS: Mr. Chairman, I would ask
11 that Mr. Griffith's personal data questionnaire and
12 the amendment be entered as an exhibit into the
13 hearing record.

14 SENATOR McCONNELL: Without objection,
15 so ordered.

16 (EXH. 29, Amendment to the Personal
17 Data Questionnaire of Mr. Maurice A. Griffith,
18 admitted.)

19 (EXH. 30, Personal Data Questionnaire
20 of Mr. Maurice A. Griffith, admitted.)

21 MR. DENNIS: Mr. Griffith, you also
22 have before you the sworn statement you provided
23 with detailed answers to over 30 questions
24 regarding judicial conduct, statutory
25 qualification, office administration, and

1 temperament.

2 MR. GRIFFITH: Yes, sir.

3 MR. DENNIS: Are there any additional
4 amendments you'd like to make to your sworn
5 statement at this time?

6 MR. GRIFFITH: No, sir.

7 MR. DENNIS: At this time,
8 Mr. Chairman, I would ask that Mr. Griffith's sworn
9 statement be entered as an exhibit into the hearing
10 record.

11 SENATOR McCONNELL: Without objection,
12 so ordered.

13 (EXH. 31, Sworn Statement of Maurice
14 Anderson Griffith, admitted.)

15 MR. DENNIS: One final matter. I note
16 for the record that based on the testimony
17 contained in the candidate's PDQ which has been
18 included in the record with the candidate's
19 consent, Mr. Griffith meets the statutory
20 requirements for this position regarding age,
21 residence, and years of practice.

22 Mr. Griffith, why do you now want to
23 serve as a master-in-equity?

24 MR. GRIFFITH: I have been in practice
25 about 23 years. My practice has somewhat varied

1 over the years, but over the last decade or so I
2 think more and more of my cases have been before
3 the master-in-equity there in Aiken. I've
4 developed referrals on those type of cases, whether
5 they be boundary dispute cases, easement cases,
6 partition actions, some foreclosures.

7 And so I practice -- the main portion
8 of my practice is with a master-in-equity. I think
9 the experience that I have in those areas -- I
10 enjoy the courtroom setting. I enjoy the trials --
11 have helped me to develop some experience in that
12 area. And Judge Smoak has been there for the --
13 probably the entire time I've been practicing
14 there.

15 I thought over the years that would be
16 a natural progression -- step for me, and when he
17 told me he was looking into retiring, I took that
18 opportunity to start investigating it and had liked
19 the decision.

20 MR. DENNIS: Are there any areas,
21 including subjective areas of the law, that you
22 would need additional preparation for in order to
23 serve as a master-in-equity and how would you
24 handle that additional preparation?

25 MR. GRIFFITH: Well, I practiced, as I

1 said, in the master-in-equity court and I'm
2 familiar with a lot of different causes of actions
3 and claims in that court. I've practiced in the
4 family court some. I've practiced in probate court
5 and in the circuit court. I did a good bit of
6 criminal defense when I first began practice. I
7 used to be with law enforcement before I went back
8 to law school. I think those experiences will help
9 because you do have a variety of cases that come
10 before the master-in-equity.

11 Also throughout that time dealing with
12 the Rules of Civil Procedure, Rules of Evidence,
13 becoming familiar with those and even practicing in
14 those other courts will also be an asset there.

15 As far as what I may need to work on, I
16 think there is a difference between the role of an
17 advocate, of an attorney at the trial and the
18 judge, and so I certainly think I have things to
19 learn in that position in that regard. Also
20 keeping up with the changes in the law, and the
21 processes in that I think are more general. I
22 think as attorneys sometimes we get focused on what
23 we've got as opposed to the general state of the
24 law in a certain area.

25 So I'd have to -- you know, I don't

1 think it would be an issue, but I think that would
2 be a change in focus for me.

3 MR. DENNIS: Mr. Griffith, you address
4 this in your sworn affidavit, but would you please
5 explain to the members of the Commission what you
6 feel the appropriate demeanor for a judge is.

7 MR. GRIFFITH: I think respectful to
8 the parties who are there. I think it's always
9 important to remember people are there because an
10 issue is important to them. It's a lot of times
11 critical in their day-to-day lives in that regard.
12 Attorneys are there as part of their practice and
13 to be a litigant -- an advocate for their clients.
14 I think -- so you need to be respectful of those
15 individuals, both attorneys and the litigants
16 themselves.

17 I do know over the years in
18 master-in-equity we do have a lot of pro se cases,
19 and I think in those cases what I found is if you
20 take some time and explain the process to these pro
21 se litigants, that it helps to smooth out the
22 process if they kind of know what's -- what the
23 process is as far as when they're going to present,
24 when somebody else is going to present evidence, et
25 cetera.

1 So I think that all goes along with it.
2 Of course that exists not only in the courtroom but
3 outside of it as I think the rules and the canons
4 if you go through talk about activities outside
5 that would come into play as well.

6 MR. DENNIS: Pardon me. I'm sorry
7 about that.

8 Mr. Griffith, just some quick
9 housekeeping issues to run through with you.

10 Have you sought or received the pledge
11 of any legislator prior to this date?

12 MR. GRIFFITH: No, sir.

13 MR. DENNIS: Have you sought or have
14 you been offered a conditional pledge of support
15 from any legislator pending the outcome of your
16 screening?

17 MR. GRIFFITH: No, sir.

18 MR. DENNIS: Have you asked any third
19 parties to contact members of the General Assembly
20 on your behalf?

21 MR. GRIFFITH: No, sir.

22 MR. DENNIS: Have you contacted any
23 members of this commission?

24 MR. GRIFFITH: No, sir.

25 MR. DENNIS: Do you understand that you

1 are prohibited from seeking a pledge or commitment
2 until 48 hours after the formal release of the
3 Commission's report?

4 MR. GRIFFITH: I do.

5 MR. DENNIS: Have you reviewed the
6 Commission's guidelines on pledging?

7 MR. GRIFFITH: I have.

8 MR. DENNIS: As a follow-up, are you
9 aware of the penalties for violating the pledging
10 rules; that is, it's a misdemeanor and upon
11 conviction the violator must be fined not more than
12 \$1,000 or imprisoned not more than 90 days?

13 MR. GRIFFITH: I have reviewed that,
14 yes, sir.

15 MR. DENNIS: I would note that the
16 Midlands Citizens Committee found Mr. Griffith
17 well-qualified in four of the nine evaluative
18 criteria, character, reputation, experience, and
19 judicial temperament. The Committee found
20 Mr. Griffith qualified in the five remaining
21 categories, Constitutional qualifications, ethical
22 fitness, professional and academic ability,
23 physical health, and mental stability. The
24 Committee stated, "In summary, Mr. Griffith is
25 well-qualified to serve as the Aiken County

1 master-in-equity, and we do believe he would serve
2 Aiken County and our state in an excellent manner."

3 I would note for the record,
4 Mr. Chairman, that any concerns raised during the
5 investigation regarding this candidate were
6 incorporated into the questioning of the candidate
7 today.

8 And, Mr. Chairman, that's all I have at
9 this time.

10 SENATOR McCONNELL: Thank you, sir.

11 Excuse me. Any members of the
12 Commission have a question?

13 The senator from Lexington.

14 SENATORS KNOTTS: Mr. Griffith, in this
15 information it says that the South Carolina
16 Department of Revenue filed tax liens against you
17 in 2002 and 2008 and additionally that you have a
18 payment plan of \$360 per month to be made to the
19 U.S. Treasury, and it's agreed upon. But yet you
20 maintain there's no tax liens filed against you.
21 Can you explain that? Are you paying --

22 MR. GRIFFITH: Well, the one in 2002
23 was paid and the one in 2006 was paid. So those
24 are off the record. And one of them was paid --

25 SENATOR KNOTTS: Are there any on the

1 record now?

2 MR. GRIFFITH: No, sir. No, sir. I
3 may have been overcautious in answering that, and I
4 apologize if I misguided that. But, no, the 2002
5 and 2006, as soon as those liens came, our -- one
6 of them I think you'd find within one month and one
7 of them within three months were paid.

8 And I've also taken steps to go ahead
9 and pay off the payment plan discussed. And that
10 was one of the amendments I made on the document
11 that we submitted here today.

12 Now, I apologize if I made that seem
13 like those were still outstanding.

14 SENATOR KNOTTS: You got a document
15 with you --

16 MR. GRIFFITH: I've got documents at --
17 the county record that I could pull to show that,
18 that they're paid.

19 SENATOR KNOTTS: I just find -- I find
20 it hard to understand why you would be paying \$360
21 a month if there is not a lien. They don't satisfy
22 a tax lien until you pay them off.

23 MR. GRIFFITH: That's on the federal.
24 The tax liens was two state liens. Those were paid
25 when those were filed.

1 SENATOR KNOTTS: Is there a federal tax
2 lien filed against you?

3 MR. GRIFFITH: No, not a federal tax
4 lien. That was never filed. I entered a payment
5 plan with them. I paid that and I've since paid
6 that off and amended my response to that.

7 SENATOR KNOTTS: Okay.

8 MR. DENNIS: Senator, just for some
9 quick clarification, he submitted cancelled checks,
10 cashed checks made payable to the U.S. Treasury
11 that were made a part of his record when we amended
12 a little bit earlier that showed the federal tax --

13 SENATOR KNOTTS: I haven't seen them.

14 MR. DENNIS: We can make them available
15 for you.

16 SENATOR KNOTTS: That's okay. That's
17 okay. I just wanted to clear that up.

18 MR. GRIFFITH: Yes, sir. Again, if I
19 confused those two, which I may have in that
20 information, I apologize.

21 SENATOR McCONNELL: All right. Any
22 other questions?

23 All right, Mr. Griffith, that concludes
24 this stage of the screening process. As you know,
25 the record will be closed, but we will reserve the

1 right to reopen it should there be some unanswered
2 question or something. I know of nothing that is
3 pending.

4 I remind you of the 48-hour rule and
5 ask you to be very mindful of it, so mindful, in
6 fact, that if we report you out and someone asks if
7 they may be your advocate, that you remind them
8 about the 48-hour rule.

9 MR. GRIFFITH: Yes, sir.

10 SENATOR McCONNELL: With that, we thank
11 you for offering and -- to serve the people of
12 South Carolina, and wish you a good day.

13 MR. GRIFFITH: Okay. Thank you.

14 (Off the record.)

15 SENATOR McCONNELL: All right. We'll
16 go back on the record at this point.

17 And we have Mr. Paul B. Ferrara, III,
18 offering for the master-in-equity for Dorchester
19 County.

20 If you'd be so kind as to raise your
21 right hand.

22 (Paul B. Ferrara, III, was duly sworn,
23 after which testimony began at 2:50 p.m.)

24 SENATOR McCONNELL: Thank you.

25 The Judicial Merit Selection Commission

1 has thoroughly investigated your qualifications for
2 the bench. Our inquiries focused on our nine
3 evaluative criteria and has included a survey of
4 the bench and the bar, a thorough study of your
5 application materials, verification of your
6 compliance with state ethics laws, a search of
7 newspaper articles in which your name appears, a
8 study of previous screenings, if any, and a check
9 for economic conflicts of interest.

10 We have no affidavits filed in
11 opposition to your election. No witnesses are
12 present to testify.

13 I'd ask you if there's any opening
14 statement you wish to give. It is purely optional.
15 The procedure is that counsel will have a few
16 questions for you, and then we'll just open it up
17 to the panel and see if there's anything they have.

18 MR. FERRARA: Thank you. Very briefly,
19 Mr. Chairman.

20 I would like to thank everybody
21 personally for this process, and I'm just honored
22 to be considered for the master-in-equity position
23 of Dorchester County.

24 SENATOR McCONNELL: Thank you.

25 Please answer counsel's questions.

1 MS. SHULER: Good afternoon.

2 Mr. Chairman and members of the
3 Commission, I have a few procedural matters to take
4 care of with this candidate.

5 Mr. Ferrara, you have before you the
6 personal data questionnaire and the amendment you
7 made for question number seven you submitted as
8 part of your application. Are there any additional
9 amendments that you would like to make today to
10 your PDQ?

11 MR. FERRARA: No, ma'am.

12 MS. SHULER: Mr. Chairman, I would ask
13 that Mr. Ferrara's PDQ and amendment be entered
14 into record as an exhibit.

15 SENATOR McCONNELL: Is there an
16 objection? Being none, so ordered.

17 (EXH. 32, Amendment to the Personal
18 Data Questionnaire of Mr. Paul B. Ferrara, III,
19 admitted.)

20 (EXH. 33, Personal Data Questionnaire
21 of Mr. Paul B. Ferrara, III, admitted.)

22 MS. SHULER: Mr. Ferrara, you have
23 before you the sworn statement and amendments to
24 questions number four and 23. You provided
25 detailed answers to over 30 questions regarding

1 judicial conduct, statutory qualifications, office
2 administration, and temperament. Are there any
3 additional amendments that you would like to make
4 to your sworn statement today?

5 MR. FERRARA: No, ma'am.

6 MS. SHULER: Mr. Chairman, I would ask
7 that his sworn statement and amendment be entered
8 as an exhibit into this hearing record.

9 SENATOR McCONNELL: Is there an
10 objection? Being none, so ordered.

11 (EXH. 34, Amended Sworn Statement of
12 Paul B. Ferrara, III, admitted.)

13 (EXH. 35, Sworn Statement of Paul B.
14 Ferrara, III, admitted.)

15 MS. SHULER: One final procedural
16 matter. I note for the record that based on the
17 testimony contained in the candidate's PDQ which
18 has been included in the record, Mr. Ferrara meets
19 the statutory requirements for this position
20 regarding age, residency, and years of practice.

21 Mr. Ferrara, after practicing law for
22 nine years, why do you now want to serve as a
23 master-in-equity for Dorchester County?

24 MR. FERRARA: I believe that -- I -- I
25 enjoy the challenge. I believe that Dorchester

1 County is faced with a backlog primarily of
2 foreclosure cases on the docket, and I think that I
3 can implement two processes to the Dorchester
4 County master's office to help that backlog and
5 court administration. One being a docketing system
6 composed of non-contested matters and contested
7 matters, and then the second idea that I have would
8 be to have more than one foreclosure sale per month
9 if it's financially feasible for the county to do
10 so.

11 MS. SHULER: Would you explain to the
12 Commission how you feel your legal and professional
13 experience thus far, even more particularly your
14 experience before the master-in-equity court will
15 assist you to be an effective judge.

16 MR. FERRARA: Yes, ma'am. I've
17 regularly appeared before Charleston, Berkley and
18 Dorchester County masters in the Charleston area
19 and then also been before Horry County, Beaufort
20 County and a master's in special referees in
21 Colleton, Jasper and other counties in the Low
22 Country, and I think that my experience
23 particularly before the master coupled with trial
24 experience and courtroom experience position me
25 perfectly for the position of master-in-equity.

1 MS. SHULER: Mr. Ferrara, can -- are
2 there any additional areas of law that you would
3 need to prepare for to serve as a master-in-equity
4 and, if so, how would you handle that preparation?

5 MR. FERRARA: Thank you, ma'am.

6 I think other than what I normally do,
7 which is routinely review the advance sheets from
8 our Supreme Court and Court of Appeals and review
9 of case law, that I would necessarily need do
10 anything additional. If there was something that
11 was more complicated or that I wasn't aware of such
12 as a tax matter or something complicated like that,
13 I would definitely research that matter prior to
14 having that matter heard before me.

15 I would also ask counsel to provide
16 memorandums and proposed orders on that matter, and
17 I would thoroughly investigate the area of law that
18 was before me prior to making a ruling.

19 MS. SHULER: Thank you.

20 Please share with the Commission what
21 you believe to be the appropriate demeanor for a
22 master-in-equity.

23 MR. FERRARA: I believe the appropriate
24 demeanor for the master would be that someone who
25 is courteous, polite, calm, even tempered, mild

1 mannered, basically respectful to the litigants,
2 both attorneys. No matter your view or your
3 ruling, just be respectful in the ruling and treat
4 all the parties that come before you with
5 integrity.

6 MS. SHULER: If you were selected as a
7 master-in-equity and after serving, when you left
8 the bench, what would you like your legacy to be
9 known as?

10 MR. FERRARA: I hadn't thought of that
11 before now, but I think that if the members of the
12 bar would all agree that I would be fair and
13 impartial and just, provide all sides due process
14 and -- and be fair, I think that that would be a
15 great legacy.

16 MS. SHULER: Thank you.

17 Mr. Ferrara, your SLED report reflected
18 that you were named as a defendant in two lawsuits,
19 one in 1993 and one in 2010. Please explain to the
20 Commission the nature of these lawsuits and how
21 they have been resolved.

22 MR. FERRARA: The 1993 lawsuit I wasn't
23 aware of until I applied and then researched I
24 guess on Charleston County's new website. It was a
25 lawsuit that Clyde Ackerman who is now deceased had

1 filed and named me, my biological father and my
2 grandfather as defendants. Upon investigating that
3 matter, I determined that -- well, I knew that I
4 was never served with the lawsuit, and in looking
5 in the court's file, it appears that there's a --
6 the lawsuit against me was withdrawn. I wasn't a
7 party and I had no knowledge of -- of the facts
8 concerning that.

9 MS. SHULER: Okay.

10 SENATOR McCONNELL: The 2010 lawsuit is
11 a breach of contract matter that was filed against
12 me by a tree contractor. Melissa Anderson, Red's
13 Tree Service. I had a contract with her and her
14 company to do some work clearing some property.
15 They did some of the work and did not complete the
16 job. We had a disagreement. They had sued me. It
17 was before Judge Turner down in Charleston. We had
18 a jury trial. The jury ruled in my favor and
19 awarded cost to cover damages of \$250 in my favor.
20 The judge granted a new trial on that and that
21 matter is on appeal right now.

22 MS. SHULER: Thank you.

23 Mr. Chairman, I'd like to request that
24 we now go into executive session to handle one
25 matter.

1 SENATOR McCONNELL: All right. Do I
2 hear such a motion?

3 SENATOR NICHOLSON: Seconded.

4 REPRESENTATIVE MACK: So moved.

5 SENATOR McCONNELL: So moved and
6 seconded. Open for discussion.

7 There being none, all in favor signify
8 by saying aye. Opposed by nay. The ayes have it.

9 Sergeant, secure the chambers.

10 (The Committee went into executive
11 session.)

12 MS. SHULER: Have you sought or
13 received the --

14 SENATOR McCONNELL: Show the record
15 that we have -- took no action in executive session
16 and have lifted the veil.

17 Thank you. Go ahead.

18 MS. SHULER: Mr. Ferrara, have you
19 sought or received the pledge of any legislator
20 prior to this date?

21 MR. FERRARA: No, ma'am.

22 MS. SHULER: Have you sought or have
23 you been offered a conditional pledge of support of
24 any legislator pending the outcome of your
25 screening?

1 MR. FERRARA: No, ma'am.

2 MS. SHULER: Have you asked any third
3 parties to contact members of the General Assembly
4 on your behalf?

5 MR. FERRARA: No, I have not.

6 MS. SHULER: Have you contacted any
7 members of the Commission?

8 MR. FERRARA: No, ma'am.

9 MS. SHULER: Do you understand that
10 you're prohibited from seeking a pledge or
11 commitment until 48 hours after the formal release
12 of the Commission's report?

13 MR. FERRARA: Yes, ma'am.

14 MS. SHULER: Have you reviewed the
15 Commission's guidelines on pledging?

16 MR. FERRARA: Yes, I have.

17 MS. SHULER: If you violate them, it is
18 a misdemeanor. You can be fined not more than
19 \$1,000 or imprisoned not more than 90 days.

20 I would note that the Low Country
21 Citizens Committee found Mr. Ferrara to be
22 qualified for each of the nine evaluative criteria,
23 Constitutional qualifications, ethical experience,
24 professional and academic ability, character,
25 reputation, physical health, mental stability,

1 experience, and judicial temperament.

2 I would just note for the record that
3 any concerns raised during the investigation
4 regarding the candidate were incorporated into the
5 questioning of the candidate today.

6 And, Mr. Chairman, I have no further
7 questions for this candidate.

8 SENATOR McCONNELL: Thank you.

9 Does any member of the Commission have
10 a question?

11 All right. Well, then that concludes
12 this portion of our screening process. As you
13 know, the record will be closed, but we will
14 reserve the right to reopen any time should
15 something come up. That's not to indicate we
16 expect anything or that there's anything pending.

17 I remind you of the 48-hour rule and
18 ask you to be mindful of that, so mindful, in fact,
19 that if we report you out, that person approaches
20 you wishing to be your advocate you remind them
21 about the 48-hour rule --

22 MR. FERRARA: Yes, sir.

23 SENATOR McCONNELL: -- explain it to
24 them.

25 With that, we thank you for offering

1 and for your service to the people of South
2 Carolina. Have a good day, sir.

3 MR. FERRARA: Thank you.

4 SENATOR McCONNELL: Thank you.

5 (Off the record.)

6 SENATOR McCONNELL: Good afternoon.

7 We'll go back on the record at this point.

8 We have before us the Honorable Maite
9 Murphy offering for master-in-equity for Dorchester
10 County.

11 If you'd be so kind as to raise your
12 right hand.

13 (Maite Murphy was duly sworn, after
14 which testimony began at 3:04 p.m.)

15 SENATOR McCONNELL: Thank you.

16 The Judicial Merit Selection Commission
17 has thoroughly investigated your qualifications for
18 the bench. Our inquiries focused on the nine
19 evaluative criteria, and it's included a survey of
20 the bench and the bar, a thorough study of your
21 application materials, a verification of compliance
22 with state ethics laws, a search of newspaper
23 articles in which your name appears, a study of
24 previous screenings, and a check for economic
25 conflicts of interest.

1 We have received no affidavit filed in
2 opposition to your election. No witnesses are
3 present to testify.

4 I'd ask you if you have any opening
5 statement you wish to give. It's purely optional.
6 I'm going to turn you over to counsel for a few
7 questions, see if the members of the Commission
8 have any questions, and that will probably conclude
9 the hearing.

10 JUDGE MURPHY: Thank you, sir.

11 I would waive an opening statement. I
12 know how certainly busy you are today, and you have
13 a full plate, so I would just like to thank
14 everybody for being here and for your important
15 participation in this process.

16 SENATOR McCONNELL: Thank you.

17 Please answer counsel's questions.

18 MS. SHULER: Mr. Chairman and members
19 of the Commission, I have a few procedural matters
20 to take care of with this candidate.

21 Judge Murphy, you have before you your
22 personal data questionnaire you submitted as part
23 of your application. Are there any additional
24 amendments that you would like to make at this
25 time?

1 JUDGE MURPHY: No, ma'am.

2 MS. SHULER: Mr. Chairman, I'd ask that
3 Judge Murphy's PDQ be entered into the record as an
4 exhibit.

5 SENATOR McCONNELL: Is there an
6 objection? Without objection, so ordered.

7 (EXH. 36, Personal Data Questionnaire
8 of Ms. Maite Murphy, admitted.)

9 MS. SHULER: Judge Murphy, you have
10 before you the sworn statement you provided with
11 detailed answers to over 30 questions regarding
12 judicial conduct, statutory qualifications, office
13 administration, and temperament. Are there any
14 additional amendment -- amendments that you would
15 like to make at this time to your sworn statement?

16 JUDGE MURPHY: No, ma'am.

17 MS. SHULER: Mr. Chairman, I would like
18 to ask that Judge Murphy's sworn statement be
19 entered as an exhibit into the hearing record.

20 SENATOR McCONNELL: Is there an
21 objection? Being none, so ordered.

22 (EXH. 37, Sworn Statement of Maite D.
23 Murphy, admitted.)

24 MS. SHULER: One final procedural
25 matter. I note for the record that based on the

1 testimony contained in the candidate's PDQ which
2 has been entered into the record, that Judge Murphy
3 meets the statutory requirements for this position
4 regarding age, residence, and years of practice.

5 Judge Murphy, after practicing law
6 since 1985, why do you now want to serve as a
7 master-in-equity?

8 JUDGE MURPHY: I feel that my
9 experience and my background hopefully would allow
10 me to serve in a positive capacity in the
11 judiciary. I serve now as a chief magistrate and
12 certainly feel to expand that service to the
13 master-in-equity position would be a wonderful
14 opportunity for me to serve the members of
15 Dorchester County.

16 MS. SHULER: Judge Murphy, can you
17 explain to the Committee how you feel your legal
18 and professional experience thus far would assist
19 you in serving as an effective master-in-equity
20 including in that explanation of your experience
21 what -- how much your practice has been before the
22 master-in-equity court.

23 JUDGE MURPHY: Yes. My -- my
24 experience before the master-in-equity court has
25 been I've been previously assigned as a special

1 master to preside over foreclosure sales. I've
2 also been a special referee which I handled the
3 Exxon class action litigation suit which was a -- a
4 huge task to -- to handle. I also have been
5 appointed as special referee to handle actions to
6 quiet title, to serve as a special master and
7 referee for those matters, and I've also presided
8 over some of the jury trials that would have
9 normally been presided over by the master.

10 Further, as far as my experience before
11 a master-in-equity, most of it has been matters
12 that were referred to the master through the
13 circuit court by the -- by the court of common
14 pleas to basically hear matters that were presided
15 over as far as discovery issues, motions for
16 summary judgment, motions to compel, things of that
17 sort. I feel that my experience in the court of
18 common pleas is extensive and I'm familiar with the
19 procedural rules, that I would effectively be able
20 to preside as a master-in-equity.

21 MS. SHULER: Judge Murphy, are there
22 any areas of the law that you would need to
23 additionally prepare for in order to serve as
24 master-in-equity and, if so, how would you undergo
25 that additional preparation?

1 JUDGE MURPHY: Well, I think they call
2 it the practice of law just because of that reason,
3 because you have to constantly practice. No matter
4 how long you've been in practice, I think you can
5 always learn more and be more effective.

6 So certainly I think the law is -- is
7 there, and certainly when there are areas that you
8 don't feel quite as comfortable in, there are many
9 resources to -- to access to make sure that you do
10 feel comfortable to proceed in certain matters.
11 But certainly I feel confident that if something
12 like that were to come up, I have the ability and
13 the know-how to have -- to obtain the right answers
14 and to continue to practice in an effective so that
15 I can be effective.

16 MS. SHULER: Thank you.

17 Judge Murphy, could you share with the
18 Commission what you believe to be the appropriate
19 demeanor for a judge.

20 JUDGE MURPHY: I believe that judges
21 should always treat litigants and attorneys and all
22 people with fairness and respect. I think it boils
23 down to what you were taught in kindergarten. You
24 treat people like you would like to be treated.
25 And certainly judges especially I think are held to

1 a very high standard to treat people effectively
2 because the perception of the judicial system is
3 very important in our system of justice in this
4 country and judges should act accordingly.

5 They are judges 24/7 whether they're on
6 the bench or not, and I think judges should be
7 diligent, fair, and respectful.

8 MS. SHULER: Thank you, Judge Murphy.

9 When you leave the bench, what would
10 you like your legacy to be known as on the
11 master-in-equity court?

12 JUDGE MURPHY: I would hope that people
13 remembered me as a judge that was fair, effective,
14 prompt, efficient, and above that, that people
15 trusted my decisions.

16 MS. SHULER: Thank you.

17 Judge Murphy, what suggestions would
18 you offer for improving the backlog of cases in the
19 docket in the Dorchester County master-in-equity
20 court?

21 JUDGE MURPHY: Well, I -- I've had the
22 opportunity to discuss that matter with our current
23 sitting circuit court judge. And we have a great
24 relationship, and we -- we've discussed that very
25 issue and how to try to move the cases along

1 better. And I think part of it is effective
2 communication, not only with the staff but with the
3 attorneys that come before you to present their
4 cases and have the cases that are called to trial.

5 As the magistrate -- chief magistrate,
6 I've instituted new ways of having pretrial
7 hearings so that we can effectively dispose of more
8 cases at once, and I think working together you can
9 establish a lot in trying to move the backlog of
10 cases.

11 MS. SHULER: Thank you.

12 Judge Murphy, the Commission received
13 one bench and bar survey regarding you, and it
14 raises four concerns. I'd just like to ask you
15 questions individually on each concern.

16 The first concern contends that you use
17 your law firm e-mail for official business thereby
18 advertising that you're in private practice. Judge
19 Murphy, what response would you offer to this
20 concern?

21 JUDGE MURPHY: Well, I'm a ten-hour
22 magistrate and so my -- my hours as a magistrate
23 court judge -- I hold court there on Thursday.
24 Also being appointed as chief magistrate I have to
25 be available at all times because administrative

1 issues come up on a daily basis at all hours, all
2 days. And that's really for access purposes so
3 that people know where to find me. And certainly
4 my e-mail signature line does have my name, my
5 address and my telephone number, but that's more
6 for access purposes so that people with the court
7 system can get in touch with me.

8 At no time have I ever solicited any
9 business from the court through that.

10 MS. SHULER: Thank you.

11 Judge Murphy, the second concern
12 contends that you nominated and selected a
13 constable who is the husband of your law firm's
14 secretary knowing that he was a resident of another
15 county in violation of state law. Judge Murphy,
16 what response would you offer -- offer to this
17 concern?

18 JUDGE MURPHY: In regards to that
19 concern, I believe that you're discussing a man by
20 the name of Mr. Westbrook. Mr. Westbrook is
21 married to one of my paralegals in my law firm.
22 When his appointment and application came to the
23 magistrate's office, I completely recused myself
24 from that process. I had nothing to do with hiring
25 Mr. Westbrook.

1 MS. SHULER: Thank you.

2 Judge Murphy, the third concern
3 contends that you notified the magistrate that
4 served under you to ignore the directive dealing
5 with some reports issued by the chief justice dated
6 February 14th, 2011, and that you operate on your
7 own time and policies and ignore court
8 administration guidelines. What response would you
9 offer to that concern?

10 JUDGE MURPHY: Well, Ms. Shuler, in all
11 candor I have a difficult time ascertaining why in
12 the world that would come up. I have great respect
13 for obviously the chief justice and the members of
14 court administration. They're on my constant speed
15 dial, and we work effectively together to try to
16 ensure that all of the orders and directives for
17 court administration and the chief justice are
18 followed, not only promptly but efficiently.

19 And the judiciary I think is in a great
20 state because of the fact that we have an office of
21 court administration. The -- the people that work
22 there are great. They are a wonderful resource.
23 They are responsive and they're very helpful in
24 ensuring that we do comply with the orders of the
25 chief justice and the offices and procedures of

1 court administration.

2 MS. SHULER: Judge Murphy, the last
3 concern contends that you illegally locked up
4 people via the bench warrant issuance and cites
5 four examples.

6 And I would note for the record that
7 after Judge Murphy's interview with staff, she and
8 her staff researched the court records and reviewed
9 and gave explanations for the examples cited that
10 are before you today.

11 Judge Murphy, what response do you
12 offer to this concern? First, what is your general
13 procedure in terms of issuing bench warrants and
14 then just in general with regard to the four
15 examples?

16 JUDGE MURPHY: Yes, ma'am. In -- in
17 regards to our general procedures, obviously before
18 a bench warrant is issued in any matter, we make
19 sure that, A, notice is properly given to the
20 defendant and the defendant has an opportunity to
21 be heard on the matter before the bench warrant is
22 issued.

23 Secondly, if our -- our court obviously
24 handles a multitude, multitude of cases on each
25 morning. It's not unusual to handle over 250

1 traffic tickets, and sometimes when the defendants
2 fail to appear, if they were properly summoned to
3 appear, then of course tried in their absence and
4 that results from it to be heard and a bench
5 warrant can be issued after that.

6 The only other times that bench
7 warrants are issued are for of course jailable
8 offenses where they've been provided notice for,
9 say, violating some sort of court order, some court
10 term such as failing to enroll in ADSAP or maybe
11 not making a scheduled time payments that they have
12 signed up to do.

13 But certainly they're afford notice and
14 opportunity to be heard before bench warrants are
15 issued. And that is the policy of our court.

16 In regards to -- I've also instituted
17 policies since becoming chief magistrate that if
18 anybody is picked up on a bench warrant in our
19 court, that that person is brought before the Court
20 that very same day during the bonding times of the
21 Court, so twice a day. And that prevents anybody
22 slipping through the cracks. That way we can bring
23 the defendant up, let them know what the bench
24 warrant is for, ensure that we have the proper
25 person, that the proper procedures were followed.

1 And that allows the person an
2 opportunity at that time to either make a motion
3 to, you know, rescind the bench warrant or
4 reconsider or things of that sort that we can
5 reschedule immediately. So we do take steps that I
6 feel are effective to prevent problems from
7 happening.

8 In regards to the four questions -- or
9 the four issues that came up, I did have my staff
10 go through and look through them, the different
11 ones that came up.

12 And on the first one it appears that a
13 gentleman had come in and pled before a different
14 magistrate to a jailable offense which was driving
15 under the influence and had signed up for a
16 scheduled time payment, as a condition was also
17 asked to enroll -- or ordered to enroll in the
18 ADSAP program. When they do so in our court, they
19 receive forms that show that they have to enroll in
20 the ADSAP program in Dorchester County. Now, they
21 can enroll in other counties, but it's incumbent
22 upon them to notify our court that they have done
23 so so that we know they are in compliance with the
24 court order.

25 Apparently this gentleman -- we

1 received notice that he did not enroll in the ADSAP
2 program. We issued a rule to show cause for him
3 which he was properly notified and he failed to
4 appear. So he was found in contempt of that. When
5 he was picked up on the bench warrant, he was
6 brought up pursuant to the policy and had informed
7 our court that he had enrolled in that in
8 Charleston County but did not notify Dorchester
9 County. So he was released as soon as that was
10 verified.

11 The next gentleman unfortunately seems
12 like he was the victim of identity theft by his own
13 brother. Apparently when Trooper Martin pulled
14 this gentleman over, he used his brother's
15 identification and was charged with driving under
16 suspension and driving under the influence. He had
17 actually requested a continuance and -- under his
18 brother's name and was convicted, and the bench
19 warrant was issued for his arrest subsequent to
20 that.

21 It was not brought to our attention
22 that it was the wrong person until he was arrested
23 and of course the fingerprints did not match the --
24 the proper records. And that's an unfortunate
25 situation that did happen, but it was really the

1 fault of his brother for using his wrong
2 identification and not the Court's.

3 There was one instance, the name of
4 Natasha Neely, and we checked all the records in
5 our files and I had no contact with that file
6 whatsoever. So I was unable to respond to the
7 concerns on that one.

8 And I believe the last one was a
9 Ms. Marshbone who apparently pled before a
10 different judge, and apparently the original ticket
11 was for driving under the influence. It was to be
12 changed for a DUAC, and the officer apparently did
13 not change it. Judge Sprinkles was the judge that
14 accepted the plea. And when we accept pleas when
15 people ask for scheduled time payments, before they
16 leave the court, they're instructed to go sign up
17 for the scheduled time payments to ensure that all
18 the procedures are followed accordingly.

19 Apparently she did not make her scheduled time
20 payments, and it was not noted that Judge Sprinkles
21 had given her a certain date to respond.

22 When -- our clerks are routinely
23 instructed to go through the paperwork to ensure
24 that scheduled timely payments are made on a timely
25 basis. They pulled up her file. The only thing in

1 the file was that she had not made the scheduled
2 timely payments, and she was found in contempt for
3 that. A bench warrant was issued for her arrest on
4 that based upon her not making scheduled timely
5 payments.

6 MS. SHULER: That's all that we had in
7 terms of the bench and bar surveys.

8 I have no further questions for Judge
9 Murphy except for housekeeping issues.

10 SENATOR McCONNELL: Okay.

11 MS. SHULER: I would note for the
12 record that you are married to a new representative
13 Chris Murphy.

14 Have you sought or received the pledge
15 of any legislator, including but not limited to
16 that of your husband, Representative Murphy, prior
17 to this date?

18 JUDGE MURPHY: No.

19 Ms. Shuler, obviously that's always the
20 big pink elephant in the room. Since he is my
21 husband, I certainly understand that. He and I are
22 both officers of the court, and we are certainly
23 very cognizant of the rules and the rules of law.
24 His intention is to withdraw, recuse himself from
25 the vote should I be fortunate enough to be

1 nominated for this position.

2 MS. SHULER: Have you sought or have
3 you been offered a conditional pledge of support of
4 any legislator pending the outcome of your
5 screening?

6 JUDGE MURPHY: No, ma'am.

7 MS. SHULER: Have you asked any third
8 parties to contact members of the General Assembly
9 on your behalf?

10 JUDGE MURPHY: No, ma'am.

11 MS. SHULER: Have you contacted any
12 members of the Commission?

13 JUDGE MURPHY: No, ma'am.

14 MS. SHULER: Do you understand that
15 you're prohibited from seeking a pledge or
16 commitment until 48 hours after the formal release
17 of the Commission's report?

18 JUDGE MURPHY: Yes, ma'am.

19 MS. SHULER: Have you reviewed the
20 Commission's guidelines on pledging?

21 JUDGE MURPHY: I have.

22 MS. SHULER: You're aware that if you
23 violate those guidelines, that it's a misdemeanor
24 and upon conviction you could be fined not more
25 than \$1,000 and imprisoned not more than 90 days?

1 JUDGE MURPHY: Yes, ma'am.

2 MS. SHULER: I would note that the Low
3 Country Citizens Committee found Judge Murphy to be
4 qualified in regards to the evaluative criteria of
5 physical health and mental stability. The
6 Committee also found her well-qualified in the
7 remaining criteria, Constitutional qualifications,
8 ethical fitness, professional and academic
9 abilities, character, reputation, experience, and
10 judicial temperament.

11 I would just note for the record that
12 any concerns raised during the investigation
13 regarding this candidate were incorporated into the
14 questioning of the candidate today.

15 Mr. Chairman, I have no further
16 questions.

17 SENATOR McCONNELL: Thank you.

18 Does any member of the Commission have
19 a question?

20 The senator from Lexington.

21 SENATORS KNOTTS: Thank you,
22 Ms. Murphy.

23 Who will be your floor leader in
24 getting your votes?

25 JUDGE MURPHY: Senator Knotts, my

1 understanding of the process in -- in this type of
2 position is that it's the delegation that makes --
3 the local delegation makes recommendation to the
4 governor.

5 SENATOR KNOTTS: Has anybody agreed
6 to -- on the delegation to make a recommendation?

7 JUDGE MURPHY: No, sir.

8 SENATOR KNOTTS: Thank you.

9 SENATOR McCONNELL: Any other
10 questions?

11 Professor.

12 PROFESSOR FREEMAN: Yes, ma'am. I was
13 just kind of taken aback and somewhat disturbed by
14 these charges. Am I correct based on your
15 explanation of these rather specific charges
16 they're all false?

17 JUDGE MURPHY: Yes, ma'am.

18 PROFESSOR FREEMAN: Is there somebody
19 just out to get you? What's going on here?

20 JUDGE MURPHY: Well --

21 PROFESSOR FREEMAN: This is unusual to
22 see somebody attacked in specific ways where it
23 boils down to lies.

24 JUDGE MURPHY: Yes, sir, I agree with
25 you that it is unusual and it is disturbing.

1 Unfortunately it's difficult to dig to the bottom
2 or dig to the truth of it considering the fact that
3 these -- this was sent anonymously with no
4 signature attached to it. And to me frankly it
5 begs a question that if you're not willing to put
6 your name behind it, you're not really willing to
7 put your name behind the information that -- that
8 you send and you put forth out there.

9 PROFESSOR FREEMAN: Okay.

10 SENATOR McCONNELL: Thank you, sir.

11 Any other questions?

12 If not, that concludes this portion of
13 our screening process. As you know, the record
14 will be closed, but we will reserve the right to
15 reopen it should there be some other matter.
16 That's not to indicate there's any matter out there
17 or anything pending.

18 I want to remind you of the 48-hour
19 rule and ask you to be very mindful of that, so
20 mindful that if, in fact, we report you out and
21 someone asks if they may be your advocate, that you
22 remind them about the 48-hour rule.

23 JUDGE MURPHY: Yes, sir.

24 SENATOR McCONNELL: With that, we thank
25 you for your willingness to serve the people of

1 South Carolina and for your past service. Have a
2 good day.

3 JUDGE MURPHY: Thank you, Senator.
4 Thank you.

5 SENATOR McCONNELL: All right. Staff
6 informs me that before we get to the next candidate
7 that we need to have a brief executive session. Do
8 I hear a motion?

9 SENATOR NICHOLSON: So moved.

10 SENATOR McCONNELL: Senator Nicholson,
11 has moved it. The senator from Lexington, Senator
12 Knotts, has seconded it.

13 Any discussion? If not, all in favor
14 please raise your right hand then. All in favor
15 say aye. Opposed by nay. The ayes have it.

16 (The Committee went into executive
17 session.)

18 SENATOR McCONNELL: All right. The
19 doors are now open and we're going back into open
20 session.

21 I would report that no formal actions
22 were taken by this commission in executive session.
23 Therefore we will now move to our next candidate.

24 MR. SLOAN: Good afternoon.

25 SENATOR McCONNELL: Good afternoon.

1 Have a seat.

2 MR. SLOAN: Thank you, sir.

3 SENATOR McCONNELL: All right. We'll
4 go back on the record at this point.

5 And we have before us Mr. William Henry
6 Sloan, Jr., who is offering for master-in-equity in
7 Dorchester County.

8 If you'd be so kind as to raise your
9 right hand, sir.

10 (William H. Sloan was duly sworn, after
11 which testimony began at 3:35 p.m.)

12 SENATOR McCONNELL: Thank you.

13 The Judicial Merit Selection Commission
14 has thoroughly investigated your qualifications for
15 the bench. Our inquires focused on the nine
16 evaluative criteria, and it's included a survey of
17 the bench and the bar, a thorough study of your
18 application materials, a verification of your
19 compliance with state ethics laws, a search of
20 newspaper articles in which your name appears, a
21 study of previous screenings, and a check for
22 economic conflicts of interest.

23 We have received no affidavits filed in
24 opposition to your election. No witnesses are
25 present to testify.

1 So I would ask you if you have any
2 opening statement you wish to give. Purely
3 optional. I'll turn you over to counsel. Counsel
4 will have questions. When counsel finishes, we'll
5 see if the Commission has questions.

6 MR. SLOAN: Thank you, Senator
7 McConnell. I don't have any introductory comments,
8 but if I may, if I need to have any closing
9 comments, I would ask to reserve that right.

10 SENATOR McCONNELL: Thank you, sir.

11 MR. SLOAN: Thank you.

12 MR. DENNIS: Mr. Sloan, you should --
13 you should have before you the personal data
14 questionnaire you submitted as part of your
15 application, and I understand today that you're
16 going to offer an amendment to your financial
17 statement. I do not want to make that part of the
18 public record.

19 So do you have any other amendments to
20 your personal data questionnaire that you'd like to
21 make at this time outside of the financial
22 statement?

23 MR. SLOAN: Not at this time, no.

24 MR. DENNIS: Thank you, sir.

25 Mr. Chairman, I'd ask that Mr. Sloan's

1 personal data questionnaire be entered as an
2 exhibit into the record.

3 SENATOR McCONNELL: All right. Is
4 there an objection? Being none, so ordered.

5 (EXH. 38, Personal Data Questionnaire
6 of Mr. William H. Sloan, admitted.)

7 MR. DENNIS: Mr. Sloan, you also have
8 before you the sworn statement you provided with
9 detailed answers to over 30 questions regarding
10 judicial conduct, statutory qualifications, office
11 administration, and temperament. Are there any
12 amendments that you would like to make to that
13 sworn statement at this time?

14 MR. SLOAN: No, sir.

15 MR. DENNIS: Mr. Chairman, I'd ask that
16 Mr. Sloan's sworn statement be entered as an
17 exhibit into the hearing record.

18 SENATOR McCONNELL: All right. Is
19 there any objection? Being none, so ordered.

20 (EXH. 39, Sworn Statement of William
21 Henry Sloan, Jr., admitted.)

22 MR. DENNIS: As a final procedural
23 matter I note for the record that based on the
24 testimony contained in the candidate's PDQ which
25 has been included in the record with the

1 candidate's consent, Mr. Sloan meets the statutory
2 requirements for this position regarding age,
3 residence, and years of practice.

4 Mr. Sloan, could you tell the
5 Commission why you would like to serve as
6 master-in-equity.

7 MR. SLOAN: Over the past -- I have
8 been practicing for almost ten years. Over the
9 last two years I have heavily worked in
10 foreclosures and foreclosure defense cases in
11 addition to partition cases. And when Judge Watts
12 decided to not seek reelection, I became interested
13 in the position since I do thoroughly enjoy working
14 with foreclosure cases and partitions, things that
15 most typically come up before a master-in-equity.

16 MR. DENNIS: Mr. Sloan, can you explain
17 to the Commission how you feel your legal
18 experience up to this point would be a benefit to
19 you as a master-in-equity.

20 MR. SLOAN: Over the -- in my entire
21 career, again, which has al -- been almost ten
22 years, I have been doing real estate closings the
23 entire time. Over the past five years and
24 especially the last two years I have had
25 significant experiences with real estate

1 litigation, including and especially foreclosures,
2 plaintiff and defense representation in partitions,
3 and I believe that experience will help me serve
4 the bench -- serve on the bench well.

5 MR. DENNIS: Mr. Sloan, are there any
6 areas, including but not limited to, subjective of
7 areas of law that you would need additional
8 preparation for in order to serve as
9 master-in-equity and how would you go about getting
10 that additional preparation?

11 MR. SLOAN: I am not sure of how to --
12 how to answer that question of any -- any type of
13 concerns that I have.

14 MR. DENNIS: All right, Mr. Sloan.
15 Although you address this in your sworn affidavit,
16 could you please explain to the members of the
17 Commission what you think the appropriate demeanor
18 for a master-in-equity would be.

19 MR. SLOAN: The appropriate demeanor
20 would be calm, reserved, patient, serious, fair of
21 course, and even tempered of course.

22 MR. DENNIS: Mr. Sloan, would you
23 please explain to the Commission the circumstances
24 surrounding a 1989 reckless driving charge.

25 MR. SLOAN: I will. November 4th,

1 1989, I was travelling from Highway 61 in the part
2 of Charleston that's called West of the Ashley
3 driving towards downtown Charleston. I was with
4 two friends. I was completely sober at the time.
5 I was driving about 50 miles an hour in a 40 mile
6 per hour zone.

7 The police officer that arrested me
8 said that I -- it's -- it's a four-lane road and
9 that I slid into the -- into the white area
10 dividing the two lanes, and the police officer also
11 said I made a lane change without turning on a
12 signal. When I got to the bridge that goes into
13 downtown Charleston, they turned the blue lights on
14 and arrested me.

15 MR. DENNIS: What was the disposition
16 of that ultimately?

17 MR. SLOAN: I did plead guilty to the
18 charge.

19 MR. DENNIS: Thank you, sir.

20 You and I briefly discussed -- or
21 discussed by e-mail a comment made on a social
22 media network. Specifically you typed on a
23 Facebook page, "If I get the judgeship, I am going
24 to make one or more lawyers happy with some good
25 retainer money on these cases that are grinding

1 their way through the court." Can you please
2 explain to the Commission what you mean by this
3 comment.

4 MR. SLOAN: Yes, sir. I am assuming
5 that this position is going to be full-time, in
6 which case I will not be able to take or maintain
7 these foreclosure cases and I will need to have
8 another attorney take them over. And I have been
9 in the process of -- of doing that if, in fact, I
10 do get the judgeship.

11 And, again, assuming that it will be a
12 full-time position someone will have to take these
13 cases over, and there is significant retainer money
14 in my trust account as -- which would be part of
15 the process of selling my practice which of course
16 I would have to do if it is a full-time position.

17 SENATOR McCONNELL: Okay. Counsel
18 advises that we need to go into executive session.

19 All right. Is there an objection -- a
20 motion?

21 SENATOR NICHOLSON: So moved.

22 MR. SELLERS: So moved.

23 SENATOR McCONNELL: Having been moved
24 by Mr. Sellers, seconded by Senator Nicholson. The
25 floor is open for discussion. There being none,

1 we'll go to the vote.

2 All in favor please say aye. Opposed
3 by nay. Ayes have it.

4 Sergeant, please seal the chambers.

5 (The Committee went into executive
6 session.)

7 SENATOR McCONNELL: All right. We'll
8 go back on the public record.

9 Let the record show that we have come
10 out of executive session, that no formal actions
11 were taken in executive session, and we are back on
12 the record.

13 Counsel.

14 MR. DENNIS: Thank you, Mr. Sloan.
15 Just some routine questions to finish up.

16 Have you sought or received the pledge
17 of any legislator prior to this date?

18 MR. SLOAN: No, sir.

19 MR. DENNIS: Have you sought or have
20 you been offered a conditional pledge of support of
21 any legislator pending the outcome of your
22 screening?

23 MR. SLOAN: No, sir.

24 MR. DENNIS: Have you asked any third
25 parties to contact members of the General Assembly

1 on your behalf?

2 MR. SLOAN: No, sir.

3 MR. DENNIS: Have you contacted any
4 members of this commission?

5 MR. SLOAN: No, sir.

6 MR. DENNIS: Do you understand that you
7 are prohibited from seeking a pledge or commitment
8 until 48 hours after the formal release of the
9 Commission's report?

10 MR. SLOAN: I am aware of that.

11 MR. DENNIS: Have you reviewed the
12 Commission's guidelines on pledging?

13 MR. SLOAN: I have.

14 MR. DENNIS: As a follow-up, are you
15 aware the penalties for violating the pledging
16 rules; that is, it is a misdemeanor -- a
17 misdemeanor and upon conviction the violator must
18 be fined not more than \$1,000 or imprisoned not
19 more than 90 days?

20 MR. SLOAN: I -- I did not know the
21 penalties for it, but I do know the -- I do
22 understand the statute.

23 MR. DENNIS: Thank you, sir.

24 I would note that the Low Country
25 Citizens Committee found Mr. Sloan qualified in

1 each of the nine evaluative criteria, and I would
2 note for the record that any and all concerns
3 raised during the investigation regarding this
4 candidate were incorporated into my questioning of
5 the candidate today.

6 And, Mr. Chairman, I have nothing
7 further.

8 SENATOR McCONNELL: All right. Any
9 members of the Commission have questions?

10 All right. Mr. Sloan, this -- this
11 concludes this part of the screening process. As
12 you know, the record will be closed, but we retain
13 the right to reopen it should there be any
14 unanswered questions. It's not to say there are
15 any pending.

16 I want to remind you about the 48-hour
17 rule and ask you to be mindful of that so mindful
18 that, in fact, if this committee reports you out
19 and anyone approaches you to be an advocate for
20 you, that you will remind them about the 48-hour
21 rule.

22 MR. SLOAN: Yes, sir.

23 SENATOR McCONNELL: With that, we thank
24 you for taking the time to offer, and have a good
25 day, sir.

1 MR. SLOAN: Thank you, Mr. Chairman.

2 SENATOR McCONNELL: Yes, sir.

3 MR. SLOAN: Thank you everybody.

4 SENATOR McCONNELL: That is our last
5 one for the day, isn't it?

6 All right. We need to go into
7 executive session for purposes of reviewing any
8 material. Do I hear such a motion?

9 MR. SELLERS: So moved.

10 SENATOR NICHOLSON: Second.

11 SENATOR McCONNELL: Moved by
12 Mr. Sellers, seconded by Senator Nicholson.

13 Is there an objection? There being
14 none, so ordered.

15 (The Committee went into executive
16 session.)

17 SENATOR McCONNELL: All right. The
18 14th judicial circuit is the first one that we have
19 on -- I take up -- take them in the order they've
20 been given them to me.

21 Diane P. DeWitt. The question will be
22 qualified or unqualified. So we just put it -- we
23 can either do them all in the affirmative and the
24 negative vote. Is that acceptable to everybody,
25 the procedure, so nobody has to make a motion?

1 All right. All on Diane DeWitt, if you
2 find her qualified, vote aye. Unqualified, vote
3 no.

4 All right. And then Senator Knotts
5 left his proxy.

6 REPRESENTATIVE CLEMMONS: And I'm
7 voting on behalf of Representative Delleney who
8 votes aye.

9 SENATOR McCONNELL: All right. The
10 next one is Deborah Ann Malphrus. All in favor of
11 finding her qualified vote aye. Opposed.

12 All right. Next we move to the
13 master-in-equity.

14 MS. SHULER: We just voted qualified.
15 Qualified and nominated?

16 SENATOR McCONNELL: I thought they are
17 nominated since it's less than three. That is the
18 law as I understand it. Yeah, you only -- you only
19 have to do qualified and nominated when you got to
20 choose above that. If I'm wrong, y'all tell me.

21 All right. Next we move to the
22 master-in-equity in Aiken County.

23 Maurice A. Griffith, the question is --
24 if you find him qualified, vote aye. Opposed, vote
25 no. All in favor of finding Maurice A. Griffith

1 qualified, please say aye. Opposed by a nay.

2 The proxies, Senator Knotts has left
3 his here and signed.

4 MS. SHULER: Representative Clemmons,
5 you're voting for Representative Delleney.

6 REPRESENTATIVE CLEMMONS: I am again in
7 this vote and on the last vote voting proxy on
8 behalf of Representative Delleney who votes aye.

9 SENATOR McCONNELL: All right. Moving
10 next to the master-in-equity for Dorchester County.

11 Paul B. Ferrara, III. Those finding
12 him qualified, vote aye. And each one of those
13 three will be the same way. Vote no. Okay.

14 All right. All in favor of Paul B.
15 Ferrara signify by saying aye. Opposed by no.

16 Abstentions and proxies. Senator
17 Knotts has left his -- his sheet here.

18 REPRESENTATIVE CLEMMONS:
19 Representative Delleney votes by proxy in the
20 affirmative.

21 SENATOR McCONNELL: All right. Maite
22 Murphy.

23 MS. SHULER: Maite.

24 SENATOR McCONNELL: Maite Murphy. All
25 if favor of finding her qualified, please say aye.

1 Opposed. The ayes have it.

2 Senator Knotts has left his.

3 REPRESENTATIVE CLEMMONS: And
4 Representative Delleney votes aye -- aye proxy.

5 SENATOR McCONNELL: The question,
6 William Henry Sloan, Jr. Find him qualified, vote
7 aye. All right. Opposed vote no.

8 Senator Knotts has left his proxy for a
9 no vote.

10 Any other proxies?

11 REPRESENTATIVE CLEMMONS:
12 Representative Delleney votes no by proxy.

13 SENATOR McCONNELL: All right. Is
14 there anything else to come before the Commission?
15 Then I guess we'll stand in recess pending --
16 normal procedure would be to draw up an order,
17 review it, and issue a final order -- or indeed the
18 order.

19 With that, thank y'all for all
20 attending. Have a good day.

21 (The public hearings were concluded at
22 5:17 p.m.)

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CERTIFICATE OF REPORTER

I, Yvonne R. Bohannon, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing transcript was taken before me on the date and at the time and location stated on page 1 of this transcript; that all statements made on the record at the time of the proceeding were recorded stenographically by me and were thereafter transcribed; that the foregoing proceeding as typed is a true, accurate and complete record of the proceeding to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 3rd day of May, 2011, at Columbia, Richland County, South Carolina.

Yvonne R. Bohannon
Registered Merit
Reporter, CRR
My commission expires
April 11, 2015

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