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JUDICIAL MERIT SELECTION
COMMITTEE

EVALUATION OF CANDIDATES
BY COMMITTEE MEMBERS

PUBLIC HEARINGS ON JUDICIAL QUALIFICATIONS

MONDAY, APRIL 28, 2014

ROOM 110, BLATT BUILDING
COLUMBIA, SOUTH CAROLINA

COMMENCING AT 9:15 A.M.

REPORTED BY: SHERI L. BYERS,
REGISTERED PROFESSIONAL REPORTER

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1 MEMBERS IN ATTENDANCE:

2 REPRESENTATIVE ALAN D. CLEMMONS, CHAIRMAN

3 SENATOR LARRY MARTIN, VICE CHAIRMAN

4 SENATOR GERALD MALLOY

5 SENATOR GEORGE E. "CHIP" CAMPSEN

6 REPRESENTATIVE BRUCE BANNISTER

7 REPRESENTATIVE DAVID MACK

8 JOSEPH P. "PETE" STROM

9 KRISTIAN C. BELL

10 JOHN HARRELL

11 H. DONALD SELLERS

12

13 COUNSEL PRESENT:

14 JANE O. SHULER, CHIEF COUNSEL

15 PATRICK G. DENNIS

16 ANDREW T. FIFFICK, IV

17 J.J. GENTRY

18 DANIEL BOAN

19 BRETT HUBLER

20 BOB MALDONADO

21 EDWARD BENDER

22

23

24 (INDEX AT REAR OF TRANSCRIPT)

25

1 REPRESENTATIVE CLEMMONS: Ladies and
2 gentlemen, thank you for being here. The Judicial
3 Merit Selection Commission is called pursuant to
4 Chapter 19 of Title 2, South Carolina Code of Laws,
5 requiring review of candidates for judicial office.

6 The function of the Commission is not to
7 choose between candidates but rather to declare whether
8 or not the candidates who offer for positions on the
9 bench, in our judgment, are qualified to fill the
10 positions they seek.

11 The inquiry we undertake is a thorough one.
12 It is centered around the Commission's nine evaluative
13 criteria and involves a complete personal and
14 professional background check on each candidate.

15 These public hearings are convened for the
16 purpose of screening candidates. Today we will screen
17 one vacancy on the appellate court, two vacancies on
18 the circuit court, one vacancy on the family court, and
19 one vacancy on the equity court.

20 MS. SHULER: Mr. Chairman, at this time I
21 would suggest that we go into executive session.

22 REPRESENTATIVE CLEMMONS: Do we have a --

23 MR. SELLERS: So moved.

24 REPRESENTATIVE CLEMMONS: So moved. And
25 second?

1 SENATOR MARTIN: Second.

2 REPRESENTATIVE CLEMMONS: All in favor say
3 "aye."

4 (Members respond.)

5 REPRESENTATIVE CLEMMONS: Those opposed.

6 The ayes have it.

7 We will convene into executive session.

8 Everyone other than members of the Commission
9 and staff, if you would, please clear the room.

10 (The members went into executive session.)

11 * * * * *

12 (The members came out of executive session.)

13 MS. SHULER: I would like to have made
14 exhibits to the record the following reports: The
15 Citizens Committee Reports for Spring 2014 for the
16 Piedmont Citizens Committee; Pee Dee Citizens
17 Committee; Lowcountry Citizens Committee; Midlands
18 Citizens Committee; and Upstate Citizens Committee.

19 REPRESENTATIVE CLEMMONS: All right. Do we
20 have a motion?

21 MR. STROM: So moved.

22 MR. SELLERS: Second.

23 REPRESENTATIVE CLEMMONS: Those in favor say
24 aye.

25 (Members respond.)

1 REPRESENTATIVE CLEMMONS: Those opposed?

2 The ayes have it. The motion carries.

3 I ask at this time that the Piedmont Citizens
4 Committee, Pee Dee Citizens Committee, Lowcountry,
5 Citizens Committee, Midlands Citizens Committee and
6 Upstate Citizens Committee Spring 2014 be marked as
7 exhibits and entered into the public record.

8 (EXHIBIT 1, Piedmont Citizens Committee
9 Report, was marked for identification and entered into
10 the record.)

11 (EXHIBIT 2, Pee Dee Citizens Committee
12 Report, was marked for identification and entered into
13 the record.)

14 (EXHIBIT 3, Lowcountry Citizens Committee
15 Report, was marked for identification and entered into
16 the record.)

17 (EXHIBIT 4, Midlands Citizens Committee
18 Report, was marked for identification and entered into
19 the record.)

20 (EXHIBIT 5, Upstate Citizens Committee
21 Report, was marked for identification and entered into
22 the record.)

23 MS. SHULER: Mr. Chairman, staff also
24 proposed a rule change to be considered by the members
25 of the Judicial Merit Selection Commission to Rules 8

1 and 9 to procedural rules for the Judicial Merit
2 Selection Commission.

3 REPRESENTATIVE CLEMMONS: All right. Do we
4 have a motion?

5 MR. SELLERS: I move we accept proposal as
6 presented.

7 REPRESENTATIVE CLEMMONS: Thank you,
8 Mr. Sellers.

9 Is there a second?

10 SENATOR MARTIN: Second.

11 REPRESENTATIVE CLEMMONS: Thank you,
12 Senator Martin.

13 We have a motion and a second. Is there any
14 discussion?

15 Hearing none, those in favor say aye.

16 (Members respond.)

17 Those opposed?

18 The ayes have it. Motion carries. Rules are
19 adopted.

20 That's all the business that we have now for
21 the Commission. We'll now proceed into the candidate
22 portion of this hearing. And the first candidate we
23 have to review is The Honorable Rochelle Y. Conits.

24 (The Honorable Rochelle Y. Conits is present
25 in the room.)

1 JUDGE CONITS: Hi.

2 REPRESENTATIVE CLEMMONS: Welcome,
3 Judge Conits.

4 JUDGE CONITS: Thank you.

5 REPRESENTATIVE CLEMMONS: Good to have you
6 with us.

7 For the record, we have before us The
8 Honorable Rochelle Y. Conits, who is seeking election
9 to the Court of Appeals, Seat 7.

10 Ms. Conits, if will you please raise your
11 right hand.

12 Do you swear to tell the truth, the whole
13 truth and nothing but the truth, so help you God?

14 JUDGE CONITS: I do.

15 REPRESENTATIVE CLEMMONS: Thank you very
16 much.

17 Judge Conits, have you had an opportunity to
18 review the Personal Data Questionnaire?

19 JUDGE CONITS: Yes, sir.

20 REPRESENTATIVE CLEMMONS: Is it correct?

21 JUDGE CONITS: It is.

22 REPRESENTATIVE CLEMMONS: Does anything need
23 to be changed?

24 JUDGE CONITS: No, sir.

25 REPRESENTATIVE CLEMMONS: Okay. Do you

1 object to our making this summary a part of the record
2 of your sworn testimony?

3 JUDGE CONITS: I do not.

4 REPRESENTATIVE CLEMMONS: It will be done at
5 this point in the transcript.

6 (EXHIBIT 6, Personal Data Questionnaire of
7 The Honorable Rochelle Y. Conits, admitted.)

8 REPRESENTATIVE CLEMMONS: The Judicial Merit
9 Selection Commission has thoroughly investigated your
10 qualifications for the bench. Our inquiry has focused
11 on nine evaluative criteria and has included a ballot
12 box survey, thorough study of your application
13 materials, verification of your compliance with state
14 ethics laws, search of newspaper articles in which your
15 name appears, study of previous screenings, check for
16 economic conflict of interest.

17 We have received no affidavits filed in
18 opposition to your election. No witnesses are present
19 to testify.

20 Do you have a brief opening statement you
21 would like to make at this time?

22 JUDGE CONITS: Nothing other than just to
23 thank you so much for having me. Thank you all for
24 being here and allowing me and my husband to be here.

25 REPRESENTATIVE CLEMMONS: Thank you. It's

1 good to have you here.

2 Would you like to introduce your husband?

3 JUDGE CONITS: This is Spero Conits from
4 Greenville.

5 REPRESENTATIVE CLEMMONS: It's good to have
6 you with us, Mr. Conits. Thank you.

7 Please, Judge Conits, answer counsel's
8 questions.

9 JUDGE CONITS: Certainly.

10 MR. DENNIS: Good morning, Judge Conits.

11 JUDGE CONITS: Yes, sir.

12 MR. DENNIS: You also have before you a sworn
13 statement providing detailed answers to over 30
14 questions regarding judicial conduct, statutory
15 qualification, office administration, and temperament.

16 Are there any amendments that you need to
17 make to that document at the time?

18 JUDGE CONITS: No, sir.

19 MR. DENNIS: Thank you.

20 Mr. Chairman, I would ask that Judge Conits'
21 sworn statement be entered as an exhibit into the
22 hearing record.

23 REPRESENTATIVE CLEMMONS: Is there any
24 objection?

25 Hearing none, the sworn statement will be

1 entered into the record at this time.

2 (EXHIBIT 7, Sworn Statement of the Honorable
3 Rochelle Y. Conits, admitted.)

4 MR. DENNIS: As an additional procedural
5 matter, I would note for the record that based on the
6 testimony contained in Judge Conits' PDQ, which is
7 included in the record, and the candidate's consent,
8 that Judge Conits meets the statutory requirements for
9 this position regarding age, residence, years of
10 practice.

11 Judge Conits, would you tell the Commission
12 why you would like to be an appellate court judge.

13 JUDGE CONITS: Certainly. I have served
14 nearly seven years on the family court bench. I
15 believe that serving in the capacity of a Court of
16 Appeals judge would be a natural progression.

17 I am an excellent writer. I love to
18 research. Being on the family court bench, you do not
19 get as much of an opportunity to use those skills and
20 those talents of writing and researching that I would
21 like to. So I think that I could serve the state in
22 the capacity of writing and researching in that manner.
23 I would like to offer my services to do that.

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

25 Are there any areas, including subjective

1 areas of the law, that you would need to additionally
2 prepare for in order to serve as an appellate court
3 judge, and how would you handle that additional
4 preparation?

5 JUDGE CONITS: I have spent my entire legal
6 career, as you all know, in the domestic relations
7 arena and family law. And so there are areas, workers'
8 comp, some civil litigation areas that I have not
9 focused on in my practice. And so I have prepared well
10 in reading the advance sheets. I keep up with the
11 advance sheets. I did well in law school, understood
12 those areas of the law.

13 But I think serving as a Court of Appeals
14 judge, there are areas that I would have to spend more
15 time on reviewing the factors of that certain area of
16 the law than I would the family court. I could bring
17 the family court stuff right into the job, but the
18 other areas of law, I would step back and spend extra
19 time making sure I really, really understood where we
20 were with that.

21 MR. DENNIS: You address this in your sworn
22 affidavit. Could you explain to the Commission what
23 you think the appropriate temperament for a judge is.

24 JUDGE CONITS: Well, I think a judge at all
25 times, 24 hours a day, 7 days a week, because we are

1 out in the community, needs to be calm, needs to be
2 viewed as someone that can relate, can look litigants
3 in the eye, make them feel at ease. Let them have the
4 opportunity to sit, to tell their side of things.
5 Because there's always two sides to every, every story.

6 I think that anger has absolutely no place in
7 our judicial system, although you hear things that when
8 you're hearing them as a human being, it makes you sad
9 or upset. But you really have to filter that out and
10 give people an opportunity to explain themselves, their
11 side of things. I think people honestly just do the
12 best they can do under all circumstances, and they want
13 to feel like they have the opportunity to be heard. I
14 think you have to be attentive, look your litigants in
15 the eye, give them their day in court in a courteous,
16 respectful, professional manner.

17 MR. DENNIS: What is your philosophy
18 concerning judicial activism, and what effect should
19 judges have in setting or promoting public policy?

20 JUDGE CONITS: I do not believe that it is
21 the role of the judiciary to set public policy. I
22 believe that that is the role of our legislature. So
23 understanding the laws that our legislator passed, I
24 think that's what we need to promote and focus on.

25 In family court, I think I had the

1 opportunity to do that day in and day out in trying to
2 preserve marriage, which is a stated public policy of
3 this state. And so I don't just summarily ask
4 litigants, "Is there anything I can do to help you all
5 stay together?"

6 I care about that question. I care about the
7 answer. So if I detect even the slightest bit of
8 hesitation on the part of a litigant in wanting to stay
9 together, I really explore that, given the opportunity,
10 suggest counseling, do anything I can do to help
11 promote that public policy of keeping families
12 together. So I think my role is more to promote than
13 to set public policy.

14 MR. DENNIS: Judge Conits, when the advanced
15 sheets are reviewed, it appears that they contain
16 several pending cases. Many pending cases before the
17 Court of Appeals. Would you discuss how you would
18 assist in handling the backlog of cases of the Court of
19 Appeals or any suggestions you might have of
20 alleviating that backlog?

21 JUDGE CONITS: Well, I think as state
22 employees, sometimes the citizens may get the idea that
23 we work 9:00 to 5:00, Monday through Friday. But I
24 have never worked 9:00 to 5:00, Monday through Friday.
25 I love my job, I love practicing law, I love being on

1 the bench. And so I think, you know, in my spare down
2 time, I would be reading -- reading cases to move
3 things forward.

4 You can see our record in Greenville, we're
5 the busiest family court circuit, and we're also the
6 top -- we have the top numbers. I mean, we move more
7 cases in Greenville than any other area. I think
8 our -- we have an incredible work ethic. I have an
9 incredible work ethic.

10 My dad was a concrete finisher and he -- I
11 remember he would take us out to his huge three-acre
12 garden when we were kids and just leave us there, and
13 we would work all day. So, I mean, I work hard. I've
14 worked hard all my life.

15 I think we owe it to our citizens to move
16 their cases in a timely manner. I've done that for the
17 last seven years on the court bench. And we do that on
18 the Court of Appeals. We would read, write, and that's
19 what we do. We would do it and do it well and do it
20 often.

21 MR. DENNIS: Judge, can you discuss how you
22 would go about fostering collegiality on the Court of
23 Appeals?

24 JUDGE CONITS: I think that, you know, we
25 need to spend time with each other, getting to know

1 each other, going to lunch together. Judge Konduros on
2 the Court of Appeals has taught me. She's a mentor of
3 mine, and she has taught me that the time and energy
4 you spend with your colleagues, you know -- Aphrodite
5 will -- she'll go to lunch when she's available because
6 she's always very busy having lunch with a colleague,
7 having lunch with someone who is seeking to go to law
8 school or family court or whatever. I mean, she spends
9 time. And so I've learned a lot from her by that.

10 And so I think we need to be close, know each
11 others' families, go to lunch, understand the
12 differences in our points of view on legal questions,
13 on constitutional questions.

14 So I think it's all a matter of time and
15 effort that you put into knowing your colleagues.

16 MR. DENNIS: Judge Conits, in your opinion,
17 when is it appropriate for a judge to offer an
18 dissenting opinion?

19 JUDGE CONITS: I think it's appropriate for a
20 judge to offer a dissenting opinion when that judge
21 honestly believes that there is an acceptable different
22 point of view.

23 You know, we are bound by the statute. We
24 are bound by the law. And, in fact, if that judge
25 believes that this panel just did not apply those facts

1 correctly within the framework of the law that we're
2 dealing with, I think it's an appropriate exercise to
3 author a dissenting opinion.

4 MR. DENNIS: Judge, a review of the Supreme
5 Court's records shows that you've been the subject of
6 one formal complaint with the Commission of Judicial
7 Conduct. However, the records also indicate that that
8 complaint has been dismissed as the allegations brought
9 did not pertain to you.

10 Could you offer a brief explanation of both
11 the underlying allegations and the status of that
12 complaint.

13 JUDGE CONITS: I can.

14 I issued a divorce decree after two or three
15 days of trial from Greenwood. I did that I believe in
16 2007. Issued my final decree of divorce.

17 Several years later, as I understand, that
18 husband in that action was ruled in to a -- for not
19 obeying the divorce decree or not doing what I had
20 requested that he do in that divorce decree.

21 Now, my involvement ended when I issued the
22 divorce decree. I had no further involvement with
23 those folks.

24 He was ruled in. Either he did not show to
25 the rule hearing. I believe he did not show to the

1 rule hearing. So the rule judge, which was not me, the
2 rule to show cause judge issued a bench warrant and he
3 was picked up. And he filed a complaint against me
4 as -- for his arrest saying that he was arrested and
5 that was somehow something that I had done wrong.

6 My only involvement in that has been to issue
7 the final decree of divorce, and that complaint was
8 dismissed.

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

10 I would note for the Commission, that the
11 Commission received 159 ballot box surveys regarding
12 Judge Conits with 13 additional comments. 13
13 additional comments were overwhelmingly positive. In
14 fact, exclusively positive as they related to
15 Judge Conits, as were the overall ballot box survey.

16 Judge, I'm going to run through a couple of
17 housekeeping issues with you.

18 JUDGE CONITS: Yes, sir.

19 MR. DENNIS: Have you sought or received the
20 pledge of any legislature prior to this date?

21 JUDGE CONITS: I have not.

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

25 JUDGE CONITS: I have not.

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

4 JUDGE CONITS: I have not.

5 MR. DENNIS: Are you aware of anyone
6 attempting to intervene in any of this process on your
7 behalf?

8 JUDGE CONITS: I am not.

9 MR. DENNIS: Have you contacted any members
10 of this Commission?

11 JUDGE CONITS: I have not.

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

16 JUDGE CONITS: I do understand that.

17 MR. DENNIS: Have you reviewed the
18 Commission's guidelines on pledging?

19 JUDGE CONITS: I have.

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

25 JUDGE CONITS: I understand.

1 MR. DENNIS: I would note that the Upstate
2 Citizens Committee found Judge Conits qualified in the
3 evaluative criteria of constitutional qualifications of
4 physical health and mental stability. The Committee
5 found her well qualified in the remaining evaluative
6 criteria of ethical fitness, professional and academic
7 ability, character, reputation, experience, and
8 judicial temperament.

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

13 And, Mr. Chairman, I have nothing further for
14 Judge Conits.

15 REPRESENTATIVE CLEMMONS: Thank you,
16 Mr. Dennis.

17 Judge Conits, thank you so much.

18 JUDGE CONITS: Thank you.

19 REPRESENTATIVE CLEMMONS: I'm sorry, does any
20 member of the Commission have any questions for
21 Judge Conits?

22 Hearing none, this concludes this portion of
23 our screening process.

24 As you know, Judge --

25 SENATOR MALLOY: Mr. Chairman, let me

1 interrupt for a second. I have a question.

2 Ms. Conits, thank you for your candidness on
3 the issue of handling cases other than family court
4 cases, and I noticed that in your information.

5 Have you ever handled juvenile cases whenever
6 you were practicing law?

7 JUDGE CONITS: Not when I was practicing law
8 other than being part of, you know, I certainly handled
9 child custody cases. And we would deal with a whole
10 slew of what was happening in a child's life during a
11 divorce.

12 SENATOR MALLOY: I know that they do it
13 differently in the family court, but it's normally of a
14 criminal nature.

15 JUDGE CONITS: Yes, sir.

16 SENATOR MALLOY: And so you became familiar
17 somewhat with the criminal laws as the charges that
18 were related to juveniles, correct?

19 JUDGE CONITS: Yes, sir.

20 SENATOR MALLOY: In fact, in your civil
21 background, your firm, did they handle some civil
22 cases?

23 JUDGE CONITS: Both firms that I was
24 associated with, King & Vernon here in Columbia, Tom --
25 the late Tom Vernon and Kermit King, handled a whole --

1 they did I believe medical malpractice cases and they
2 did some workers' comp cases and other areas of the
3 law.

4 And then Wilkins & Madden, we handled other
5 areas of the law. I just primarily focused on family
6 court.

7 SENATOR MALLOY: You primarily practice on
8 the family court, but your firm was doing civil cases?

9 JUDGE CONITS: Absolutely.

10 SENATOR MALLOY: They consulted with you time
11 to time on the civil cases?

12 JUDGE CONITS: Yes.

13 SENATOR MALLOY: Did you ever have to brief
14 any issues for civil cases for the other attorneys?

15 JUDGE CONITS: I researched issues. Is that
16 what you mean?

17 SENATOR MALLOY: Yes.

18 JUDGE CONITS: Yes, sir. I researched issues
19 more so when I was down in Columbia with King & Vernon
20 than I did as part of the Wilkins & Madden law firm.
21 We had law clerks. By that time I was partner, and we
22 had law clerks who would do our legal research for us.

23 But as an associate attorney at King &
24 Vernon, I had the opportunity and the pleasure to be
25 able to do the legal research and brief other areas of

1 the law.

2 SENATOR MALLOY: A lot of times when folks
3 come here and they say they practice in a certain area,
4 I don't want it lost on the committee and lost on
5 others that when you're in a country practice --

6 JUDGE CONITS: Yes, sir.

7 SENATOR MALLOY: -- you're doing pretty much
8 everything that walks through the door.

9 JUDGE CONITS: Yes, sir.

10 SENATOR MALLOY: Because you're not the chief
11 lawyer, the person on it -- doesn't mean the person
12 doesn't have civil experience and criminal experience
13 in those cases.

14 JUDGE CONITS: Certainly. Certainly. Thank
15 you so much.

16 REPRESENTATIVE CLEMMONS: Thank you,
17 Senator Malloy.

18 Are there any further questions of this
19 candidate?

20 Hearing none, this concludes this portion of
21 the screening process.

22 As you know, Judge, the record will remain
23 open until the report is published. And you may be
24 called back at such time if that need arises.

25 I'll remind you of the 48-Hour Rule and ask

1 you to be mindful of that. Anyone that inquires with
2 you about whether they may or may not advocate for you
3 in the event that you are screened out, as we've
4 described it, remind them of the 48-Hour Rule.

5 I thank you for offering, and I thank you for
6 your service to South Carolina.

7 JUDGE CONITS: Thank you so much and thank
8 you for having me.

9 (The Honorable Rochelle Y. Conits exits the
10 room.)

11 (Mr. Blake Hewitt enters the room.)

12 MR. HEWITT: Good morning.

13 REPRESENTATIVE CLEMMONS: Good morning,
14 Mr. Hewitt.

15 MR. HEWITT: Good morning,
16 Representative Clemmons. How are you?

17 REPRESENTATIVE CLEMMONS: I'm doing well.
18 Thank you for being with us today.

19 We have before us Blake Alexander Hewitt, who
20 is seeking election to the Court of Appeals, Seat 7.

21 Mr. Hewitt, would you raise your right hand,
22 please.

23 MR. HEWITT: Yes.

24 REPRESENTATIVE CLEMMONS: Do you swear to
25 tell the truth, the whole truth and nothing but the

1 truth, so help you God?

2 MR. HEWITT: I do.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 Have you had an opportunity to review the
5 Personal Data Questionnaire?

6 MR. HEWITT: Yes, I have.

7 REPRESENTATIVE CLEMMONS: Is it correct?

8 MR. HEWITT: Yes.

9 REPRESENTATIVE CLEMMONS: Does anything need
10 to be changed there?

11 MR. HEWITT: No, sir. Not to my knowledge.

12 REPRESENTATIVE CLEMMONS: Thank you.

13 Do you object to our making the summary a
14 part of the record of your sworn testimony?

15 MR. HEWITT: I do not object.

16 REPRESENTATIVE CLEMMONS: It will be done at
17 this point in the transcript.

18 (EXHIBIT 8, Personal Data Questionnaire of
19 Blake Alexander Hewitt, admitted.)

20 REPRESENTATIVE CLEMMONS: The Judicial Merit
21 Selection Commission has thoroughly investigated your
22 qualifications for the bench. Our inquiry has focused
23 on the nine evaluative criteria and has included a
24 ballot box survey, thorough study of your application
25 materials, verification of your compliance with state

1 ethics laws, search of newspaper articles in which your
2 name appears, study of previous screenings, check for
3 economic conflicts of interest.

4 We have received no affidavits filed in
5 opposition to your election. No witnesses are present
6 to testify.

7 Do you have a brief opening statement you
8 would like to make at this time?

9 MR. HEWITT: No, Mr. Chairman. I would just
10 like to briefly thank you and the members of the
11 Commission for your service and say a public thank you
12 to your staff. I enjoyed working with Ms. Shuler. Met
13 with Ms. Jordan. And, of course, you know that they
14 are excellent. I know you all have a long day. Thank
15 you for the opportunity to be with you.

16 REPRESENTATIVE CLEMMONS: Thank you for your
17 brevity.

18 Please proceed to answer any questions
19 counsel may have for you.

20 MS. SHULER: Mr. Chairman and Members of the
21 Commission, I have a few matters to take care of with
22 this candidate.

23 Mr. Hewitt, you have before you your sworn
24 statement you provided with detailed answers to over 30
25 questions regarding judicial conduct, statutory

1 qualifications, office administration, and temperament.

2 Are there any amendments that you would like
3 to make at this time to your sworn statement?

4 MR. HEWITT: No, ma'am. No, thank you.

5 MS. SHULER: Mr. Chairman, I would like to
6 ask that Mr. Hewitt's sworn statement be entered as an
7 exhibit into the hearing record.

8 REPRESENTATIVE CLEMMONS: Is there any
9 objection?

10 Hearing none, the sworn statement will be
11 entered into the record at this time.

12 (EXHIBIT 9, Sworn Statement of Blake
13 Alexander Hewitt, admitted.)

14 MS. SHULER: One final procedural matter. I
15 note for the record based on the testimony contained in
16 this candidate's PDQ, included in the record with the
17 candidate's consent, Mr. Hewitt meets the statutory
18 requirements for this position regarding age,
19 residence, and years of practice.

20 Mr. Hewitt, after practicing law since 2005,
21 why do you now want to serve as a judge on the Court of
22 Appeals?

23 MR. HEWITT: There are two answers to that
24 question, and I want to be very respectful of your
25 time, so I'll do my best to be brief.

1 The first is this, this is the type of work
2 that I love to do. Appellate work. I was fortunate in
3 that I learned that very early in my education, while I
4 was still in law school. Because of that, I sought it
5 out consistently and have done a lot of it.

6 So for whatever reason, you know, we all are
7 made differently with different likes and dislikes.
8 This type of work has always appealed to me, so I've
9 consistently sought it out and done it.

10 The second reason is that about three years
11 ago, as I started to examine my career, where I had
12 been, where I thought it was going, and what I wanted
13 my professional life to be about. It became clear to
14 me that for me to be fulfilled professionally, I needed
15 to be in a job that had public service at its center.

16 And I'm just going to be very candid with
17 you. I feel like in private practice, that I'm
18 leveraging my skills and my abilities for my own
19 benefit. And I don't want my professional life to be
20 about that.

21 I want to leverage my skills and abilities
22 for something that's bigger than me. So this job
23 checks two boxes for me. I can do the type of work
24 that I love and that I'm drawn to, appellate work. And
25 I can do that in a role that provides me an opportunity

1 to serve the people of this state and serve the system
2 that I love and want to help it be the best that it can
3 be.

4 The opportunity sort of to check both of
5 those boxes is for me very exciting.

6 MS. SHULER: Are there any areas, including
7 subjective areas of the, law that you would need to
8 additionally prepare for, and, if so, how would you
9 undergo that preparation?

10 MR. HEWITT: I know that there is a lot that
11 I don't know. I think that's always going to be the
12 case sort of wherever you are. So if I'm allowed an
13 opportunity to serve the citizens of this state in this
14 way, I will bring my eagerness and desire for learning
15 with me.

16 But I've been fairly blessed, I think, in
17 private practice. I've told people that my partner,
18 John Nichols, and I do a little bit of everything. And
19 I think that's fair to say. I've done substantial
20 amount of criminal work, civil work, family court work,
21 and have just been blessed in that regard from my time
22 working in government and then again in private
23 practice.

24 Now, my approach in practice has been the
25 same as it was when I worked for the court system,

1 which was to try and treat every case like it was the
2 most important case. Because of the people involved,
3 it is. To try to advocate for the right result and for
4 the right reasons. That would be my general approach.
5 I know that's a little bit nebulous, but I've tried to
6 adopt that both in government work and in the time that
7 I've been in private practice.

8 MS. SHULER: Mr. Hewitt, although you
9 addressed this in your sworn affidavit, could you
10 explain to the Commission members what you believe to
11 be the appropriate demeanor for a judge?

12 MR. HEWITT: Absolutely. In my view,
13 everything is traceable to humility. A successful
14 appellate court judge needs to seek out and respect the
15 views of others, needs to be committed to trying to
16 reach the right result in the case and trying to bring
17 consensus to a case. You know, the miracle or
18 something that distinguishes the appellate court from
19 the trial court bench is you have to bring other people
20 along with you. You can't take any affirmative action
21 unless there is some consensus.

22 In my view, creating an environment that's a
23 constructive environment for collective decision
24 making, that's what the appellate courts are, they're
25 collective decision makers, requires everyone feeling

1 like they can seek and engage the views of others and
2 reach a collective decision. And that is not possible,
3 in my view, truly possible, will not work well if the
4 atmosphere doesn't reflect humility.

5 And I want to be respectful of your time but
6 want to add this point as it applies particularly to an
7 appellate court. I think the written decisions, it's
8 important for written decisions of an appellate court
9 to reflect a humble attitude, as well. For so many
10 people, both litigants and lawyers, their only exposure
11 to the decision making process in the judicial system
12 is going to come from how they were treated by the
13 court in the conduct of an argument and for the tenor
14 of that written decision.

15 So it's important, I believe, for court
16 decisions to reflect that the judge has treated the
17 litigants and lawyers with respect, and that they reach
18 a result that the public and the litigants and the
19 lawyers can have confidence in.

20 MS. SHULER: Thank you.

21 Mr. Hewitt, what is your philosophy on
22 judicial activism, and what effect should judges have
23 in setting or promoting public policy?

24 MR. HEWITT: I believe strongly that judges
25 should follow precedent, if at all possible. I believe

1 that judges should enforce the laws passed by the
2 legislature and not create law. And I believe that
3 good judging involves restraint and discipline and
4 humility.

5 I've tried to be restrained and live a
6 disciplined and humble lifestyle in my personal life.
7 I've tried to apply those principles in private
8 practice. And I would try to do that as a judge. Very
9 rarely is there an opportunity for the judicial system
10 to properly opine in matters of public policy. Matters
11 of public policy are predominantly akin to the
12 legislature, as I know many of you are familiar.

13 MS. SHULER: When the advance sheets are
14 reviewed, it appears to contain many pending cases
15 before the Court of Appeals. Discuss how you would
16 assist in handling the backlog of cases in the Court of
17 Appeals.

18 MR. HEWITT: Well, I think anything worth
19 doing is going to be difficult. If it was easy, it
20 would already be being done. I would work hard to move
21 cases in an expeditious fashion. I tried to do that in
22 private practice, and if allowed the opportunity to
23 serve as a judge, I would try to -- I would try to
24 follow the same goal.

25 You know, how you -- like so many things in

1 life, it's not necessarily what the result is, but how
2 you treat people. And moving cases in an expeditious
3 fashion, I think, sends -- if they're not moved in an
4 expeditious fashion, it sends the wrong message to the
5 lawyers, it sends the wrong message to the litigants,
6 and it sends the wrong message to the public.

7 The court system -- and that's the great
8 challenge, I think, of the court system, is how to move
9 cases in expeditious fashion but at the same time
10 communicate to the litigants and lawyers that their
11 views and their case was valued and respected and given
12 fair consideration.

13 MS. SHULER: Mr. Hewitt, how would you foster
14 collegiality on the Court of Appeals?

15 MR. HEWITT: Well, you know, that would, I
16 think, have to come after an investment of time. It
17 takes time to build relationships and build trust with
18 other people.

19 I have certainly as a regular -- fairly
20 regularly appearing litigant -- or a lawyer in the
21 Court of Appeals in the Supreme Court, I've tried to
22 develop a reputation in those forums for being helpful
23 to the members of the court in reaching a decision and
24 being candid with what my views are on any particular
25 matter, what I think the strengths or weaknesses of a

1 position are.

2 But I would hope, if granted the opportunity
3 to serve, to have an expended period of service where I
4 could invest in those relationships over time. I
5 imagine would work better and be more collegial after
6 having some years in service than perhaps at the
7 beginning.

8 You know, talking about myself is not
9 something that I feel like I do particularly well, but
10 I hope if you were to talk with people that I've worked
11 with in the past, I would hope they would say that
12 working with me was generally a pleasurable experience.
13 I've tried to help create an atmosphere that fosters
14 collegiality and encourages people to share their views
15 and work together.

16 I think over time, people respond more not
17 necessarily to what you say but what you do and how you
18 conduct yourself. So what I will try to do is
19 communicate consistently that what I was about is
20 really not leveraging myself for my own advancement or
21 for the merits of my own career but really want to help
22 the court system be the best that it can be.

23 MS. SHULER: Mr. Hewitt, when is it
24 appropriate to author a dissenting opinion?

25 MR. HEWITT: Well, I think a judge is

1 obligated to explain both what his view is and why it's
2 that way. If it's clear to an appellate court, to a
3 particular member of the appellate bench that they
4 can't agree with the court's decision, my own view,
5 people can disagree. But I want to be candid with you
6 about what my view is, is that you're obligated not
7 just to say what your vote is, but why you think it's
8 that way.

9 I think only when the collective
10 decision-making process sort of has reached its
11 conclusion and you say, "I understand your perspective;
12 I just disagree," I think a judge is obligated at that
13 point to not just give the result that they believe is
14 right but to explain both to the other members of the
15 panel and to the practicing bar and litigants why their
16 view is what it is.

17 MS. SHULER: Mr. Hewitt, you have been
18 involved in a lawsuit as a defendant. Specifically in
19 Von Herrmann v. South Carolina Republican Party filed
20 against you in May 2012 seeking your disqualifications
21 of a Republican party's nominee for the South Carolina
22 House of Representatives, House District 105. Please
23 explain the nature and disposition of this lawsuit.

24 MR. HEWITT: You have characterized it
25 exactly correctly. After the first round of the ballot

1 disqualifications, which I think a lot of people will
2 remember well, I was the only candidate in a particular
3 House race. My home district in Conway. I did file
4 properly, so I was at that point certified as the
5 Republican party's nominee.

6 One of the other candidates in the race sued
7 me as a result of that and sought my disqualification.
8 That lawsuit was initiated around the same time as the
9 second ballot lawsuit, the Florence County Democratic
10 Party, the Florence County Republican Party.

11 As many of you know, that lawsuit went
12 directly to the Supreme Court. The Supreme Court
13 issued a decision that found not only that case but
14 several other cases across the state, so that case was
15 resolved by a consent order in which I conceded that
16 under the election procedures, as interpreted by the
17 Supreme Court, I was not a qualified candidate for that
18 office.

19 MS. SHULER: Mr. Hewitt, you noted in your
20 PDQ that you were arrested in Barrow County, Georgia,
21 in 1988, and was charged with driving under the
22 influence while under 21; possession of alcohol by a
23 minor; possession of open alcohol container; and
24 speeding. The SLED report also reflected this.

25 Please explain the disposition of those

1 charges.

2 MR. HEWITT: I pled guilty to those offenses,
3 received a relatively minor criminal sentence. That
4 involved community service and some fines. I completed
5 those and would just add the editorial comment that's
6 reflected in my PDQ. It was a profoundly embarrassing
7 event caused for -- which no one was at fault but me.
8 Exceptionally fortunate, my foolishness didn't result
9 in any injury to anybody else.

10 MS. SHULER: Thank you.

11 Mr. Hewitt, the Commission received 113
12 ballot box surveys regarding you with 25 additional
13 comments. The ballot box surveys, for example, contain
14 the following positive comments: His briefing is
15 complete, well reasoned, beautifully written. His oral
16 advocacy is at the very highest level. And Blake is an
17 extremely bright and intelligent young lawyer with a
18 keen sense of legal reasoning. He will make an
19 excellent jurist.

20 Five of the written comments expressed
21 concern regarding your experience, either a lack of
22 trial or judicial experience.

23 I note that in the ballot box survey, 102
24 people respond to the question regarding evaluative
25 criteria of experience. In this evaluative criteria,

1 53 responded that you are well qualified; 35 found you
2 qualified; 14 unqualified; and 11 had no opinion.

3 What response would you offer to the concerns
4 regarding your lack of experience legally?

5 MR. HEWITT: When I first thought about
6 offering for this position, sort of the first step I
7 took was I went to several people that I considered to
8 be mentors. I mean, the reason I did that was because
9 I was concerned about that same sentiment. I didn't
10 want -- I was concerned that I would be perceived sort
11 of as the young guy running into the middle of the room
12 to raising my hand and saying, "Me, me." And nothing
13 could be further from the truth.

14 I'm not about self-promotion. I'm not about
15 seeking the spotlight. So I say that just to say that
16 I understand that concern, and here's how I would
17 answer it.

18 I would ask you to look at my experience both
19 in my government work and private practice. I'm 35
20 years old. I will be 36 in June. I've been out of law
21 school eight and a half years -- excuse me, nine years
22 next month, and been a licensed lawyer for eight and a
23 half. But in private practice, I have personally
24 handled almost 50 appeals. I've personally authored
25 over 80 merits briefs and certiorari files.

1 Regardless of age, I think if you take an
2 objective look at that, that's a substantial amount of
3 appellate experience. Now, I told you that I don't
4 particularly enjoy talking about myself, but I'm not
5 afraid to tell you that this is what I do. Appellate
6 work is what I do, and I believe I do it well.

7 People are entitled to their own opinion.
8 Some people may think that my youth is a challenge. I
9 see it as an opportunity. An opportunity to bring
10 energy to the bench, an opportunity to have a long
11 career of service, and an opportunity to provide some
12 stability on a court that could perhaps could use some
13 stability.

14 Now, I have had trial experience, and I
15 worked for 13 months for a United States District Judge
16 that I think is generally well regarded by both the bar
17 and by the members of the public. And I've had trial
18 experience in private practice. But I've had
19 substantially more appellate experience because this is
20 my love. For whatever reason, I'm draw to it and
21 always have been.

22 MS. SHULER: Thank you.

23 I have few housekeeping issues to cover with
24 you, Mr. Hewitt. Have you sought or received the
25 pledge of any legislature prior to this day?

1 MR. HEWITT: No, ma'am.

2 MS. SHULER: Have you sought or have you been
3 offered a conditional pledge of support of any
4 legislator pending the outcome of your screening?

5 MR. HEWITT: No, ma'am.

6 MS. SHULER: Have you asked any third party
7 to contact members of the General Assembly on your
8 behalf?

9 MR. HEWITT: No, ma'am.

10 MS. SHULER: Are you aware of anyone
11 attempting to intervene in any part of this process on
12 your behalf?

13 MR. HEWITT: No, ma'am.

14 MS. SHULER: Have you contacted any members
15 of the Commission?

16 MR. HEWITT: No, ma'am.

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

21 MR. HEWITT: Yes, ma'am.

22 MS. SHULER: Have you reviewed the
23 Commission's guidelines on pledging?

24 MR. HEWITT: Yes, ma'am.

25 MS. SHULER: And in following up, are you

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

5 MR. HEWITT: Yes, ma'am.

6 MS. SHULER: I would note the Pee Dee
7 Citizens Committee found Mr. Hewitt to be well
8 qualified in the evaluative criteria of ethical
9 fitness, professional and academic ability, character,
10 reputation, experience, and judicial temperament.

11 The Committee did not make a finding as to
12 the evaluative criteria on judicial qualifications,
13 physical health, and mental stability.

14 The Committee states in summary, "Our
15 committee finds Mr. Hewitt to be an extremely
16 personable, highly intelligent candidate. Without
17 reservation, his peers endorsed him for the appellate
18 position based on academic abilities and character. He
19 is well accepted by those both in and outside the legal
20 community. We believe he will be a strong,
21 well-balanced presence on the Court of Appeals."

22 I would just note for the record, any
23 concerns raised during the investigation regarding this
24 candidate were incorporated in my question of the
25 candidate today.

1 Mr. Chairman, I have no further questions of
2 this candidate.

3 REPRESENTATIVE CLEMMONS: Thank you very
4 much.

5 Mr. Hewitt, thank you so much for being here.
6 Thank you for offering yourself for appellate court.

7 That concludes this portion of our screening
8 process unless there are any questions by any members
9 of the Commission. So at this time, I will open for
10 any questions.

11 Mr. Strom.

12 MR. STROM: Mr. Hewitt, I just want to tell
13 you that if I was going to chart out a plan for
14 somebody who wanted to be appellate judge, I don't
15 think you can do any better than clerk with the Chief
16 Justice, clerk with Joe Anderson. You've gone to work
17 with John Nichols, who is a top five appellate lawyer
18 in the state, in my opinion. You've have handled more
19 than 50 cases.

20 I also like the fact that you're in public
21 service and you have been in private practice, you made
22 a payroll and you understand that side of it. I think
23 that when this court was first constituted, we had
24 people like Alex Sanders, who is one of the greats who
25 had never been a trial level; Judge Randy Bell, who was

1 a law professor, who was one of the greats on this
2 court. So there was a history and has been a history
3 of not making this court just purely a court of
4 elevation from family court to circuit court.

5 And you answered the question -- I wanted to
6 ask you the question, and you answered for Ms. Shuler.
7 And I just want to thank you for putting yourself out
8 there. I think you're doing it the right way. And I
9 hope this committee at the right time will take
10 consideration of this track and not just consider this
11 a court where we move people up from the lower court.

12 MR. HEWITT: Thank you.

13 REPRESENTATIVE CLEMMONS: Thank you,
14 Mr. Strom.

15 Any other questions?

16 SENATOR CAMPSSEN: I have a question.

17 REPRESENTATIVE CLEMMONS: Yes,
18 Senator Campsen.

19 SENATOR CAMPSSEN: Thank you.

20 I'm just interested in your tenure as a civil
21 engineer. You majored in civil engineering as an
22 undergrad?

23 MR. HEWITT: Yes.

24 SENATOR CAMPSSEN: Could you explain what you
25 did then and what your thought process was in the

1 decision-making process to decide to go to law school
2 after a couple of years in engineering?

3 MR. HEWITT: In a relative -- in my
4 relatively brief tenure as a practicing engineer, I did
5 predominantly water and wastewater stuff. My firm
6 contracted with several small cities and municipalities
7 predominantly in North Georgia. We did a lot of
8 wastewater plant design, waterline work for them. It
9 was interesting work. I was attracted to it because it
10 hit on the science side. I had a vocation in science,
11 and it allowed me to be outside. Which is another sort
12 of great avocation of mine.

13 I benefited, you know -- my response to that
14 sort of parlay with Mr. Strom's question to me. Over
15 the course of my life, and it's so interesting when you
16 look back and have some perspective, I benefited
17 greatly from the care -- most greatly from the care and
18 mentorship of other people. People like John Nichols
19 and the Chief Justice. I went to law school because of
20 a mentoring relationship I had really with a gentleman
21 who is a leader in the church that I grew up in. I was
22 just always interested in that stuff. He was a
23 practicing lawyer. He encouraged me to go.

24 And my roommate in college, he had an older
25 brother who was a young lawyer. And our last year in

1 college, straight out of law school practicing in a
2 firm, and we were very similar. Played basketball
3 together. I didn't think when I was finishing up
4 undergraduate school that a career in engineering was
5 something I wanted to start or was ready to start at
6 that time. He encouraged me to read a lot of the same
7 books and developed a good friendship.

8 He said, "Go to law school. You can do
9 anything, you know, with a law degree. You can always
10 go back and be an engineer."

11 And so that was really what did it. It felt
12 like coincidence and happenstance at the time. But my
13 granddad is a man of many sayings and one of his
14 favorites is, "Christians don't believe in coincidence;
15 they believe in providence." And as I look back on it,
16 I sort of felt like I was guided where I needed to be.

17 But that's how my career took a somewhat
18 interesting path.

19 REPRESENTATIVE CLEMMONS: Thank you,
20 Senator Campsen.

21 Any other questions?

22 MR. SELLERS: I have a question.

23 REPRESENTATIVE CLEMMONS: Yes, Mr. Sellers.

24 Or Senator Malloy.

25 SENATOR MALLOY: Thank you, Mr. Hewitt.

1 My question is, I appreciate your offering to
2 become a judge. Tell me why you decided to run for the
3 House of Representatives. And it's only been a year
4 and a half ago that you --

5 REPRESENTATIVE CLEMMONS: We would all like
6 to hear that.

7 SENATOR CAMPSER: I want to hear about your
8 one instance of poor judgment. It's on the record
9 anyway.

10 MR. HEWITT: I'm tempted to say I lost my
11 mind.

12 You know, when I spoke about why I was
13 interested in being, you know, a judge, the public
14 service aspect of that was very interesting -- was the
15 great attraction to that, for me in that role. I've
16 always been interested in government for reasons that
17 really are beyond my ability to articulate, you know.

18 My wife has nothing to do with the legal
19 system and all that stuff. She can't stand it. We're
20 all made differently, with different likes and
21 dislikes. I've always been interested in government,
22 so I've always been interested in that prospect. I
23 enjoyed my time at the beginning of my career when I
24 worked for the Chief Justice, and she would send me
25 over here to sit in the back of meetings and sort of

1 watch what some of you do. I found that very
2 interesting. And so I had always been attracted to it.

3 And when there was a vacancy in that office,
4 when Representative George Hearn retired, I sort of
5 sought some counsel from others. I may be interested
6 in this, but it feels rushed, feels like it might not
7 be the right time. And the counsel I got was, "If
8 you're in it for the right reasons and you're trying to
9 do it the right way, you really have nothing to lose."

10 I was disappointed that I didn't win because
11 my granddaddy says, "You show me a good loser, I'll show
12 you a real loser." But it was a tremendous -- it was a
13 tremendous experience for me in terms of personal
14 growth and a humbling experience.

15 You know, from being the Republican parties'
16 nominee, by virtue of being the only one to file, to be
17 being off the ballot and having to seek petition
18 signatures and walking neighborhoods to get those and
19 meeting people and talking with them. There's really
20 just no -- it was really no substitute in terms of
21 learning how you have to get down on people's levels
22 and hear what it's important.

23 SENATOR MALLOY: Did you hope that you would
24 transition at some point notwithstanding after serving
25 in the General Assembly to a court?

1 MR. HEWITT: That's a fair characterization,
2 although, I didn't -- I certainly didn't run for the
3 House to try and be a judge later. And being a judge
4 may not be, you know, in the plan for me. Other people
5 have a lot of say in that. And if that's not in my
6 plan, then that's okay. I'll go find something else
7 that checks both of those boxes.

8 I think it would -- I would have perhaps
9 struggled in the House because while it checked the
10 public service box, it would have been difficult for
11 me, some of the political aspects of it. I don't feel
12 like that comes naturally to me. In some sense I feel
13 like I'm better suited for this because of my love and
14 my passion in terms of the legal system is for the
15 skills that go into appellate practice.

16 SENATOR MALLOY: In your trial practice, has
17 your trial practice been engaged not only in appellate
18 cases but has your trial practice been engaged in
19 trying to cases in general? How much experience do you
20 have with that?

21 MR. HEWITT: Well, just to be candid, nothing
22 anywhere comparable to my appellate experience. I've
23 been involved in only one case that I can recall that
24 went through the full-on trial process, I mean tried to
25 a jury. And it is was a substantial criminal case

1 referenced in my PDQ.

2 But as you know, you know, when I went to
3 work for Joe Anderson, he told me that his first year
4 on the bench, on federal district bench, he got on it
5 when he was 36 years old, he tried 27 cases that year.
6 When I clerked with him, we tried one and a day of
7 another. People just don't try cases anymore. It is
8 tried on motions. It's tried in trial practices,
9 written filing practice.

10 I think that's an area, frankly, where my
11 generation of lawyers is going to struggle. You would
12 have to start a career either trying, you know, comp
13 cases or in an administrative system where they have a
14 lot of contested cases and it's a jury trial. Seems
15 like that there are less, less and less of them. I see
16 far less work on the appellate side that are appeals
17 from the jury trials as opposed to summary judgments,
18 directed verdicts, other dispositive motions.

19 SENATOR MALLOY: During my time the practice
20 came from the magistrate's court. You ever participate
21 in magistrate's court?

22 MR. HEWITT: Uh-huh.

23 SENATOR MALLOY: And family courts.

24 MR. HEWITT: Uh-huh.

25 SENATOR MALLOY: And obviously in the Court

1 of Appeals, you have a lot of family court cases and
2 you have workers' comp cases. I understand you have
3 done some workers' compensation.

4 MR. HEWITT: Uh-huh.

5 REPRESENTATIVE CLEMMONS: I need you to
6 respond verbally to questions, for the record.

7 MR. HEWITT: Thank you.

8 Yes, I have done -- I would say maybe any
9 given time I'll probably have three comp cases going
10 on. That's a fair characterization.

11 SENATOR MALLOY: Okay. Thank you.

12 REPRESENTATIVE CLEMMONS: Any other
13 questions?

14 All right. Hearing none, Mr. Hewitt, that
15 concludes this portion of the screening process.

16 As you know, the record will remain open
17 until the report is published. You may be called back
18 at such time if that need arises.

19 I remind you of the 48-Hour Rule and ask you
20 to be mindful of that. If anyone inquires with you
21 about whether they may or may not advocate for you in
22 the event that you are screened out, as you have
23 described it, remind them of the 48-Hour Rule.

24 I thank you for offering, and I thank you for
25 your service to South Carolina.

1 MR. HEWITT: Thank you. It was a pleasure to
2 be with you all. Thank you.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 (Mr. Blake Hewitt exits the room.)

5 SENATOR MALLOY: Mr. Chair, while we are in
6 between candidates, I just wanted to alert you that
7 Representative David Mack has submitted his proxy to
8 me.

9 REPRESENTATIVE CLEMMONS: Thank you very
10 much. We have a copy of that proxy in the file linking
11 Senator Gerald Malloy as his proxy for this purpose
12 today.

13 And without objection, that proxy will be
14 entered into the record.

15 SENATOR MALLOY: Thank you.

16 (The Honorable David Garrison Hill is present
17 in the room.)

18 REPRESENTATIVE CLEMMONS: Welcome, Mr. Hill.

19 JUDGE HILL: Good morning.

20 REPRESENTATIVE CLEMMONS: Excuse me,
21 Judge Hill.

22 JUDGE HILL: Good morning.

23 REPRESENTATIVE CLEMMONS: We have before us
24 The Honorable David Garrison Hill seeking election to
25 the Court of Appeals, Seat 7.

1 Would you please raise your right hand,
2 Judge.

3 JUDGE HILL: Yes, sir.

4 REPRESENTATIVE CLEMMONS: Do you swear to
5 tell the truth, the whole truth and nothing but the
6 truth, so help you God?

7 JUDGE HILL: I do.

8 REPRESENTATIVE CLEMMONS: Thank you very
9 much.

10 Have you, Judge, had an opportunity to review
11 the Personal Data Questionnaire?

12 JUDGE HILL: I have.

13 REPRESENTATIVE CLEMMONS: Is it correct?

14 JUDGE HILL: Yes, sir.

15 REPRESENTATIVE CLEMMONS: Does anything need
16 to be changed there?

17 JUDGE HILL: No, sir.

18 REPRESENTATIVE CLEMMONS: Do you object to
19 our making this summary a part of the record of your
20 sworn testimony?

21 JUDGE HILL: No, sir.

22 REPRESENTATIVE CLEMMONS: It will be done at
23 this point in the transcript.

24 (EXHIBIT 10, Personal Data Questionnaire of
25 The Honorable David Garrison Hill, admitted.)

1 REPRESENTATIVE CLEMMONS: The Judicial Merit
2 Selection Commission has thoroughly investigated your
3 qualifications for the bench. Our inquiry has focused
4 on the nine evaluative criteria and has included a
5 ballot box survey, thorough study of your application
6 materials, verification of your compliance with state
7 ethics laws, search of newspaper articles in which your
8 name appears, a study of previous screenings, and a
9 check for economic conflict of interest.

10 We have received no affidavits filed in
11 opposition to your election. No witnesses are here to
12 testify today.

13 Do you have a brief opening statement that
14 you would like to make at this time?

15 JUDGE HILL: Thank you, sir. I just want to
16 thank you, Mr. Dennis and Ms. Shuler and Mr. Jordan and
17 other members of the staff for making such an efficient
18 courteous process.

19 REPRESENTATIVE CLEMMONS: Thank you very
20 much.

21 If you would, please answer counsel's
22 questions.

23 Mr. Dennis.

24 MR. DENNIS: Judge Hill, good morning. You
25 also have before you today a sworn statement which you

1 have provided detailed answers to over 30 questions
2 regarding judicial conduct, statutory qualification,
3 office administration and temperament.

4 Are there any amendments that you need to
5 make to that document at this point?

6 JUDGE HILL: No, sir.

7 REPRESENTATIVE CLEMMONS: At this time,
8 Mr. Chairman, I would ask Judge Hill's sworn statement
9 be entered as an exhibit into the hearing record.

10 Are there any objections?

11 Hearing none, admitted into the record.

12 (EXHIBIT 11, Sworn Statement of The Honorable
13 David Garrison Hill, admitted.)

14 MR. DENNIS: Judge, also, I understand that
15 you have updated and will be amending your Statement of
16 Economic Interest Form. And the Commission has
17 received that, that there were some clarifications on
18 that document that are different than one originally
19 filed.

20 JUDGE HILL: Yes, sir.

21 MR. DENNIS: Thank you. That will be part of
22 the record as well.

23 As one final procedural matter, I note for
24 the record that based on the testimony contained in the
25 candidate's PDQ, which has been included in the record

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

4 Judge Hill, would you tell the Commission why
5 you would like to be an appellate court judge.

6 JUDGE HILL: Well, I enjoy being a circuit
7 court judge. I'm humbled to have that position and
8 thankful for the opportunity to have it. And I think
9 as everybody in this room probably thinks that public
10 service is part of the rent you pay to live in a
11 democracy.

12 And I believe with the years I've had on the
13 circuit bench, it's given me, along with age, some
14 perspective. And I would like the opportunity to have
15 a position that I could continue contributing because I
16 am passionate about the rule of law in our system of
17 justice in a capacity that might allow me to share that
18 on a wider basis and broader forum.

19 MR. DENNIS: Thank you, Judge.

20 Can you explain a little more detail to the
21 Commission how you feel your legal professional
22 experience thus far will assist you in being an
23 effective appellate court judge.

24 JUDGE HILL: Well, I believe that my 15 years
25 in private practice, where I was brought up of the

1 school that you not only took the cases that came in
2 the door but those that were lingering out on the
3 threshold. That gave me the opportunity to see a wide
4 range of practice in both criminal and civil law and
5 gave me the opportunity to have trial experience at
6 every level and the opportunity to have appellate
7 experience, not only before the Court of Appeals but
8 the South Carolina Supreme Court in the Fourth Circuit.
9 And that gave me a broad perspective that has been of a
10 measurable benefit to me while I've been a circuit
11 judge.

12 And I think ten years as a circuit judge has
13 given me the experience to understand how our justice
14 system operates and how the appellate courts fit into
15 the system of justice we have. And so I believe that
16 all of those things together would enable me to be a
17 competent Court of Appeals judge.

18 MR. DENNIS: Judge, are there any areas,
19 including subjective areas of the law, that you would
20 feel you need additional preparation for in order to
21 serve as an appellate court judge, and, if so, how
22 would you handle that additional preparation?

23 JUDGE HILL: Yes, sir. I think that, you
24 know, education is a lifelong process. Regardless of
25 what level of experience I've had in certain areas,

1 you're always learning. I would think just with me,
2 specifically the area of workers' compensation would be
3 one that I would have to focus on and come up to speed
4 on. Even though I did some workers' comp work as a
5 lawyer and actually argued a workers' comp case before
6 the Court of Appeals while I was practicing, I know
7 that's an area that even though we, under the old law,
8 had a lot workers' comp appeals, it was something that
9 I've always felt that I needed to pay careful attention
10 to because of my relative lack of experience in.

11 MR. DENNIS: Judge, you addressed this in
12 your sworn affidavit. Would you please explain to the
13 Commission what appropriate judicial demeanor is.

14 JUDGE HILL: Well, I think from practicing
15 law, I know one thing that I always was not happy
16 having happen to me is when you walk into a courtroom
17 and you don't know what kind of mood the judge is going
18 to be in. I think that puts the lawyers and the
19 parties in a position of anxiety in what is already in
20 a very anxiety-riddled process.

21 So I think it's important for a judge's
22 demeanor to be reliable. I think it's important for a
23 judge, first of all, to be willing to listen. The
24 lawyers usually want you to listen. They don't want
25 you to tell them how smart you think you are, and they

1 are much smarter than you are in terms of the cases in
2 preparation. They're preparing for months, if not
3 years, for the cases. So they know a great deal more
4 than you do.

5 So I think the willingness to listen and
6 willingness to be open-minded about things and not come
7 in on preconceived ideas is essential. And I think
8 patience is also a hallmark of a good judicial
9 demeanor.

10 MR. DENNIS: Thank you.

11 Judge, what is your philosophy on judicial
12 activism? What effect should a judge have in setting
13 or promoting public policy?

14 JUDGE HILL: I think our system of justice,
15 appellate decisions and our constitution make it clear
16 that the judges are to follow and interpret the law,
17 but they aren't to make the law. So I don't believe it
18 is appropriate for a judge to make rulings that would
19 make law. They should follow what the General Assembly
20 has passed in terms of the statutory law and
21 constitutional as it's written.

22 MR. DENNIS: Judge, when the advance sheets
23 are released, it appears that they contain many pending
24 cases before the Court of Appeals. Could you discuss
25 how you would assist in handling the backlog of cases

1 at the Court of Appeals.

2 JUDGE HILL: Well, that is something that I
3 don't know if I'm qualified to respond to. I don't
4 know the inner workings of the Court of Appeals. I
5 have never sat on the Court of Appeals. I don't know
6 exactly how their machinery is set up to handle that.
7 But I would be interested, if I were fortunate to be on
8 the Court of Appeals, to investigate that and try to
9 come up with efficient means of handling the cases.

10 I think our circuit has been fortunate due to
11 the leadership that was many years before me, which we
12 have maintained, in disposing of cases efficiently and
13 promptly. I understand the importance of a docket that
14 is efficient for the litigants, especially on appeals.
15 Because of the lag time on appeals, that can often
16 cause delays that, in fact, deny justice.

17 So as far as practical mechanics of reducing
18 any backlog, I just don't have the knowledge to respond
19 that. But that would be my intent.

20 MR. DENNIS: Judge, how would you foster
21 collegiality on the Court of Appeals?

22 JUDGE HILL: Well, I think just as you do any
23 situation where you have a group of people, you should
24 try to socialize with them outside of the work and
25 respect their views and try to foster an atmosphere of

1 openness, tolerance, and respect for differing views.
2 Because certainly at that level, you could have views
3 that are divergent. And I think people want to try to
4 maintain an atmosphere that's not divisive or hostile
5 or antagonistic toward your colleagues because that is
6 certainly self-defeating.

7 MR. DENNIS: In your opinion, when it is
8 appropriate to author a dissenting opinion?

9 JUDGE HILL: Well, I suppose if you can't
10 convince your colleagues of the justice of your
11 position and you have a strong feeling about that
12 position and you believe that it does constitute the
13 law, then I think you would have an obligation to
14 dissent. I don't think you would do it just to display
15 some virtuosity or tangential point, but I think if you
16 had a core disagreement about an important principle of
17 law to that case, then I think you would have an
18 obligation to dissent.

19 MR. DENNIS: Thank you, Judge.

20 As a note for the Commission's information, I
21 would note that the Commission received 317 ballot box
22 surveys regarding you and 61 additional written
23 comments. The responses -- the 61 additional written
24 comments were universally complimentary of your work as
25 a circuit court judge.

1 With that note, Mr. Chairman, I would ask for
2 a brief executive session for this candidate.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 Do we have hear a motion for executive
5 session?

6 MR. SELLERS: So moved.

7 SENATOR MARTIN: Second.

8 REPRESENTATIVE CLEMMONS: And a motion to
9 second.

10 Those in favor please say "aye."

11 (Members respond.)

12 Those opposed.

13 The ayes have it. We will go into executive
14 session.

15 Those who are not members of the Commission
16 or Commission staff would please exit the room. And
17 the veil is dropped. We are now in executive session.

18 (The members went into executive session.)

19 * * * * *

20 (The members came out of executive session.)

21 REPRESENTATIVE CLEMMONS: All right. We are
22 proceeding from executive session and are prepared to
23 go back on the record.

24 MR. DENNIS: Thank you, Judge Hill. Just
25 some housekeeping matters from here on out.

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

3 JUDGE HILL: No, sir.

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

7 JUDGE HILL: No, sir.

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

11 JUDGE HILL: No, sir.

12 MR. DENNIS: Are you aware of anyone
13 attempting to intervene in this part of the process on
14 your behalf?

15 JUDGE HILL: No, sir.

16 MR. DENNIS: Have you contacted any members
17 of this Commission?

18 JUDGE HILL: No, sir.

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

23 JUDGE HILL: I do.

24 MR. DENNIS: Have you reviewed the
25 Commission's guidelines on pledging?

1 JUDGE HILL: I have.

2 MR. DENNIS: As a follow up, are you aware of
3 the penalties for violating the pledging rules, that
4 is, it is a misdemeanor, and upon conviction, the
5 violator must be fined not more than \$1,000 and
6 imprisoned not more than 90 days?

7 JUDGE HILL: Yes, sir.

8 MR. DENNIS: I would note that the Upstate
9 Citizens Committee found Judge Hill qualified with the
10 evaluative criteria, constitutional qualifications,
11 physical health, and mental stability. The Committee
12 found him well qualified in the remaining evaluative
13 criteria of ethical fitness, professional and academic
14 ability, character, reputation, experience, and
15 judicial temperament.

16 The Upstate Citizens Committee made no
17 conclusionary finding about any of its candidates.

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

21 And, Mr. Chairman, I have nothing further.

22 REPRESENTATIVE CLEMMONS: Thank you,
23 Mr. Dennis.

24 Are there any questions by Commission
25 members?

1 Yes, Mr. Sellers.

2 MR. SELLERS: I feel compelled since I have
3 Judge Hill under oath to ask at least one question.

4 REPRESENTATIVE CLEMMONS: Please go ahead.

5 MR. SELLERS: This has nothing whatsoever to
6 do with this proceeding, but I had forgotten until I
7 read in your PDQ about the Shoeless Joe Jackson's last
8 will. What happened to the last will? What ultimately
9 happened to it?

10 JUDGE HILL: That's a good question,
11 Mr. Sellers. My understanding is it's still down at
12 probate court. But it's locked up. But I'm not
13 certain of that. The State Archives Commission was
14 very interested in that case, and I believe they
15 intervened, if my memory is correct. And they said
16 they wanted to exhibit it, and we always said that it
17 was going to end up like the final scene of Raiders of
18 the Lost Ark, it's in some warehouse. So I don't know.
19 That's a good question. It's not sitting in a file
20 like it was before we assumed it.

21 MR. SELLERS: Right.

22 REPRESENTATIVE CLEMMONS: Any other
23 questions?

24 Yes, Mr. Strom.

25 MR. STROM: Judge Hill, I'm looking through

1 your personal data and you're obviously a bright guy.
2 Cum laude from Wofford, and law review, clerk for Judge
3 Wilkins on the Fourth Circuit. Other than the stint
4 with Mr. Bannister's firm, it looks like you've had a
5 pretty stellar career.

6 And I see that you've argued and handled some
7 appeals. But as we all know, being appellate judge is
8 a different gig than being a circuit judge.

9 JUDGE HILL: Yes, sir.

10 MR. STROM: It's a completely different skill
11 set. You know, it's reading and writing. And you were
12 asked earlier about whether you needed to get up to
13 speed on anything substantive, you talked a little bit
14 about the workers' comp. But what about from a writing
15 standpoint, is that something that if you're elected
16 you would pursue further training, maybe in legal
17 writing?

18 JUDGE HILL: Well, Mr. Strom, you're right, I
19 would need to learn the drill, so to speak, on how they
20 write their opinions.

21 As a circuit judge, I find that -- people say
22 I'm weird, but I find that writing your own orders is a
23 challenging and rewarding experience for me. If I have
24 time to do it. It's hard to find the time to do it
25 given the volume, but I've tried over the years to hone

1 my writing skills. And enjoy reading opinions and
2 seeing how people craft their decision. I've learned a
3 lot over the years from some of the great judges on how
4 to do that.

5 And but, yes, I would have to spend some time
6 figuring exactly how that magic is worked.

7 MR. STROM: It looks to me like you're on Law
8 Review. I look at these things for what I see and what
9 I don't see in other people's resumes. You have
10 continued to write op-ed pieces, and you were editor
11 for the bar publication, served in that capacity for a
12 number of years. But it appears you do have an
13 interest in writing. Is that fair?

14 JUDGE HILL: Yes, sir. Yes, sir.

15 MR. STROM: Okay. Thank you.

16 JUDGE HILL: Thank you.

17 REPRESENTATIVE CLEMMONS: Thank you,
18 Mr. Sellers and Mr. Strom.

19 Any other questions? Senator Malloy.

20 SENATOR MALLOY: How old are your children?

21 JUDGE HILL: 12, 10, and 5, Senator.

22 REPRESENTATIVE CLEMMONS: Any other
23 questions, Senator Malloy?

24 SENATOR MALLOY: No other questions.

25 REPRESENTATIVE CLEMMONS: Representative

1 Bannister.

2 REPRESENTATIVE BANNISTER: Judge Hill
3 corrected his one mistake very quickly after I started
4 practicing law. He got on the bench pretty fast. You
5 can't hold that against him. He learned pretty quick.

6 REPRESENTATIVE CLEMMONS: Thank you,
7 Representative Bannister.

8 Any other questions?

9 Hearing none, Judge Hill, thank you so much
10 for being with us and offering for this position. This
11 concludes this portion of our screening process.

12 As you know, Judge, the record will remain
13 open until the report is published. You may be called
14 back at some time as that need arises.

15 I remind you of the 48-Hour Rule and ask you
16 to be mindful of that. Anyone that inquires with you
17 about whether they may or may not advocate for you in
18 the event that you are screened out, as you've
19 described it, remind them of the 48-Hour Rule.

20 I thank you for offering. I thank you for
21 your service to South Carolina.

22 JUDGE HILL: Thank you, Mr. Clemmons.

23 Thank you, ladies and gentlemen.

24 MR. STROM: Mr. Chairman, can we take a
25 ten-minute break?

1 REPRESENTATIVE CLEMMONS: I think that might
2 be in order.

3 (The Honorable David Garrison Hill exits the
4 room.)

5 (A recess transpired.)

6 REPRESENTATIVE CLEMMONS: We can bring in our
7 next candidate.

8 (The Honorable Stephanie Pendarvis McDonald
9 is present in the room.)

10 JUDGE MCDONALD: Good morning, everybody.

11 REPRESENTATIVE CLEMMONS: Good morning.

12 We have with us The Honorable Stephanie
13 Pendarvis McDonald. It is good to have you with us
14 today.

15 Judge McDonald is seeking election to Court
16 of Appeals, Seat 7.

17 Judge, if you would raise your right hand,
18 please.

19 JUDGE MCDONALD: Certainly.

20 REPRESENTATIVE CLEMMONS: Do you swear to
21 tell the truth, the whole truth and nothing but the
22 truth, so help you God?

23 JUDGE MCDONALD: I do.

24 REPRESENTATIVE CLEMMONS: Thank you very
25 much.

1 Have you had an opportunity to review the
2 Personal Data Questionnaire?

3 JUDGE MCDONALD: I have.

4 REPRESENTATIVE CLEMMONS: Is it correct?

5 JUDGE MCDONALD: It is correct.

6 REPRESENTATIVE CLEMMONS: Does anything need
7 to be changed?

8 JUDGE MCDONALD: Not that I'm aware of.

9 REPRESENTATIVE CLEMMONS: Do you object to
10 our making it a part of the record of your sworn
11 testimony today?

12 JUDGE MCDONALD: No. I appreciate it. Thank
13 you.

14 REPRESENTATIVE CLEMMONS: It will be done at
15 the point in the transcript.

16 (EXHIBIT 12, Personal Data Questionnaire of
17 The Honorable Stephanie Pendarvis McDonald, admitted.)

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

1 a check for economic conflicts of interest.

2 We've received no affidavits filed in
3 opposition to your election. No witnesses are here to
4 testify today.

5 Do you have a brief opening statement you
6 would like to share with the Commission?

7 JUDGE MCDONALD: Really just very briefly, I
8 want to thank all of you for giving your time to be
9 here to do this very important function. I really want
10 to thank Jane Shuler and her staff. They have been
11 wonderful to work with. J.J. Gentry has been a great
12 screening attorney and answered my questions in giving
13 me the information.

14 I do want to thank you all for everything you
15 do and for allowing me to do the job that I love. I
16 love my job as a circuit court judge. And it was after
17 long deliberation that I went about throwing my hat
18 into this ring. But other than that, I think you all
19 have a pretty long day, so I'm happy to waive any
20 further opening statement and just answer any questions
21 the Commission might have.

22 REPRESENTATIVE CLEMMONS: Thank you very
23 much. We appreciate your current service to the state
24 of South Carolina.

25 If you would, please answer any of

1 Attorney Gentry's questions.

2 JUDGE MCDONALD: Sure.

3 MR. GENTRY: Mr. Chairman, and members of the
4 Commission, I have a procedural matter to take care of
5 with this candidate.

6 Judge McDonald, you have before you the sworn
7 statement you provided with detailed answers to over 30
8 questions regarding judicial conduct, statutory
9 qualifications, office administration, and temperament.

10 Are there any amendments you would like to
11 make at this time?

12 JUDGE MCDONALD: No. Thank you.

13 MR. GENTRY: At this time, Mr. Chairman, I
14 would ask that Judge McDonald's sworn statement be
15 included into the hearing record.

16 REPRESENTATIVE CLEMMONS: Thank you.

17 Is there any objection?

18 Hearing none, the sworn statement will be
19 entered into the record at this time.

20 (EXHIBIT 13, Sworn Statement of The Honorable
21 Stephanie Pendarvis McDonald, admitted.)

22 JUDGE MCDONALD: Thank you.

23 REPRESENTATIVE CLEMMONS: Mr. Gentry.

24 MR. GENTRY: One final procedural matter. I
25 note for the record that based on the testimony

1 contained in the candidate's PDQ, which has been
2 included in the record with the candidate's consent,
3 Judge McDonald meets the statutory requirements for
4 this position regarding age, residence, and years of
5 practice.

6 Judge McDonald, why do you want to serve as a
7 judge on the Court of Appeals?

8 JUDGE MCDONALD: Well, as I'm sure you all
9 can tell from looking at the packet, I was an appellate
10 court lawyer. About half of my practice involved
11 appellate work. The other half was trial work in state
12 and federal court.

13 As I indicated earlier, I love my job as a
14 circuit court judge, but I do miss the scholarly
15 deliberation that is necessary at the appellate level.
16 We just don't have the time, when running our dockets,
17 to write the opinions and do the analysis. And the job
18 is not the same. I miss that part of it.

19 It's also significant to me that when this
20 spot came open, a number of lawyers started to call and
21 say, "Are you running? Are you running?"

22 And I said, "Nope, I'm not running. I'm
23 excited, but thank you for calling."

24 But then they started to call and say, "Well,
25 why aren't you running?"

1 And so I started to think about it a little
2 bit more. I think I have skill -- a skill set that I
3 could bring to the appellate court bunch. I love to
4 write. Other lawyers would hire me to do their
5 appellate work for them and their briefing.

6 And I think -- I have to find a delicate way
7 to say this, perhaps can bring some collegiality to the
8 Court of Appeals that might be helpful.

9 MR. GENTRY: Judge, can you explain to the
10 Commission how you feel your legal professional
11 experience thus far will assist you in being an
12 effective judge.

13 JUDGE MCDONALD: Sure. I think I talked
14 about that just a little bit just now. I was trying to
15 figure out how many appeals I had handled in the 17
16 years that I practiced, and I stopped counting at 75.
17 I think I got to 43 in state court and 32 in federal
18 court at the Fourth Circuit. But I didn't even really
19 look in the state court much before 2003 because
20 unpublished opinions aren't online there. It's just
21 the published.

22 I think it helps to have some appellate
23 experience to be an appellate court judge. We
24 certainly have some wonderful appeal court judges that
25 didn't practice appellate law, but I certainly think

1 that that would help me with any learning curve, as I'm
2 sure there is, at another level of state court.

3 I also think it's helpful to have been a
4 trial court judge. People tell me constantly and I
5 think they're thankful that I had some practical
6 experience being in court, "You know what it's like.
7 You know the deal," to remember what it's like to be a
8 practicing lawyer.

9 Now that I've been a circuit court judge, I
10 understand the trials and tribulations that circuit
11 judges undergo and what it takes to put in their
12 analysis. Which changes the way I think about
13 appellate court, quite frankly. It's much different as
14 a practitioner than as a judge.

15 I hope that answers the question.

16 MR. GENTRY: Are there any areas, including
17 subjective areas of the law, you need to additionally
18 prepare for in order to serve as judge, and how would
19 you go about that preparation?

20 JUDGE MCDONALD: I'm sure there are areas of
21 the law that I would need to -- for example, I didn't
22 do any workers' compensation work as a lawyer. That
23 would be an area I would need to study perhaps more
24 than the other areas. But the practice of law and
25 being a judge is an ongoing study process as far as I'm

1 concerned. I think you have to keep being up on the
2 law and the changes all over the country and certainly
3 going on with Supreme Court opinions.

4 I would say, I think when I was asked this
5 when I was running for circuit court, it would have
6 been criminal procedural law. Part of my practice, a
7 large part was as a constitutional lawyer. I handled
8 First, Fourth, Fifth, Sixth, Eighth, Fourteenth
9 Amendment issues my whole career, but I hadn't ever
10 really practiced much criminal law. A little bit but
11 not a lot.

12 Well, I've now been chief administrative
13 judge in general sessions in one of the larger circuits
14 for 18 months. So I think I've caught up in that
15 arena.

16 MR. GENTRY: Although you address this in
17 your sworn affidavit, can you explain to the members of
18 the Commission what you think is the appropriate
19 demeanor for a judge?

20 JUDGE MCDONALD: Fair, definitely; unbiased;
21 willing the listen to all sides. Temperament is very
22 important, but that's just a tricky issue because
23 lawyers by nature are zealous advocates. That's what
24 they're required under the Rules of Professional
25 Conduct to be. The judge has to somewhat be a referee.

1 You want to be firm but not stern, is my approach.

2 I think kind but not -- you can't let lawyers
3 run over you because they will. Good lawyers will push
4 as far as you let them push. And scholarly, I think
5 being a scholar is a large part of it. I think I wrote
6 in response to one of the questions, the question is,
7 How do you prepare for a case?

8 Well, I review as much about the case as I
9 can, if I have the time to do it. Sometimes you can't
10 get the materials ahead of time enough to do that. We
11 do it in the morning when we get there or at lunch or
12 after. And do the research.

13 It's a little bit troubling how often I'm
14 able to find a case that the lawyers in front of me
15 didn't provide that I would think they would have come
16 to court with. But if you're ready on all that, it
17 moves the process right along.

18 MR. GENTRY: What's your philosophy on
19 judicial activism, and what effect should the judges
20 have in setting or promoting public policy?

21 JUDGE MCDONALD: Judicial activism is not
22 appropriate. I think it implicates separation of power
23 issues. The rule of the third branch of government,
24 the judiciary, is to interpret the law as enacted by
25 the General Assembly. There are times when we have to

1 determine whether a law is constitutional or not under
2 the United States Constitution or the South Carolina
3 Constitution, but we give great deference to the
4 enactments and attempt to find them constitutional, if
5 possible.

6 The General Assembly sets up the policy.
7 Prior decisions of the judiciary fill in public policy
8 where it's not otherwise set by General Assembly, and
9 only then would I think it's appropriate for a court to
10 weigh in to that area.

11 MR. GENTRY: When the advance sheets are
12 reviewed, it appears to contain many pending cases
13 before the Court of Appeals. Discuss how you would
14 assist in handling the backlog of cases in the court.

15 JUDGE MCDONALD: Well, I would imagine I
16 would assigned a function from the chief judge of the
17 Court of Appeals and given a function. As I said
18 before, I think there's a learning curve that any new
19 member of a court would need to adapt to. But do as I
20 was instructed and offer to help as much as I could. I
21 think they've moved a good bit of the backlog, from my
22 understanding. But there is still a backlog.

23 MR. GENTRY: Please discuss how you would
24 foster collegiality in the Court of Appeals.

25 JUDGE MCDONALD: I think an open door is

1 always helpful. My door is open on the fourth floor in
2 the Charleston County Courthouse. It tends to be the
3 gathering place for other judges as they come up and
4 down the stairs. Probably the single-serve coffeemaker
5 and a smiling legal assistant and law clerk have a lot
6 to do with that. But I've also let lawyers know if
7 they need something heard, they need something signed,
8 I'm in there. They call. They know we'll get a
9 hearing set. If they have a consent order, they're not
10 afraid to call or email my law clerk to come get it
11 done. And I hope they indicated that.

12 The same attitude, that's what I would bring
13 to the Court of Appeals. It would be a little
14 different because you don't have as much interaction
15 with the lawyers at the appellate level needing
16 something signed immediately. They don't tend to
17 e-mail the court and say, "I need to come by and get a
18 bench warrant decision signed." But really I would act
19 about the same way I act now.

20 MR. GENTRY: In your opinion, when is it
21 appropriate to offer a dissenting opinion?

22 JUDGE MCDONALD: There are times when it's
23 critical to offer a dissenting opinion. In fact, if
24 you look at the South Carolina Appellate Court Rule
25 242(b). Whether there's a dissent in the Court of

1 Appeals is one of the five factors that the Supreme
2 Court considers in determining whether to grant review
3 from the Court of Appeals.

4 I think it's helpful when the court can all
5 speak with one voice, but that's just not always the
6 case. You've got in Supreme Court five very smart
7 people who are not always going to agree. Court of
8 Appeals, you usually have three. They rarely get
9 involved, but sometime they do. And they are not
10 always going to agree. And dissents are important.

11 We just celebrated a historic win in
12 Charleston a couple of weeks ago, Briggs versus
13 Elliott. And there's a scholarly article on it called
14 the "Dissent that Changed America." I know you all are
15 all aware of it. But that dissent, Judge Waites Waring
16 dissent in Briggs was the underpinning for Brown versus
17 the Board of Education three years later.

18 So dissents are critical, but I think they
19 should be well reasoned and not overly frequent.

20 MR. GENTRY: The Commission received 298
21 ballot box surveys regarding you with 45 additional
22 comments. The responses were almost entirely positive,
23 only five indicating concerns regarding your reasoning
24 with overruling lower courts, temper, and experience.

25 What response would you offer to these

1 concerns?

2 JUDGE MCDONALD: With overruling lower
3 courts? I'm not sure what the context would be, but I
4 think any time you reverse a magistrate or municipal
5 judge, they might not be so happy about it. But that's
6 my job. At the appellate level and in circuit court,
7 when it's a municipal or magistrate decision and
8 there's been a problem, it needs to be turned around.
9 I don't go searching for things to overturn, but I
10 think that's an appropriate function.

11 Temperament, I'm sure that I've gotten
12 frustrated with a lawyer more than once. I'm sure that
13 I've had to rein somebody in more than once. But we
14 have to make a concerted effort to stop people from
15 judge shopping to get in front of me. And that I think
16 indicates if there is a temperament problem, it's
17 probably not that bad of one.

18 What was the third thing? I can't quite
19 remember.

20 MR. GENTRY: Experience, Judge.

21 JUDGE MCDONALD: Experience. You know, I
22 didn't really understand that. I was an appellate
23 court lawyer for 17 years. I'm not sure what
24 experience that individual is looking for, but I will
25 tell you that when you have zealous advocates battling

1 it out in the courtroom, somebody is going to win and
2 somebody is not going to win. And you can't make
3 everybody happy. And quite frankly, that's not the
4 court's job.

5 MR. GENTRY: Thank you, Judge McDonald.

6 Have you sought or received the pledge of any
7 legislator prior to this date?

8 JUDGE MCDONALD: I have not.

9 MR. GENTRY: Have you sought or have you been
10 offered a conditional pledge of support of any
11 legislator pending the outcome of your screening?

12 JUDGE MCDONALD: No.

13 MR. GENTRY: Have you asked any third parties
14 to contact members of the General Assembly on your
15 behalf?

16 JUDGE MCDONALD: I have not asked third
17 party -- people have called me and said, "What are we
18 allowed to do?"

19 And I said, "I'm not allowed to tell you or
20 ask you to do anything. But you certainly have a First
21 Amendment right to do what you would like to do. And
22 thank you so much for thinking of me."

23 MR. GENTRY: Are you aware of anyone
24 attempting to intervene in any part on the process on
25 your behalf?

1 JUDGE MCDONALD: I'm not aware of anything.

2 MR. GENTRY: Have you contacted any members
3 of the Commission?

4 JUDGE MCDONALD: I have not contacted any. I
5 have seen some at various areas, socially shaking their
6 hand and then moved on.

7 I will disclose Mr. Strom was the moderator
8 of a continuing legal education program that Judge Hill
9 and I both sat on the panel of Thursday on ethics with
10 the judges. There were probably eight or nine judges.
11 We do it twice a year. And so we did interact. And he
12 was the moderator, and I'm sure I answered some of his
13 questions. But other than that, no.

14 MR. GENTRY: Do you understand that you are
15 prohibited from seeking a pledge or a commitment until
16 48 hours after the formal release of the Commission's
17 report?

18 JUDGE MCDONALD: I do.

19 MR. GENTRY: Have you reviewed the
20 Commission's guidelines on pledging?

21 JUDGE MCDONALD: I have.

22 MR. GENTRY: And to follow up, are you aware
23 of the penalties for violating the pledging rules, that
24 is, it is a misdemeanor and upon conviction, the
25 violator must be fined not more than \$1,000 or

1 imprisoned not more than 90 days?

2 JUDGE MCDONALD: I am aware of that. I think
3 I'm real scared of you all, though, than I am of that.

4 MR. GENTRY: I would note that the Lowcountry
5 Citizens Committee found Judge McDonald to be well
6 qualified in the evaluative criteria of ethical
7 fitness, professional and academic ability, character,
8 reputation and experience and judicial temperament.

9 The Committee found Judge McDonald qualified
10 as to constitutional qualifications. The Committee did
11 not make a finding as to the evaluative criteria of
12 physical health or mental stability.

13 The Committee stated in summary that
14 Judge McDonald is an exceptional candidate. Committee
15 is very impressed by her extensive experience as an
16 appellate attorney before she went on the bench.

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

20 Mr. Chairman, I have no further questions.

21 REPRESENTATIVE CLEMMONS: Thank you very
22 much.

23 Are there any questions of Judge McDonald by
24 any members of the Commission?

25 SENATOR MARTIN: I only have one.

1 REPRESENTATIVE CLEMMONS: Senator Martin.

2 SENATOR MARTIN: Good to see you.

3 JUDGE MCDONALD: Good to see you, too.

4 SENATOR MARTIN: I noticed a large number --
5 and one of the advantages you have here is the amount
6 of appellate work you have done. I noticed a large
7 number of firms, an unusually large number of firms and
8 lawyers that you have worked with.

9 How do you -- how would you handle that as an
10 appellate court judge?

11 JUDGE MCDONALD: Lawyers that I have worked
12 with before?

13 SENATOR MARTIN: Right.

14 JUDGE MCDONALD: Well, from my former law
15 firm, which is now Senn Legal. It was Senn, McDonald &
16 Leinbach. Those individuals do not appear in front of
17 me at all. And that would probably remain the case. I
18 don't think I have any active matters there that I
19 worked on, but we are just too good of friends for them
20 to be in front of me.

21 SENATOR MARTIN: Right.

22 JUDGE MCDONALD: Some of the lawyers on that
23 list are lawyers that hired me to write one brief or to
24 appear and argue one matter. And it was a
25 matter-by-matter situation. I listed those really for

1 your benefit to know who some of the people I have
2 worked with were.

3 I would not likely recuse myself unless
4 somebody asked me to and under the rule there was a
5 concern that there might be a conflict. And I would
6 certainly weigh that and probably err on the side of
7 recusal if somebody was uncomfortable.

8 SENATOR MARTIN: Thank you so much.

9 JUDGE MCDONALD: Yes, sir.

10 REPRESENTATIVE CLEMMONS: Any other
11 questions?

12 Okay. Hearing none, Judge McDonald, thank
13 you so much for being with us today and for offering
14 for this position.

15 JUDGE MCDONALD: Thank you all for having me.
16 Appreciate it. Good to see you all.

17 REPRESENTATIVE CLEMMONS: That concludes this
18 portion of our screening process. As you know, Judge,
19 the record will remain open until the report is
20 published. And you may be called back at such time if
21 the need arises.

22 I'll will remind you of the 48-Hour Rule and
23 ask you to be mindful of that. Anyone that inquires
24 with you about whether they may or may not advocate for
25 you in the event you are screened out, as you described

1 it, remind them of the 48-Hour Rule.

2 I thank you for offering, and I thank you for
3 your service to South Carolina.

4 JUDGE MCDONALD: Thank you, sir. Thank you.

5 (The Honorable Stephanie Pendarvis McDonald
6 exits the room.)

7 (The Honorable Carmen Tevis Mullen is present
8 in the room.)

9 JUDGE MULLEN: Good morning.

10 REPRESENTATIVE CLEMMONS: Good morning.

11 JUDGE MULLEN: Good morning.

12 REPRESENTATIVE CLEMMONS: We have before us
13 The Honorable Carmen Tevis Mullen.

14 Good to have you with us this morning.

15 JUDGE MULLEN: Thank you.

16 REPRESENTATIVE CLEMMONS: Judge Mullen is
17 seeking election, Court of Appeals, Seat 7.

18 Would you please raise your hand, Judge.
19 Thank you.

20 Do you swear to tell the truth, the whole
21 truth and nothing but the truth, so help you God?

22 JUDGE MULLEN: I do.

23 REPRESENTATIVE CLEMMONS: Thank you very
24 much.

25 Have you had an opportunity to review your

1 Personal Data Questionnaire?

2 JUDGE MULLEN: I have.

3 REPRESENTATIVE CLEMMONS: Is it correct?

4 JUDGE MULLEN: Yes, sir.

5 REPRESENTATIVE CLEMMONS: Are there any
6 changes that you would like to make to it at this time?

7 JUDGE MULLEN: No.

8 REPRESENTATIVE CLEMMONS: Do you object to
9 our making this summary a part of your sworn testimony
10 today?

11 JUDGE MULLEN: No.

12 REPRESENTATIVE CLEMMONS: Thank you.

13 Without objection, it will be done at this
14 point in the transcript.

15 (EXHIBIT 14, Personal Data Questionnaire of
16 The Honorable Carmen Tevis Mullen, admitted.)

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

1 We have received no affidavits filed in
2 opposition to your election, and no witnesses are
3 present to testify today.

4 Do you have a brief opening statement you
5 would like to share with us at this time?

6 JUDGE MULLEN: Certainly. I just want to
7 thank you all for the opportunity to come here. I also
8 want to thank you for the last eight years I have
9 served on the circuit court bench. I have thoroughly
10 enjoyed it. It really has been not only a rewarding
11 experience for me, but I have done something certainly
12 to help people to make you proud.

13 Again, it is one of those -- and again, not
14 always an easy job but I don't think I've ever gone to
15 work where I wasn't happy to be going to work even
16 though it was difficult. I want to thank you for that.

17 REPRESENTATIVE CLEMMONS: Thank you very
18 much.

19 If you would, please answer any of counsel's
20 questions at this time.

21 MR. DENNIS: Judge Mullen, good morning.

22 JUDGE MULLEN: Good morning.

23 MR. DENNIS: You also have before you a sworn
24 statement you provided with detailed answers to over 30
25 questions regarding judicial conduct, statutory

1 qualifications, office administration, and temperament.

2 Are there any amendments that you would like
3 to make to that sworn statement?

4 JUDGE MULLEN: No, sir.

5 MR. DENNIS: At this time, Mr. Chairman, I
6 would ask that Judge Mullen's sworn statement be
7 entered as an exhibit into the hearing record.

8 REPRESENTATIVE CLEMMONS: Is there objection?
9 Hearing none, so ordered.

10 (EXHIBIT 15, Sworn Statement of The Honorable
11 Carmen Tevis Mullen, admitted.)

12 MR. DENNIS: As a final procedural matter, I
13 would note for the record that based on the testimony
14 contained in the candidate's PDQ, which has been
15 included in the record with the candidate's consent,
16 Judge Mullen meets the statutory requirements for this
17 position regarding age, residency, and years of
18 practice.

19 Judge Mullen, would you tell the Commission
20 why you would like to be an appellate court judge,
21 please.

22 JUDGE MULLEN: Well, I can tell you that I
23 profoundly believe in the rule of law. And the
24 judicial review process on the appellate court level is
25 so important. I would love the opportunity to actually

1 sit and be a little bit more contemplative and
2 thoughtful as far as writing opinions.

3 When you sit on the circuit court bench, you
4 rule and go. You have to keep trials moving. You
5 can't stop. And I would like the opportunity to be
6 able to, again, study. I would love to write. It
7 really kind of marries the two things that I really
8 wanted to do.

9 I certainly didn't start out wanting to be a
10 lawyer. I wanted to be an English professor. And I
11 don't have any lawyers in my family, so I'm the first
12 one. And I think it allows me to do a bit of both of
13 those things.

14 Additionally, I love to teach. Again, I
15 taught at Clemson when I was in graduate school. And I
16 did also teach at Charleston Southern. And I would
17 like the opportunity. I think doing this would allow
18 me and afford me some ability to do that. And
19 certainly teaching people, as well. So anyway ...

20 MR. DENNIS: Thank you, Judge.

21 Can you explain to the Commission how you
22 feel your legal and professional experience thus far
23 would assist you in being an effective appellate court
24 judge.

25 JUDGE MULLEN: I think I've tried every type

1 of case as a lawyer. Certainly every type of case as a
2 judge. One of the nicest things about my circuit, the
3 Fourteenth Circuit, Beaufort has the fifth largest
4 filings for both civil and criminal in the state.
5 Certainly after Greenville, Spartanburg, Charleston,
6 and Columbia. But we also have four very rural
7 counties. If given the opportunity, because I don't
8 have any masters in equity in either Hampton, Jasper,
9 Allendale, or Colleton counties, but there are judges
10 in Colleton who certainly -- who take good care of us.

11 I like an opportunity to hear cases I think
12 typically a circuit court judge wouldn't be able to
13 hear. I hear a lot of -- even I hear a lot of what's
14 called dirt cases. I hear a lot of railroad cases. I
15 hear a lot of varied cases. And I think it's so
16 important, particularly going on the appellate court
17 bench, I think you have to have tried cases as not only
18 a lawyer but also as a circuit court judge to know what
19 you're looking for.

20 I can tell you that when we -- when I review
21 opinions, one of the things I always ask is, did they
22 read the record? Did they read the record? Because
23 you're concerned because it was there. It was in
24 there. And I think it's important. I think you have
25 to have been a trial lawyer, I think you have to have

1 done that for a substantial amount of time to be able
2 to know what you're looking for for an appeal.

3 MR. DENNIS: Judge Mullen, are there any
4 areas, including subjective areas of the law, that you
5 feel you need additional preparation for in order to
6 serve as appellate court judge? And, if so, how would
7 you handle that additional preparation?

8 JUDGE MULLEN: The only thing I haven't done
9 a lot of is family law. I handled a few cases when I
10 first came out of the practice. I certainly could get
11 it caught up and am not too concerned about it, quite
12 frankly, again. But that would be if there was
13 anything I would consider that I felt that I haven't
14 really practiced in the last 10 or 12 years, it would
15 be family law.

16 MR. DENNIS: Judge Mullen, can you explain
17 what you feel the appropriate demeanor for a judge is.

18 JUDGE MULLEN: Patience is number one,
19 clearly. That is on my screen saver of my computer.
20 Oftentimes in court, you know, you get so many cases.
21 In particular, as I said in my circuit, there's only
22 two judges. I feel a lot of times we're trying to get
23 through it but realizing this is everyone's day in
24 court and these are litigants and they don't do this
25 every day. And I think it's learning that patience and

1 learning to understand that, you know, I may rule
2 against somebody, but they get a full and fair hearing.
3 I think it is important.

4 Certainly, I will say that wisdom, you know,
5 encompasses everything. Intelligence, experience. I
6 can tell you the one thing that I think I do bring to
7 the bench is compassion, as well. I hope that I am
8 mindful when people walk out of there, whether or not
9 they're the defendant or the victims, the litigants of
10 the party, it's important to them. I think I need to
11 understand that, and I think a good judge needs to
12 understand that.

13 MR. DENNIS: What is your philosophy on the
14 judicial activism, and what effects should judges have
15 in setting or promoting a particular public policy?

16 JUDGE MULLEN: You're publicly elected, and
17 it's not our position to write the law. It is that
18 simple. Again, the rule of law is above everything
19 else. Clearly, no man is above it or God. And so
20 there is no room for it, truly. Our job is to
21 interpret, to look at it and interpret it. We're not
22 here -- we're not elected, we're not making the laws.
23 That's why we have the three separate branches of
24 government.

25 It was the greatest system created, and it

1 will only work provided you don't have judicial
2 activism.

3 MR. DENNIS: The advance sheets seem to
4 indicate several, many pending cases before the
5 South Carolina Court of Appeals. Discuss how you would
6 assist in handling the backlog of these cases.

7 JUDGE MULLEN: I've spoken, not at length but
8 I've spoken a good bit with John Few, Chief Judge of
9 the Court of Appeals, about how cases are decided, how
10 cases are distributed. I think the one thing that I
11 bring is a good work ethic. I'm known as a hard
12 worker, and I plan on being able to get in and do what
13 I need to do.

14 I think a lot of times there are reasons
15 behind opinions being older, but most of the time
16 people don't understand that. And I think also there
17 are times where people just simply not writing the
18 opinion, doing what they need to do, as well.

19 So I think I would certainly step in and I
20 hope be an opportunity to and help to the chief judge
21 to be able to move things along and hopefully get out
22 there and decide cases. So specifically, I don't think
23 I would necessarily even know as far as how to
24 specifically do that other than be ready and available
25 always to be able to do whatever I need to do.

1 MR. DENNIS: Would you please discuss how you
2 would plan to foster collegiality in the Court of
3 Appeals.

4 JUDGE MULLEN: I think I'm a consensus maker
5 definitely. I think that probably is a strong suit. I
6 know there's been some issues on our Court of Appeals.
7 I think there is some back and forth. I think one of
8 the interesting things about the difference and when I
9 tell people who are nonlawyers about the difference
10 between what I do on the circuit court bench and if I
11 got this seat what I would be doing, and you're now
12 sitting in a panel of three. It's all about consensus.
13 It's getting people to understand your thoughts, your
14 reasoning, your thinking the way an opinion should be.

15 I'm open-minded. I certainly will listen to
16 anything and anyone and hopefully will be able to
17 consider being able to look at someone else's
18 viewpoint. I mean, the whole idea is that three minds
19 are better than one. And if you sit on one, it's nine
20 minds are better than one. So I would hope that I'm
21 very open and certainly -- we have all talk, and I
22 appreciate that and understand that. And, you know, at
23 the end of the day, we all need to do our job. And
24 even if we disagree, we can agree to disagree. There's
25 certainly nothing personal about it. It's what we do.

1 MR. DENNIS: Along those same lines, when is
2 it appropriate to offer a dissenting opinion?

3 JUDGE MULLEN: I think it's interesting. One
4 of the questions that I reviewed that you all asked
5 Justice Pleicones was, why do you write so many
6 dissents in certain things? I think when you have a
7 strong-held view and you believe, in fact, you are
8 correct, I think there are times when people -- and,
9 again, collectively people can miss things. We are not
10 all perfect. And certainly on my time on the bench,
11 I've clearly, you know, erred and done something wrong.

12 I would hope that I would be able to convince
13 someone of really what I truly believe. But the idea
14 is not to make it polarizing. I think the idea is just
15 to put another thought out there. Because potentially,
16 just as Justice Pleicones said it, you know, it could
17 eventually become a majority opinion. I mean possibly.
18 So ...

19 MR. DENNIS: Judge Mullen, the Commission
20 received 282 ballot box surveys regarding you and 39
21 additional comments. The comment thread in the ballot
22 box survey seems to be that the bar in your circuit is
23 not ready to give you up. That they like you as trial
24 court judge. However, of those 39 additional written
25 comments, eight expressed some varying levels of

1 concern, none of which seemed to indicate a particular
2 pattern. One did mention that they felt as though your
3 writing was not very strong as it otherwise could be.

4 Would you like to offer any reaction to any
5 of that?

6 JUDGE MULLEN: I will say that one of the
7 reasons why I would love to have this opportunity, you
8 know, we do so many motions. When I go and hear in
9 Beaufort a common pleas nonjury term of court, I will
10 listen to 60 motions in a day and have to rule. Some
11 of them even have to rule on a Form 4, which is simply
12 a fill out -- literally it would be two or three lines.
13 And I will have ruled from the bench and my law clerk
14 literally will have typed it in off the computer.

15 I think there are times where just because
16 the nature of the work, we have to be brief. I will
17 tell you, too, my writing style has changed a little
18 bit over time, as well. I think when I probably first
19 came on the bench, I didn't want to feel -- I always
20 thought that everyone tried to put an emphasis, you
21 know, Here comes now The Honorable Court on and on and
22 on. As all the lawyers know, the first page of any
23 order talks about who the parties are, who they
24 represent, and it goes on and on and on.

25 I think when I first started, I liked to get

1 rid of those formalities rather than use the people
2 that are here and get to the heart of the matter. And
3 the truth is, for what we do on the circuit court
4 bench, we don't write that many lengthy opinions. I
5 write a lengthy opinion if I know it's something that's
6 going to be looked at.

7 I mean, I've had a number of cases where I
8 know they are -- given it's going to be appealed. But
9 by and large on the circuit court bench, they're pretty
10 short. I mean, they're -- you know, in creating
11 summary judgment, these are the factors, what I'm
12 setting out.

13 So I think it's a completely different style
14 of writing. So I don't know -- you know, everyone's
15 got a critique, but, you know, I would hope that I
16 certainly would have more time if I were able to do
17 this to be able to write like -- be more thoughtful.

18 And word choice is so important. And I hear
19 every day lawyers try to take one word out of an
20 opinion to prove their case when it really doesn't have
21 anything to do with what they think it does, but
22 they're taking it out of context. I hope I would be
23 careful.

24 MR. DENNIS: Thank you, Judge.

25 Just some housekeeping issues to run through

1 with you quickly.

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

4 JUDGE MULLEN: No.

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

8 JUDGE MULLEN: No, sir.

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

12 JUDGE MULLEN: No.

13 MR. DENNIS: Are you aware of anyone
14 attempting to intervene in any part of the process on
15 your behalf?

16 JUDGE MULLEN: No.

17 MR. DENNIS: Have you contacted any members
18 of this Commission?

19 JUDGE MULLEN: No.

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

24 JUDGE MULLEN: Yes.

25 MR. DENNIS: Have you reviewed the

1 Commission's guidelines on pledging?

2 JUDGE MULLEN: Yes.

3 MR. DENNIS: As a follow up, are you aware of
4 the penalties for violating pledging rules, that is, it
5 is a misdemeanor and upon conviction, the violator must
6 be fined not more than \$1,000 or imprisoned not more
7 than 90 days?

8 JUDGE MULLEN: Yes.

9 MR. DENNIS: I would note that the Lowcountry
10 Citizens Committee found Judge Mullen qualified in the
11 evaluative criteria of constitutional qualifications,
12 physical health, and mental stability. The Committee
13 found her well qualified in remaining evaluative
14 criteria of ethical fitness, professional and academic
15 ability, character, reputation, experience, and
16 judicial temperament.

17 The Committee stated in summary that
18 Judge Mullen is a, quote, exceptional candidate and
19 that the Committee is very impressed by her writing
20 abilities.

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

25 And, Mr. Chairman, I don't have anything

1 further.

2 REPRESENTATIVE CLEMMONS: Thank you, Mr.
3 Dennis.

4 Judge Mullen, thank you so much for being
5 here with us here today and offering for this appellate
6 seat.

7 This concludes this portion of the screening
8 process subject only to questions that members of this
9 Commission might have.

10 Members, are there any questions?

11 Mr. Bannister.

12 REPRESENTATIVE BANNISTER: Less of a
13 question, more of a comment. You've talked about your
14 work ethic, I just wanted to point out to the
15 Committee, Rosalyn Frierson sent me some data from the
16 different circuits. Judge Mullen has handled 217
17 nonjury trials, 6 jury trials. The other judge in her
18 circuit has handled 10 and 1. Clearly, you are getting
19 a whole lot of work done just in comparison with folks
20 you are serving with on the bench. You are doing an
21 excellent job. So I just wanted to point out to the
22 committee, talk about work ethic, who is actually doing
23 the work in their circuits. Right now Judge Mullen is
24 doing a great job.

25 JUDGE MULLEN: Thank you.

1 REPRESENTATIVE CLEMMONS: Thank you,
2 Representative Bannister.

3 Are there any other questions or comments?
4 Senator Malloy.

5 SENATOR MALLOY: I've been practicing law
6 about 25 years, I guess. And, you know, some cases
7 sort of bring things out. I'm trying to see how did
8 you land the Stinney case.

9 JUDGE MULLEN: I've asked that as well. I'm
10 not sure. The joke was that maybe I did something to
11 offend someone as far as assignments are concerned.

12 SENATOR MALLOY: Let me -- for those that are
13 not aware, the Stinney case was the young fellow who
14 was 14 years of age and got executed here in
15 South Carolina. One of the dark times in our history.
16 And there was a retrial of the case, and obviously,
17 someone saw fit to get it to Judge Mullen.

18 And so I'm trying to see how -- whenever it's
19 somewhere in Sumter County area, that they go down to
20 Beaufort to get her to end up trying this case. I'm
21 trying to see how that -- how did that land? Do you
22 know?

23 JUDGE MULLEN: I don't know. I actually
24 asked -- it really would have been very appropriate to
25 go before a retired judge. Again, I don't know how it

1 ended up. I'm choosing, in other words, it not to be a
2 punishment but to be flattered in some way, shape or
3 form. I'm happen to choose that way. It's a hard
4 case. I will tell you, I haven't ruled on it yet.

5 SENATOR MALLOY: So you can stop there
6 because I think that what happens is when you get
7 emotionally charged, that's one of them -- I think one
8 of the times where a judge could be emotionally
9 charged.

10 The other thing I would end up saying is that
11 I think that it's unusual that they're talking about
12 writing. I was looking at something I just learned,
13 you went back and got your master's after law school in
14 English?

15 JUDGE MULLEN: Well, actually what I did was
16 this. I went and taught at Clemson before I went to
17 law school. I did everything in one year. I doubled
18 up my classes; taught two sections of freshman
19 composition; did all my coursework; did my orals over
20 the summer, which is reading for your exams and then
21 taking your oral examination. The only think I hadn't
22 done was write my thesis. And because I doubled
23 everything up, I wanted to go to law school at that
24 point. I knew I wanted to go to law school, so I went
25 and started law school.

1 And at the very end, when I finished law
2 school and I was practicing, it was one of those things
3 that I need to finish this. There's no reason not to.
4 So I went ahead and wrote a thesis on Josephine
5 Humphries, who is a southern author based out of
6 Charleston. And so I wrote my thesis while I was
7 working actually for Judge Manning at the same time.

8 So really I did all the coursework before law
9 school, and then I wrote my thesis right after I
10 finished law school.

11 SENATOR MALLOY: I would say that I know that
12 practicing in her area, Johnny Parker and those guys,
13 that's one of the toughest areas to be a judge.

14 REPRESENTATIVE CLEMMONS: Okay. Thank you,
15 Senator.

16 Any other questions or comments?

17 Hearing none, then this does conclude this
18 portion of our screening process, Judge Mullen.

19 As you know, the record will remain open
20 until the report is published. And you may be called
21 back at such time should that need arise.

22 I'll remind you of the 48-Hour Rule and ask
23 that you be mindful of that. Anyone that inquires with
24 you about whether or not they may or may not advocate
25 for you in the event that you are screened out, as you

1 described it, remind them of the 48-Hour Rule.

2 I thank you for offering, and I thank you for
3 your service to South Carolina.

4 JUDGE MULLEN: Thank you, Mr. Chairman, and
5 thank you Ms. Shuler and the rest of you.

6 (The Honorable Carmen Tevis Mullen exited the
7 room.)

8 REPRESENTATIVE CLEMMONS: Commission members,
9 that concludes the candidates for the Court of Appeals
10 seat that's open.

11 We have one candidate vying for Circuit
12 Court, Tenth Circuit, Seat 2, coming up next. I'd
13 suggest that we go ahead and take care of this matter
14 of business and then we break to take care of our
15 administrative matters on those two seats.

16 And just for some direction, that puts us at
17 almost 12:00. Do we want to go ahead and take lunch
18 while we are dealing with those matters? Okay.

19 (Mr. R. Scott Sprouse is present in the
20 room.)

21 REPRESENTATIVE CLEMMONS: Welcome,
22 Mr. Sprouse.

23 MR. SPROUSE: Good morning.

24 REPRESENTATIVE CLEMMONS: Good to have you
25 with us today.

1 We have before us R. Scott Sprouse. He is
2 seeking election to the Circuit Court, Tenth Circuit,
3 Seat 2.

4 Mr. Sprouse, would you raise your right hand
5 and be sworn, please.

6 Do you swear to tell the truth, the whole
7 truth and nothing but the truth, so help you God?

8 MR. SPROUSE: I do.

9 REPRESENTATIVE CLEMMONS: Thank you very
10 much.

11 Have you had an opportunity to review your
12 Personal Data Questionnaire?

13 MR. SPROUSE: Yes.

14 REPRESENTATIVE CLEMMONS: Is it correct and
15 complete?

16 MR. SPROUSE: Yes.

17 REPRESENTATIVE CLEMMONS: Is there anything
18 that needs to be changed or amended at this time?

19 MR. SPROUSE: No.

20 REPRESENTATIVE CLEMMONS: Thank you.

21 Do you object to our making that summary a
22 part of the record today?

23 MR. SPROUSE: No.

24 REPRESENTATIVE CLEMMONS: Thank you.

25 So ordered. At this point that will be

1 entered into the transcript.

2 (EXHIBIT 16, Personal Data Questionnaire of
3 R. Scott Sprouse, admitted.)

4 REPRESENTATIVE CLEMMONS: The Judicial Merit
5 Selection Commission has thoroughly investigated your
6 qualifications for the bench. Our inquiry has focused
7 on nine evaluative criteria. They include a ballot box
8 survey, a thorough study of application materials,
9 verification of your compliance with state ethics laws,
10 a search of newspaper articles in which your name
11 appears, a study of previous screenings, and a check
12 for economic conflicts of interest.

13 We have received no affidavits filed in
14 opposition to your candidacy. No witnesses are present
15 to testify.

16 Do you have a brief opening statement you
17 would like to share with the Commission?

18 MR. SPROUSE: I would typically say that this
19 position is a dream of mine. I am excited at this
20 opportunity. It has been a rewarding experience, being
21 a municipal judge. I'm looking forward to the next
22 level, if everything goes as I want it to.

23 REPRESENTATIVE CLEMMONS: Thank you so much.
24 Please now answer any of counsel's questions.

25 MR. BOAN: Thank you, Mr. Chairman.

1 Mr. Chairman and Members of the Commission, I
2 have a procedural matter to take care of with this
3 candidate.

4 Good morning, Mr. Spouse. You have before
5 you the sworn statement you provided with detailed
6 answers to over 30 questions regarding judicial
7 conduct, statutory qualifications, office
8 administration, and temperament.

9 Are there any amendments you would like to
10 make at this time to your sworn statement?

11 MR. SPROUSE: No.

12 MR. BOAN: At this time, Mr. Chairman, I
13 would like to ask Mr. Spouse's sworn statement be
14 entered into -- as an exhibit into the hearing record.

15 REPRESENTATIVE CLEMMONS: Is there any
16 objection by Commission members?

17 Hearing none, so ordered.

18 (EXHIBIT 17, Sworn Statement of R. Scott
19 Sprouse, admitted.)

20 MR. BOAN: One final procedural matter. I
21 note for the record that based on the testimony
22 contained in the candidate's PDQ, which has been
23 included in the record with the candidate's consent,
24 R. Scott Sprouse meets the statutory requirements for
25 this position regarding age, residence, and years of

1 practice.

2 Mr. Sprouse, why do you now want to serve as
3 a circuit court judge?

4 MR. SPROUSE: As I mentioned in my opening
5 statement, I have enjoyed holding court as a municipal
6 judge. I feel that circuit court is uniquely situated
7 in our judicial system. I feel it would be a very
8 rewarding experience. I feel like with my experience
9 and temperament and demeanor, I will do a good job at
10 it.

11 MR. BOAN: Are there any areas, including
12 subjective areas of the law, that you would need to
13 additionally prepare for in order to serve as a judge,
14 and how would you handle that additional preparation?

15 MR. SPROUSE: The area in which I feel would
16 require a lot of study and learning would be case
17 management and roster management. That would be
18 something new sitting on the other end of the
19 courtroom. I know the State places great emphasis on
20 cases moving and the system being run efficiently and
21 the time allotted being used efficiently. And that's
22 something I would pay a lot of attention to.

23 The circuit judges can hear any kind of a
24 number of cases, technical cases that will require
25 research on the run of the mill -- run of the mill

1 things we encounter on a daily basis in the practice of
2 law. But certainly I would educate myself on anything
3 unusual that comes up.

4 MR. BOAN: And although you address this in
5 your sworn statement, please explain to the members of
6 the Commission what you think the appropriate demeanor
7 for a judge is.

8 MR. SPROUSE: A judge should always retain
9 control of the courtroom, at the same time being
10 courteous and polite to the litigants and lawyers.

11 I can say as a lawyer, I have on some
12 occasions, not many, but on some occasions encountered
13 judges, especially early in my practice when we had
14 some older judges that were very rude to the lawyers
15 and the litigants. I think that does a great
16 disservice to the system. But a judge should never
17 lose control of the courtroom.

18 MR. BOAN: What suggestions would you offer
19 for improving the backlog of cases on the docket in the
20 circuit court in the general sessions and common pleas?

21 MR. SPROUSE: I think we haven't had -- at
22 least in Oconee County we haven't had the crisis in
23 case management that we had in family court. Family
24 court was where it backed up simply because we didn't
25 have a court allotted to us.

1 Now, circuit court, we have a good flow of
2 cases. Just from personal experience, I tried one in
3 common pleas earlier this year. The case was about a
4 year and a half old, which we're not running into the
5 two and three years like it was at one point before.
6 So I think the judge just has to stay on top of the
7 docket, communicate with the Clerk of Court,
8 communicate with the Solicitor's Office about the
9 schedule that they intend to call to make sure that the
10 weeks allotted are efficiently used.

11 REPRESENTATIVE CLEMMONS: Mr. Sprouse, the
12 Commission received 132 ballot box surveys with seven
13 additional comments. The ballot box survey, for
14 example, contained the following positive comments.
15 One commenter called you one of the most reasonable and
16 fair-minded attorneys I've work with. And again,
17 another suggested that you would make an excellent
18 addition to the bar and that you, quote, will work
19 tirelessly, fairly, and professionally.

20 Two of the written comments express concerns.
21 Both comments praise your abilities of intellect,
22 indicate that you may not possess the necessary work
23 ethic or motivation that one would expect from a
24 circuit court judge.

25 What response would you offer to the concern?

1 MR. SPROUSE: I don't know why they would say
2 that. I have been practicing law now for almost a
3 quarter of a century. I have represented my clients to
4 the best of my ability. I've never been sued
5 professionally. I've never been cited for any ethical
6 violations. I feel like I have done a good job for my
7 clients and stand behind that.

8 MR. BOAN: Okay. Thank you, Mr. Sprouse.

9 I now have a series of housekeeping questions
10 to run through with you.

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

13 MR. SPROUSE: No.

14 MR. BOAN: Have you sought or have you been
15 offered a conditional pledge of support of a legislator
16 pending the outcome of your screening?

17 MR. SPROUSE: No.

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

21 MR. SPROUSE: No.

22 MR. BOAN: Are you aware of anyone intending
23 to intervene in any part of the process on your behalf?

24 MR. SPROUSE: No.

25 MR. BOAN: Have you contacted any members of

1 the Commission?

2 MR. SPROUSE: I've met about every member of
3 this Commission at one point, but I have not contacted
4 them about this proceeding.

5 MR. BOAN: Do you understand that you are
6 prohibited from seeking a pledge or commitment until 48
7 hours after the formal release of the Commission's
8 report?

9 MR. SPROUSE: I understand that rule.

10 MR. BOAN: Have you reviewed the Commission's
11 guidelines on pledging?

12 MR. SPROUSE: Yes.

13 MR. BOAN: As a follow up, are you aware of
14 the penalties for violating the pledging rules, that
15 is, it is a misdemeanor and upon conviction, the
16 violator must be fined not more than \$1,000, imprisoned
17 not more than 90 days?

18 MR. SPROUSE: Yes, sir.

19 MR. BOAN: Mr. Chairman, I would note that
20 the Upstate Citizens Committee found R. Scott Sprouse
21 qualified in the evaluative criteria of constitutional
22 qualification, of physical health, and mental
23 stability. The committee found him well qualified in
24 evaluative criteria of ethical fitness, professional
25 and academic ability, character, reputation,

1 experience, and judicial temperament.

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

6 Mr. Chairman, I have no further questions.

7 REPRESENTATIVE CLEMMONS: Thank you very
8 much.

9 Are there any questions of this candidate?

10 Hearing none, that concludes this portion of
11 our screening process.

12 We thank you, Mr. Sprouse, for being with us
13 today and being involved in this process to serve the
14 state of South Carolina.

15 As you know, the record will remain open
16 until the report is published. And you may be called
17 back at such time if that need should arise.

18 I'll remind you of the 48-Hour Rule, ask you
19 to be mindful of that. Anyone that inquires with you
20 about whether they may or may not advocate for you in
21 the event that you are screened out, as you've
22 described it, remind them of the 48-Hour Rule.

23 I thank you for offering, and we all thank
24 you for your service to South Carolina.

25 MR. SPROUSE: Thank you.

1 REPRESENTATIVE CLEMMONS: Thank you, sir.

2 (Mr. R. Scott Sprouse exited the room.)

3 REPRESENTATIVE CLEMMONS: Could we have a
4 motion to go into executive session at this time?

5 SENATOR CAMPSER: So moved.

6 REPRESENTATIVE CLEMMONS: Motion. And a
7 second?

8 MR. HARRELL: Second.

9 REPRESENTATIVE CLEMMONS: We have a second.
10 Those in favor say "aye."

11 (Members respond.)

12 REPRESENTATIVE CLEMMONS: Those opposed?
13 The ayes have it.

14 We are convened into executive session. Any
15 nonstaff members or not members of the Commission, we
16 would ask that you would depart the room at this time.

17 (The members went into executive session.)

18 * * * * *

19 (The members came out of executive session.)

20 REPRESENTATIVE CLEMMONS: Ladies and
21 gentlemen, we are back on the record. Receding from
22 executive session.

23 Mr. Harrell, you have a motion to make?

24 MR. HARRELL: Yes. Thank you, Mr. Chairman.

25 I move that we find all of the candidates for

1 the Court of Appeals, Seat 7 qualified.

2 REPRESENTATIVE CLEMMONS: Okay.

3 SENATOR MARTIN: Second.

4 REPRESENTATIVE CLEMMONS: We have a motion
5 and a second. Discussion? All of those in favor say
6 "aye."

7 (Members respond.)

8 REPRESENTATIVE CLEMMONS: Those opposed?

9 The ayes have it. All candidates are found
10 qualified.

11 Now we'll move on to the balloting for
12 nomination.

13 MS. SHULER: Let me just clarify, you were
14 voting Representative Mack's proxy, correct?

15 SENATOR MALLOY: Correct.

16 REPRESENTATIVE CLEMMONS: Okay. All right.
17 So we are proceeding to ballot. And those in favor of
18 finding The Honorable Rochelle Y. Conits qualified
19 and -- or excuse me, nominated, please raise your hand.

20 MS. SHULER: So one.

21 REPRESENTATIVE CLEMMONS: One.

22 Those in favor of finding Blake A. Hewitt
23 nominated, please raise your hand.

24 MS. SHULER: Six.

25 REPRESENTATIVE CLEMMONS: Six.

1 Those in favor of finding David G. Hill
2 nominated, please raise your hand.

3 MS. SHULER: Nine.

4 REPRESENTATIVE CLEMMONS: Those in favor of
5 Stephanie P. McDonald nominated, please raise your
6 hand.

7 MS. SHULER: Nine.

8 REPRESENTATIVE CLEMMONS: And those in favor
9 of finding the Honorable Carmen T. Mullen nominated,
10 please raise your hand.

11 MS. SHULER: Five.

12 REPRESENTATIVE CLEMMONS: Okay. That doesn't
13 happen often that you come out with your three nominees
14 in the first round of balloting, but that happened in
15 this occasion.

16 The tally of votes to find the candidates
17 nominated are as follows: Conits 1, Hewitt 6, Hill 9,
18 McDonald 9, Mullen 5. Based upon the balloting, the
19 nominees are Hewitt, Hill, and McDonald.

20 Okay. Moving on to Circuit Court, Tenth
21 Circuit, Seat 2, the only candidate is R. Scott
22 Sprouse. Do we have a motion to find him qualified and
23 nominated?

24 SENATOR MARTIN: So moved.

25 REPRESENTATIVE CLEMMONS: Is there a second?

1 MS. BELL: Second.

2 REPRESENTATIVE CLEMMONS: All these in favor,
3 please raise your hand.

4 If there are any opposed, please, likewise,
5 show by a raise of your hand.

6 10 to -- Mr. R. Scott Sprouse receives 10
7 votes to find him qualified and nominated.

8 All right. If you would, please complete
9 your ballots by signing each page and initialing where
10 you have voted to find a candidate qualified and
11 nominated and handing those in to Jane.

12 Let's take a ten-minute break.

13 (A recess transpired.)

14 REPRESENTATIVE CLEMMONS: We're ready to go
15 back on the record and bring in the next candidate.

16 The next position we're screening is circuit
17 Court, Sixteenth Circuit, Seat 2. And we have five
18 candidates seeking nomination to run in that election.

19 And the first candidate for that seat that we
20 will be hearing from today is Daniel Dewitt Hall.

21 (Mr. Daniel Dewitt Hall is present in the
22 room.)

23 REPRESENTATIVE CLEMMONS: Mr. Hall, welcome.
24 It's good to have you with us again.

25 MR. HALL: Good to be here.

1 REPRESENTATIVE CLEMMONS: As I said, Mr. Hall
2 is seeking nomination to Circuit Court, Sixteenth
3 Circuit, Seat 2.

4 Would you please raise your right hand,
5 Mr. Hall, and be sworn.

6 Do you swear to tell the truth, the whole
7 truth and nothing but the truth, so help you God?

8 MR. HALL: I do.

9 REPRESENTATIVE CLEMMONS: Thank you very
10 much.

11 Have you had an opportunity, Mr. Hall, to
12 review your Personal Data Questionnaire?

13 MR. HALL: I have.

14 REPRESENTATIVE CLEMMONS: Are there any
15 changes that need to be made?

16 MR. HALL: None.

17 REPRESENTATIVE CLEMMONS: Do you have any
18 objection to it being made a part of the summary -- the
19 summary being made part of the record today?

20 MR. HALL: No objection.

21 REPRESENTATIVE CLEMMONS: Without objection,
22 it will be done at this point in the transcript.

23 (EXHIBIT 18, Personal Data Questionnaire of
24 Daniel Dewitt Hall, admitted.)

25 REPRESENTATIVE CLEMMONS: Mr. Hall, the

1 Judicial Merit Selection Commission has thoroughly
2 investigated your qualifications for the bench. Our
3 inquiry has focused on the nine evaluative criteria and
4 has included a ballot box survey, thorough study of
5 your application materials, verification of your
6 compliance with state ethics laws, a search of
7 newspaper articles in which your name appears, a study
8 of previous screenings, and a check for economic
9 conflicts of interest.

10 We have received no affidavits filed in
11 opposition to your election, and no witnesses are here
12 to testify today.

13 Do you have a brief opening statement you
14 would like to share with the Commission?

15 MR. HALL: I'll waive.

16 REPRESENTATIVE CLEMMONS: Thank you very
17 much. We appreciate the waiver.

18 If you would, please now direct your
19 attention to counsel and answer his questions.

20 MR. HUBLER: Mr. Hall, you have before you
21 the sworn statement you provided with detailed answers
22 to over 30 questions regarding judicial conduct,
23 statutory qualifications, office administration, and
24 temperament.

25 Are there any amendments you would like to

1 make at this time to your sworn statement?

2 MR. HALL: No, no amendments.

3 MR. HUBLER: At this time, Mr. Chairman, I
4 would like to ask Mr. Hall's sworn statement be entered
5 as an exhibit into the hearing record.

6 REPRESENTATIVE CLEMMONS: Is there any
7 objection?

8 Hearing none, so ordered.

9 (EXHIBIT 19, Sworn Statement of Daniel Dewitt
10 Hall, admitted.)

11 MR. HUBLER: I note for the record that based
12 upon the testimony contained in Mr. Hall's PDQ, which
13 has been included in the record with his consent,
14 Mr. Hall meets the statutory requirements for the
15 position regarding age, residency, years of practice.

16 Mr. Hall, why do you now want to serve as a
17 circuit court judge?

18 MR. HALL: I've been a lawyer since 1988.
19 I've had the opportunity to work as a assistant
20 solicitor for much of that time. I had my own practice
21 and was a municipal judge when I had my own practice in
22 York. And I went back to the Solicitor's Office. And
23 I've been working in the Sixteenth Circuit Public
24 Defender's Office for the last -- for the last two and
25 a half almost three years.

1 And I view the opportunity to serve as one of
2 our circuit court judges as a great honor and an
3 opportunity to serve other people of my county, from my
4 circuit, and our state. And I think I bring a lot of
5 different -- a wealth of practical experience that
6 would help to be -- help to be a great judge.

7 MR. HUBLER: Mr. Hall, can you explain to the
8 Commission how the experiences thus far will assist you
9 in being an effective circuit court judge.

10 MR. HALL: Well, those -- all of you all work
11 with the public, obviously what we do -- what any of us
12 do, it's a people business. We happen to work in the
13 area of the law where a small percentage of what we do
14 is in the context of the law. And I think that dealing
15 with people, whether it be other attorneys, clients,
16 the public, I believe my experiences give me a great
17 wealth of knowledge in knowing how to deal with
18 different types of people.

19 MR. HUBLER: Are there any areas, including
20 subjective areas of the law, that you would need to
21 additionally prepare for in order to serve as the
22 circuit court judge, and how would you handle that
23 preparation?

24 MR. HALL: I have a very limited exposure to
25 practice in the civil area. I believe I have the

1 competence to -- I'm a quick study. I believe I can
2 pick that up very quickly.

3 MR. HUBLER: Although you address this in
4 your sworn statement, could you please provide and
5 explain to the members of the Commission what you think
6 is the appropriate demeanor for a judge.

7 MR. HALL: Patience, patience, patience and
8 be courteous with anybody that comes to the court.

9 MR. HUBLER: That being said, what
10 suggestions would you offer for improving the general
11 sessions and common pleas circuit court docket and
12 resolving cases efficiently?

13 MR. HALL: I think there are other people
14 that are involved in trying to bring that to a
15 resolution. I have -- again, it's the people business,
16 trying to get some type of procedure in place where
17 everybody involved, defense attorneys, prosecutors,
18 judges are all trying to seek some type of solution to
19 that. The backlog is probably the most important
20 thing, trying to look for some way to bring the people
21 together to solve the issue. I don't have a magic
22 answer to that.

23 MR. HUBLER: The Commission received 75
24 ballot box surveys regarding you with 23 written
25 comments. Most comments praised your work ethic and

1 character. The primary concerns -- however, six of the
2 written comments expressed some concerns. The primary
3 concerns involved your lack of civil trial experience.
4 What would you -- how would you respond to those
5 concerns?

6 MR. HALL: I think I've answered that
7 question as far as the civil trial experience.

8 MR. HUBLER: Two comments, questions, your
9 application of the Rules of Evidence and Procedure,
10 what response would you offer to those concerns?

11 MR. HALL: I'm sorry, again?

12 MR. HUBLER: Two comments of the six that
13 were provided -- that were -- that expressed concerns,
14 questioned your knowledge and ability to apply Rules of
15 Evidence and Procedure. What response would you
16 provide in addressing those concerns?

17 MR. HALL: You know, when you and I talked
18 about that particular concern, I'm not sure who
19 those -- one, I need to know who those two people were.
20 Sometimes as far as being a defense attorney,
21 particularly a public defender, it's part of a zealous
22 advocacy, we often use the law and make motions where
23 we have a good faith basis. Sometimes the other
24 attorney might perceive it being a lack of knowledge of
25 the Rules of Evidence whereas in essence it's part of

1 the zealous advocacy trying to best represent your
2 client. I believe I have a good handle on the Rules of
3 Evidence.

4 MR. HUBLER: Thank you, Mr. Hall. The
5 Commission recognizes the comments are anonymous, as
6 well.

7 Have you ever sought or received the pledge
8 of any legislator prior to this date?

9 MR. HALL: No, I have not.

10 MR. HUBLER: Have you sought or have you been
11 offered a conditional pledge of support of any
12 legislator pending the outcome of your screening?

13 MR. HALL: No.

14 MR. HUBLER: Have you asked any third parties
15 to contact members of the General Assembly on your
16 behalf?

17 MR. HALL: I have not.

18 MR. HUBLER: Are you aware of anyone
19 attempting to intervene in any part of the process on
20 your behalf?

21 MR. HALL: No, I'm not.

22 MR. HUBLER: Have you contacted any members
23 of the Commission?

24 MR. HALL: I have not.

25 MR. HUBLER: Do you understand you are

1 prohibited from seeking a pledge or commitment until 48
2 hours after the formal release of the Commission's
3 report?

4 MR. HALL: I do.

5 MR. HUBLER: Have you reviewed the
6 Commission's guidelines on pledging?

7 MR. HALL: I have.

8 MR. HUBLER: Are you aware of the penalties
9 for violating the pledging rules?

10 MR. HALL: Yes, I am.

11 MR. HUBLER: I will note that the Piedmont
12 Citizens Committee found Mr. Hall well qualified for
13 six of the nine evaluative criteria: Ethical fitness,
14 professional and academic ability, character,
15 reputation, experience, and judicial temperament.

16 The committee found Mr. Hall qualified for
17 the constitutional qualification, physical health, and
18 mental stability.

19 I would also note in the record that any
20 concern raised during the investigation regarding the
21 candidate were incorporated into this questioning.

22 Mr. Chairman, I have no further questions.

23 REPRESENTATIVE CLEMMONS: Thank you very
24 much.

25 Are there any questions of Mr. Hall by the

1 Commission members?

2 SENATOR MARTIN: I have one.

3 CHIEF PROCUREMENT OFFICER: Yes,
4 Senator Martin.

5 SENATOR MARTIN: I noticed in your
6 questionnaire you were attacked by a client in general
7 sessions court. Could you tell us about that.

8 MR. HALL: If you Google Dan Hall, public
9 defender, you will get about 40 pages of various
10 YouTube Web sites and some national media. I had a
11 client -- actually a younger lawyer in our office had a
12 client he was having a lot of difficulty communicating
13 with. He had some mental issues. And sometimes bald
14 and gray hair helps young lawyers communicate with
15 difficult clients.

16 So I was assisting this young lawyer to deal
17 with this client. We were able to get him signed up
18 for a plea. He was -- he had really committed some
19 very serious offenses. He knew he was going to get
20 somewhere between a 10- and 20-year sentence. When the
21 judge announced that he was getting a 15-year sentence,
22 he took a swing at me, who was standing right beside
23 him in handcuffs. He hit me across the handcuffs right
24 below the nose. Thankfully, it wasn't on my teeth. It
25 was on my nose or both would have been broken. We both

1 went down to the floor. And very quickly, the
2 courtroom personnel had him wheeled out.

3 But I proved, if you look at it, that I can
4 take a punch. I'm not very good at administering
5 punches, but I did take a punch.

6 I jumped up real fast because I wasn't going
7 to let him get me with a second kick. He had some
8 mental issues. As you all well know, dealing with --
9 whatever we do with the public, there's no way to
10 safeguard necessarily from people in the public that
11 have mental issues. They're the most difficult
12 sometimes to deal with. Very often can be the most
13 dangerous.

14 I have learned to step back a little bit, but
15 on the other hand, I can't say that there's something
16 that doesn't -- or wouldn't happen again. Certainly
17 you all are exposed to the same thing.

18 REPRESENTATIVE CLEMMONS: Senator Campsen and
19 Senator Malloy.

20 SENATOR CAMPSSEN: Mr. Hall, I was interested
21 to look at your bio that you were a cattle farm manager
22 and majored in animal science.

23 MR. HALL: I majored at Clemson, and I worked
24 in eastern North Carolina for a couple of years. And
25 my wife and I were married in a place called Turkey,

1 North Carolina. It's in Sampson County.

2 SENATOR CAMPSSEN: You managed cattle in
3 Turkey, North Carolina?

4 MR. HALL: That's right. And it was my
5 wife's mother-in-law thought she was marrying a Turk.
6 I did that for a couple of years, cowboys sort of. And
7 then came back to my hometown and worked in the meat
8 business for a number of years and then went to law
9 school.

10 SENATOR CAMPSSEN: So how did you -- can you
11 explain your interest in law school, going from the
12 cattle farming to the meat business into law school?
13 What drew you into law, is really my question.

14 MR. HALL: I was 28 or 30, sort of
15 dissatisfied with what I was doing in life. Began
16 to -- in fact, my wife and I had some legal work done.
17 I had worked in part of the retail meat business where
18 you have to treat the public very kindly. And I was
19 sort of disappointed in the service that I got from the
20 attorney that was helping us. And I thought, well, you
21 know, I believe I can do as good as he can. And
22 believed that law school might be a way that I could
23 serve my community in more of a professional way. And
24 read some books by a guy named Francis Schaeffer and
25 John Whitehead that helped to sort of turn me to that.

1 At the age of 30, my wife and three children
2 and I went to law school. She cried all the way to
3 Buies Creek because we were doing this terrible thing.
4 And then she cried all the way home two and a half
5 years later, we had such great friends there.

6 That's the rest of the story on that.

7 REPRESENTATIVE CLEMMONS: Senator Malloy.

8 SENATOR MALLOY: Thank you. I would just let
9 the committee note that, one, as far as Mr. Hall, I
10 think is pretty quite impressive. Passed the North
11 Carolina Bar and South Carolina Bar in the same week.
12 It's pretty incredible.

13 I've had an opportunity to go around the
14 country and talk to a bunch of other legislators, and
15 I'm a fan of the way that we do this process. I
16 really support the way that we elect judges here to
17 South Carolina.

18 I would just note for one, I just want
19 explanation from Mr. Hall, too. He's been over here
20 five, six times --

21 MR. HALL: Yes.

22 SENATOR MALLOY: -- and still not frustrated
23 with this process. He's back again. I just wanted you
24 to talk again about your -- after however many times
25 you've been over here, your desire to still want to be

1 on the bench and to talk to us briefly about your feel
2 on the process and tell us why you're still here.

3 MR. HALL: As I -- I think one of my
4 attributes, I am able to take a punch, I have taken
5 several punches with judicial races in the past.

6 My philosophy of life has always been I have
7 four children, especially my sons and sons-in-law, is
8 that it doesn't get you elected but not to be afraid of
9 failure. So I am -- so I've always wanted to be a
10 circuit court judge.

11 The other races that I've run in involved
12 at-large seats and to be quite honest with you, part of
13 that was tied to the process that we go through in this
14 state is an effort to get myself known within the rules
15 that we're allowed to do that. And so that's why I've
16 continued to run.

17 And I think part of it is just a
18 determination to persevere through it. And it is -- I
19 will admit it's not easy. I'm not a good politician.
20 I'm not sure that it takes a good politician to be a
21 good judge, but it's the reality of what you all have
22 to go through to be elected to where you are. And I
23 can understand that. The judge is made to go through
24 some of the same process of -- you know, it's hard.
25 It's humiliating. And when I say "humiliating," it

1 takes hard work.

2 SENATOR MALLOY: It takes humility.

3 MR. HALL: It does. A quick story, and I've
4 done it enough that I was on the elevator I think the
5 last time and the Speaker of the House stepped on. He
6 said, "Mr. Hall --" he knew -- he didn't say,
7 "Mr. Hall," he knew I was running for office. I don't
8 think he knew my name. He said, "You look like you're
9 miserable."

10 And I said -- you know, I gave him some
11 stupid answer like, "Well, you know, I'm really
12 enjoying the process. I'm learning how this process
13 works."

14 I thought, well, that was a great answer. I
15 got off the elevator and I thought I just told him a
16 big old lie. And it wasn't the next day he passed me
17 out here on the outside of the building, and he spoke
18 to me. I said, "Well, Speaker, I just need to tell you
19 I was lying."

20 He said, "Well, I knew you were lying."

21 It is a hard process, but I don't -- I don't
22 know of any other better way to elect judges. I know
23 that North Carolina, we live right in York County, we
24 live right near the border and see all the popular
25 election of judges in North Carolina. That just seems

1 a horrible, horrible way to elect judges.

2 But all I can say is that I've been through
3 the process. I've run for at-large seats. It's very
4 difficult for a -- I think someone particularly from my
5 area of the state to get elected to, but I hope that
6 those have not been -- those attempts have not been in
7 vain. But it's part of the process of trying to get
8 elected.

9 SENATOR MALLOY: Thank you.

10 REPRESENTATIVE CLEMMONS: Thank you,
11 Senator Malloy.

12 Any other questions?

13 SENATOR MARTIN: One last question. I notice
14 you are also a member of the York County Beekeepers
15 Association. Do you still keep bees?

16 MR. HALL: I keep bees. I have anywhere --
17 in a good year, I'll have 10 to 12 hives. And my
18 brother farms and sometimes some of the spray he uses
19 knocks my population down. So I have like four or five
20 hives now.

21 SENATOR MARTIN: Any trouble with the --

22 MR. HALL: The varroa mite is a big booger.

23 REPRESENTATIVE BANNISTER: Mr. Chairman --

24 REPRESENTATIVE CLEMMONS: Yes.

25 REPRESENTATIVE BANNISTER: -- just follow up

1 on Senator Malloy's comment, I will remind the
2 Committee that there is another judge, a politician who
3 experienced similar number of failures. I think it was
4 the exact same number, six tries, I think?

5 MR. HALL: Yes.

6 REPRESENTATIVE BANNISTER: Five or six tries.
7 I believe that he turned out to be a pretty good
8 politician and changing the course of American history.
9 His name was Abraham Lincoln.

10 MR. HALL: Maybe I'll change the course of
11 history. I know that my personal history has been
12 changed quite a bit. I'll have to say my wife is not
13 crazy. His wife had some issues.

14 REPRESENTATIVE CLEMMONS: I'll say that
15 the -- I was honored to be appointed to this body in
16 2008 and one of the first screenings was Dan Hall. And
17 during that time, I've been honored to now serve as
18 your chair, and Dan Hall is being screened again.

19 MR. HALL: You and I have been in this
20 together. You've been more successful than I am.

21 REPRESENTATIVE CLEMMONS: I would not say
22 that. But certainly one thing that I remember well
23 from that first screening is what Senator Campsen
24 brought out, he's not kind of a cowboy, he is a cowboy
25 and rides cutting horses and just loves being a part of

1 that culture. And he is a part of that culture.

2 But I would say it's good to see you here
3 again with us.

4 MR. HALL: I'm glad to be here.

5 REPRESENTATIVE CLEMMONS: We're pleased to
6 have you.

7 You have someone special with you.

8 MR. HALL: My wife, Cathy.

9 REPRESENTATIVE CLEMMONS: It's good to have
10 you with us.

11 Mr. Hall, thank you so much for being here
12 today --

13 MR. HALL: Thank you all.

14 REPRESENTATIVE CLEMMONS: -- and offering
15 yourself in this position. This concludes this portion
16 of our screening process.

17 As you know, the record will remain open
18 until the report is published. And you may be called
19 back at such time if that need should arise.

20 I'll remind you of the 48-Hour Rule and ask
21 you to be mindful of that. If anyone should ask you
22 about whether they may or may not advocate for you in
23 the event you are screened out, as you've described it,
24 remind them of the 48-Hour Rule.

25 I thank you for offering, and we all thank

1 you for your service to South Carolina.

2 MR. HALL: Thank you.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 (Mr. Daniel Dewitt Hall exited the room.)

5 SENATOR MALLOY: Mr. Chairman.

6 REPRESENTATIVE CLEMMONS: Yes, sir,

7 Senator Malloy.

8 SENATOR MALLOY: I move we go into executive
9 session before the next candidate comes in.

10 REPRESENTATIVE CLEMMONS: Can we have a
11 second?

12 MS. SHULER: Second.

13 REPRESENTATIVE CLEMMONS: All in favor say
14 "aye."

15 (Members respond.)

16 REPRESENTATIVE CLEMMONS: Those opposed?

17 The ayes have it.

18 We are now in executive session. Please turn
19 off your microphone and drop the veil.

20 (The members went into executive session.)

21 * * * * *

22 (The members came out of executive session.)

23 SENATOR MALLOY: Mr. Chair.

24 REPRESENTATIVE CLEMMONS: Yes, sir,

25 Senator Malloy.

1 SENATOR MALLOY: Prior to Mr. McKinnon being
2 sworn, I just wanted to place on the record that I have
3 already advised that Mr. McKinnon appeared as an
4 attorney of record for me. It was actually two
5 matters. One where there was a guilty preacher that
6 made a bogus accusation, and the other was a
7 magistrate's family that had filed an action because we
8 did not reappoint him after one year of disability.

9 Mr. McKinnon was the attorney of record that
10 handled the matter for us, and they were summarily
11 resolved. There's no pending matters that he is
12 representing us on. Those matters were both resolved
13 and have been terminated. So there's no
14 attorney-client relationship between us at this point
15 in time.

16 REPRESENTATIVE CLEMMONS: Thank you very
17 much. We will make that part of the record.

18 (Mr. William Angus McKinnon is present in the
19 room.)

20 REPRESENTATIVE CLEMMONS: Mr. William Angus
21 McKinnon.

22 MR. MCKINNON: Yes, sir.

23 REPRESENTATIVE CLEMMONS: It's good to have
24 you with us today.

25 MR. MCKINNON: Pleasure to be here.

1 REPRESENTATIVE CLEMMONS: You are seeking
2 nomination to the Circuit Court, Sixteenth Circuit,
3 Seat 2.

4 MR. MCKINNON: Yes, sir.

5 REPRESENTATIVE CLEMMONS: Would you raise
6 your right hand and be sworn.

7 Do you swear to tell the truth, the whole
8 truth and nothing but the truth, so help you God?

9 MR. MCKINNON: I do.

10 REPRESENTATIVE CLEMMONS: Thank you very
11 much.

12 Mr. McKinnon, have you had an opportunity to
13 review your Personal Data Questionnaire?

14 MR. MCKINNON: Yes.

15 REPRESENTATIVE CLEMMONS: Is it correct or is
16 any amendment required?

17 MR. MCKINNON: The only amendment, I wrote a
18 letter at the end of last week. I had spent some money
19 on little index cards with my bio on it and some
20 nametags. That was the only amendment.

21 REPRESENTATIVE CLEMMONS: Do we have that?

22 MS. SHULER: We got that.

23 REPRESENTATIVE CLEMMONS: We have that
24 letter. Do you object to our making that summary as
25 amended a part of the record today?

1 MR. MCKINNON: Oh, no.

2 REPRESENTATIVE CLEMMONS: Without objection,
3 it will be done at this point.

4 (EXHIBIT 20, Personal Data Questionnaire of
5 William Angus McKinnon, admitted.)

6 REPRESENTATIVE CLEMMONS: The Judicial Merit
7 Selection Commission has thoroughly investigated your
8 qualifications for the bench, Mr. McKinnon. Our
9 inquiry has focused on the nine evaluative criteria,
10 and they include a ballot box survey, thorough study of
11 your application materials, verification of your
12 compliance with state ethics laws, a search of
13 newspaper articles in which your name appears, study of
14 previous screenings, and a check for economic conflicts
15 of interest.

16 We have received no affidavits filed in
17 opposition to your election and there are no witnesses
18 here to testify today.

19 Do you have a brief opening statement you
20 would like to share with the Commission?

21 MR. MCKINNON: This has been my dream since I
22 worked for Joe Anderson in Columbia. I graduated from
23 law school, unsure of what I wanted to do. And he was
24 a fine judge, and he was a great mentor for a young
25 lawyer. And since then it has been my dream to be a

1 judge and serve people on the bench.

2 REPRESENTATIVE CLEMMONS: Thank you very
3 much. If you would now, turn your attention to counsel
4 and answer his questions.

5 MR. MALDONADO: Thank you, Mr. Chairman,
6 members of the Commission.

7 Mr. McKinnon, you have before you a sworn
8 statement providing the detailed answers to over 30
9 questions regarding judicial conduct, statutory
10 qualifications, office administration, and temperament.

11 Are there any amendments you would like to
12 make at this time to your sworn statement?

13 MR. MCKINNON: Only the one we discussed over
14 a hundred dollars.

15 MR. MALDONADO: At this time, Mr. Chairman,
16 I'd like to ask that the sworn statement be entered as
17 an exhibit into the hearing record.

18 REPRESENTATIVE CLEMMONS: Thank you.

19 Is there an objection?

20 Hearing none, so ordered.

21 (EXHIBIT 21, Sworn Statement of
22 William Angus McKinnon, admitted.)

23 MR. MALDONADO: Thank you.

24 One final procedural matter. I note for the
25 record that based on the testimony contained in the

1 candidate's PDQ, which has been introduced in the
2 record with the candidate's consent, Mr. McKinnon meets
3 the statutory requirements for the position regarding
4 age, residence, and years of practice.

5 Mr. McKinnon, please state the city and
6 circuit in which you reside.

7 MR. MCKINNON: I reside in Rock Hill, York
8 County in the Sixteenth Circuit.

9 MR. MALDONADO: Mr. McKinnon, why do you want
10 to serve as a judge?

11 MR. MCKINNON: Well, as I said in my opening
12 statements, it has been my goal ever since I graduated
13 from law school and clerked with Joe Anderson. I went
14 on to a second clerkship on the Ninth Circuit out on
15 the West Coast. And I just think this the highest
16 calling for an attorney to serve the public as a member
17 of the bar.

18 MR. MALDONADO: Can you explain to the
19 Commission how you feel your legal and professional
20 experience thus far will assist you in being an
21 effective judge.

22 MR. MCKINNON: Certainly. I think I have a
23 very, very wide range of experience. I started out my
24 private practice after my clerkships at a firm in
25 Washington, D.C., with 500 lawyers in a single office

1 and four blocks from the White House. I decided I did
2 not like that at all. But I've done the big firm
3 practice. I've done medium firms. I was a solo
4 practitioner for a year.

5 I have extensive civil experience, plaintiff
6 and defendant. I've have done criminal work. I've
7 done appellate work. I have a very, very wide range of
8 experience that I think will serve me well in relating
9 to litigants and other counsel as well.

10 MR. MALDONADO: Mr. McKinnon, are there any
11 areas, including subjective areas of the law, that you
12 feel you would need additional preparation in order to
13 serve as a judge and how would you handle such
14 preparation?

15 MR. MCKINNON: No, I don't think so. I mean,
16 if you quiz me on the penalties for criminal, certain
17 crimes, I may not be able to do it off the top of my
18 head. But those are easily found in the codes, and you
19 can look those up. So I don't think so.

20 MR. MALDONADO: Can you please explain to the
21 members of the Commission what you think is the
22 appropriate demeanor for a judge.

23 MR. MCKINNON: Absolutely. The appropriate
24 demeanor is respectful. I think the demeanor, you
25 should treat counsel with respect, the litigants with

1 respect. Even criminal defendants. I think that in a
2 criminal defendant's situation, the disapproval of the
3 public in the state of South Carolina is expressed
4 through the sentence, not through being disrespectful
5 to folks in front of you. I think respect is the key
6 to judicial demeanor in my opinion.

7 MR. MALDONADO: What suggestions would you
8 offer to improve the backlog of cases that preside in
9 circuit court?

10 MR. MCKINNON: To my knowledge, I don't
11 believe there is a backlog in York County. Judge
12 Alford and Judge Hayes do a very good job, so I don't
13 think any large changes are in order.

14 MR. MALDONADO: Mr. McKinnon, do you
15 currently carry any malpractice insurance in your
16 practice?

17 MR. MCKINNON: I do. I apologize.

18 MR. MALDONADO: How long have you carried
19 malpractice insurance?

20 MR. MCKINNON: Since I started practicing in
21 2003 in private practice. But my current firm, since I
22 joined the firm, it's a firm policy.

23 MR. MALDONADO: The Commission received 69
24 ballot box surveys regarding you with 12 additional
25 comments. With respect to the criteria of experience,

1 25 respondents found you well qualified, 20 qualified,
2 and 9 unqualified. However, three comments expressed
3 concern for your lack of experience, particularly in
4 the areas of criminal law.

5 How would you respond to these concerns?

6 MR. MCKINNON: Well, I do my own
7 court-appointed cases, so I represent criminal clients.
8 I don't have as much experience as some folks but
9 certainly the bench has civil and criminal cases in
10 York County. But I'm well -- and I'm familiar with
11 criminal law of South Carolina. I think I have plenty
12 of experience. And the Rules of Evidence are the same.
13 The trial -- trials are trials. The judges serve in
14 both areas of practice. But I think I would be well
15 suited to handle criminal cases on the bench.

16 MR. MALDONADO: With respect to criteria of
17 judicial temperament, 27 responses to the survey found
18 you well qualified, 22 qualified, and 5 unqualified.
19 However, three comments expressed a concern with anger
20 management and unprofessional towards other attorneys.

21 What response would you have for this
22 Commission?

23 MR. MCKINNON: Honestly, I don't know what
24 they're talking about. I think the folks who knew me
25 would tell me I have a very, very even temperament.

1 There's one time in my entire career where I moved for
2 sanctions against opposing counsel. It was a civil
3 case where she continually instructed her client not to
4 answer my questions. Very improper. I moved for
5 sanctions, and Judge Kimball granted sanctions. She
6 had to write a check to our firm. Maybe that. But,
7 again, that was done through pleadings.

8 I had a disagreement with a Solicitor's
9 Office once on how they handled a matter. Again, that
10 was expressed in a polite and respectful manner. So I
11 don't know how to respond to it.

12 MR. MALDONADO: Mr. McKinnon, in your
13 questionnaire you reported that you were a defendant in
14 a lawsuit in New Jersey resulting from a car accident
15 in 1995.

16 Can you explain the circumstances surrounding
17 the suit.

18 MR. MCKINNON: Sure. It was a standard wreck
19 case. It was right after I graduated from
20 undergraduate. I was driving in my old car and I just
21 made a left turn in front of someone. The accident was
22 my fault. And they sued me and my insurance coverage.

23 MR. MALDONADO: Your SLED report indicated
24 you had a tax lien from 2007. Can you please explain
25 the circumstances and the result of that tax lien.

1 MR. MCKINNON: Sure. That was from the 2006
2 tax year, actually. And that was the first time in my
3 life I had been self-employed, and I just miscalculated
4 what I owed. And I had to get a payment plan from the
5 state and the federal government, which I have paid on.
6 But the state is pretty aggressive, and even if you're
7 on the payment plan, they file a tax lien.

8 So I paid it off almost immediately. It was
9 a first self-employment mistake.

10 MR. MALDONADO: Thank you, Mr. McKinnon.

11 Have you sought or received a pledge from any
12 legislator prior to this date?

13 MR. MCKINNON: I have not.

14 REPRESENTATIVE CLEMMONS: Have you sought or
15 have you been offered a conditional pledge of support
16 of any legislator pending the outcome of your
17 screening?

18 MR. MCKINNON: I have not.

19 MR. MALDONADO: Have you asked any third
20 parties to contact a member of the General Assembly?

21 MR. MCKINNON: No.

22 MR. MALDONADO: Are you aware of anyone
23 attempting to intervene in any part of the process on
24 your behalf?

25 MR. MCKINNON: I know friends of mine from

1 Rock Hill have made phone calls and met with folks, but
2 I'm not -- I don't -- "interfere" is an interesting
3 word. I would not say interfered, no.

4 MR. MALDONADO: Have you contacted any
5 members of the Commission?

6 MR. MCKINNON: I have not.

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

11 MR. MCKINNON: I do.

12 MR. MALDONADO: Have you reviewed the
13 Commission's guidelines on pledging?

14 MR. MCKINNON: Yes.

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

20 MR. MCKINNON: I knew it was serious, but
21 I'll take for your word for it.

22 MR. MALDONADO: I would note that the
23 Piedmont Citizens Committee found Mr. McKinnon well
24 qualified in the evaluative criteria for ethical
25 fitness, professionalism, academic ability, character,

1 reputation, experience, and judicial temperament.

2 The Committee found him qualified in the
3 evaluative criteria of constitutional qualifications,
4 physical health, mental stability.

5 The Committee stated in summary, Mr. McKinnon
6 has a first-class intellect, graduated from Princeton
7 University and at the top of his class at USC Law
8 School. Without question, he is extraordinarily bright
9 and possesses a sharp legal acumen. But he also
10 received accolades from those who we spoke concerning
11 his modesty and approachability.

12 I would just note for the record that any
13 concerns raised during the investigation regarding the
14 candidate are incorporated in the questioning of the
15 candidate today.

16 Mr. Chairman, no further questions.

17 REPRESENTATIVE CLEMMONS: Thank you very
18 much.

19 Do any members of the Commission have
20 questions Mr. McKinnon?

21 Senator Campsen.

22 SENATOR CAMPSSEN: Just real briefly. In
23 D.C., you indicated that you were engaged in complex
24 corporate litigation; is that correct?

25 MR. MCKINNON: Yes, sir.

1 SENATOR CAMPSEN: Just briefly, what type
2 of -- can you give examples of those cases you were
3 involved in there?

4 MR. MCKINNON: Sure. I did a lot of SEC
5 investigation-type work. The firm I was with was
6 Covington & Burling. We had a lot -- I did defensive
7 SEC investigations. We had a large case involving
8 railroads. I did legal ethics work on behalf of some
9 companies, on behalf of their legal department, a large
10 nationwide project I worked on. But the biggest thing
11 I would say were SEC investigations.

12 SENATOR CAMPSEN: So you really spent a lot
13 of time looking at corporate disclosures and balance
14 sheets, income statements?

15 MR. MCKINNON: Absolutely. Absolutely.

16 SENATOR CAMPSEN: Financial reports, et
17 cetera.

18 MR. MCKINNON: Yes, sir. And I came to
19 seriously regret not taking any finance classes as an
20 undergraduate. I did not think I would need that as a
21 lawyer. I had to teach myself, and it was a lot of
22 hard work. But, yes, sir, I did.

23 REPRESENTATIVE CLEMMONS: Thank you,
24 Senator Campsen.

25 Mr. Sellers.

1 MR. SELLERS: I think I'm done.

2 REPRESENTATIVE CLEMMONS: Thank you.

3 Senator Malloy.

4 SENATOR MALLOY: I saw something in here
5 where you wrote the Layman briefs.

6 MR. MCKINNON: Yes, sir, I did. That was --

7 SENATOR MALLOY: In the House, they're
8 familiar with Layman.

9 MR. MCKINNON: Yes, sir. That was when I was
10 working for Cam Lewis in Columbia, and Mr. Lewis the
11 argued the case to the Supreme Court. But I wrote the
12 briefs for that case.

13 SENATOR MALLOY: It said at the top of the
14 class. Where were you in your law school class?

15 MR. MCKINNON: First.

16 SENATOR MALLOY: Tell me about the private --
17 what I'm interested in is that I saw something else,
18 tell me about the private tutors with the SAT.

19 MR. MCKINNON: I work with students who are
20 in high school with my church in Rock Hill, and I help
21 students, you know, prepare for the SATs, as a
22 volunteer.

23 SENATOR MALLOY: Okay.

24 MR. MCKINNON: That is something when I was
25 in law school, I did that for pay. And now I do it as

1 a volunteer.

2 SENATOR MALLOY: I had in law school a class
3 back in Darlington. It's not because I had a great
4 grade, it's because I didn't. I had about 20-some-odd
5 kids in my SAT class.

6 MR. MCKINNON: I really enjoy working with
7 the high school students. And it seems to pay off for
8 them.

9 SENATOR CAMPSEN: Could you more fully
10 explain what you mean when you say being first in your
11 class? Because none of us here that were in law school
12 actually could see that far. We need a little further
13 explanation of what that means.

14 MR. MCKINNON: I would say the Lord was
15 looking out for me. There were a lot of capable folks
16 that easily could have had that position.

17 SENATOR MALLOY: They normally give you
18 characterizations for the first in the law school
19 class, magna cum laude, because they have a bell curve.
20 And the folks that graduated where me, and I assume,
21 Senator Campsen graduated, there was a thank you in
22 front of --

23 SENATOR CAMPSEN: Thank you law degree. The
24 reason I ask is because first was over the horizon,
25 okay, we just couldn't quite see that far.

1 SENATOR MALLOY: You know, that's a hard
2 thing to do because A's are not given out gratuitously
3 in law school because the bell curve for those that
4 didn't get a chance to go, the average is a C. So I
5 took my C and I moved on.

6 MR. MCKINNON: I really enjoyed law school.
7 I know some folks don't enjoy it as much as I did. But
8 I love the law. One of the reasons I would like to go
9 on the bench is I really have a love of the law.

10 REPRESENTATIVE CLEMMONS: Thank you.

11 Any other questions?

12 Well, Mr. McKinnon, thank you very much for
13 being with us today and your willingness to offer to
14 serve the state of South Carolina on the bench.

15 This concludes this portion of our screening
16 process. As you know, the record will remain open
17 until the report is published, and you may be called
18 back at such time if the need arises.

19 I remind you of the 48-Hour Rule and ask that
20 you be mindful of that. Anyone that inquires with you
21 about whether they may or may not advocate for you in
22 the event that you are screened out, remind them of the
23 48-Hour Rule.

24 I thank you for offering, and I thank you for
25 serving the state of South Carolina.

1 MR. MCKINNON: Thank you.

2 REPRESENTATIVE CLEMMONS: Thank you very
3 much.

4 MR. MCKINNON: Thank you all.

5 (Mr. William Angus McKinnon exited the room.)

6 REPRESENTATIVE CLEMMONS: The next candidate
7 is James Michael Morton.

8 (Mr. James Michael Morton is present in the
9 room.)

10 REPRESENTATIVE CLEMMONS: We have with us
11 today James Michael Morton who is seeking nomination to
12 Circuit Court, Sixteenth Circuit, Seat 2.

13 Mr. Morton, it's good to have you with us
14 today.

15 MR. MORTON: Thank you for having me.

16 REPRESENTATIVE CLEMMONS: If you could raise
17 your right hand to be sworn.

18 Do you swear to tell the truth, the whole
19 truth and nothing but the truth, so help you God?

20 MR. MORTON: I do.

21 REPRESENTATIVE CLEMMONS: Thank you very
22 much.

23 Mr. Morton, have you had an opportunity to
24 review your Personal Data Questionnaire?

25 MR. MORTON: Yes, sir, I have.

1 REPRESENTATIVE CLEMMONS: Is it correct?

2 MR. MORTON: Yes, sir.

3 REPRESENTATIVE CLEMMONS: Are there any
4 amendments or changes needed?

5 MR. MORTON: No, sir. I don't think so.

6 REPRESENTATIVE CLEMMONS: Would you object to
7 our making your Personal Data Questionnaire summary a
8 part of the record of your sworn testimony today?

9 MR. MORTON: Absolutely not.

10 REPRESENTATIVE CLEMMONS: Thank you.

11 Without objection, so ordered.

12 (EXHIBIT 22, Personal Data Questionnaire of
13 James Michael Morton, admitted.)

14 REPRESENTATIVE CLEMMONS: The Judicial Merit
15 Selection Commission has thoroughly investigated your
16 qualifications for the bench. Our inquiry has focused
17 on the nine evaluative criteria, which include a ballot
18 box survey, a thorough study of your application
19 materials, verification of your compliance with state
20 ethics laws, a search of newspaper articles in which
21 your name appears, a study of previous screenings, and
22 a check for economic conflicts of interest.

23 We have received no affidavits filed in
24 opposition to your election. And we have no witnesses
25 that are present to testify today.

1 Do you have a brief opening statement you
2 would like to share with the Commission?

3 MR. MORTON: I'll be very brief. I graduated
4 the University of South Carolina in 1976. I'm
5 originally from Rock Hill. I worked in Washington for
6 a few years, came back and was with the Solicitor's
7 Office in Richland County -- the public defender's
8 office and the Solicitor's Office for a few years.
9 Private practice, solo practitioner for about ten years
10 before moving home to Rock Hill where I have been since
11 2000. And I am in a firm there.

12 REPRESENTATIVE CLEMMONS: Tremendous. Thank
13 you so much.

14 If you would now direct your attention to
15 able counsel and answer his questions.

16 MR. BENDER: Thank you, Mr. Chairman, members
17 of the Commission.

18 Mr. Morton, you have before you the sworn
19 statement you provided with detailed answers to over 30
20 questions regarding judicial conduct, statutory
21 qualifications, office administration, and temperament.

22 Are there any amendments you would like to
23 make at this time to your sworn statement?

24 MR. MORTON: None at this time. No, sir.

25 MR. BENDER: At this time, Mr. Chairman, I

1 would like to ask that Mr. Morton's sworn statement be
2 entered as an exhibit into the hearing record.

3 REPRESENTATIVE CLEMMONS: Is there any
4 objection?

5 Hearing none, so ordered.

6 (EXHIBIT 23, Sworn Statement of James Michael
7 Morton, admitted.)

8 MR. BENDER: One final procedural matter. I
9 note for the record that based on the testimony
10 contained in the candidate's PDQ, which has been
11 included in the record with the candidate's consent,
12 Mr. Morton meets the statutory requirements for this
13 position regarding age, residence, and years of
14 practice.

15 Mr. Morton, why do you want to serve as a
16 circuit court judge?

17 MR. MORTON: I think it is a necessary step
18 for me. Not necessary, but I think it's sort of a
19 pinnacle of anybody's legal career. I've been doing it
20 for 29 years. I have lots of experience. I think I
21 would be an asset to the people of York County and the
22 people to this state.

23 I think I would be someone for which people
24 would be proud to have me on the bench. I think I
25 would be fair and impartial. And I think I would be

1 someone -- again, I think the people would be proud to
2 have me there.

3 MR. BENDER: Thank you.

4 Can you explain to the Commission how you
5 feel your legal and professional experience thus far
6 will assist you in being an effective judge.

7 MR. MORTON: I began as a public defender in
8 Richland County. I became a solicitor in Richland
9 County for about five years. I've handled prosecutor,
10 lots of serious felony cases, murders, rapes, armed
11 robberies.

12 I have been in private practice for about 20
13 years. I've handled numerous civil matters, unfair
14 trade practices, nuisance, products liability, improper
15 hiring. I handled many personal injury cases. I've
16 run a business now for about 20 years. I think I have
17 a lot of experience in business matters. And
18 obviously, I have a lot of experience in criminal
19 defense.

20 After I left the Solicitor's Office in
21 Richland County, I was actually hired as a special
22 prosecutor by three different -- in three different
23 circuits to prosecute the homicide cases and even after
24 I left there. So I think I have a broad range of
25 experience, mostly in criminal work but also in civil.

1 MR. BENDER: Mr. Morton, are there any areas,
2 including subjective areas of the law, that you need
3 additionally to prepare for in order to serve as a
4 judge and how would you handle your additional
5 preparation?

6 MR. MORTON: I think there are probably lots
7 of areas I would need to prepare for. I would -- I'm
8 an overpreparer if for no other reason than being
9 insecure and not wanting to be made to look like a fool
10 when I'm in front of a jury or when I'm in the
11 courtroom. So I will study hard. I will overprepare.
12 I will, you know, take very seriously, you know, the
13 matters that come before me and make sure that I know
14 what's going on before I get in there.

15 Again, I've tried several civil cases. I've
16 handled hundreds of civil cases. And every case is
17 new, no matter whether it's criminal or civil. I think
18 it's lawyers', judges' obligation to prepare as much as
19 you can for the case that you've got coming up or the
20 cases that you're going to be handling.

21 MR. BENDER: Although you address this in
22 your sworn affidavit, could you please explain to the
23 members of the Commission what you think the
24 appropriate demeanor of a judge is.

25 MR. MORTON: Well, I think the appropriate

1 demeanor of a judge, I've seen a lot of judges and I
2 think most of the judges we have in this state has
3 wonderful demeanors. Fair, calm, communicative. I
4 think an important part of being a judge is explaining
5 to laypeople, namely jurors that come into the
6 courtroom how the judicial process works. I think
7 they're afraid of it. I don't think they understand.

8 I think it is important to take control but
9 be pleasant. Explain to everybody and communicate to
10 everybody how the judicial system works. And I think
11 you can do that with sort of a quiet confidence. I see
12 most of the judges exuding that type of demeanor, and
13 that's what I would aspire to.

14 MR. BENDER: Thank you.

15 Mr. Morton, the Commission received 128
16 ballot box surveys regarding you and your candidacy
17 with 24 additional comments. The ballot box survey,
18 for example, contained the following positive comments:
19 "Supremely well qualified, smart, humble, and
20 hard-working. Always professional with the lawyers,
21 litigants, and judges, and would be an excellent
22 addition to the judiciary."

23 Now, Mr. Morton, two of the written comments
24 expressed concerns regarding your lack of experience in
25 the area of civil law. I know you've talked briefly

1 about that already, but what would your response be to
2 that concern?

3 MR. MORTON: To the concern about --

4 MR. BENDER: The lack, yeah.

5 MR. MORTON: -- the civil?

6 Again, I've been in private practice for 20
7 years. I've handled numerous civil cases from personal
8 injury to the ones that I named. Any time I'm involved
9 in any case, civil case, criminal case, whatever, I
10 pick up the phone and ask somebody who I think may be
11 more of an expert than I am about what issues may be
12 coming up and what issues I have to face. I will do
13 that in any type of case that I have, any civil case.
14 Because there are lots of different civil cases that
15 sometimes I think, oh, my god, this regulatory question
16 is something I don't know anything about. I'm going to
17 pick up the phone, I'll get in the books, I will find
18 out as much as I can about it and learn everything
19 there is to learn about it.

20 MR. BENDER: Thank you.

21 A second concern was expressed relating to
22 your impartiality towards the Sixteenth Circuit
23 Solicitor's Office. Specifically the comments
24 expressed concern that you have a negative bias towards
25 the Sixteenth Circuit Solicitor's Office and have

1 publicly accused that office of misconduct.

2 What response would you offer regarding your
3 impartiality towards the Sixteenth Circuit Solicitor's
4 Office?

5 MR. MORTON: Well, I'm a passionate advocate
6 for my clients. I don't agree with everything that
7 that solicitor's office does or all solicitors'
8 offices. We fight. That's what we do. I don't know
9 of accusing them of misconduct. I've had cases where I
10 thought my clients were innocent.

11 But I've been a solicitor, too, and I've
12 handled serious criminal cases. I've been an advocate
13 for victims that have terrible things happen to them,
14 where they have been raped or robbed or stolen from or
15 family of murder victims. I know what it's like to
16 advocate for victims. I know what they go through. I
17 will not lose sight of that. I will be completely
18 impartial. There is just -- there's nothing that would
19 make me be impartial toward the Solicitor's Office or
20 toward anybody that would cause me to lose respect for
21 myself. I've got to put my head on the pillow at
22 night.

23 Again, I understand the terrible things that
24 people that they represent go through. I've done that.
25 I know how that is. That would not be a problem for

1 me.

2 MR. BENDER: Thank you.

3 And taking that last answer relating to
4 impartiality into another area of concern raised in the
5 ballot box, two members wrote -- two members of the bar
6 wrote comments related to your former involvement with
7 the York County Democratic Party and what potential
8 impact that could have on you as a judge. Could you
9 please respond relating to that concern.

10 MR. MORTON: Well, I don't think there's any
11 place for politics as a judge. I was involved with the
12 democratic party for five years after I moved back to
13 Rock Hill because nobody else would do it. It wasn't
14 much of an organization. I'm proud of it. But there's
15 no room for any type of impartiality or politics in the
16 role of the judge.

17 And I don't see how that would affect me at
18 all.

19 MR. BENDER: Mr. Morton, in your Personal
20 Data Questionnaire you reported that in 1977 you plead
21 guilty to simple possession of marijuana. Can you
22 please explain the circumstances of your arrest and the
23 plea.

24 MR. MORTON: I was at a party on New Year's
25 Eve in 1977 and marijuana was there, and I was arrested

1 for it and pled guilty to it.

2 MR. BENDER: Thank you.

3 Mr. Chairman, at this time I would like to
4 request we go into executive session and handle a
5 certain matter.

6 REPRESENTATIVE CLEMMONS: Okay. We'll
7 entertain a motion to go into executive session.

8 MR. SELLERS: So moved.

9 SENATOR MARTIN: Second.

10 REPRESENTATIVE CLEMMONS: Those in favor say
11 "aye."

12 (Members respond.)

13 REPRESENTATIVE CLEMMONS: Those opposed, nay.

14 The ayes have it.

15 The veil is dropped.

16 (The members went into executive session.)

17 * * * * *

18 (The members came out of executive session.)

19 REPRESENTATIVE CLEMMONS: We are back on the
20 record again.

21 MR. BENDER: Thank you, Mr. Chairman.

22 Mr. Strom, if you would like to ask --

23 MR. STROM: Are you done?

24 MR. BENDER: Well, I have a few more
25 questions.

1 MR. STROM: Go ahead.

2 MR. BENDER: Okay. Mr. Morton, have you
3 sought or received the pledge of any legislator prior
4 to this date?

5 MR. MORTON: No, sir.

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

9 MR. MORTON: No, sir.

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

13 MR. MORTON: No, sir.

14 REPRESENTATIVE CLEMMONS: Are you aware of
15 anyone attempting to intervene in any part of the
16 process on your behalf?

17 MR. MORTON: No, sir.

18 MR. BENDER: Have you contacted any members
19 of the Commission?

20 MR. MORTON: No, sir.

21 MR. BENDER: Do you understand that you are
22 prohibited from seeking a pledge or commitment until 48
23 hours after the formal release of the Commission's
24 report?

25 MR. MORTON: Yes, sir.

1 MR. BENDER: Have you reviewed the
2 Commission's guidelines on pledging?

3 MR. MORTON: Yes, sir.

4 MR. BENDER: As a follow up, are you aware
5 that the penalties for violating the pledging rules,
6 that is, it is a misdemeanor and conviction, the
7 violator must be fined not more than \$1,000 or
8 imprisoned not more than 90 days?

9 MR. MORTON: Yes, sir.

10 MR. BENDER: I would note that the Piedmont
11 Citizens Committee found Mr. Morton qualified in the
12 evaluative criteria of constitutional qualifications,
13 physical health, and mental stability.

14 The Committee found him well qualified in the
15 evaluating criteria of ethic, fitness, professional and
16 academic ability, character, reputation, experience,
17 and judicial temperament.

18 The Committee stated in summary, Mr. Morton
19 has a deep and significant experience in the field of
20 criminal law having worked both as a prosecutor and
21 defense lawyer on a range of challenging cases.

22 A hard worker and a fierce advocate in the
23 courtroom. He was credited by members of the bench and
24 bar for his integrity, fairness, and candor.

25 I would just note for the record, any

1 concerns raised during investigation regarding the
2 candidate were incorporated into the questioning of the
3 candidate today.

4 Mr. Chairman, I have no further questions.

5 REPRESENTATIVE CLEMMONS: Thank you very
6 much, Mr. Bender.

7 Mr. Morton, at this point in the agenda we
8 open the floor to members of the Commission that may
9 have questions or comments. We'll start with
10 Mr. Strom.

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

12 Mr. Morton, let's talk about your civil
13 experience. From your filings, it looks like you're
14 obviously heavily weighted on the criminal side. There
15 is certainly nothing wrong with that. A lot of
16 important -- a lot of court is criminal court in this
17 state. Would you elaborate just a little bit more on
18 this type of civil cases you've handled in your career.

19 MR. MORTON: I've handled Unfair Trade
20 Practices Act cases. I've tried a nuisance case. I've
21 handled a case in which a nurse at a nursing home
22 injected several nondiabetic patients with insulin, one
23 of whom died, two of whom were in comas and survived.

24 I've handled a workers' compensation/products
25 liability case against Ross Distribution in which a

1 poor lady's hair was caught in a machine, and she was
2 scalped. I've handled numerous personal injury cases.

3 Again, I was a solo practitioner for about
4 nine or ten years. And since I've been back in
5 Rock Hill, I have had -- we've just hired our tenth
6 lawyer. I've handled about 20 staff, I think. We do
7 probate work. We do family court work. We do criminal
8 work. We do transactional business work. We've tried
9 to make ourselves sort of an all purpose firm in York
10 County.

11 I'm in deliberations with my co-counsels at
12 Morton Gettys on lots of different matters and have
13 been for the last 15 years. I'm proud to say that
14 we're surviving so far, and I hope that we will
15 continue to do that.

16 MR. STROM: Thank you. I don't have anything
17 else.

18 REPRESENTATIVE CLEMMONS: Thank you.

19 Any other questions?

20 SENATOR MALLOY: I think you owe it to them
21 to tell about that case that I seen on TV. Was it
22 Dateline or 20/20?

23 MR. MORTON: Well, I've got some disks here I
24 can pass out. No, it was a murder case in Rock Hill in
25 which I happened to believe my client is innocent. And

1 I hope that's not the reaction against impartiality to
2 the Solicitor's Office, but that was a case that was on
3 Dateline. It was a case involving a father who was
4 charged with raping and murdering his own daughter.

5 REPRESENTATIVE CLEMMONS: Any other
6 questions? Any comments?

7 Mr. Morton, thank you so much for offering
8 for this judicial seat and being here today with us.

9 This concludes this portion of our screening
10 process. As you know, the record will remain open
11 until a report is published. You may be called back
12 for that purpose if the need should arise.

13 I remind you of the 48-Hour Rule and ask that
14 you be mindful of that. If anyone should inquire about
15 whether they may or may not advocate for you in the
16 event that you are screened out, please remind them of
17 the 48-Hour Rule.

18 I thank you for offering, and we thank you
19 for your desire to serve the state of South Carolina.

20 MR. MORTON: Thank you so much for having me
21 and for the opportunity. Thank you so much.

22 REPRESENTATIVE CLEMMONS: Thank you.

23 (Mr. James Michael Morton exited the room.)

24 REPRESENTATIVE CLEMMONS: If we would please
25 invite the next candidate in, Mr. Walter William

1 "Willy" Thompson Sr.

2 (Mr. Walter William "Willy" Thompson Sr. is
3 present in the room.)

4 REPRESENTATIVE CLEMMONS: There is a proxy
5 Senator -- for Mr. Don Sellers has left his proxy with
6 Representative Bannister. Let that please be reflected
7 in the record.

8 MR. THOMPSON: Hello.

9 REPRESENTATIVE CLEMMONS: How are you?

10 MR. THOMPSON: Doing well. Thank you.

11 REPRESENTATIVE CLEMMONS: We have before
12 us -- I have lost my place in my notebook -- Mr. Walter
13 William Thompson, Sr. for nomination to the Circuit
14 Court, Sixteenth Circuit, Seat 2.

15 Welcome, Mr. Thompson. It's good to have you
16 with us.

17 MR. THOMPSON: Thank you very much.

18 REPRESENTATIVE CLEMMONS: If you would please
19 raise your right hand and be sworn.

20 Do you swear to tell the truth, the whole
21 truth and nothing but the truth, so help you God?

22 MR. THOMPSON: I do.

23 REPRESENTATIVE CLEMMONS: Thank you very
24 much.

25 Have you had an opportunity to review your

1 Personal Data Questionnaire?

2 MR. THOMPSON: Yes, I have.

3 REPRESENTATIVE CLEMMONS: Is it complete?

4 MR. THOMPSON: I believe it is complete other
5 than what Mr. Fiffick has, I think, in his hand here,
6 if I may. The e-mail that I sent to him on question
7 34, where they ask if you have ever been named as a
8 defendant in a lawsuit. I have actually never been
9 served with a lawsuit, so I assumed that I have never
10 been named as a defendant in a lawsuit.

11 But when SLED looked through, they were able
12 to determine that there were two things that I was
13 named in. One which is a defendant by the name of Dale
14 Carter, who apparently named me in 2004. Dale Carter
15 is someone I tried twice back in the '90s and sentenced
16 to 35 years for his armed robbery in two separate
17 charges that I tried him on.

18 So I was never served with that. It's clear
19 in the SLED paperwork that the case was never served,
20 and it was ultimately dismissed. So I was named in
21 that, so I was asked to reflect that. As well as a
22 homeowners thing -- my homeowners association did in
23 which they required -- they made a new decision that
24 anyone who would then be a subsequent landowner within
25 our homeowners association purview, within our

1 neighborhood, would be required to join the homeowners
2 association rather than being optional. And so they
3 had named me in a lis pendens, but it was dismissed the
4 same day. I was never served with it. Simply a
5 notice. I provided Mr. Fiffick a copy of that notice,
6 as well.

7 It says anyone who buys this property must
8 understand you will be required to participate in the
9 homeowners association and pay the dues or we can sue
10 and recover. Technically, once again, not something I
11 was served with, but I was named. But those two things
12 I would like to amend.

13 REPRESENTATIVE CLEMMONS: Thank you very
14 much.

15 And that is in writing via e-mail that staff
16 has a copy of. Is there an objection to accepting the
17 amendment as described to Personal Data Questionnaire?

18 Hearing none, so ordered.

19 (EXHIBIT 24, Personal Data Questionnaire of
20 Walter William Thompson, Sr., admitted.)

21 REPRESENTATIVE CLEMMONS: Do you object,
22 Mr. Thompson, to our making the summary or the
23 amendment part of the record?

24 MR. THOMPSON: I have no objection.

25 REPRESENTATIVE CLEMMONS: Thank you very

1 much. It's so ordered then.

2 The Judicial Merit Selection Commission, Mr.
3 Thompson, has thoroughly investigated your
4 qualifications for the bench. Our inquiry has focused
5 on the nine evaluative criteria that included a ballot
6 box survey, a thorough study of your application
7 materials, verification of your compliance with ethics
8 laws, a search of newspaper articles in which your name
9 appears, study of previous screenings, and a check for
10 economic conflicts of interest.

11 We've received no affidavits filed in
12 opposition to your election, and there are no witnesses
13 here to testify today.

14 Do you have a brief opening statement that
15 you would like to make at this time?

16 MR. THOMPSON: I appreciate being able to be
17 here today and answer any questions you have. Thank
18 you.

19 REPRESENTATIVE CLEMMONS: Thank you very
20 much.

21 With that, Mr. Thompson, we would ask that
22 you would answer any of counsel's questions.

23 MR. FIFFICK: Mr. Chairman, members of the
24 Commission, I have a procedural matter to take care of
25 with this candidate.

1 Mr. Thompson, you have before you the sworn
2 statement you provided with detailed answers to over 30
3 questions regarding judicial conduct, statutory
4 qualification, office administration, and temperament.

5 Are there any amendments you would like to
6 make to your sworn statement at this time?

7 MR. THOMPSON: No, there are not.

8 MR. FIFFICK: At this time, Mr. Chairman, I
9 would ask that Mr. Thompson's sworn statement be
10 entered in as an exhibit in the hearing record.

11 REPRESENTATIVE CLEMMONS: Thank you,
12 Mr. Fiffick.

13 Is there any objection?

14 Hearing none, so ordered.

15 (EXHIBIT 25, Sworn Statement of Walter
16 William Thompson, Sr., admitted.)

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

24 Mr. Thompson, why do you now want to serve as
25 a circuit court judge?

1 MR. THOMPSON: Well, I believe that being a
2 judge in our judiciary is something that is the
3 backbone. Good judges for our judiciary are the
4 backbone of our judiciary.

5 My experience over the last 21 years of being
6 a prosecutor has given me a special experience that
7 others really quite honestly don't have. That is a
8 courtroom experience of trial after trial after trial.
9 Courtroom experience of running a courtroom and
10 actually getting in there and having to work with each
11 person in the courtroom, getting to know them. And
12 then in addition to that, being able to run a docket.

13 One of the things I've done throughout my
14 career is run the docket. To make the docket work. I
15 have told you that in the posed questions, however,
16 those sorts of things I think are very important. I
17 have those qualifications. In the last 21 years, my
18 entire legal career has been devoted to public service,
19 and what I would like is to continue that public
20 service.

21 We are blessed in the Sixteenth Circuit by
22 having two sound, we have general sessions judges,
23 Judge Lee Alford and Judge John Hayes, who have been
24 very consistent, brilliant in the law, and have done a
25 fine job for us in the Sixteenth Circuit with people of

1 the Sixteenth Circuit. I would like to continue that
2 with my public service and my experience. I believe I
3 have something to offer in that area at this time.

4 MR. FIFFICK: Would you care to expand on
5 that and explain how your professional experience thus
6 far will assist you in being an effective judge.

7 MR. THOMPSON: As I said, with my experience,
8 and particularly starting with trial experience, I have
9 tried about every type of criminal case that can be
10 tried. Everything from the smallest thing, from
11 larcenies and things like that, all the way up to
12 murders. As a matter of fact, since early 2000, I've
13 been assigned solely to murders. Murders and unlawful
14 homicides. So I've tried a number of large number of
15 murders. I've tried a large number of complicated
16 cases, child abuse cases, and child neglect cases that
17 result in death, elder cases that result in death,
18 felony DUIs, reckless homicides. Those are the things
19 that I do.

20 As a matter of fact, I looked back and
21 counted over the years, I've handled over 200
22 defendants charged with unlawful homicides in my
23 career. That is a large amount. And it takes a
24 certain dedication, a tough thing to do. But takes a
25 certain dedication, but it's the dedication I have.

1 And it helps me to learn complex legal issues and apply
2 the law and be fast on my feet.

3 In addition to that, as I said before, I have
4 great courtroom experience in addition to the trial
5 experience within a courtroom. During the early
6 '90s -- or as I became a prosecutor in the '90s, I
7 began to run the courtroom. As I progressed and became
8 assigned assistant deputy solicitor, I actually held
9 the meetings where we planned the court weeks out or we
10 planned what trials would go, when we would do pleas,
11 who would have what. What attorneys would be ready,
12 and I would hold those attorneys accountable for that.

13 So my managing experience in that and then
14 bringing it into the courtroom to make sure the
15 courtroom runs correctly. It's a difficult thing to
16 do. There are a lot of players in the courtroom, but
17 it's allowed me to get to know those players and know
18 what their concerns are and know what they need from me
19 and what they need from other people within the
20 courtroom.

21 So if you anger your court reporter, you're
22 going to have some problems. If you anger your clerk
23 of court, you're going to have some problems just
24 getting normal things done.

25 So those are the types of things I had to do

1 to make sure the witnesses were lined up, make sure
2 that the various defendants were lined up to be there.
3 Make sure the defense attorneys were aware of what was
4 going on. All this in addition to the judge, all the
5 courtroom personnel from security on up.

6 In addition to that, I also have docket
7 management experience. In the Sixteenth Circuit we
8 were one of the beginning circuits with docket
9 management. We basically started to differentiate case
10 management in South Carolina. In the '90s, when I was
11 there, and as I've been there now, I helped in
12 installing it. When Solicitor Pope was there, I was an
13 integral person, along with several other people, who
14 made that work for our county.

15 We had one of the largest backlogs in the
16 state during that time when we first started. We
17 brought that backlog under control because of the
18 differentiated case management that we instituted and
19 the trial and error system we had through that. And by
20 2000, we had the best in the state at moving cases
21 quickly.

22 And at that time, the criteria was within six
23 months of arrest, and we actually got up to over 80
24 percent. We were the only circuit to have beat that 80
25 percent mark in that period of time of our cases being

1 handled within a six-month period.

2 We continued that within the top -- since
3 then, since 2000, we have been the top solicitor's
4 office in how fast cases are moved through our circuit.
5 And we have to thank for that not just hard work, but
6 the implementation of the differentiating case
7 management system.

8 And our judges, as we know now, are now going
9 to be tasked themselves with helping control the
10 docket. And the new Supreme Court decision, Langford
11 decision, we now know there's going to be a greater
12 role for each judge in the docket.

13 I'm one of the sole people who is solely
14 ready for that. I was not just there when it started,
15 but all the way through when it rained, and I kept it
16 going. I have taught others how to do it. I taught
17 other attorneys how to try tries cases. I managed
18 attorneys within the office. And I'm now deputy
19 solicitor, I manage to have about 17 to 19 attorneys at
20 any one time that I'm responsible for and I have to
21 manage those attorneys.

22 And then one other thing I will tell you
23 about the Solicitor's Office, about my experience there
24 that is unique and above others, is that we are the
25 only -- the only attorney in the state who is

1 considered a minister of justice. Our duty is more
2 than the average attorney in the courtroom. We are
3 required to seek justice. Sometimes that means you try
4 the case to its fullest. Sometimes that means you
5 dismiss the case before it ever sees the light of the
6 courtroom.

7 And I've done both. And I've done everything
8 in between because there are times when things come to
9 light and you learn the evidence you initially had
10 wasn't really correct and you had to dismiss that case.
11 And I can tell you as a prosecutor, that's not a
12 popular decision among law enforcement, that's not a
13 popular decision among the victims' families you have
14 to deal with. But I've done it, and I've done it well.

15 So I would point out that my duty to do
16 justice has been overriding in my career and with that,
17 I also hold our prosecutors to a higher standard
18 ethically. And those are the two things, really, that
19 you also hold judges to, a higher ethical standard and
20 you also have to hold them to the fact that they are
21 someone who has to be respected within the courtroom.

22 So those two things, I think, are something
23 that I bring to this that is unique. And so my
24 experience overall is something that is, once again, I
25 say is unique. And I've have had a lot of courtroom

1 experience, a lot of docket management experience. And
2 I'm required to seek justice already, and that's
3 something I've been doing and I look forward to
4 continue to do. And I hope that I be given the
5 opportunity to do that as a circuit court judge.

6 MR. FIFFICK: Are there any areas, including
7 subjective areas of law, that you would need to
8 additionally prepare for to serve as a circuit court
9 judge?

10 MR. THOMPSON: I know in the other interviews
11 that I've had, one of the questions that always came
12 up, what about civil law? You've been a prosecutor
13 your entire career, what about civil law?

14 Well, of course, I do some civil law. I help
15 with PCRs when the AG comes up. Because I handle all
16 murder cases, people get large sentences in just about
17 every case I handle, so they always file a PCR.
18 Whether it's a plea or a trial. So I find myself a lot
19 of the time having to spend time with the AG in
20 preparing their case for PCRs. And I don't actually do
21 the PCRs myself, but I testify. I'm in there giving
22 advice as to what happened and helping with facts of
23 each case.

24 But there are other things I do as well such
25 as forfeitures and things like that. Things of a civil

1 nature.

2 One of the things that I thought about after
3 I had been asked that question in a couple of hearings,
4 was what percentage of -- does the judge actually do in
5 civil work? So I looked at Judge Alford's schedule,
6 since he's the judge I would be looking to replace at
7 the end of his retirement. I looked at Judge Alford's
8 cases for the past year, starting March back to April
9 of last year.

10 It appears that according to the Court
11 Administration Web site, he's had 28 terms that he was
12 assigned to general sessions, with general sessions
13 jury or nonjury, only 13 terms to common pleas or
14 common pleas nonjury. The rest of the time was either
15 in camera or in chambers or vacation or administrative
16 term.

17 So when it comes down to it, 75 percent of
18 what the judge did included nothing necessarily civil.
19 Only 25 percent was civil assigned by the court system.
20 And my experience is this, because we work in the same
21 courthouse often, I see what's happening in civil
22 court. And because lot of times the civil court breaks
23 down early, we go into guilty pleas or we go and do
24 some other hearings because the Judge says, "Do you
25 have anything else for us?"

1 But I've noticed it's not uncommon for civil
2 court to actually stop earlier in the week, like a
3 Tuesday or Wednesday and end. So in reality, even a
4 smaller percentage is specifically assigned to civil
5 court if you look at what actually happens within the
6 civil court system.

7 In addition to that, some of the assignments
8 of civil court the judge had would certainly be PCR
9 weeks. Something I have a fairly good familiarity with
10 it. Once again, that percentage gets smaller as to
11 what is specifically said that I did not have some sort
12 of experience in.

13 And then finally, the fact that trials are of
14 utmost important for the judge, I have that experience.
15 I have the trial experience. Trials in civil court and
16 criminal control are not all that different when it
17 comes to the guts of the trial itself. There's still
18 the same rules of evidence and there's still the same
19 procedures in handling juries and making sure things
20 are done right, same demeanor in the courtroom between
21 the parties. And if anything, the civil law, unlike
22 criminal law, litigates very much ahead of time.

23 Then you have the briefs. So you have the
24 issue right in front of you. They have depositions,
25 they've gone through all sorts of things. You probably

1 have pretrial meetings so you have some idea of what is
2 coming before you before it ever hits. Whereas in
3 criminal cases, it's pretty much the case gets called,
4 you start the trial, you pick the jury and you do
5 pretrial and you go. That's where my experience is.

6 So I would say what little experience I don't
7 have in civil law can be easily overcome by doing the
8 normal things that -- just study, looking at the briefs
9 that come before me, knowing what the issues are. And
10 quite honestly, it's kind of like the game show. Ask a
11 friend -- or in this case ask a judge, ask someone who
12 has done it. If you have a question, right down the
13 hall there's another judge who has done it. You have a
14 problem, that's the perfect person to go to, and I'm
15 never limited in that. I can always ask another judge.

16 MR. FIFFICK: Thank you, Mr. Thompson.

17 What is the appropriate demeanor for a judge?

18 MR. THOMPSON: Well, certainly you want
19 somebody who is patient and considerate. I think the
20 key to being a judge, just like anything else, is
21 something I define in my career, is to treat others
22 like I want them to treat me if I were in that same
23 situation. And that's what I believe the demeanor of
24 the judge should be.

25 MR. FIFFICK: Thank you, sir.

1 The Commission received 78 ballot box surveys
2 regarding you, 27 additional comments. Collectively,
3 the positive responses indicate that Mr. Thompson
4 handles all cases with a mind for justice, would
5 promote the highest ideals for the legal profession as
6 a judge, and would be a fair and compassionate judge.

7 Comments also applauding his role in
8 administering the well-managed docket of the Sixteenth
9 Circuit.

10 Eleven of the written comments, however,
11 expressed concerns. I'll ask you a few questions about
12 those right now. I'll group them together so you won't
13 get 11 questions, but it will hit all of them.

14 The majority of concerns expressed in the
15 negative comments expressed your lack of experience.
16 Given your discussion on that issue a minute ago, do
17 you have anything else you care to say about that?

18 MR. THOMPSON: And I was -- that's civil
19 experience?

20 MR. FIFFICK: Yes.

21 MR. THOMPSON: No, sir. I don't have
22 anything to add.

23 MR. FIFFICK: A few negative comments
24 indicate a concern that as a former prosecutor, your
25 perspective may prevent you from being entirely fair to

1 both sides in a criminal matter. How would you respond
2 to such concerns?

3 MR. THOMPSON: I think those concerns -- I
4 understand why someone would have them because I am a
5 prosecutor and everyone thinks a prosecutor should go,
6 go, go for the conviction. But I think I've proven in
7 my career that's not what I'm about. I don't think the
8 concern would necessarily be justified for my
9 situation.

10 I've never been so much go, go, go and not
11 care about what other evidence is there. I always look
12 at both sides of an issue and look at those and
13 describe those to the victims, describe those to law
14 enforcement, and I go from there. So I would always
15 take in all sides of the issue before I made a decision
16 on a case, just as I do in every case I have. So I
17 don't think that that would be a problem for me.

18 MR. FIFFICK: Thank you, sir.

19 Two questions concerning handling of
20 evidence. Have you ever knowingly withheld exculpatory
21 evidence in a criminal case?

22 MR. THOMPSON: Oh, no. Absolutely not.

23 MR. FIFFICK: And have you ever failed to
24 disclose destruction of evidence by law enforcement in
25 a criminal case?

1 MR. THOMPSON: Absolutely not.

2 MR. FIFFICK: One response questioned whether
3 you improperly expunged or approved expungement of a
4 victim's prior criminal record during a pending
5 criminal matter. How would you respond to that?

6 MR. THOMPSON: Well, I don't know what
7 they're referring to specifically; however, as
8 someone -- one of my job duties as deputy solicitor is
9 to overlook expunges. And when expunges are
10 appropriate, I go ahead and I expunge the case.
11 Whether I like the idea or not, that's my duty. And so
12 I don't seek ways not to give expungements.

13 If someone had a case -- the only case I can
14 think of where someone had asked me about that at one
15 point would be a case in which -- it would be a case in
16 which the attorney -- an attorney in town had been
17 killed by his girlfriend, and the attorney had a
18 pending charge against him. And that was unrelated to
19 the girlfriend.

20 And they asked for an expungement upon his
21 death. That case was dismissed and was properly
22 dismissed at his death. So I had no -- in my opinion
23 no other obligation except to expunge that case. It
24 didn't deal with any other case that was pending
25 against him, and it was dismissed due to his death. So

1 at that point I allowed the expungement. And I think I
2 was required to allow under the law.

3 MR. FIFFICK: Thank you, sir.

4 I have a few housekeeping issues to ask you
5 about.

6 Have you sought or received the pledge of any
7 legislator prior to this date?

8 MR. THOMPSON: No, I have not.

9 MR. FIFFICK: Have you sought or have you
10 been offered a conditional pledge of support of any
11 legislator pending the outcome of your screening?

12 MR. THOMPSON: No, I have not.

13 REPRESENTATIVE CLEMMONS: Have you asked any
14 third parties to contact members of the General
15 Assembly on your behalf?

16 MR. THOMPSON: No.

17 MR. FIFFICK: Are you aware of anyone
18 attempting to intervene in any part of this process on
19 your behalf?

20 MR. THOMPSON: No, not I'm not aware of.

21 MR. FIFFICK: Have you contacted any members
22 of this Commission?

23 MR. THOMPSON: No, I have not.

24 MR. FIFFICK: Do you understand you are
25 prohibited from seeking a pledge or commitment until 48

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

3 MR. THOMPSON: I understand.

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

6 MR. THOMPSON: Certainly have.

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

11 MR. THOMPSON: Yes, I'm aware.

12 MR. FIFFICK: The Piedmont Citizens Committee
13 found Mr. Thompson to be well qualified in the areas of
14 ethics, fitness, professional and academic ability,
15 character, reputation, and judicial temperament. They
16 found him qualified for constitutional qualifications
17 of physical health, mental stability, and experience.

18 The committee stated in summary that
19 Mr. Thompson has spent his entire legal career as a
20 prosecutor. And for that reason alone, because his
21 experience has been limited to only one side of the
22 criminal law, and the Committee found him qualified in
23 that area. That should not take away from Mr.
24 Thompson's significant legal ability in his field.

25 All the references to whom we spoke to said

1 that Mr. Thompson has an intelligence and nimbleness of
2 mind that would enable him to adapt quickly to areas of
3 the law that have been unfamiliar to him. And that he
4 received numerous accolades for his character and
5 temperament.

6 I would just note for the record that any
7 concerns raised during this investigation regarding the
8 candidate were incorporated into the questions of the
9 candidate today.

10 Mr. Chairman, I have no further questions.

11 REPRESENTATIVE CLEMMONS: Thank you,
12 Mr. Fiffick. And, Mr. Thompson, thank you so much.

13 Are there any questions by members of the
14 Commission?

15 Senator Malloy.

16 SENATOR MALLOY: Thank you, Chairman.

17 Mr. Thompson, you talked about case
18 management system. Do you take credit for the
19 implementation in York County?

20 MR. THOMPSON: Certainly I helped in
21 implementing that system, yes.

22 SENATOR MALLOY: Who was the person that
23 implemented it?

24 MR. THOMPSON: Well, in fact, Solicitor Pope
25 was the main person.

1 SENATOR MALLOY: And Solicitor Brackett.

2 MR. THOMPSON: And then Solicitor Brackett
3 was the deputy at the time.

4 SENATOR MALLOY: Are you familiar with the
5 consent order that they passed here back in 2007?

6 MR. THOMPSON: Yes.

7 SENATOR MALLOY: Did you author that consent
8 order?

9 MR. THOMPSON: No.

10 SENATOR MALLOY: The case management bill
11 over here?

12 MR. THOMPSON: No, I was not.

13 SENATOR MALLOY: I just remember going
14 through that process and seeing how the case management
15 came in to South Carolina. And you may not have known
16 it, but I've been the chair of the Criminal Justice
17 Task Force in the Senate starting in 2006 and went all
18 the way up until now with the sentencing oversight. So
19 I wanted to make certain that whenever you were going
20 through this process, we still haven't worked out
21 ranking yet.

22 MR. THOMPSON: Certainly.

23 SENATOR MALLOY: And the last part is that
24 the matters you were speaking of the PCRs that are
25 civil matters.

1 MR. THOMPSON: Right.

2 SENATOR MALLOY: And I guess the treatment of
3 bonds, do you treat those as civil matters?

4 MR. THOMPSON: Those are civil matters, yes.

5 SENATOR MALLOY: And forfeiture cases, as
6 well, civil matters?

7 MR. THOMPSON: Yes.

8 SENATOR MALLOY: When you start to talk about
9 other matters that are civil, that's whenever you are
10 saying you have experience in that domain but not
11 necessarily in the direct case variety and torts and
12 some of those?

13 MR. THOMPSON: Right.

14 SENATOR MALLOY: So your civil practice is
15 exclusively as a culmination of what comes out of the
16 criminal court.

17 MR. THOMPSON: Right.

18 SENATOR MALLOY: And, basically, I think that
19 this -- you sort of piqued my curiosity on the young
20 man that was apparently killed by his girlfriend.
21 There was an expungement. Were there some
22 repercussions thereafter over prior bad acts, CDVs,
23 because sometimes when that happens and there's an
24 expungement and there's something that happened. Was
25 there something that happened in that case to bring it

1 to your attention?

2 MR. THOMPSON: No. I think we had conflicted
3 that case out to Charleston Solicitor's Office because
4 the attorney that was killed had done work extensively
5 in York County as a York County attorney. And so the
6 only thing I knew of it was from what the prosecutor
7 asked, and apparently, there was a question from
8 defense about expunging it. And he asked me if I had
9 expunged it related to that case. And I told him I
10 would be happy to testify to anything regarding it. I
11 thought nothing of it at the time when it came through
12 because the expungement, as I said, was completely
13 unrelated to her or anybody else that was involved.

14 SENATOR MALLOY: Did it come up later as far
15 as --

16 MR. MORTON: No.

17 SENATOR MALLOY: -- any of that kind of
18 thing?

19 MR. THOMPSON: No, it did not.

20 REPRESENTATIVE CLEMMONS: Thank you,
21 Senator Malloy.

22 Are there any other questions or comments?

23 Hearing none, Mr. Thompson, thank you so
24 much.

25 You have with you, I think, some guests

1 today. Would you like to introduce your guest?

2 MR. THOMPSON: Yes. That is my parents, Don
3 and Adrienne Thompson of Chapin, South Carolina. I
4 have to credit them. I wouldn't be half the man I am
5 today without them. And I have to say that I have to
6 also credit my wife who could not be here with us
7 today. She's staying with her father this week. But
8 she is responsible for the other half.

9 REPRESENTATIVE CLEMMONS: Very good. I was
10 going to say without them, you would be less than half.

11 MR. THOMPSON: That's true.

12 REPRESENTATIVE CLEMMONS: Thank you very much
13 for being with us today.

14 Thank you, Mr. Thompson, for being with us.

15 MR. THOMPSON: Thank you.

16 REPRESENTATIVE CLEMMONS: This concludes this
17 portion -- stay with us for just one moment -- that
18 concludes this portion of our screening process.

19 As you know, Mr. Thompson, the record will
20 remain open until the report is published. You may be
21 called back at such time if that need should arise.

22 I'll remind you of the 48-Hour Rule and ask
23 you to be mindful of that. Anyone that inquires of you
24 about whether they may or may not advocate for you in
25 the event that you are screened out, remind them of the

1 48-Hour Rule.

2 I thank you for offering, and we thank you
3 for your desire to serve South Carolina.

4 MR. THOMPSON: Thank you very much, sir. I
5 appreciate it.

6 REPRESENTATIVE CLEMMONS: Thank you, sir.

7 Thank you, Mr. and Ms. Thompson, for joining
8 us.

9 (Mr. Walter William "Willy" Thompson Sr.
10 exited the room.)

11 (Ms. Sara McMahon Bunge is present in the
12 room.)

13 REPRESENTATIVE CLEMMONS: Our next candidate
14 for screening is Sara McMahon Bunge for Family Court,
15 Eleventh Circuit, Seat 1.

16 Welcome. We have with us today Sara McMahon
17 Bunge.

18 MS. BUNGE: Bunge. Thank you.

19 REPRESENTATIVE CLEMMONS: And Ms. Bunge is
20 seeking nomination to Family Court, Eleventh Circuit,
21 Seat 1.

22 It's good to have you with us today.

23 MS. BUNGE: Thank you.

24 REPRESENTATIVE CLEMMONS: And let's start off
25 with -- I think you have a guest with you today. Would

1 you like to introduce your guest?

2 MS. BUNGE: This is my sister Elizabeth
3 McMahon Pence.

4 REPRESENTATIVE CLEMMONS: It's good to have
5 you with us.

6 MS. PENCE: Thank you, sir.

7 REPRESENTATIVE CLEMMONS: Would you please
8 raise your right hand to be sworn.

9 Do you swear to tell the truth, the whole
10 truth and nothing but the truth, so help you God?

11 MS. BUNGE: I do.

12 REPRESENTATIVE CLEMMONS: Thank you very
13 much.

14 Have you had an opportunity, Ms. Bunge, to
15 review the Personal Data Questionnaire?

16 MS. BUNGE: I have.

17 REPRESENTATIVE CLEMMONS: Is it correct or
18 does it need any addition or --

19 MS. BUNGE: Well, the answer to number 5,
20 about a prior marriage, if I could have it redacted as
21 to the grounds. I was the moving party, and I would
22 rather that be redacted.

23 REPRESENTATIVE CLEMMONS: Thank you.

24 Is there any objection to the amendment as
25 stated?

1 Hearing none, so ordered.

2 Do you object to making this summary in your
3 Personal Data Questionnaire now as amended a part of
4 the record of your sworn testimony today?

5 MS. BUNGE: I do not.

6 REPRESENTATIVE CLEMMONS: Thank you so much.

7 And without objection, so ordered.

8 (EXHIBIT 26, Personal Data Questionnaire of
9 Sara McMahon Bunge, admitted.)

10 REPRESENTATIVE CLEMMONS: The Judicial Merit
11 Selection Commission has investigated thoroughly your
12 qualifications for the bench. Our inquiry has focused
13 on the nine statutory evaluative criteria, which
14 include a ballot box survey, a thorough study of your
15 application materials, verification of your compliance
16 with state ethics laws, search of newspaper articles in
17 which your name appears, a study of previous
18 screenings, and a check for economic conflicts of
19 interest.

20 We have received no affidavits filed in
21 opposition to your election, and there are no witnesses
22 here to testify today.

23 Do you have a brief opening statement you
24 would like to make at this time?

25 MS. BUNGE: I do not. I just thank

1 Ms. Shuler and her staff for being so accommodating
2 through this process.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 If you would now turn your attention to
5 Ms. Shuler and answer any questions that she may have.

6 MS. SHULER: Good afternoon, Ms. Bunge.

7 MS. BUNGE: Good afternoon.

8 MS. SHULER: You have before you a sworn
9 statement you provided with detailed answers to over 30
10 questions regarding judicial conduct, statutory
11 qualification, office administration, and temperament.

12 Are there any amendments you would like to
13 make at this time to your sworn statement?

14 MS. BUNGE: No, ma'am.

15 MS. SHULER: Mr. Chairman, I would ask that
16 Ms. Bunge's sworn statement be entered as an exhibit
17 into the hearing record.

18 REPRESENTATIVE CLEMMONS: Thank you,
19 Ms. Shuler.

20 Is there any objection?

21 Hearing none, so ordered.

22 (EXHIBIT 27, Sworn Statement of Sara McMahon
23 Bunge, admitted.)

24 MS. SHULER: Ms. Bunge, would you state for
25 the record the city and circuit in which you reside?

1 MS. BUNGE: I reside in Lexington, Eleventh
2 Circuit.

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

10 Ms. Bunge, after practicing law since 1999,
11 why do you now want to serve as a family court judge?

12 MS. BUNGE: Well, I previously served on the
13 bench having been a municipal judge for the Town of
14 Lexington. Over the last four and a half years, I've
15 been able to prosecute juveniles in family court. I've
16 been a plaintiff's attorney, a defense attorney. And
17 this really the only job that I feel like I've excelled
18 at. I feel like I make a difference at.

19 MS. SHULER: Are there any areas, including
20 subjective areas of the law, that you would need to
21 additionally prepare for in order to serve as a judge,
22 and if so, how would you handle that preparation?

23 MS. BUNGE: I feel like I would need some
24 additional training in the domestic area. I do have a
25 heavy emphasis in juvenile work. I have been studying,

1 I mean, ever since I decided to run for this position.
2 We did have a test we had to take a few weeks ago, and
3 I did fairly well on that test as well.

4 MS. SHULER: Ms. Bunge, although you address
5 this in your sworn affidavit, could you explain to the
6 members of the Commission what you think to be the
7 appropriate demeanor for a judge.

8 MS. BUNGE: I think a demeanor especially for
9 a family court judge should be patience, accommodating,
10 listening to all of the parties but also maintaining
11 the decorum in the courtroom. Family court judges have
12 to deal with very emotional issues, and they should
13 address it appropriately.

14 MS. SHULER: What suggestions would you offer
15 for improving the backlog of cases on the family court
16 docket?

17 MS. BUNGE: I think mediation is a huge
18 benefit to family court. I had a family court
19 litigation when I was in Charleston, we were able to
20 work out all of our issues through mediation. I think
21 that process is a great process. I think when you have
22 a good mediator, you can work things out where you
23 would not have to go in court in front of a judge.

24 MS. SHULER: Ms. Bunge, you have been
25 involved in one lawsuit, the lawsuit Cobb versus

1 McMahon, was filed against you in 2009. Please explain
2 the nature and disposition of this lawsuit.

3 MS. BUNGE: That was a lawsuit my ex-husband
4 filed for a modification of his child support in I
5 believe it was 2009, and we were able to work that out
6 and come to an agreement before it went to court.

7 MS. SHULER: Thank you.

8 The Commission received 75 ballot box surveys
9 regarding you with 14 additional comments. The ballot
10 box surveys contained a positive comment such as you
11 are an excellent attorney and the judiciary would be
12 lucky to have you join its ranks as a family court
13 judge. Outstanding attorney with a variety of
14 experience. She knows the law and the perfect
15 temperament to be on the bench.

16 Three of the written comments, however,
17 expressed concerns. Several of those concerns
18 indicated that you lack experience, which you have
19 already alluded to, in domestic relations. What
20 response would you offer to this concern?

21 MS. BUNGE: Well, I've been able to pass two
22 bar exams, South Carolina and Georgia. I was able to
23 do well on the judicial exam. I feel like I have the
24 experience and demeanor to excel as a family court
25 judge. I think you have to have a basic demeanor and

1 all of the experience and knowledge of the law can
2 follow that.

3 MS. SHULER: Another concern from the ballot
4 box indicated that you are not fair to deal with and
5 doesn't describe any circumstances.

6 What response would you offer this concern
7 regarding temperament?

8 MS. BUNGE: Well, that's kind of hard to
9 answer since I've been an attorney since 1999 in many
10 different capacities and been on the bench. So unless
11 I know what capacity that's in, it's kind of hard to
12 address that issue. When you've been an attorney that
13 long, in some areas of very contentious litigations,
14 and there might be someone that thought that I handled
15 myself inappropriately. But I have never had any
16 conflicts that I'm aware of.

17 MS. SHULER: Ms. Bunge, while the Midlands
18 Citizens Committee found you overall well qualified,
19 they found you qualified in evaluative criteria of
20 experience, the Committee nevertheless expressed some
21 concerns over having a judge with no domestic law
22 experience.

23 What response, again, would you offer to this
24 concern by the Midlands Citizens Committee?

25 MS. BUNGE: Well, having the basics for a

1 judge is the most important thing. Everything else
2 will follow from that. We have a wonderful bench here
3 in Lexington that I would obviously go to them and get
4 some advice from. I don't think you can just take the
5 bench and be a hundred percent knowledgeable on every
6 area of the law, especially in family court. There's
7 so many facets of it.

8 MS. SHULER: Some housekeeping issues to
9 cover with you. From the date you filed your judicial
10 application, have you attended any political
11 fundraisers?

12 MS. BUNGE: I have not.

13 MS. SHULER: Have you sought or received the
14 pledge of any legislator prior to this date?

15 MS. BUNGE: No, ma'am.

16 MS. SHULER: Have you sought or have you been
17 offered a conditional pledge of support of any
18 legislator pending the outcome of your screening?

19 MS. BUNGE: No, ma'am.

20 MS. SHULER: Have you asked any third parties
21 to contact members of the General Assembly on your
22 behalf?

23 MS. BUNGE: No, ma'am.

24 REPRESENTATIVE CLEMMONS: Have you contacted
25 any members of the Commission?

1 MS. BUNGE: I have not.

2 MS. SHULER: You understand that you are
3 prohibited from seeking a pledge of commitment until 48
4 hours after the formal release of the Commission's
5 report?

6 MS. BUNGE: Yes, sir.

7 MS. SHULER: Have you reviewed the
8 Commission's guidelines on pledging?

9 MS. BUNGE: Yes, ma'am.

10 MS. SHULER: Are you aware of the penalties
11 for violating the pledging rules? That is, it is a
12 misdemeanor. Upon conviction, you could be fined not
13 more than a \$1,000, imprisoned not more than 90 days.

14 MS. BUNGE: Yes, ma'am.

15 MS. SHULER: I would note the Midlands
16 Citizens Committee found Ms. Bunge to be well qualified
17 in evaluative criteria of constitutional
18 qualifications, ethical fitness, professional and
19 academic ability, character, reputation, physical
20 health, mental stability, and judicial temperament.

21 The Committee found her qualified in
22 evaluative criteria of experience.

23 Committee commented, "Ms. Bunge has extensive
24 experience in prosecuting juveniles in family court but
25 virtually no experience in any other matter handled in

1 family court. She seemed intelligent, engaging, and
2 eager to learn. We have some concerns over having a
3 judge with no domestic law experience."

4 The Committee stated in summary, "Ms. Bunge
5 is very capable, respected by her colleagues, and she
6 is generally well qualified."

7 I would just note for the record that any
8 concerns raised during the investigation regarding this
9 candidate were incorporated in my questioning of this
10 candidate.

11 Mr. Chairman, I have no further questions.

12 REPRESENTATIVE CLEMMONS: Thank you very
13 much.

14 Are there questions by members of the
15 Commission?

16 Hearing none, thank you so much Ms. Bunge for
17 being with us today.

18 That concludes this portion of our screening
19 process. As you know, the record will remain open
20 until the report is published. And you may be called
21 back at such time if the need should arise.

22 I remind you of the 48-Hour Rule. We ask
23 that you be mindful of that. Anyone that makes
24 inquiries with you about whether -- about whether they
25 may or may not advocate for you in the event you are

1 screened out, please remind them of the 48-Hour Rule.

2 We thank you for offering today and thank you
3 for your desire to serve South Carolina.

4 MS. BUNGE: Thank you.

5 (Ms. Sara McMahon Bunge exited the room.)

6 (Ms. Huntley Smith Crouch is present in the
7 room.)

8 REPRESENTATIVE CLEMMONS: Hello.

9 MS. CROUCH: Hello. How are you?

10 REPRESENTATIVE CLEMMONS: Fine. Thank you.

11 We have with us today Huntley Smith Crouch.

12 Ms. Crouch is seeking nomination to the
13 Family Court, Eleventh Circuit, Seat 1.

14 It's good to have you with us today.

15 MS. CROUCH: Thank you for having me.

16 REPRESENTATIVE CLEMMONS: I see you have a
17 guest with you. Would you like to introduce your
18 guest?

19 MS. CROUCH: My husband Chuck Crouch is here
20 with me.

21 REPRESENTATIVE CLEMMONS: Good to have you
22 with us, Mr. Crouch.

23 MR. CROUCH: Thank you.

24 REPRESENTATIVE CLEMMONS: Would you please
25 raise your hand to be sworn.

1 Do you swear to tell the truth, the whole
2 truth and nothing but truth, so help you God?

3 MS. CROUCH: I do.

4 REPRESENTATIVE CLEMMONS: Thank you very
5 much.

6 Have you had an opportunity, Ms. Crouch, to
7 review the Personal Data Questionnaire?

8 MS. CROUCH: I have.

9 REPRESENTATIVE CLEMMONS: And is it correct?

10 MS. CROUCH: It is.

11 REPRESENTATIVE CLEMMONS: Does anything need
12 to be changed or amended?

13 MS. CROUCH: The only thing that I need to
14 update from my original filing are some expenditures.
15 At the time of filing, I had not spent any money toward
16 my campaign. I sent a letter out last week -- I
17 believe it went out in the mail to update. And I have
18 now spent about \$400.

19 REPRESENTATIVE CLEMMONS: Have you submitted
20 that in writing to staff?

21 MS. CROUCH: I have. I don't know that it
22 has made it to staff yet. I have another copy if you
23 would like me to hand up another copy.

24 REPRESENTATIVE CLEMMONS: Yes. If you would,
25 please, hand it forward.

1 Thank you.

2 Is there any objection to including this
3 amendment in Ms. Crouch's Personal Data Questionnaire?

4 Hearing none, so ordered.

5 (EXHIBIT 28, Personal Data Questionnaire of
6 Huntley Smith Crouch, admitted.)

7 It will be made a part of the transcript at
8 this time.

9 Do you object, Ms. Crouch, to our making this
10 summary as now amended as part of the record of your
11 sworn testimony today?

12 MS. CROUCH: I do not.

13 CHIEF PROCUREMENT OFFICER: Thank you.

14 Likewise so ordered.

15 The Judicial Merit Selection Commission has
16 thoroughly investigated your qualifications for the
17 bench. Our inquiry is focused on the statutory nine
18 evaluative criteria and has also included a ballot box
19 survey, a thorough study of your application materials,
20 verification of your compliance with state ethics laws,
21 search of newspaper articles in which your name
22 appears, 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, and there are no witnesses

1 present today to testify.

2 Do you have a brief opening statement you
3 would like to share with the Commission?

4 MS. CROUCH: I think I will waive any
5 opening, and I just appreciate the opportunity to be
6 here.

7 REPRESENTATIVE CLEMMONS: You earn great
8 brownie points for that.

9 MS. CROUCH: Thank you. I appreciate that.

10 REPRESENTATIVE CLEMMONS: Would you please
11 answer any questions Mr. Fiffick would have for you.

12 MS. CROUCH: Certainly.

13 MR. FIFFICK: Thank you, Mr. Chairman.

14 I have a few procedural matters to take care
15 of with this candidate. Ms. Crouch, you have before
16 you a sworn statement providing detailed answers to
17 over 30 questions regarding judicial conduct, statutory
18 qualifications, office administration, and temperament.

19 Are there any amendments you would like to
20 make at this time to your sworn statement?

21 MS. CROUCH: No amendments.

22 MR. FIFFICK: At this time, Mr. Chairman, I
23 would ask that Ms. Crouch's sworn statement be entered
24 into the hearing record.

25 REPRESENTATIVE CLEMMONS: Thank you,

1 Mr. Fiffick.

2 Is there any objection?

3 Hearing none, so ordered.

4 (EXHIBIT 29, Sworn Statement of
5 Huntley Smith Crouch, admitted.)

6 MR. FIFFICK: Ms. Crouch, please state for
7 the record the city and circuit in which you reside.

8 MS. CROUCH: I reside in Lexington in the
9 Eleventh Circuit.

10 MR. FIFFICK: Thank you, ma'am.

11 One final procedural matter. I note for the
12 record based on the testimony contained in the
13 candidate's PDQ, which has been included in the record
14 with the candidate's consent, Ms. Crouch meets the
15 statutory requirements for this position regarding age,
16 residence, and years of practice.

17 Ms. Crouch, why do you want to now serve as
18 family court judge?

19 MS. CROUCH: I think that you probably see in
20 my initial filing that I've been asked that question.
21 I always thought that I would become a judge. And I
22 don't mind telling you that in 1998 when I graduated
23 from law school, probably my answer would not have been
24 I want to be a family court judge.

25 Since that time, I have had children of my

1 own, and I also have had the experience of practicing
2 for almost five years primarily in family court.
3 Although, I had some exposure to family court prior to
4 then, too.

5 And I've had people ask me, "Why do you want
6 to be a judge?" I've had people ask me if I needed a
7 psychological evaluation for declaring that I wanted to
8 be family court judge. And I've even had somebody say,
9 "Well, why don't you just be a magistrate?" And I
10 think that that demonstrates that individuals don't
11 always recognize the incredible responsibility that
12 family court judges have.

13 A family court judge is tasked with the
14 responsibility of weighing in and making decisions that
15 have to do with so many aspects of an individual's
16 life. From parenting to marriage to investments and
17 their retirement and their children, even their ability
18 to continue to be a parent.

19 I've had cases that have affected me
20 profoundly, and it's because of those cases and the
21 kind of work I do now that I want to serve on the
22 bench. But I do want to be a family court judge. That
23 is the position that suits me, and it's a position
24 which I think is an honor and certainly a very big
25 responsibility.

1 MR. FIFFICK: Thank you, Ms. Crouch.

2 Are there any areas, including subjective
3 areas of the law, that you would need to additionally
4 prepare for to be a circuit court -- family court
5 judge?

6 MS. CROUCH: I don't think so. I've been
7 very clear throughout this process that my -- probably
8 the area that I would need the most exposure and have
9 the least exposure to at this point would be the area
10 of juveniles. And since filing, I've not only
11 undertaken to study that area of the law, there's a
12 wonderful resource through Children's Law Center with
13 multiple documents and publications to help judges and
14 attorneys who defend cases and represent juveniles. I
15 do have some exposure to that through expulsion
16 hearings and truancy issues.

17 I also have gone into court and observed
18 hearings and seen what other judges do and see how
19 those hearings are handled. So that would probably be
20 one of my least experiences, but I have taken steps to
21 educate myself.

22 MR. FIFFICK: Thank you very much.

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

1 for a judge.

2 MS. CROUCH: Certainly. I think that a judge
3 has to be fair. A judge has to be impartial. A judge
4 has to not only exude confidence and competence,
5 maintain control of the courtroom but has to do it in a
6 way that is certainly respectful. I think a judge
7 always has to be mindful of maintaining that respect
8 for the judiciary and the appearance of impropriety.

9 I had the occasion to clerk for Wyatt
10 Saunders his first year on the circuit court bench, and
11 Judge Saunders told me my second week of working for
12 him that I was his lawyer. And that meant that not
13 only did I help him in research and doing other duties
14 of a law clerk, but it also meant that I had to be very
15 up to date on the judicial ethics and make sure that he
16 didn't do or say anything and protect him so that he
17 could maintain that appearance that a judge must
18 maintain.

19 So I've always been mindful of that even now
20 in my interaction with the court to make sure that I'm
21 not putting myself or the judge in a position which
22 could be called into question.

23 MR. FIFFICK: Thank you, ma'am.

24 The Commission received 36 ballot box surveys
25 regarding you with three additional positive comments

1 collectively reporting that you are well qualified for
2 all categories, especially as to judicial temperament
3 and that you would make for a great judge. None of the
4 written comments were negative or expressed concerns.

5 I have a few final housekeeping issues here.

6 From the date you filed your judicial
7 application, have you attended any political
8 fundraisers?

9 MS. CROUCH: No.

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

12 MS. CROUCH: No, I have not.

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

16 MS. CROUCH: No, I have not.

17 MR. FIFFICK: Have you asked any third
18 parties to contact a member of the general assembly on
19 your behalf?

20 MS. CROUCH: No, I have not.

21 MR. FIFFICK: Have you contacted any members
22 of this Commission?

23 MS. CROUCH: No, I have not.

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

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

3 MS. CROUCH: I do.

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

6 MS. CROUCH: I have.

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

12 MS. CROUCH: Yes.

13 MR. FIFFICK: I would finally note that the
14 Midlands Citizens Committee found Ms. Crouch to be well
15 qualified in the evaluative criteria for constitutional
16 qualifications, ethical fitness, professional and
17 academic ability, character, reputation, physical
18 health, mental stability, experience, and judicial
19 temperament.

20 The Committee stated, "Ms. Crouch is an
21 expert in all aspects of family court practice except
22 juvenile cases. She has a vast experience in family
23 court and is well respected by her colleagues. We
24 believe she has an above average ability to analyze
25 facts, discover what is important. She seems to think

1 like a judge."

2 The Committee said in summary, "Ms. Crouch is
3 outstanding candidate with impressive qualifications
4 both personal and professional."

5 I would just note further for the record that
6 any concerns raised during the investigation regarding
7 this candidate were incorporated in the questioning of
8 the candidate today.

9 Mr. Chairman, I have no other questions.
10 Thank you.

11 REPRESENTATIVE CLEMMONS: Thank you,
12 Mr. Fiffick.

13 Are there any questions for this candidate?
14 Hearing none, Ms. Crouch, thank you so much
15 for being with us today.

16 SENATOR MALLOY: Give me one second.

17 REPRESENTATIVE CLEMMONS: Yes, sir.
18 Senator Malloy.

19 SENATOR MALLOY: I had a question.
20 I got it. I'm okay.

21 REPRESENTATIVE CLEMMONS: Thank you,
22 Senator Malloy.

23 Last call for any questions.

24 Hearing none, Ms. Crouch, thank you so much
25 for being here and for bringing your husband Mr. Crouch

1 with you.

2 This concludes this portion of our screening
3 process. As you know, Ms. Crouch, the record will
4 remain open until the report is published. You may be
5 called back at such time if the need should arise.

6 I remind you of the 48-Hour Rule and ask you
7 to be mindful of that. Anyone that inquires with you
8 about whether they may or may not advocate for you in
9 the event you are screened out, as you described it,
10 remind them of the 48-Hour Rule.

11 I thank you for offering, and I thank you --
12 excuse me, we thank you for offering for this judicial
13 seat. And we are grateful for your desire to serve
14 South Carolina.

15 MS. CROUCH: Thank you so much. I appreciate
16 it.

17 (Ms. Huntley Smith Crouch exited the room.)

18 REPRESENTATIVE CLEMMONS: We ask the next
19 candidate be brought in. William Gregory Seigler.

20 (Mr. William Gregory Seigler is present in
21 the room.)

22 REPRESENTATIVE CLEMMONS: We have before us
23 William Gregory Seigler who is seeking nomination to
24 Family Court, Eleventh Circuit, Seat 1.

25 Mr. Seigler, it's good to see you again.

1 MR. SEIGLER: Good to see you, sir.

2 REPRESENTATIVE CLEMMONS: Would you please
3 raise your right hand and be sworn.

4 Do you swear to tell the truth, the whole
5 truth and nothing but the truth, so help you God?

6 MR. SEIGLER: I do, sir.

7 REPRESENTATIVE CLEMMONS: Thank you.

8 Have you had an opportunity to review the
9 Personal Data Questionnaire?

10 MR. SEIGLER: Yes, sir, I have.

11 REPRESENTATIVE CLEMMONS: Is it correct?

12 MR. SEIGLER: To my knowledge it is, sir.

13 REPRESENTATIVE CLEMMONS: Does anything need
14 to be changed?

15 MR. SEIGLER: No, sir, not to my knowledge.

16 REPRESENTATIVE CLEMMONS: Do you object to
17 our making this summary a part of the record your sworn
18 testimony?

19 MR. SEIGLER: No, sir, I do not.

20 REPRESENTATIVE CLEMMONS: Without objection,
21 so ordered.

22 (EXHIBIT 30, Personal Data Questionnaire of
23 William Gregory Seigler, admitted.)

24 REPRESENTATIVE CLEMMONS: Judicial Merit
25 Selection Commission has thoroughly investigated your

1 qualifications for the bench, Mr. Seigler. And our
2 inquiry has focused on the nine statutory evaluative
3 criteria. And we have also focused on the following:
4 The ballot box survey, a thorough study of your
5 application materials, verification of your compliance
6 with state ethics laws, a search of newspaper articles
7 in which your name appears, a study of previous
8 screenings, and a check for economic conflicts of
9 interest.

10 We have received no affidavits filed in
11 opposition to your election. No witnesses are present
12 to testify.

13 Do you have a brief opening statement that
14 you would like to share with the Commission?

15 MR. SEIGLER: I just thank everybody for
16 their service. It seems like yesterday I was here in
17 January, I believe it was. And I appreciate
18 everybody's service and look forward to seeing you all
19 soon.

20 REPRESENTATIVE CLEMMONS: Thank you,
21 Mr. Seigler.

22 If you would please answer counsel's
23 questions.

24 MR. BOAN: Mr. Chairman and Members of the
25 Commission, I have a procedural matter to take care of

1 with this candidate.

2 Good afternoon, Mr. Seigler.

3 MR. SEIGLER: Good afternoon.

4 MR. BOAN: Mr. Seigler, you have before you
5 the sworn statement you provided with detailed answers
6 to over 30 questions regarding judicial conduct,
7 statutory qualifications, office administration, and
8 temperament.

9 Are there any amendments you would like to
10 make at this time to your sworn statement?

11 MR. SEIGLER: No, sir, I don't believe so.

12 MR. BOAN: At this time, Mr. Chairman, I
13 would like to ask Mr. Seigler's sworn statement be
14 entered as an exhibit into the hearing record.

15 REPRESENTATIVE CLEMMONS: Thank you.

16 Is there any objection?

17 Hearing none, so ordered.

18 (EXHIBIT 31, Sworn Statement of William
19 Gregory Seigler, admitted.)

20 MR. BOAN: Mr. Seigler, please state for the
21 record the city and circuit in which you reside.

22 MR. SEIGLER: I live in McCormick County, in
23 the Eleventh Circuit, which is comprised, of course, of
24 McCormick, Saluda, Edgefield, and Lexington counties.

25 MR. BOAN: One final procedural matter. I

1 note for the record that based on the testimony
2 contained in the candidate's PDQ, which has been
3 included in the record with the candidate's consent,
4 William Gregory Seigler meets the statutory
5 requirements for the position regarding age, residence,
6 and years of practice.

7 Mr. Seigler, why do you now want to serve as
8 a family court judge?

9 MR. SEIGLER: Well, I've had a great desire
10 to be involved in the family court arena for some time.
11 I feel like I can contribute greatly to the community,
12 the circuit, as well as the state.

13 I'm a father of three, a husband, of course.
14 And I feel like that my past experience as a judge and
15 am also involved in basically every facet of the family
16 court arena. I think I can contribute. I think I have
17 a good demeanor for it. But most of all, I would like
18 to be more involved with the children not only in
19 custody issues but more so on the delinquent side.

20 I think my involvement as representing many
21 juveniles that may come, as a judge, I could formulate
22 the appropriate sentence in order to try to redirect
23 their goals and mission in life as opposed to what led
24 them to family court as a juvenile.

25 MR. BOAN: Mr. Seigler, can you explain to

1 the Commission how you feel your legal and professional
2 experience thus far will assist you to be an effective
3 judge.

4 MR. SEIGLER: Well, again, with all humility,
5 I've been involved with basically every facet of the
6 family court arena except prosecuting juveniles or
7 being involved in a domestic foreign adoption.

8 I've basically handled every type of case,
9 and I've been practicing law now for 15 years privately
10 as representing the guardian ad litem program, public
11 defender, and also being, like I say, a former chief
12 municipal judge. I feel like my experience would be
13 beneficial, and I feel like I could do a good job.

14 MR. BOAN: Are there any areas, including
15 subjective areas of the law, that you would need to
16 additionally prepare for in order to serve as a judge,
17 and how would you handle that additional preparation?

18 MR. SEIGLER: Like I say, the only thing that
19 I could fathom would be a foreign adoption. I could
20 read the statute on that, that's no problem. The
21 process of prosecuting juveniles every week is as hard
22 as defending juveniles.

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

1 appropriate demeanor for a judge.

2 MR. SEIGLER: Well, again, I think you have
3 to be fair and honest with all litigants. There's a
4 very good possibility that you may be the only judge
5 that they see in their lifetime. Although, justice may
6 not always be blind, I think when they leave the
7 courtroom they should feel like it is. To be both fair
8 and honest and a good even-keeled demeanor. I think
9 that that would be the fair approach and correct
10 approach as a judge in any field, whether circuit,
11 family, or otherwise.

12 MR. BOAN: What suggestions would you offer
13 for improving the backlog of cases on the docket in
14 family court?

15 MR. SEIGLER: Well, I think they've made
16 correct efforts last year or the year before in
17 streamlining the certification and also requiring
18 certain mediation and so forth. But I think at this
19 point, there's oftentimes too many continuances granted
20 in certain cases. I think you can cut back on
21 continuances and streamline the more difficult cases
22 that would put a strain on the docket somewhat.

23 MR. BOAN: Mr. Seigler, the Commission
24 received 54 ballot box surveys regarding you with six
25 additional comments. The ballot box survey contained

1 the following positive comments: The respondents cited
2 your intelligence, emotional maturity and integrity and
3 felt that you were highly qualified. None of the
4 written comments expressed concerns.

5 I now have a series of housekeeping questions
6 to ask you.

7 Have you sought or received a pledge of any
8 legislator prior to this date?

9 MR. SEIGLER: No, sir.

10 REPRESENTATIVE CLEMMONS: Have you sought or
11 have you been offered a conditional pledge of support
12 of any legislator pending the outcome of your
13 screening?

14 MR. SEIGLER: No, sir, I have not.

15 MR. BOAN: Have you asked any third parties
16 to contact members of the General Assembly on your
17 behalf?

18 MR. SEIGLER: I have not.

19 MR. BOAN: From the date you filed your
20 judicial application, have you attended any political
21 fundraisers, and, if so, please describe the
22 circumstances.

23 MR. SEIGLER: I have not.

24 MR. BOAN: Have you contacted any members of
25 the Commission?

1 MR. SEIGLER: I have not.

2 MR. BOAN: Do you understand that you're
3 prohibited from seeking a pledge or commitment until 48
4 hours after the formal release of the Commission's
5 report?

6 MR. SEIGLER: I understand that, sir.

7 MR. BOAN: Have you reviewed the Commission's
8 guidelines on pledging?

9 MR. SEIGLER: Yes, sir, I have.

10 REPRESENTATIVE CLEMMONS: As a follow up, are
11 you aware of the penalties for the pledging rules, that
12 is, it is a misdemeanor and upon conviction, a violator
13 must be fined not more than \$1,000 or imprisoned not
14 more than 90 days?

15 MR. SEIGLER: I'm aware of that, sir.

16 MR. BOAN: I would note that the Midlands
17 Citizens Committee found Mr. Seigler qualified in the
18 evaluative criteria of constitutional qualifications,
19 physical health, and mental stability.

20 The Committee found him well qualified in the
21 evaluative criteria of ethical fitness, professional
22 and academic ability, character, reputation,
23 experience, and judicial temperament.

24 The Committee called Mr. Seigler, quote, a
25 well qualified candidate with extensive experience in

1 all aspects of family court practice. He is well liked
2 and respected by members of the bar. He appears to be
3 intelligent, have a good temperament, and truly
4 concerned about the family court.

5 In summary, the Committee stated, "Mr.
6 Seigler has the tools to become a fine family court
7 judge."

8 I would just note for the record that any
9 concerns raised during the investigation regarding the
10 candidate were incorporated into the questioning of the
11 candidate today.

12 Mr. Chairman, I have no further questions.

13 REPRESENTATIVE CLEMMONS: Thank you very
14 much, Mr. Boan.

15 Are there any questions of this candidate by
16 any member of the Commission?

17 Hearing none, Mr. Seigler, thank you so much
18 for being with us today.

19 MR. SEIGLER: Thank you, sir.

20 REPRESENTATIVE CLEMMONS: This concludes this
21 portion of our screening process. As you know, the
22 record will remain open until the report is published,
23 and you may be called back at such time as
24 communication should be required.

25 I'll remind you of the 48-Hour Rule, ask you

1 to be mindful of that. Anyone that inquires with you
2 about whether they may or may not advocate for you in
3 the event you are screened out, as you have described
4 it, remind them of the 48-Hour Rule.

5 We thank you for offering, and we thank you
6 for your desire to serve the state of South Carolina on
7 the family court bench. Thank you.

8 MR. SEIGLER: Thank you, everybody, for your
9 service. Have a good day.

10 (Mr. William Gregory Seigler exited the
11 room.)

12 (Ms. Rebecca Brown West is present in the
13 room.)

14 REPRESENTATIVE CLEMMONS: We would now invite
15 Rebecca Brown West to be screened.

16 We have with us Rebecca Brown West who is
17 seeking nomination to Family Court, Eleventh Circuit,
18 Seat 1.

19 It's good to have you with us today,
20 Ms. West.

21 MS. WEST: Thank you very much.

22 REPRESENTATIVE CLEMMONS: Would you please
23 raise your right hand and be sworn.

24 Do you swear to tell the truth, the whole
25 truth, nothing but the truth, so help you God?

1 MS. WEST: I do.

2 REPRESENTATIVE CLEMMONS: Thank you very
3 much.

4 Have you had an opportunity to review your
5 Personal Data Questionnaire?

6 MS. WEST: Yes.

7 REPRESENTATIVE CLEMMONS: Is it correct?

8 MS. WEST: Yes.

9 REPRESENTATIVE CLEMMONS: Is amendment -- is
10 there needed amendment or change?

11 MS. WEST: None other than what I've already
12 submitted by letter.

13 REPRESENTATIVE CLEMMONS: Okay. Staff does
14 have a letter, a proposed amendment by letter in the
15 file.

16 Is there objection to making that a part of
17 the person data questionnaire on Ms. West?

18 Hearing none, that's so ordered and made a
19 part of the transcript.

20 (EXHIBIT 32, Personal Data Questionnaire of
21 Rebecca Brown West, admitted.)

22 MS. WEST: Thank you.

23 REPRESENTATIVE CLEMMONS: The Judicial Merit
24 Selection Commission has thoroughly investigated your
25 qualifications for the bench. Our inquiry has focused

1 on those nine statutory evaluative criteria and has
2 also included a ballot box survey, a thorough study of
3 your application materials, verification of your
4 compliance with state ethics laws, search of newspaper
5 articles in which your name appears, study of previous
6 screenings, and a check for economic conflicts of
7 interest.

8 We have received no affidavits filed in
9 opposition to your candidacy. No witnesses are present
10 to testify.

11 Do you have a brief opening statement you
12 would like to share with us at this time?

13 MS. WEST: None other than I'm very humbled
14 to be here, and I appreciate your time.

15 REPRESENTATIVE CLEMMONS: Thank you,
16 Ms. West. If you would please respond to any questions
17 counsel may have.

18 MS. WEST: Thank you.

19 MR. HUBLER: Ms. West, you have before you
20 the sworn statement you provided with detailed answers
21 to over 30 questions regarding judicial conduct,
22 statutory qualifications, office administration, and
23 temperament. Are there any additional amendments you
24 would like to make at this time to your sworn
25 statement?

1 MS. WEST: No.

2 MR. HUBLER: At this time, Mr. Chairman, I
3 would like to ask that Ms. West's sworn statement be
4 entered as an exhibit to the hearing record.

5 REPRESENTATIVE CLEMMONS: Thank you.

6 Is there any objection?

7 Hearing none, so ordered.

8 (EXHIBIT 33, Sworn Statement of Rebecca Brown
9 West, admitted.)

10 MR. HUBLER: Ms. West, please state for the
11 record the city and circuit in which you reside.

12 MS. WEST: Lexington, South Carolina, in the
13 eleventh circuit.

14 MR. HUBLER: I note for the record that based
15 upon the testimony contained in the candidate's PDQ,
16 which has been included in the record pursuant to
17 candidate's consent, Ms. West meets the statutory
18 requirements for the position regarding age, residence,
19 and years of practice.

20 Ms. West, why do you now want to serve as a
21 family court judge?

22 MS. WEST: Thank you. I believe that if you
23 possess the appropriate temperament and competency and
24 experience, that you're required to offer yourself for
25 public service. I feel like I've reached that point in

1 my career now where I can be an asset to the family
2 court bench.

3 MR. HUBLER: Ms. West, can you explain to the
4 Commission how you feel your legal and professional
5 experience thus far will assist you in being an
6 effective judge.

7 MS. WEST: I began my career in a general
8 practice, and I had the opportunity to try cases in
9 many different courts. And throughout that process, I
10 learned the family court is where I needed to be. I
11 was very fortunate and able to narrow my practice after
12 that initial experience in my general practice firm and
13 have since been able to increase the complexity level
14 of my litigation and my trial practice since then. And
15 I've been solely practicing now in family court for
16 more than ten years.

17 MR. HUBLER: Are there any areas, including
18 subject areas of the law, that you would need
19 additionally to prepare for in order to serve as a
20 judge, and how would you handle that additional
21 preparation?

22 MS. WEST: I already have begun that. I have
23 no experience in juvenile court and juvenile matters,
24 and so prior to applying for this position, I read the
25 code and began to become familiar with that area. I've

1 also observed some proceedings. If I'm elected, I
2 would continue to step up that preparation and shore up
3 my experience level there.

4 I also have limited experience in the field
5 of adoption. I have worked with another attorney in my
6 office and joined her as co-counsel now on several
7 cases so that I can gain some more experience in
8 contested and uncontested adoptions. And I feel like
9 I'm now to the level where I need to be in that area.

10 Otherwise, I have a lot of experience in
11 contested divorce, equitable division, custody matters,
12 and DSS.

13 MR. HUBLER: Ms. West, you mentioned earlier
14 that one of the reasons for you wanting to serve as a
15 family court judge was that you had -- you believe you
16 have the proper demeanor for being a judge. What do
17 you believe would be the appropriate demeanor for a
18 judge to have in dealing with cases in family court?

19 MS. WEST: So often the emotions are
20 incredibly high in family court. And I believe that a
21 family court judge is called on to deal with issues
22 that are the most intimate in nature. Those dealing
23 with your spouse and finances and children. And so I
24 believe that it is incredibly important for a family
25 court judge to remain calm, to be patient as the

1 parties tell their story. And for a judge to have good
2 humor but never be too casual in that role.

3 MR. HUBLER: What suggestions would you offer
4 for ensuring that the family court cases are dealt with
5 efficiently?

6 MS. WEST: We found in Lexington County that
7 requiring mediation in contested matters prior to
8 setting the case for a final hearing is an effective
9 tool. I think we are also learning as practitioners
10 that the ABC docket is another way to resolve the
11 backlog. I think ultimately it is the judge's
12 responsibility to make sure that the courtroom runs
13 efficiently. And it is ultimately the job of the
14 practitioners and of the bar to make sure that their
15 cases are prepared in a timely manner and that their
16 cases move through the system as well.

17 MR. HUBLER: Ms. West, you have been involved
18 in five lawsuits. The first lawsuit was filed by you
19 in 2006 against a flooring company. Can you explain
20 the nature and disposition of this lawsuit.

21 MS. WEST: Sure. We hired a company to
22 install some carpet on our back porch of our home. The
23 contractor exposed a chemical to a pilot light and the
24 back porch exploded. And we sued the company. And I
25 believe that was a subrogation claim that my insurance

1 company encouraged us to bring. It was resolved in
2 mediation.

3 MR. HUBLER: Okay. In 2007 a civil action
4 was filed against you in matters related to ongoing
5 family court litigation. The civil action named most
6 people associated with your client in the family court
7 case. Please explain the nature and disposition of
8 this lawsuit.

9 MS. WEST: That was a lawsuit that was filed
10 about a year after family court litigation began. If
11 that's the one that you're talking about, the plaintiff
12 alleged that I had committed malpractice because I had
13 a conflict of interest. And she also sued my client
14 along with nearly half a dozen other defendants related
15 to his business. And two family court judges found
16 that I did not have a conflict of interest. The
17 husband ended up paying a settlement to the wife, and
18 none of the other defendants, including myself, were
19 required to contribute to that settlement. We defended
20 that strongly throughout.

21 MR. HUBLER: And I believe related to that
22 case was a lawsuit in 2007 where you sued a newspaper
23 and two of its reporters for -- under a claim of
24 defamation. Can you explain that suit, too.

25 MS. WEST: That's correct. There was a local

1 newspaper that attempted to tell the story of a family
2 court litigation that I was involved in. And in doing
3 so defamed me by name in the newspaper article. I sued
4 for defamation. We went to trial on that matter, and
5 the jury awarded \$10,000 in actual damages and \$30,000
6 in punitive damages.

7 That matter was appealed by both -- that
8 matter was appealed and the punitive damages were
9 struck on appeal. Both sides then asked for writs and
10 that was granted. Once that was granted, both parties,
11 we settled.

12 MR. HARRELL: In 2012 a former client filed a
13 lawsuit against you, Richard Breibart and his law firm.
14 Can you explain the disposition and nature of that suit
15 as well.

16 MS. WEST: Yes. This was a client of the
17 Breibart firm. She was one of the victims of Richard
18 Breibart's fraudulent scheme to steal money. And she
19 sued me along with the firm and Mr. Breibart back in
20 September of 2012 alleging that I was negligent in
21 failing to discover the fraudulent scam by
22 Mr. Breibart. Again, I am in the process of defending
23 that. That's been ongoing now since September of 2012.

24 MR. HUBLER: The last lawsuit that was
25 described in your PDQ was a pro se contempt action

1 filed in 2013 against you. Can you explain the nature
2 and disposition of that.

3 MS. WEST: Right. That is currently
4 inactive. It's my understanding nothing has been done
5 on that since August of 2013. Again, I have an
6 attorney, and I am defending that action to the extent
7 that it's still active.

8 MR. HUBLER: The Commission received 102
9 ballot box surveys regarding you with 15 written
10 comments. 13 of those comments indicated you have
11 excellent qualifications and a good work ethic.
12 However, two of those written comments expressed
13 concerns. One comment indicated that you have, quote,
14 demonstrated over many years that you have an inability
15 to keep your temper in check.

16 What response would you offer to this
17 concern?

18 MS. WEST: Oftentimes in family court
19 emotions run high. And I have generally prescribed to
20 the notion that when the fight becomes a fight between
21 the attorneys, you've done a tremendous disservice to
22 your client. And I have very much tried to remember
23 that in my years of practice and in my sole family
24 practice. To the extent that I failed in this one
25 instance, I sincerely apologize.

1 MR. HUBLER: The second comment simply stated
2 that you were, quote, involved in the Breibart scheme.
3 Excluding what you have already discussed about it,
4 would you add anything else about that issue?

5 MS. WEST: Other than I have in no way been
6 connected to his intentional acts, as nobody has in the
7 firm either.

8 MR. HUBLER: Mr. Chairman, I would like to
9 request we now go into executive session for a further
10 matter.

11 REPRESENTATIVE CLEMMONS: Is there a motion?

12 SENATOR MARTIN: So moved.

13 REPRESENTATIVE CLEMMONS: Second?

14 SENATOR CAMPSER: Second.

15 REPRESENTATIVE CLEMMONS: All in favor say
16 "aye."

17 The ayes have it.

18 We would ask that the hearing room be cleared
19 of all other than Commission members and staff and
20 Ms. West.

21 (The members went into executive session.)

22 * * * * *

23 (The members came out of executive session.)

24 REPRESENTATIVE CLEMMONS: We are back in
25 session on the record.

1 We are back on the record.

2 MR. HUBLER: Ms. west, we have a couple of
3 housekeeping matters before we are finished.

4 From the date you filed your judicial
5 application --

6 REPRESENTATIVE CLEMMONS: Excuse me, if I can
7 stop you for one second. Let me note for the record
8 that in addition to personal matters in executive
9 session, we also discussed matters in litigation that
10 Ms. West is involved in.

11 Thank you. I'm sorry for the interruption.

12 MR. HUBLER: Ms. West, from the date you
13 filed your judicial application, have you attended any
14 political fundraisers, if so, please describe the
15 circumstances.

16 MS. WEST: All right. I believe it was in
17 early April, I heard at the caucus meeting that
18 Representative Bingham had a reception in his honor at
19 the Palmetto Club that evening. I have known
20 Representative Bingham and he's known my family for
21 probably more than 20 years.

22 I went to that reception. I was there for a
23 short period of time when someone asked Representative
24 Bingham whether or not I was allowed to be there. He
25 came to me. I said obviously I'm not -- I don't know

1 whether or not I'm supposed to be here, but I'm going
2 to excuse myself. He agreed.

3 I found out later that that is apparently a
4 fundraising event or could have been construed as a
5 fundraising event. I saw no signage. I didn't see an
6 invitation or anything to indicate it was anything
7 other than a reception honoring the representative that
8 I knew. And so immediately excused myself.

9 MR. HUBLER: Thank you.

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

12 MS. WEST: No, sir.

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

16 MS. WEST: No.

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

20 MS. WEST: No.

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

23 MS. WEST: No.

24 MR. HUBLER: Do you understand you are
25 prohibited from seeking a pledge of commitment until 48

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

3 MS. WEST: I do.

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

6 MS. WEST: Yes.

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

12 MS. WEST: Yes.

13 MR. HUBLER: I would note for the record that
14 the Midlands Citizens Committee found Ms. West well
15 qualified with respect to constitutional
16 qualifications, physical health, ethical fitness,
17 character, professional and academic ability,
18 reputation, experience, and judicial temperament.

19 The Committee did not indicate a finding for
20 mental stability.

21 The Committee did note that, quote, Ms. West
22 is a family court expert in all areas except the area
23 of juvenile law. However, she has already begun to
24 study that area of the law to become more familiar with
25 it. She is smart and experienced, has a good

1 temperament and is well respected by her colleagues.

2 The committee stated in summary, "Ms. West is
3 an outstanding candidate who has an impressive resume."

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

8 Mr. Chairman, I have no further questions.

9 REPRESENTATIVE CLEMMONS: Thank you very
10 much.

11 Any members of the Commission have questions
12 for Ms. West?

13 Hearing none, Ms. West, thank you so much for
14 being with us today.

15 This concludes this portion of the screening
16 process. As you know, the record will remain open
17 until the report is published. And you may be called
18 back at such time if that need should arise.

19 I remind you of the 48-Hour Rule and ask you
20 to be mindful of that. Anyone that inquires with you
21 about whether they may or may not advocate for you in
22 the event that you are screened out, as you've
23 described it, remind them of the 48-Hour Rule.

24 I thank you for -- we thank you for offering,
25 and we also thank you for your desire to serve the

1 state of South Carolina.

2 MS. WEST: Thank you.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 (Ms. Rebecca Brown West exited the room.)

5 REPRESENTATIVE CLEMMONS: That concludes the
6 candidates for family court and now we have the
7 master-in-equity. We have three candidates who have --
8 who are here to screen for master-in-equity of Berkeley
9 County.

10 First is Robert G. Jones. We're going to
11 have a two-minute break.

12 (A recess transpired.)

13 (Mr. Robert G. Jones is present in the room.)

14 REPRESENTATIVE CLEMMONS: We have before us
15 Robert G. Jones who is seeking nomination to be
16 master-in-equity for -- to run for election in
17 master-in-equity for Berkeley County.

18 Mr. Jones, welcome. It's good to have you
19 with us.

20 MR. JONES: Thank you. I'm delighted to be
21 here.

22 REPRESENTATIVE CLEMMONS: Thank you.

23 If you would, please, raise your right hand
24 and be sworn.

25 Do you swear to tell the truth, the whole

1 truth and nothing but the truth, so help you God?

2 MR. JONES: I do.

3 REPRESENTATIVE CLEMMONS: Thank you very
4 much.

5 Have you had an opportunity to review the
6 Personal Data Questionnaire?

7 MR. JONES: Yes, sir, I have.

8 REPRESENTATIVE CLEMMONS: Is it correct?

9 MR. JONES: Yes, sir.

10 REPRESENTATIVE CLEMMONS: Does anything need
11 to be changed?

12 MR. JONES: No, sir.

13 REPRESENTATIVE CLEMMONS: Do you object to
14 our making this a summary -- this summary a part of
15 your record in your sworn testimony?

16 MR. JONES: No objection.

17 REPRESENTATIVE CLEMMONS: Without objection,
18 the Personal Data Questionnaire is ordered a part of
19 the transcript.

20 (EXHIBIT 34, Personal Data Questionnaire of
21 Robert G. Jones, admitted.)

22 REPRESENTATIVE CLEMMONS: The Judicial Merit
23 Selection Commission has thoroughly investigated your
24 qualifications for the bench. Our inquiry has focused
25 on nine statutory evaluative criteria and has

1 additionally included a ballot box survey, thorough
2 study of you application materials, verification of
3 your compliance with state ethics laws, a search of
4 newspaper articles in which your name appears, study of
5 previous screenings, and a check for economic conflicts
6 of interest.

7 We have received no affidavits filed in
8 opposition to your election. No witnesses are present
9 to testify.

10 Do you have a brief opening statement that
11 you would like to make at this time?

12 MR. JONES: Other than to say that I'm
13 delighted to be here and honored to be a part of this
14 process.

15 REPRESENTATIVE CLEMMONS: Thank you very
16 much.

17 If you would now, please answer any of
18 counsel's questions.

19 MR. MALDONADO: Thank you, Mr. Chairman,
20 members of the Commission.

21 Mr. Jones, you should have before you a sworn
22 statement that you provided with detailed answers
23 regarding judicial conduct, statutory qualification,
24 office administration, and temperament.

25 Are there any amendments you would like to

1 make at this time to the sworn statement?

2 MR. JONES: No, there are not.

3 MR. MALDONADO: At this time, Mr. Chairman, I
4 would ask that Mr. Jones' sworn statement be entered as
5 an exhibit into the hearing.

6 REPRESENTATIVE CLEMMONS: Thank you,
7 Mr. Maldonado.

8 Is there any objection?

9 Hearing none, so ordered.

10 (EXHIBIT 35, Sworn Statement of Robert G.
11 Jones, admitted.)

12 MR. MALDONADO: Mr. Jones, why would you --
13 why do you want to serve as a master-in-equity?

14 MR. JONES: I have known since I was in law
15 school, probably about the second year, that I wanted
16 to be a judge but I never actively sought a judicial
17 post. And this vacancy came along and Judge Watson is
18 retiring and that is in my -- within my skill set and
19 just it spoke to me. I said this is something I can do
20 and do a very good job at.

21 MR. MALDONADO: Could you explain to the
22 members what you think is the appropriate demeanor for
23 a judge.

24 MR. JONES: The judge's demeanor should be
25 patient and dignified, kind and courteous.

1 MR. MALDONADO: Can you explain to the
2 Commission how you feel your legal and professional
3 experience thus far will assist you in being a fair
4 master-in-equity.

5 MR. JONES: Yes. I learned the practice of
6 law when I practiced in Alabama. I had excellent
7 mentors there. I cut my teeth on some heavy lifting
8 federal litigation defending the city of Huntsville and
9 other municipalities and government entities.

10 We did police liability and defense.
11 Defended police officers when they were involved in
12 civil litigation. And I learned a lot about the
13 practice of law and not going home for 24 hours and
14 working hard.

15 And after a lot of thought and prayer, my
16 wife and I decided that we would come back to
17 South Carolina, and we did. And my experience in
18 South Carolina has been almost exclusively with matters
19 that are handled before the master-in-equity, so I have
20 the right skill set that will help me to be a good
21 master-in-equity.

22 MR. MALDONADO: Thank you.

23 Mr. Jones, the Commission received 17 ballot
24 box surveys regarding you with five additional comments
25 with respect to the criteria of experience. Eight

1 respondents now well qualified, three qualified, and
2 three unqualified.

3 Can you comment on those responses as to your
4 lack of qualification.

5 MR. JONES: Well, the litigation process is
6 an adversarial system. And at the end of the day,
7 somebody will leave happy and somebody will leave
8 disappointed. Hopefully not angry. I've always tried
9 to treat people with courtesy and dignity and respect.
10 And I believe in the Golden Rule, do unto others as you
11 want them to do unto you. And I'm not aware of anyone
12 bringing any concerns to me personally or indirectly
13 expressing any concerns to me. So I'm actually
14 surprised by that.

15 MR. MALDONADO: A similar question with
16 respect to the criteria of judicial temperament, eight
17 responses found you well qualified, four qualified, two
18 unqualified.

19 One comment expressed a concern that you were
20 not cordial and was often condescending in your verbal
21 communications. What response can you offer as to
22 those concerns, if any, other than what you have said?

23 MR. JONES: I would reiterate what I just
24 said. No one has ever brought that to my attention.
25 I've tried to be courteous to everyone. I haven't

1 heard anything like that, so ...

2 MR. MALDONADO: Thank you, Mr. Jones.

3 Just some housekeeping issues, have you
4 sought or received any pledge of any legislator prior
5 to this date?

6 MR. JONES: No, I have not.

7 MR. MALDONADO: Have you sought or have you
8 been offered a conditional pledge of support pending
9 the outcome of your screening?

10 MR. JONES: No, I have not.

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

14 MR. JONES: No, I have not.

15 MR. MALDONADO: Have you contacted anyone on
16 this Commission?

17 MR. JONES: No.

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

22 MR. JONES: Yes, I understand.

23 MR. MALDONADO: As a follow up, are you aware
24 of penalties for violating the pledging rules, that is,
25 it is a misdemeanor, and upon conviction, a violator

1 must be fined not more than \$1,000 or imprisoned not
2 more than 90 days?

3 MR. JONES: Yes, I am aware.

4 MR. MALDONADO: Thank you.

5 I would note the Lowcountry Citizens
6 Committee found Mr. Jones to be well qualified in the
7 evaluative criteria for ethical fitness, professional
8 and academic ability, character, reputation,
9 experience, and judicial temperament.

10 The Committee found him qualified as to the
11 constitutional qualifications, physical health, mental
12 stability.

13 The Committee commented that Mr. Jones had
14 good strength, good vision, and ideas for the position.

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

19 Mr. Chairman, I have no further questions.

20 REPRESENTATIVE CLEMMONS: Thank you very
21 much.

22 Mr. Jones, thank you for being here with us.

23 Are there any questions by members of the
24 Commission?

25 Senator.

1 SENATOR MALLOY: Yes, sir.

2 Mr. Jones, notwithstanding the fact that you
3 had not heard anybody make those accusations about you,
4 how would you address them having seen them if they
5 were made to you? You never heard anything that
6 someone says that you are not cordial, you would just
7 tell them that you hold yourself out in a certain way?
8 How about give me some explanation as to how you would
9 address the person assuming that you had heard it?

10 MR. JONES: Okay. I appreciate the
11 hypothetical and the question. And I would apologize
12 and try to clarify that I never intentionally would
13 hurt anyone and have not intentionally hurt anyone and
14 maybe something was misconstrued or a tone of voice or
15 something like that. And I would apologize and try to
16 make it right.

17 SENATOR MALLOY: And I would also -- I guess
18 you would -- maybe just tell the Commissioners how you
19 try to operate within your practice and those kinds of
20 things, explain that something was misconstrued or
21 something, I would assume.

22 MR. JONES: I think that's right, yes.

23 SENATOR MALLOY: Okay. All right. Fair
24 enough.

25 REPRESENTATIVE CLEMMONS: Okay. Any other

1 questions?

2 Hearing none, Mr. Jones, we appreciate you
3 being here today and being a part of this process.

4 That concludes this portion of our screening
5 process. As you know, the record will remain open
6 until the report is published. And you may be called
7 back at such time if the need should arise.

8 I'll remind you of the 48-Hour Rule and ask
9 you to be mindful of that. Anyone that inquires with
10 you about whether they may or may not advocate for you
11 in the event that you are screened out, as you have
12 described it, remind them of the 48-Hour Rule.

13 I thank you -- we thank you for offering. I
14 thank you for your desire to serve South Carolina.

15 MR. JONES: Thank you very much.

16 REPRESENTATIVE CLEMMONS: Thank you.

17 (Mr. Robert G. Jones exited the room.)

18 (Mr. Dale E. Van Slambrook is present in the
19 room.)

20 REPRESENTATIVE CLEMMONS: The Commission has
21 the honor of having before us Dale E. Van Slambrook who
22 is seeking nomination for the position of
23 master-in-equity for Berkeley County.

24 It's good to have you with us today.

25 MR. VAN SLAMBROOK: Very nice to be here.

1 Thank you all.

2 REPRESENTATIVE CLEMMONS: Would you raise
3 your right hand to be sworn.

4 Do you swear to tell truth, the whole truth
5 and nothing but the truth, so help you God?

6 MR. VAN SLAMBROOK: Yes, I do.

7 REPRESENTATIVE CLEMMONS: Thank you very
8 much.

9 Have you had an opportunity to review your
10 Personal Data Questionnaire?

11 MR. VAN SLAMBROOK: Yes, sir, I have.

12 REPRESENTATIVE CLEMMONS: Are there any
13 needed changes to be made?

14 MR. VAN SLAMBROOK: None that I'm aware of.

15 REPRESENTATIVE CLEMMONS: It is correct,
16 then?

17 MR. VAN SLAMBROOK: Yes.

18 REPRESENTATIVE CLEMMONS: Do you object to
19 our making this summary a part of the record of your
20 sworn testimony today?

21 MR. VAN SLAMBROOK: No, not at all.

22 REPRESENTATIVE CLEMMONS: There being no
23 objection, then it is so ordered.

24 (EXHIBIT 36, Personal Data Questionnaire of
25 Dale E. Van Slambrook, admitted.)

1 REPRESENTATIVE CLEMMONS: The Judicial Merit
2 Selection Commission has thoroughly investigated your
3 qualifications for the bench. Our inquiry has focused
4 on the statutory nine evaluative criteria and
5 additionally a ballot box survey, a thorough study of
6 your application materials, verification of your
7 compliance with state ethics laws, a search of
8 newspaper articles in which your name appears, a study
9 of previous screenings, and a check for economic
10 conflicts of interest.

11 We have received no affidavits filed in
12 opposition to your election. No witnesses are present
13 to testify.

14 Do you have a brief opening statement that
15 you would like to make at this time?

16 MR. VAN SLAMBROOK: I have a very, very
17 short. Just thank you all for having me here. I'm
18 very excited to go through the process. I've been
19 involved in it before. It's very interesting,
20 enlightening. I'm glad to be here.

21 REPRESENTATIVE CLEMMONS: Thank you,
22 Mr. Slambrook. If you would now, please answer
23 Mr. Gentry's questions.

24 MR. GENTRY: Mr. Chairman and Members of the
25 Commission, I have a few procedural matters to take

1 care of with this candidate.

2 Judge, before you is the sworn statement you
3 prepared with detailed answers to over 30 questions
4 regarding judicial conduct, statutory qualifications,
5 office administration, and temperament.

6 Are there any amendments you would like to
7 make at this time to your sworn statement?

8 MR. VAN SLAMBROOK: No, sir.

9 MR. GENTRY: At this time, Mr. Chairman, I
10 would ask that the Judge's sworn statement be entered
11 as an exhibit into the hearing record.

12 REPRESENTATIVE CLEMMONS: Is there any
13 objection?

14 Hearing none, so ordered.

15 (EXHIBIT 37, Sworn Statement of Dale E. Van
16 Slambrook, admitted.)

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

24 Judge, why do you want to serve as a
25 master-in-equity?

1 MR. VAN SLAMBROOK: I have been practicing
2 law for about 30 years, and I have a broad practice, a
3 general practice that dealt with many things. And
4 eventually was able to be appointed as a municipal
5 court judge and piqued my interest.

6 Relative to serving as a judge, I was aware
7 of the master-in-equity position through the years
8 having been in front of the master-in-equity in
9 Berkeley County, Charleston County, and Dorchester
10 County. I felt that with the broad experience that I
11 had, as well as the recent judicial experience, I
12 thought it would be a good step. And I knew that the
13 position was likely to be coming up and looked into it,
14 into the qualifications and thought it fit myself, my
15 practice, my career, and I thought I would be able to
16 do a good job.

17 MR. GENTRY: Are there any areas, including
18 subjective areas of the law, that you would need to
19 additionally prepare for in order to serve as a
20 master-in-equity, and, if so, how would you go about
21 that preparation?

22 MR. VAN SLAMBROOK: I would think that the
23 only thing that I would want to make sure is there is a
24 lot of the work from the master-in-equity in
25 foreclosures. There's a lot of change through the

1 years recently with the protection, additional
2 protection for the borrowers relative to abatements and
3 things like that. Which I think I would make sure that
4 I was on top of and study that -- on that to make sure
5 that all of those folks were protected.

6 I do not do foreclosures, haven't done
7 foreclosures from a commercial standpoint. I really
8 want to make sure I'm fully familiar with that because
9 that's a large part of that office's practice.

10 MR. GENTRY: Although you address this in
11 your sworn affidavit, can you explain to the members of
12 the Commission what you think is the appropriate
13 demeanor for a master-in-equity.

14 MR. VAN SLAMBROOK: I think that with any
15 judge, it's calm, courteous, and respectful to the
16 lawyers and to the litigants. Probably more so to the
17 litigants as their exposure to the court system may be
18 relatively minor and modest by comparison. That may be
19 their only time in court. So I think the calm,
20 courteous and, of course, uniform treatment of the
21 people are most important.

22 MR. GENTRY: The Commission received 135
23 ballot box surveys regarding the judge with 23 positive
24 comments and no negative comments.

25 Mr. Chairman, I would like to request that we

1 now go into executive session to handle the next
2 matter.

3 REPRESENTATIVE CLEMMONS: Thank you.

4 Is there a motion?

5 SENATOR MALLOY: So moved.

6 SENATOR CAMPSSEN: Second.

7 REPRESENTATIVE CLEMMONS: All in favor say
8 "aye."

9 (Members respond.)

10 REPRESENTATIVE CLEMMONS: Those opposed?

11 The ayes have it. We go into executive
12 session. Close the door and turn the microphones off.

13 (The members went into executive session.)

14 * * * * *

15 (The members came out of executive session.)

16 MR. GENTRY: Judge, have you sought or
17 received the pledge of any legislator prior to this
18 date?

19 MR. VAN SLAMBROOK: No, sir, I have not.

20 MR. GENTRY: Have you sought or have you been
21 offered a conditional pledge of support of any
22 legislator pending the outcome of your screening?

23 MR. VAN SLAMBROOK: No, sir, I have not.

24 MR. GENTRY: Have you asked any third parties
25 to contact members of the General Assembly on your

1 behalf?

2 MR. VAN SLAMBROOK: No, sir, I have not.

3 MR. GENTRY: Have you contacted any members
4 of this Commission?

5 MR. VAN SLAMBROOK: No, sir.

6 MR. GENTRY: Do you understand that you are
7 prohibited from seeking a pledge or commitment until 48
8 hours after the formal release of the Commission's
9 report?

10 MR. VAN SLAMBROOK: Yes. That is my
11 understanding.

12 MR. GENTRY: Have you reviewed the
13 Commission's guidelines on pledging?

14 MR. VAN SLAMBROOK: Yes, I have.

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

20 MR. VAN SLAMBROOK: I understand that there's
21 punishment, yes.

22 MR. GENTRY: I would note that the Lowcountry
23 Citizens Committee found the judge to be well qualified
24 in the evaluative criteria of ethical fitness,
25 professional and academic ability, character,

1 reputation, experience, and judicial temperament.

2 The Committee found the judge qualified as to
3 constitutional qualifications, physical health, and
4 mental stability.

5 The Committee stated in summary that the
6 judge's good strength in his prior judicial experience
7 as a municipal judge.

8 I just note for the record that any concerns
9 raised during the investigation regarding the candidate
10 were raised today in questioning.

11 Mr. Chairman, I have no further questions.

12 REPRESENTATIVE CLEMMONS: Thank you very
13 much, Mr. Gentry.

14 Do we have any questions by members of the
15 Commission?

16 Hearing none, Mr. Van Slambrook, thank you so
17 much for being with us today.

18 This concludes this portion of the screening
19 process. As you know, the record will remain open
20 until the report is published. And you may be called
21 back at such time as the need should arise.

22 I'll remind you of the 48-Hour Rule and ask
23 you to be mindful of that. Anyone that inquires with
24 you about whether they may or may not advocate for you
25 in the event that you are screened out, as you've

1 described it, remind them of the 48-Hour Rule.

2 I thank you for offering. We thank you for
3 offering, and we thank you for your desire to serve
4 South Carolina on the bench.

5 MR. VAN SLAMBROOK: Thank you all.

6 REPRESENTATIVE CLEMMONS: Thank you so much.

7 MR. VAN SLAMBROOK: Have a good evening.

8 REPRESENTATIVE CLEMMONS: You, too.

9 (Mr. Dale E. Van Slambrook exited the room.)

10 (Mr. David W. Wolf is present in the room.)

11 REPRESENTATIVE CLEMMONS: Last but not least
12 we have with us today David W. Wolf who is seeking
13 nomination to run for master-in-equity for Berkeley
14 County.

15 Mr. Wolf, it's good to have you with us
16 today.

17 MR. WOLF: Thank you. It's a pleasure.

18 REPRESENTATIVE CLEMMONS: Really good to have
19 you as our final candidate today.

20 Would you please raise your right hand to be
21 sworn.

22 Do you swear to tell the truth, the whole
23 truth and nothing but the truth, so help you God?

24 MR. WOLF: I do.

25 REPRESENTATIVE CLEMMONS: Thank you very

1 much.

2 Have you had an opportunity to review your
3 Personal Data Questionnaire?

4 MR. WOLF: Yes, sir, I have.

5 REPRESENTATIVE CLEMMONS: Is it correct?

6 MR. WOLF: I believe it is.

7 REPRESENTATIVE CLEMMONS: Does it -- does
8 anything require to be changed?

9 MR. WOLF: Not at this time.

10 REPRESENTATIVE CLEMMONS: Very good.

11 Will you have an objection to our making your
12 Personal Data Questionnaire, a summary of it a part of
13 the record of your sworn testimony?

14 MR. WOLF: None whatsoever.

15 REPRESENTATIVE CLEMMONS: Without objection,
16 it's so ordered. It will be a part of the -- excuse
17 me, a part of the transcript at this point.

18 (EXHIBIT 38, Personal Data Questionnaire of
19 David W. Wolf, admitted.)

20 REPRESENTATIVE CLEMMONS: The Judicial Merit
21 Selection Commission has thoroughly investigated your
22 qualifications for the bench. Our inquiry has focused
23 on the nine statutory evaluative criteria and
24 additionally has included a ballot box survey, thorough
25 study of your application materials, verification of

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

5 We received no affidavits filed in opposition
6 to your election. And we have no witnesses here today
7 to testify.

8 Do you have a brief opening statement that
9 you would like to make at this time?

10 MR. WOLF: Sure. I, first of all, thank you
11 very much for your time. I appreciate it. I know it's
12 running late, and I will try not to hold you here. But
13 I am thankful for this opportunity. I would approach
14 this position as I have every other employment that
15 I've had over the years and will work as hard as it
16 requires and spend whatever amount of time, whether
17 that means working evenings and weekends, I would do
18 that. And I would appreciate the Commission's
19 consideration. Thank you.

20 REPRESENTATIVE CLEMONS: Thank you.

21 And with that, would you please answer
22 Ms. Shuler's questions.

23 MR. WOLF: Yes, sir.

24 MS. SHULER: Good evening, Mr. Wolf. I will
25 let you know your screening attorney, Brad Wright, is

1 sick.

2 MR. WOLF: I am sorry.

3 MS. SHULER: So I'll cover your screening
4 today.

5 MR. WOLF: Thank you.

6 MS. SHULER: You have before you the sworn
7 statement you provided with detailed answers to over 30
8 questions regarding judicial conduct, statutory
9 qualifications, office administration, and temperament.

10 Is there any amendment you would like to make
11 at this time to your sworn statement?

12 MR. WOLF: No, ma'am.

13 MS. SHULER: Mr. Chairman, I would ask that
14 Mr. Wolf's sworn statement be entered as an exhibit
15 into the hearing record.

16 REPRESENTATIVE CLEMMONS: Is there any
17 objection?

18 Hearing none, so ordered.

19 (EXHIBIT 39, Sworn Statement of David W.
20 Wolf, admitted.)

21 MS. SHULER: Mr. Wolf, why do you want to
22 serve as a master-in-equity?

23 MR. WOLF: I would like the opportunity to
24 serve as a master-in-equity. The interest in a
25 judicial position began after I began clerking for

1 Judge Danny Pieper as a circuit court judge on the
2 Ninth Judicial Circuit. I was exposed to, for two
3 years, the day-to-day operations of a circuit court.
4 And as a result of that was kind of bitten with the bug
5 and the interest in a position like this.

6 Over the last 15 -- almost 15 years in
7 August, I've had the opportunity to try and develop the
8 skills that I saw performed in front of Judge Pieper
9 and the success that attorneys had over that time. I
10 tried to replicate those type skills. I've been
11 fortunate in the support that I've gotten from clients
12 and family and feel like I've been able to accomplish
13 that. I now would like to take a step from the
14 advocacy side and try and do -- assist litigants on the
15 adjudicatory side. And that's what draws my attention
16 to this.

17 MS. SHULER: Mr. Wolf, can you explain to the
18 Commission how you feel your legal professional
19 experience thus far will assist you in serving as an
20 effective judge.

21 MR. WOLF: Yes, ma'am.

22 In addition to what I just said, from working
23 with Judge Pieper for two years, I got the benefit of
24 what I believe is a very rigorous clerkship. I was
25 tasked with performing bench memorandum, both for

1 nonjury settings, motions, trials in front of a jury.
2 And I got to develop what I believe is a good work
3 ethic in preparing for litigation before a judge.

4 I then attempted as a public defender to
5 practice some of the good qualities that I saw as a law
6 clerk. As a private attorney, I hope that I further
7 refined those skills. And over the last nine years of
8 practice with my father, I've developed business,
9 commercial law practice, civil practice, and have
10 handled just about any subject matter that has
11 presented itself to me including the sort of matters
12 that come before master-in-equity. So I believe that
13 that skill set would assist me in this role.

14 MS. SHULER: Are there any areas, including
15 subjective areas of the law, that you would need to
16 additionally prepare for in order to serve as a
17 master-in-equity? If so, how would you handle that
18 additional preparation?

19 MR. WOLF: Sure. There's always room for
20 improvement, always trying to learn more. I've had the
21 opportunity to appear in front of master-in-equity in
22 supplemental proceedings, arrangements, mechanics liens
23 scenarios. I have a mortgage foreclosure hearing this
24 week before a master-in-equity. But I can always use
25 more experience and more exposure to the various

1 subject issues that can be different in each of those
2 cases.

3 So just additional exposure, I think, is an
4 area that would be helpful to me. But I don't think it
5 would hinder my ability to perform that task.

6 MS. SHULER: Thank you, Mr. Wolf.

7 Although you addressed this in your sworn
8 affidavit, would you explain to the members of the
9 Commission what you think to be the appropriate
10 demeanor for a judge.

11 MR. WOLF: Well, I think judges should always
12 be patient, particularly in this particular job where
13 individuals' homes are at risk. Of course, in a
14 setting where somebody could go to jail or, you know,
15 their family is basically being broken up, that's
16 important, too. But patience with the litigants.
17 Helping to come to a fair resolution in such a manner
18 that people don't feel like they didn't get a fair day
19 in court and would feel like the system is not set up
20 to provide them with that opportunity, I think is most
21 important.

22 But work ethic, being prepared, understanding
23 the issues that could come before the court would be
24 important. And obviously other aspects that I would be
25 wary of would be issues with ex parte communication

1 just to avoid the appearance of any possible
2 impropriety.

3 MS. SHULER: Thank you.

4 Housekeeping issues to cover with you, have
5 you sought or received the pledge of any legislator
6 prior to this day?

7 MR. WOLF: I have not.

8 MS. SHULER: Have you sought or have you been
9 offered a conditional pledge of support of any
10 legislator pending the outcome of your screening?

11 MR. WOLF: No, ma'am, I have not.

12 MS. SHULER: Have you asked any third party
13 to contact members of the General Assembly on your
14 behalf?

15 MR. WOLF: I have not.

16 MS. SHULER: Have you contacted any members
17 of the Commission?

18 MR. WOLF: I have not.

19 MS. SHULER: Do you understand that you are
20 prohibited from seeking a pledge or commitment until 48
21 hours after the formal release of the Commission's
22 report?

23 MR. WOLF: Yes, ma'am.

24 MS. SHULER: Have you reviewed the
25 Commission's guidelines on pledging?

1 MR. WOLF: I have.

2 MS. SHULER: Are you aware of the penalty for
3 violating pledging rules, that is, it is a misdemeanor,
4 and upon conviction, the violator can be fined not more
5 than \$1,000 and imprisoned not more than 90 days?

6 MR. WOLF: Yes, ma'am.

7 MS. SHULER: I would note that the Lowcountry
8 Citizens Committee found Mr. Wolf qualified in
9 evaluative criteria of constitutional qualification,
10 physical health and mental stability, ethical fitness,
11 professional and academic ability, character,
12 reputation, experience, and judicial temperament.

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

17 Mr. Chairman, I have no further questions for
18 Mr. Wolf.

19 REPRESENTATIVE CLEMMONS: Thank you very
20 much.

21 Any other questions of Mr. Wolf by Commission
22 members?

23 SENATOR MALLOY: Mr. Chairman.

24 REPRESENTATIVE CLEMMONS: Yes, sir,
25 Senator Mallory.

1 SENATOR MALLOY: You graduated with a JD/MBA?

2 MR. WOLF: I did. Yes, sir.

3 SENATOR MALLOY: That was -- what year was
4 that?

5 MR. WOLF: I graduated in 1999. I started
6 law school in the fall of 1995, and it took an extra
7 year.

8 SENATOR MALLOY: You're focusing -- your
9 business program is finance, accounting, general --

10 MR. WOLF: I don't recall there being a
11 focus, I apologize.

12 SENATOR MALLOY: You were screened by this
13 Committee before back in 2010?

14 MR. WOLF: Yes, sir, I was.

15 SENATOR MALLOY: And you were qualified then?

16 MR. WOLF: Yes, sir.

17 SENATOR MALLOY: Thank you.

18 REPRESENTATIVE CLEMMONS: Thank you.

19 Any other questions?

20 Hearing none, that concludes this portion of
21 our screening process.

22 We want to thank you for being here with us
23 today.

24 MR. WOLF: Thank you.

25 REPRESENTATIVE CLEMMONS: We thank you for --

1 I appreciate -- just one second. Hold on one second,
2 please.

3 As you know, the record will remain open
4 until the report is published. You may be called back
5 at such time if that need should arise.

6 I'll remind you of the 48-Hour Rule and ask
7 you to be mindful of that. Anyone that inquires with
8 you about whether they may or may not advocate for you
9 in the event you are screened out, as you described it,
10 remind them of the 48-Hour Rule.

11 MR. WOLF: Yes, sir.

12 REPRESENTATIVE CLEMMONS: We thank you for
13 offering for service, and we appreciate your service to
14 South Carolina. Thank you.

15 MR. WOLF: Thank you very much.

16 (Mr. David W. Wolf exited the room.)

17 REPRESENTATIVE CLEMMONS: The Chair will
18 entertain a motion to go into executive session.

19 SENATOR CAMPSSEN: Motion.

20 SENATOR MARTIN: Second.

21 REPRESENTATIVE CLEMMONS: All in favor say
22 "aye."

23 Those opposed?

24 The ayes have it.

25 Drop the veil.

1 (The members went into executive session.)

2 * * * * *

3 (The members came out of executive session.)

4 REPRESENTATIVE CLEMMONS: Okay. We have in
5 the first race, Circuit Court, Sixteenth Circuit, Seat
6 2, we've got four candidates. We had five, one has
7 withdrawn, Leah Moody, leaving four candidates. We
8 each have three votes.

9 Those in favor of the voting for Daniel Hall,
10 raise your hand.

11 MS. SHULER: Ten.

12 REPRESENTATIVE CLEMMONS: Okay. William
13 McKinnon.

14 MS. SHULER: Ten.

15 REPRESENTATIVE CLEMMONS: James Morton.

16 MS. SHULER: Four.

17 REPRESENTATIVE CLEMMONS: All right. I would
18 move that we find him qualified regardless.

19 MR. HARRELL: Second.

20 SENATOR MALLOY: Second.

21 REPRESENTATIVE CLEMMONS: All in favor of
22 finding him qualified say "aye."

23 Let's back up. Okay. Morton. Back to
24 Morton.

25 All those in favor -- let's do this in order.

1 All of those in favor of finding him
2 qualified, raise your hand.

3 MS. SHULER: Ten.

4 REPRESENTATIVE CLEMMONS: Any opposed?

5 All right. Those in favor of finding him
6 qualified and nominated, raise your hand.

7 MS. SHULER: Seven.

8 REPRESENTATIVE CLEMMONS: And those in favor
9 of finding Walter W. Thompson qualified, qualified,
10 raise your hand.

11 MS. SHULER: Ten.

12 REPRESENTATIVE CLEMMONS: Those in favor of
13 finding him -- or nominating him, raise your hand.

14 MS. SHULER: Three.

15 REPRESENTATIVE CLEMMONS: Okay. So we have
16 for Hall ten votes, McKinnon ten votes, Morton seven
17 votes, Thompson three votes.

18 We therefore find qualified and nominated
19 Hall, McKinnon, and Morton, with Thompson being
20 qualified.

21 Okay. Now we have four candidates for Family
22 Court, Eleventh Circuit, Seat 1.

23 SENATOR MARTIN: I move that we find all of
24 them qualified.

25 REPRESENTATIVE CLEMMONS: Thank you.

1 Do we have a second?

2 MR. STROM: Second.

3 REPRESENTATIVE CLEMMONS: All in favor of
4 finding all four qualified, raise your hand.

5 All four qualified, raise your hand.

6 MS. SHULER: Ten.

7 REPRESENTATIVE CLEMMONS: Ten.

8 And with that, again, we have three votes to
9 spread among four candidates. You can vote up to three
10 candidates.

11 The first candidate, Sara Bunge. All of
12 those in favor of finding her nominated, raise your
13 hand. Sara Bunge.

14 MS. SHULER: Six.

15 REPRESENTATIVE CLEMMONS: Huntley Crouch.

16 MR. STROM: This is qualified and nominated?

17 REPRESENTATIVE CLEMMONS: And nominated, yes.
18 They have already been found qualified.

19 MS. SHULER: Five.

20 REPRESENTATIVE CLEMMONS: William G. Seigler.

21 MS. SHULER: Ten.

22 REPRESENTATIVE CLEMMONS: Rebecca West.

23 MS. SHULER: Six.

24 REPRESENTATIVE CLEMMONS: All right. The
25 vote tallies are Bunge six, Crouch five, Seigler ten,

1 West six. Meaning that those founding qualified -- all
2 were found qualified. Those being nominated are Bunge,
3 Seigler, and West.

4 The Chair would entertain a motion to find
5 all three of the master-in-equity candidates for
6 Berkeley County qualified and nominated.

7 SENATOR MARTIN: So moved.

8 REPRESENTATIVE BANNISTER: Second.

9 REPRESENTATIVE CLEMMONS: Mr. Bannister
10 seconds.

11 All those in favor say "aye."

12 (Members respond.)

13 Those opposed say "nay."

14 The ayes have it.

15 Is there anything else by Commission members
16 for the cause?

17 SENATOR MARTIN: Motion to adjourn.

18 REPRESENTATIVE CLEMMONS: We have a motion to
19 adjourn.

20 MR. STROM: Second.

21 REPRESENTATIVE CLEMMONS: Those in favor say
22 "aye."

23 (Members respond.)

24 The motion carries. We are adjourned.

25 Thank you everybody for being here and your

1 hard work.

2 (The hearing concluded at 6:30 p.m.)

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CERTIFICATE OF REPORTER

I, Sheri L. Byers, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing proceedings was taken before me on the date and at the time mentioned on page 1 and the proceedings were recorded stenographically by me and were thereafter transcribed under my direction; that the foregoing transcript as typed is a true, accurate and complete record of the proceedings 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 8th day of May, 2014, at Columbia, Richland County, South Carolina

Sheri L. Byers



Sheri L. Byers,
Registered Professional Reporter,
Notary Public
State of South Carolina at Large
My Commission expires:
January 5, 2014

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