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PUBLIC HEARINGS

December 03, 2019

Judicial Merit Selection Commission, 2019

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARINGS

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8 BEFORE: REPRESENTATIVE G. MURRELL SMITH, JR., CHAIRMAN

9 SENATOR LUKE A. RANKIN, VICE CHAIRMAN

10 SENATOR RONNIE A. SABB

11 SENATOR TOM YOUNG, JR.

12 REPRESENTATIVE J. TODD RUTHERFORD

13 MS. HOPE BLACKLEY-LOGAN

14 REPRESENTATIVE CHRIS MURPHY

15 MR. J.P. "PETE" STROM

16 MS. LUCY GREY McIVER

17 MR. ANDREW N. SAFRAN

18 MS. ERIN CRAWFORD, CHIEF COUNSEL

19 * * * * *

20 DATE: December 3, 2019

21 TIME: 10:17 a.m.

22 LOCATION: Gressette Building

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: JENNIFER NOTTLE, COURT REPORTER

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1 CHAIRMAN SMITH: Senator Young moves that we go into
2 executive session. All in favor say, aye.

3 (Ayes are heard.)

4 CHAIRMAN SMITH: All opposed.

5 (No replies are heard.)

6 CHAIRMAN SMITH: Ayes have it. We're going in
7 executive session now. And we'll get that
8 briefing.

9 EXECUTIVE SESSION

10 (A return to the record with Senator Rankin acting as Vice
11 Chairman.)

12 SENATOR RANKIN: All right. We're back on the record.
13 And for the record, during executive session, no
14 votes were cast. We're now back on the record
15 and we'll start with Ms. Deanne Gray. Good
16 morning.

17 MS. GRAY: Good morning.

18 CHAIRMAN RANKIN: State your name, please.

19 MS. GRAY: My name is Deanne Marie Gray.

20 CHAIRMAN RANKIN: Welcome, Ms. Gray. First, let me
21 ask you to raise your right hand.

22 MS. DEANNE M. GRAY having been duly sworn, testifies
23 as follows:

24 CHAIRMAN RANKIN: Do not let Lindi's cup runneth over.
25 That is your cup now. All right. Before you,

1 Ms. Gray, is a Personal Data Questionnaire and a
2 Sworn Statement that you are -- we're going to
3 put in the record. Do you need to make any
4 amendments or edits to those?

5 MS. GRAY: I do not.

6 CHAIRMAN RANKIN: Do you have any objection to them
7 being made a part of the record?

8 MS. GRAY: I do not.

9 CHAIRMAN RANKIN: All right. So, Ms. Gray, the JMSC
10 has thoroughly investigated your qualifications
11 for the bench. Our inquiry is focused on nine
12 evaluative criteria, which includes ballot box
13 survey, study of your application materials,
14 verification of your compliance with state ethics
15 laws, a search of newspaper articles in which
16 your name appears, study of previous screenings.
17 And you have not screened before?

18 (Exhibit Number 1 was marked for identification
19 purposes - (12 pages) Personal Data Questionnaire for
20 Ms. Deanne Gray.)

21 (Exhibit Number 2 was marked for identification
22 purposes - (5 pages) Sworn Statement of Ms. Deanne
23 Gray.)

24 MS. GRAY: That is correct.

25 CHAIRMAN RANKIN: And a check for economic conflicts

1 of interest. No affidavits have been filed in
2 opposition to your election. No witnesses are
3 present to testify. And you have at this time,
4 if you'd like, an opportunity to make a brief
5 statement, though it's not required. The floor
6 is yours, if you'd like to.

7 MS. GRAY: Thank you, Mr. Chairman and members. I
8 have had the honor of serving the citizens of
9 South Carolina as both an assistant solicitor in
10 the family court and also now as a managing
11 attorney in the County of Dorchester for DSS. I
12 would just like to thank all the members for the
13 time to meet with me this morning and the
14 opportunity to be considered for a seat on the
15 family court bench. And I'm happy to answer any
16 questions that you may have for me this morning.

17 CHAIRMAN RANKIN: All right. Thank you.

18 | MR. FRANKLIN: Thank you, Mr. Chairman.

19 MS. GRAY - EXAMINATION BY MR. FRANKLIN:

20 Q. Good morning, Ms. Gray. Please state for the
21 record the city and circuit in which you reside.

24 MR. FRANKLIN: Mr. Chairman, I note for the record
25 that based on the testimony contained in the

1 candidate's PDQ, which has been included in the
2 record with the candidate's consent, Deanne Gray
3 meets the statutory requirement for this position
4 regarding age, residence and years of practice.

5 **Q. Ms. Gray, why do you want to serve as a family**
6 **court judge and why do you feel that your legal**
7 **and professional experience qualify and will**
8 **assist you to be an effective judge?**

9 A. My parents always stressed the importance of
10 public service. When I entered law school, I
11 actually anticipated in going into criminal law
12 and becoming a prosecutor, but my life led me to
13 South Carolina from up in the Northeast; I am a
14 Yankee raised in Pennsylvania. However, in
15 coming to South Carolina, Judge William L.
16 Howard, on the Court of Appeals, gave me the
17 opportunity to clerk for him. As some of you may
18 be aware, family law is not something that all
19 attorneys enjoy. And in clerking for him, most
20 of his clerks did not enjoy family law cases and
21 they sort of filtered my way. And that's really
22 where my passion for family law started, in
23 working those appeals. After that, I became an
24 assistant solicitor in Family Court under Ralph
25 Hoisington in Charleston County, and now I am a

1 DSS attorney as well. Family law has become my
2 passion. I can't imagine practicing in any other
3 field. It is something that very much interests
4 me. I feel my experience both as an assistant
5 solicitor and a DSS attorney in several different
6 counties, Charleston and Dorchester and I've also
7 presented cases in other counties, make me a good
8 candidate for the bench. And I would like to be
9 considered for that.

10 Q. **Are there any areas of the law in which you would
11 need additional preparation in order to serve as
12 a Family Court judge and how would you handle
13 that additional preparation?**

14 A. I don't think necessarily any limits that I have
15 would bar me from being on the bench at this
16 time. I will note that I have not been in
17 private practice, as my life has generally been
18 in public service. So one of the weaknesses I
19 may have legitimately is complex financial
20 issues, as I've not been in private practice. I
21 don't think that that weakness would stop me from
22 being effective on the bench; I think it would
23 just be a matter of very much listening to the
24 evidence, studying case law and the statutes and
25 applying it appropriately to those cases.

1 Q. Could you briefly describe your experience in
2 handling complex, contested Family Court matters,
3 and specifically discuss your experience with the
4 financial aspects of Family Court work?

5 A. As I just stated, as far as financial complex
6 litigation, I do not have experience in that. I
7 will admit that. As far as being a DSS attorney,
8 there have been what I would consider complex
9 cases. We have seen a rise in human and sex
10 trafficking. We've had those cases in Dorchester
11 County so there have been cases where we are
12 seeking custody of children and the parents have
13 been charged in the federal system with
14 trafficking and handling those issues. I think
15 when handling any type of complex litigation,
16 it's basically breaking it down into steps and
17 issues and dealing with them individually. And
18 at the end it will all come together as a whole
19 for the decision, whether it is custody issues or
20 financial issues.

21 Q. Thank you, Ms. Gray. The Commission received 87
22 ballot box surveys regarding you, with 15
23 additional comments. The ballot box survey, for
24 example, contained the following positive
25 comments: first, Deanne is a professional and

1 respectful, experienced and a great asset to our
2 legal community. She will be a great asset to
3 the bench. Secondly, Ms. Gray is an excellent
4 attorney and knows the children's code backwards
5 and forward in serving the children of this
6 state. These skills protecting children will
7 serve her well on the bench. Third, another
8 comment states that you have "completely turned
9 Dorchester DSS around for the better." Finally,
10 Ms. Gray is always well prepared when she appears
11 in court. She is knowledgeable about the law and
12 the facts of each case. Ms. Gray has an
13 excellent temperament. She gets along extremely
14 well with opposing attorneys and is respected by
15 them. However, four of the written comments
16 expressed concerns. Several of the comments
17 indicated that your current -- in your current
18 position, you place the interests of your
19 employer over that of the well-being of children.
20 What response would you offer to that concern?

21 A. I consider demeanor in not just the courtroom but
22 the courthouse in general very important,
23 especially since I represent a state agency. I
24 think the public image that we put out at a
25 courthouse is very important. I am prepared in

1 my cases. That means that I meet with my
2 clients, the case workers, the supervisors, ahead
3 of any court hearings. When I mentioned that I
4 had this comment to members of the department,
5 they laughed because case workers sometimes ask
6 their supervisor if I actually represent the
7 department. Because I do argue with them and I
8 do press them for questions so that I know what I
9 may be faced with in court. That, I consider
10 behind closed doors. I consider any good
11 attorney does that with their client behind
12 closed doors so that we know what our position is
13 going into the courthouse. There may have to be
14 little tweaks at the courthouse but all the major
15 discussions and challenging of issues and
16 questions usually happens in private with my
17 client.

18 **Q. And the second concern is that you were difficult**
19 **to work with and you have an unfriendly demeanor.**
20 **What response would you offer to that concern?**

21 A. I've thought a lot about this question. It's
22 hard to answer without knowing the context of it.
23 I have done a lot of self examining. I realize I
24 am an introvert by nature. That doesn't mean I'm
25 shy or unfriendly, it just usually means that I

1 don't engage in small talk and things of that
2 nature, which I'm sure people could see as me
3 being unfriendly. The other thing that's a
4 consideration is typically when I'm talking to
5 other attorneys it's in the courthouse. As the
6 only attorney for Dorchester County, whenever I'm
7 in the courthouse, I'm usually doing four or five
8 things at once, not just the hearings, but
9 answering emails and things of that nature. So a
10 lot of times I may appear unfriendly but that's
11 usually because I'm working on several things at
12 once.

13 **Q. Ms. Gray, what do you view as a significant**
14 **challenge facing the Family Court today and how**
15 **would you attempt to address that challenge as a**
16 **Family Court judge?**

17 A. I think there are two main issues. The first one
18 I think everyone's aware of, of docketing issues.
19 We have handled some of that in Dorchester
20 County, partly by the growth of the state. The
21 department and other cases are just seeing a
22 surge in caseloads. In Dorchester County, when I
23 first started six years ago, I had between 95 and
24 100 cases filed in court. Consistently right
25 now, I'm having about a caseload of 150 to 160

1 DSS cases filed legally, which means we need more
2 docket time, we need, I'm sure as you've heard,
3 more case workers, more attorneys, things of that
4 nature. One of the things that we have done in
5 Dorchester County is, with our admin judges, they
6 have set aside a specific day each month for us
7 to do contested hearings. I'm given that day. I
8 control what happens on that docket. I can
9 schedule -- at times, I've scheduled up to eight
10 trials for that day so that we don't interrupt
11 the private docket as much as we have in the
12 past. In addition, another thing that our admin
13 judges have done in Dorchester County is although
14 the 365 Rule doesn't necessarily apply to DSS and
15 DJJ cases, the clerk's office has run reports for
16 our admin judges. Case management in the
17 agencies is very important. We need to move our
18 cases not only for the court system but also for
19 the families and the juveniles that we serve. In
20 meeting with the admin judge usually once a year,
21 if you have cases on your docket that are not
22 moving, that have lingered, have not been
23 scheduled for trials or hearings, we would have a
24 meeting with the admin judge and have to explain
25 why this case is languishing. That really forced

1 me to audit my cases several times a year. I'm
2 pleased to announce, for the last three years at
3 least, I have not been called into that meeting
4 because I have nothing of concern. One area that
5 I've seen an increase in that I'm not sure
6 everyone has seen yet is dually involved youth,
7 youth that are involved both with DJJ and the
8 family in DSS. Dealing with families in the
9 state, it's almost like dealing with a whole
10 person. We wouldn't go to one doctor and have
11 them treat our heart and not give them any
12 information about our lungs and other areas. We
13 need to start handling these cases together so
14 that the court has full information. DSS is
15 fully aware of what's happening with DJJ and vice
16 versa. We have a lot of children who are EPC'd
17 into DSS care. People in the DJJ system may feel
18 that that's the best for a child. I'm not sure
19 they're aware specifically of entering foster
20 care is actually usually an adverse childhood
21 experience and may not be in the child's best
22 interest. We also have children in foster care
23 who steal cars and run. I currently have a
24 juvenile that stole a car from a foster parent
25 and is in Georgia. So the agencies have to work

1 together to address those. If we rehabilitate a
2 child and put them back into a broken home, that
3 doesn't solve the solution. That's not the
4 solution; it doesn't solve the problem. And vice
5 versa, I don't think we can just blame what's
6 happening in the family on a bad child.

7 **Q. And Ms. Gray, as you are aware, DSS attorneys**
8 **handle cases dealing with extremely challenging**
9 **and oftentimes unfortunate circumstances. How do**
10 **you feel that Dorchester County DSS attorneys are**
11 **addressing those circumstances better today than**
12 **they did when you first became managing county**
13 **attorney for Dorchester DSS?**

14 A. When I walked into Dorchester County DSS I was
15 not necessarily fully aware of the state that it
16 was in of disrepair. It's taken a lot of work, a
17 lot of work with our community partners to
18 rebuild that reputation. And to put the right
19 mindset forth, I try to stress, not only to the
20 case workers but to defense counsel and pro se
21 defendants, that I'm aware and I believe truly
22 that everyone involved in our cases are
23 interested in what's best for the child; we may
24 just disagree on how to get there. I think with
25 managing the caseloads so that things move and

1 children are not languishing in foster care, we
2 are able to reunify families, hopefully for the
3 better that they never come back to our system
4 and we don't see repeat offenders or repeat
5 families coming back into court and back into
6 court. We've worked very hard with that. We put
7 in organizational systems to track orders to make
8 sure that they are not languishing in my office,
9 that they get to the court so that they can get
10 out. We can close cases in that avenue. I think
11 it's just really important to use that case
12 management organization, and also just having the
13 temperament that we are not there to -- we meet
14 people at the worst times of their life,
15 typically, at DSS. We are not there to shame
16 them. We are not there to demean them. We are
17 there to offer them assistance. And that's what
18 I've stressed and I think that's part of why our
19 reputation is as good as it is these days.

20 **Q. Thank you, Ms. Gray.**

21 MR. FRANKLIN: I would note that the Lowcountry
22 Citizens Committee found Deanne Gray well
23 qualified in the evaluative criteria of ethical
24 fitness, professional and academic ability,
25 character, reputation, experience and judicial

1 temperament and qualified as to the remaining
2 evaluative criteria of constitutional
3 qualifications, physical health and mental
4 stability. The Committee stated in summary,
5 "very well qualified, impressive, great
6 experience from heading up DSS in Dorchester
7 County for six years. Very good demeanor." Now
8 for a few housekeeping issues.

9 Q. **Ms. Gray, are you aware that as a judicial**
10 **candidate you are bound by the Code of Judicial**
11 **Conduct as found in Rule 501 of the South**
12 **Carolina Appellate Court Rules?**

13 A. Yes, sir.

14 Q. **Since submitting your letter of intent, have you**
15 **contacted any members of the Commission about**
16 **your candidacy?**

17 A. No, sir.

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

21 A. I am.

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

1 A. I have not.

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

6 A. No.

7 Q. And finally, have you reviewed and do you
8 understand the Commission's guidelines on
9 pledging in SC Code § 2-19-70(e)?

10 A. I have.

11 MR. FRANKLIN: I would just note for the record that
12 any concerns raised during the investigation
13 regarding the candidate were incorporated into
14 the questioning of the candidate today. Mr.
15 Chairman, I have no further questions.

16 MS. GRAY - EXAMINATION BY CHAIRMAN RANKIN:

17 Q. Ms. Gray, your CV and your work history includes
18 a stint with Judge Howard --

19 A. Yes.

20 Q. -- Court of Appeals?

21 A. Uh-huh.

22 Q. He was a great judge, wonderful judge. And your
23 husband is active?

24 A. He is currently a disabled veteran. He was
25 active duty for 17 years.

1 Q. Served in Iraq?

2 A. In the U.S. Marine Corp and did tours in Iraq and
3 Kosovo.

4 Q. Super. And did you relocate to North Carolina
5 when --

6 A. Yes. I started in -- I graduated from Rutgers in
7 New Jersey. We came to South Carolina because he
8 was stationed to Beaufort. We then moved to
9 Texas because he was stationed at a joint reserve
10 base in Fort Worth. I did serve as a prosecuting
11 attorney in Texas and an assistant city attorney
12 for Fort Worth, Texas. And then he got
13 transferred to New River in North Carolina and
14 that is where I actually took some time off from
15 practicing. I was a substitute teacher and then
16 an avid tutor at the base high school. And when
17 he was seeking to retire, we decided to relocate
18 to South Carolina because we enjoyed it so much.

19 Q. And you've lived in Dorchester County since '13?

20 A. Yes. That is when we moved back and bought our
21 house.

22 Q. So where exactly -- I see you were secretary or
23 were the president or may currently serve in both
24 roles of an HOA?

25 A. Yes.

1 Q. What's wrong with you, ma'am?

2 A. Which is why I --

3 Q. And is this really why you're running for Family

4 Court to get off that tour of duty? You don't

5 have to actually answer that, actually. I say

6 that in jest.

7 A. Well, I can say I'm no longer in and I came to my

8 senses. It was one term and out.

9 Q. Term limits really make sense in that field,

10 don't they?

11 A. Yes, it does.

12 Q. And so -- I don't know where that it is. Is it

13 Summerville? Where do you live?

14 A. It's in Summerville just right outside the city

15 in Knightsville, if anyone's familiar with the

16 area.

17 Q. Okay. Very good. Senator Young questions.

18 Thank you, very much.

19 A. Thank you.

20 SENATOR YOUNG: Thank you, Mr. Chairman.

21 MS. GRAY - EXAMINATION BY SENATOR YOUNG:

22 Q. Ms. Gray, I appreciate your interest in

23 continuing your service to our state in a

24 capacity as a Family Court judge. I wanted to

25 ask you a few questions. One is what do you

1 **think is the appropriate demeanor for a Family**
2 **Court judge?**

3 A. I think a Family Court judge needs to have an
4 even temperament. I've seen some relaxation of
5 dress code and rules in our courtrooms I'm not
6 necessarily sure I agree with. I think it's very
7 important for our citizens to feel comfortable
8 bringing their issues to Family Court and feel
9 that they are respected in Family Court.
10 However, I also feel that there needs to be that
11 respect for the bench as well. And I feel that
12 that is given through a judge's demeanor, calm
13 demeanor, that -- no yelling, screaming. I've
14 honestly appeared in front of judges who threw a
15 book once. I'm not sure that's appropriate and I
16 don't think it necessarily helps the situation.
17 Judges who are consistent are a huge benefit to
18 the bench. We have to, as attorneys, argue
19 issues but some of the judges see the exact same
20 issues over and over. And as they judge for the
21 specific facts, they are consistent and it helps
22 the bar realize and helps to resolve some of
23 these cases because you know what judge you're
24 going to be in front of and they're consistent
25 about how they rule. I think that's very

1 important too, instead of being somewhat of a
2 wild card and never knowing what's going to
3 happen when you go in the courtroom. I think it
4 would help resolve some cases just having that
5 calm demeanor but yet respecting the people that
6 appear in front of you.

7 **Q. What is your view as to a parent who has failed**
8 **to pay child support? What -- I mean, if you**
9 **were the judge and somebody's coming before you**
10 **and they're behind on their child support, what's**
11 **your view of that?**

12 A. I feel that everyone has the responsibility to
13 support the children that they bring into the
14 world. Obviously, if they hadn't been ordered
15 child support yet and they are proved to be a
16 parent or a father or a mother, I feel that they
17 should be ordered to pay child support. If we're
18 talking about they violated a previous child
19 support order, I think there should be
20 consequences for that. On the other hand, I also
21 am not a fan of barring any type of modification
22 or barrier to them visiting with their child
23 simply because they did not pay child support.
24 Does that answer the member's question?

25 Q. Yes, ma'am. I think that's a fair answer. One

1 of the questions on your Personal Data
2 Questionnaire asked you to provide the frequency
3 of your appearances in Family Court within the
4 past five years and then provide the -- how much
5 you've been involved in certain areas of the
6 Family Court practice which would include divorce
7 and equitable division in child custody cases. I
8 note in your Personal Data Questionnaire that it
9 states that on the divorce and equitable division
10 category you placed zero percent, which
11 would make sense if you've worked as a DSS
12 lawyer. How do you believe that you will be
13 prepared to handle those types of matters if
14 you're elected to the Family Court?

15 A. I have not appeared in front of the court
16 representing the department in equity issues and
17 things of that nature. A lot of times divorce
18 actions do involve custody issues. In Dorchester
19 County, our judges, if they feel the department
20 needs to be aware of something, call us and we
21 report to court, which is why my numbers for
22 appearing in court on a weekly basis are rather
23 high. So even though I have not represented a
24 client in those issues, I do sit in a number of
25 divorces to notify the court of any issues with

1 DSS. So I have observed quite a few. In
2 addition, obviously, reviewing the statutes that
3 apply and case law I think would help prepare me
4 as well.

5 Q. **One of the things that I have asked candidates is**
6 **how they -- what they would suggest as a way to**
7 **improve the system for the children and families**
8 **that are involved in the abuse and neglect cases.**
9 You obviously -- that's the area where you've
10 practiced the last several years. And during
11 your -- in your opening comments in response to
12 the screening attorney, you stated some things
13 that y'all do in Dorchester County. What would
14 you -- if you could change something about the
15 system to help the kids and the families that are
16 in the system, what would you do?

17 A. I think going back to the issue of dually
18 involved youth. There have been discussions
19 about possibly doing a dedicated docket
20 specifically for those cases and those children.
21 I think that would be very important not only, as
22 I stated previously, to get a full picture of the
23 family and what issues need to be addressed not
24 only on the parents' side but also on the
25 children's side. I think that would also help

1 move some of the dockets as well that we could
2 resolve these issues and treat them as a whole
3 family and not get stuck in the criminal trials
4 and the DSS trials. There was a recent case from
5 the Court of Appeals, DSS v. Wiseman, talking
6 about whether parents should have findings on
7 them if the children have mental health issues
8 and things of that nature and have to come into
9 care because the family does not consider it safe
10 for them to return home. The defense Bar seems
11 to be trying to test the limits of that case law
12 to say that if someone is involved with DJJ and
13 they've stolen cars the parents are scared to
14 have them back in the home so the children should
15 come into foster care without any findings on
16 parents. I think all those discussions need to
17 be held with all the players at the table,
18 including DJJ, the volunteer guardians, DSS and
19 the defense Bar as well.

20 **Q. Thank you for your responses.**

21 CHAIRMAN SMITH: Ms. Logan?

22 MS. DEANNE GRAY - EXAMINATION BY MS. BLACKLEY-LOGAN:

23 **Q. Good morning.**

24 A. Good morning.

25 **Q. I want to commend you on your service thus far.**

1 Having been a former clerk of court and working
2 with DSS attorneys and actually giving -- or
3 assigning certain days for DSS cases I think I
4 tremendous. What I've seen, you're on the right
5 track with your views because there definitely
6 needs to be some collaboration in regards to the
7 other issues that may be going on with a child
8 with a DSS case. And if you add all the entities
9 that come into the problems that they're facing,
10 there needs to be a meeting of the minds on how
11 to best suit these clients and move forward
12 without wasting the court's time. And I get
13 that, that makes perfect sense. I don't think
14 everybody else gets that because there's got to
15 be some improvements with DSS. And I was
16 frustrated day in and day out with the dynamics
17 of these cases and how long it took and the
18 wasting of time. So I could see how that made
19 you appear unfriendly, if you're focused on
20 getting the work done. I can understand that,
21 when you're wanting to get your work done and use
22 every other minute to try to work when you're not
23 in court. That makes perfect sense to me. So
24 you will develop some critics on that but it
25 seems like you definitely have the mindset of

1 improving the system and that's what it's going
2 to take because these DSS cases are going to
3 overtake the entire docket --

4 A. Yes.

5 Q. -- if we don't get a handle on it. So I think
6 the way that you are doing it is the way we were
7 trying to do it where I'm from. And it did make
8 a difference but it's going to care of people,
9 especially with the turnover rate over at DSS.
10 So I commend you on that and it looks like you've
11 got the right projection for the future.

12 A. Thank you.

13 Q. Thank you.

14 CHAIRMAN SMITH: Mr. Strom.

15 MS. DEANNE GRAY - EXAMINATION BY MR. STROM:

16 Q. Ms. Gray, you're very impressive and I appreciate
17 you offering. And I want to ask you some
18 questions about DSS. So this is not a cross-
19 examination of you, but a lot of people on this
20 Commission are concerned about the children of
21 the state that find themselves in the system.
22 And I've had a couple of experience in the last
23 couple years representing children involved with
24 DSS that wasn't the most pleasant thing. And I
25 just want to ask you a little bit about that. My

1 experience in my first case there was children
2 were taken into protective custody on an
3 emergency basis. We go into court and DSS'
4 recommendation was that they needed to have
5 evaluation and counseling and the parents have
6 counseling before they returned to them; I
7 understand that. The problem was it was going to
8 be weeks before there was anybody available to do
9 that. So this child, they were just languishing
10 in foster care. What is your experience on how
11 long that typically takes? Does it vary as a
12 state-wide problem? Can you comment on that?

13 A. As far as getting the counseling for families or
14 --

15 Q. Getting all the services that DSS would request,
16 say prior to, you know, reunification.

17 A. It varies depending upon the services that we are
18 looking for. Another factor that has recently
19 been an issue is with our Hispanic communities.
20 If we have individuals that are not fluent in
21 English there is a deficit, my feeling is, in
22 some of the service providers across the state
23 that have the appropriate interpreters, not just
24 for our Hispanic population but also our hearing
25 impaired. We have children who were looking for

1 therapists to do clarification and things of that
2 nature and cannot find a sign language
3 interpreter to work in counseling for them. I
4 think --

5 **Q. So, for an average indigent child, how long does**
6 **it take to get into -- get an evaluation and have**
7 **the parents evaluated on average, assuming**
8 **everybody's cooperative?**

9 A. I've seen with the evaluations for parents been
10 done, at least scheduling the appointment, the
11 initial appointment, within two to three weeks.
12 With children in foster care, for their
13 assessments, they're usually given somewhat of a
14 priority because we're all focused on trying to
15 get the services in to reunify them. We are
16 having an issue, sometimes it's taking up to 30
17 days to have the children have their forensic
18 interviews at the child advocacy centers. And
19 sometimes those forensic interviews are basically
20 the starting point to make recommendations for
21 what type of counseling that you need.

22 **Q. So on average, what are we talking about for --**

23 A. For parents, I would say probably about two
24 weeks, unless it's some very specific assessment
25 that only one or two providers can do. For

1 children who don't have to wait for the forensic
2 interview, I would say probably two to three
3 weeks as well.

4 **Q. For kids who have language issues or other**
5 **learning differences, how long are we talking**
6 **about for them?**

7 A. If we're talking about language issues, like the
8 sign language interpreter issue, that's a very
9 rare case. I've only had one in six years. It's
10 taken several months to locate that. Children
11 with learning issues and things of that nature,
12 usually the child advocacy centers know of people
13 who can handle those issues and provide
14 counseling, if they have any of those learning
15 disabilities.

16 Q. Okay. I'll just tell you, it concerns me that a
17 child sits in foster care for two to three weeks,
18 and that's after they've gone to court, before
19 they get the first evaluation and then who knows
20 how long it takes before you get a report and
21 then when you get it to court. That's just --

22 A. And when they come into care --

23 Q. -- horrible.

24 A. I'm sorry, I didn't mean to cut you off.

25 Q. No, that's ...

1 A. When they come into care at the probable cause
2 hearing, one thing that we have done in
3 Dorchester County that the bench has actually
4 noted, I work very hard to sit down with the
5 family ahead of time. Of course, it is a very
6 stressful time; we have taken children out of the
7 home. But we need to start at that very first
8 meeting to let them know what the issues are.
9 We're not there to kidnap their children. We
10 need to make sure everyone's safe while we do our
11 investigation and put the appropriate things in
12 place. A lot of times we can identify relatives,
13 grandparents, family friends that can serve in
14 that capacity as a protector so we can get them
15 out of foster care while those things are
16 happening. That is our first goal. And I think
17 in Dorchester County we've done a very good job
18 of that.

19 Q. **Another thing that I'd like for you to comment on**
20 **is when I was involved in the cases I had, I had**
21 **a young -- I had a very good DSS lawyer,**
22 **experienced lawyer, good, great to work with, but**
23 **the case worker who was the client was much less**
24 **experienced and seemed to have no authority. I**
25 **felt like we were talking to Oz. There was**

1 somebody back in Columbia or Lexington or
2 somewhere that was making all the decisions. But
3 all of us in the courthouse kind of agreed that
4 this was appropriate but Oz, wherever they were,
5 whatever this group was that made these
6 decisions, disagreed and they weren't available
7 for anybody to talk to. Is that the way DSS
8 typically runs or ...

9 A. That is -- I can only speak to Dorchester County.
10 That is not the way we run. I noted earlier I
11 think that's another reason it's very important I
12 meet with my clients before we ever get to the
13 courthouse. I am constantly questioning them,
14 noting policy and things that have come down
15 about moving the case and having those
16 conversations. And if I have a case worker who
17 is somewhat new and isn't as familiar or
18 comfortable, we obviously include the supervisor
19 in that discussion. And if I still cannot
20 resolve issues the way I feel that they need to
21 be resolved in front of the -- for the
22 department, we bring in the program coordinator
23 or the county director. That way everyone is
24 clear. The case manager is fully aware of what's
25 going on. So when we enter into the courthouse

1 we know what our position is and what it is based
2 upon. And typically, if there is defense
3 counsel, I've already notified them before the
4 hearing as to what our plan is.

5 **Q. Sounds like your practice and procedure is a lot**
6 **better than I one dealt with. Let me ask you**
7 **about a different -- the last thing I wanted to**
8 **ask you about, we wanted a trial and my client**
9 **had resources. I was calling experts. I needed**
10 **two-and-a-half days to try my case. There was**
11 **not two-and-a-half days in the next six months on**
12 **the docket and the judge looked at me like I had**
13 **two heads when I said I needed two-and-a-half**
14 **days to try my case. And you know, in order for**
15 **me to win, I needed to put up that expert**
16 **testimony. And you know, so I'm stuck with a**
17 **client that ought to be not in protective**
18 **custody, in my opinion, and I can't get the time**
19 **in court to put my case up. Is court time a**
20 **problem for people who want to have trials?**

21 **A. It is, yes, especially when you get over that**
22 **day. I know some counties have instituted a**
23 **rocket docket for a week system. I believe**
24 **Charleston County has one where they get a full**
25 **week. A lot of counties, you're looking at one**

1 DSS attorney. I have to be honest, prepping
2 eight trials at once is difficult for me. If you
3 gave me a whole week, I'd probably die trying to
4 be prepared for all of those items. So that is
5 an issue. But I think it's also important to
6 have those conversations between counsel.

7 Perhaps, if somebody who has an expert, I've had
8 defense Bar who provide me affidavits or
9 information basically telling me what that expert
10 will testify to. And I take that back to the
11 case workers and the supervisors to let them know
12 and have that discussion as to let's say that he
13 will testify or she will testify to exactly what
14 is in this affidavit; how does that change how
15 we're looking at this case; is there any way to
16 resolve this without trial.

17 Q. **But that doesn't help my client's due process
18 rights, though.**

19 A. It does not. The other thing --

20 Q. **What is your suggestion on what could be done to
21 improve the Family Court system where these
22 children who have rights and want to go to court
23 have the ability to get into court at a
24 reasonable time?**

25 A. One of the things that has helped is the Supreme

1 Court has changed the priority list so that TPR
2 hearings and DSS merits hearings trump a lot of
3 other cases, Family Court cases, things of that
4 nature. So that gives us a priority. If there
5 is a standard divorce on the docket, DSS can
6 press to basically be prioritized over that case
7 to get it heard in court faster. I know a lot of
8 people don't do that, but that is a mechanism out
9 there that was put in, it's my understanding, to
10 assist with that.

11 Q. My experience was I asked for a trial anywhere in
12 the circuit and there was no court time anywhere.

13 A. And I would confirm that is the situation out in
14 many counties.

15 Q. The other situation that I think I've seen as a
16 lawyer is an anonymous complaint that a parent
17 has abused a child sexually or otherwise. And of
18 course, DSS has statutory duty to go and
19 investigate. They take law enforcement with them
20 a lot of times. But my experience has been that
21 DSS will go in and tell the alleged perpetrator
22 that unless they agree to a certain plan, like
23 daddy's going to stay out of the house until
24 something changes, that they're going to take the
25 child into custody. And I don't think DSS has

1 the authority to take a child into custody. The
2 Sheriff's Department might but not DSS. Is it
3 your experience that that's a common practice
4 that DSS will threaten that in order to get
5 somebody to sign a plan like the father agreeing
6 that he will stay away from his family for an
7 extended period of time?

8 A. Again, I'm going to just answer on my experience
9 in Dorchester County. That is not a common
10 practice. I would say in Dorchester County, you
11 are correct, we do not have the authority to
12 bring a child into care; only law enforcement has
13 that or a court order. If a parent refuses to
14 sign a safety plan, or we have concerns in where
15 the placement of the child is while we do the
16 investigation, the case worker can ask us to
17 consider filing an ex parte order asking the
18 court to bring the child into care. In
19 Dorchester County specifically, we've instituted
20 a policy that anytime there's an ex parte
21 staffing, we actually hold a staffing that
22 involves the case manager, their supervisor, the
23 supervisor of foster care and treatment, also the
24 county director or the program coordinator and
25 myself. That's to discuss all issues from all

1 areas before we make a decision seeking to bring
2 a child into care. We need to know whether
3 there's any family members. Everybody in that
4 meeting comes from a different area. So if we do
5 the ex parte everyone --

6 Q. I don't mean to cut you off.

7 A. No, that's fine.

8 Q. And I understand you do that. I just want to go
9 over a couple more concerns. In that particular
10 case, the next day these people come in to see
11 us, I have the guy polygraphed by a former SLED
12 polygraph examiner. He passes on any kind of
13 inappropriate touching. We call the DSS case
14 worker. Had a very difficult time getting in
15 touch with them. Finally did. They did no
16 further investigation. They waited the 30 days
17 and then they unfounded the case. But my dad was
18 out of his house and had to explain to his
19 children, or try to explain, why he wasn't there.
20 And we had, you know -- it was just a problem.
21 So I hope when you go back or hopefully when
22 you're on the bench that you'll be cognizant of
23 these issues.

24 A. I am. I am fully aware. I've heard stories from
25 other counties. I realize we're slightly

1 different from other counties but I am aware of
2 the issues throughout the state. Our defense Bar
3 represents people all over the state, so they do
4 tell me stories of what's occurring in other
5 counties.

6 Q. **Well, I think, unfortunately, a lot of the people**
7 **that you guys deal with or represented, they're**
8 **indigent and the public defender has so many**
9 **cases -- or the appointed lawyers have so many**
10 **cases that the resources aren't there. But this**
11 **has got to get better, this is --**

12 A. And I think it's -- one of the things I've
13 actually -- a member of the bench noted, was that
14 I try very hard not to make it feel adversarial.
15 Even with pro se defendants, they deserve the
16 respect to know what's going to be happening in
17 the courtroom. We have a judge who actually
18 projects her voice very well, in the First
19 Circuit. And I even go as far to let them know
20 it's going to sound like she's yelling at you,
21 she is not. We need to have more of that working
22 together for the children of South Carolina
23 instead of it having that adversarial feel to it.
24 And I think things get resolved a lot faster when
25 you can do that.

1 Q. Thank you. And again, this is not an attack on
2 you, I just --

3 A. I understand completely.

4 Q. -- wanted to ask about that. Thank you.

5 CHAIRMAN RANKIN: Representative Rutherford.

6 MS. GRAY - EXAMINATION BY REPRESENTATIVE RUTHERFORD:

7 Q. You know, I was just sitting here minding my
8 business and then I started listening to Mr.
9 Strom and my anxiety level just raises. Because
10 it reminds me of my time spent dealing with DSS
11 as well. And it's a difficult spot that you find
12 yourself in because they say if you're explaining
13 in politics you've already lost. And you know, I
14 would love to pose a number of questions to you
15 about what happened to me in Richland County with
16 DSS and Lee County with DSS and the feeling like
17 it was a power struggle because they could. And
18 I remember representing a young man and he told
19 me that DSS was out to get him. And I called
20 somebody I knew at DSS and they said he's right,
21 you need to help him. And I don't even do Family
22 Court stuff but I had to do that one. And the
23 attitude, the way that they went about doing
24 their job, had nothing to do with the child and
25 everything to do with what they could do because

1 they had the power to do it. And I say all that
2 to say that, you know, we advise prosecutors
3 sometimes to go on the defense side if you want
4 to be a judge so that you can have both sides.
5 We advise civil attorneys to go get criminal
6 experience. Do you think that it's going to
7 become an issue that you're constantly going to
8 have to explain, hey, I'm one of the good guys,
9 as you pursue this judgeship because of who your
10 current employer is? Because I can tell you,
11 there are a number of members that would have the
12 same questions that Mr. Strom had. And most of
13 them won't be lawyers, they're just people that
14 have run into problems or have constituents with
15 problems; and you become the face of an agency
16 that is broken. And I get the impression like
17 Mr. Strom does that when you go to court,
18 everybody that's in the system is so used to it
19 being broken they don't even try and fix it, they
20 just deal with how broken it is and keep moving.
21 And at the heart of that is a child who, in
22 Columbia, you know, -- and I may have the titles
23 wrong, you know, somebody with DSS is going no, I
24 think he needs to do X, Y and Z before unifying
25 him back with the parents. And I'm looking at

1 the parents going, they could babysit my kids. I
2 mean, what -- I don't understand the issue. But
3 I don't know how you get around having to always
4 justify what you do in your position and your
5 agency's position in pursuing something that you
6 seem to be rightfully entitled to. And I just
7 see something that you may have to deal with and
8 I just wanted to talk to you about that.

9 A. And I'm aware of that. I knew when I signed up
10 to be a DSS attorney one of the biggest problems
11 is the reputation of the department. Some of it
12 is just by nature that they're meeting us at a
13 bad time in their life, investigations, things of
14 that nature. I understand some of it is the
15 systemic issues that the department has within
16 itself. When I came into Dorchester DSS, I told
17 the bench that we're going to make mistakes,
18 everyone does, we're not perfect. But the
19 mistake you see today should not be the mistake
20 you see next week or next year. I am constantly
21 assessing our systems, not only within my legal
22 department, but also with the caseworkers, to
23 make sure that we run better, that we run smarter
24 because we are dealing with people's lives. It's
25 important. I want us to get in, do it right the

1 first time and get out as quickly as possible so
2 they don't see us. I know whether I'm before
3 this body, the Bar association or just in a
4 courthouse, I'm constantly questioned about why
5 DSS does things the way they do, and it's usually
6 I get those questions about DSS in another
7 county. And I'm usually -- I have members of the
8 defense Bar that deal with things in other
9 counties and will actually call me and use me as
10 a resource of, hey, who do I need to talk to, how
11 can I get in touch with them. And I try to help
12 them out because I want those children out of
13 foster care, either reunified with their family,
14 or if that cannot happen, to be adopted to a
15 forever family.

16 Q. **Thank you.**

17 MS. GRAY - RE-EXAMINATION BY CHAIRMAN RANKIN:

18 Q. **And I want to ask before I turn it over, because**
19 **you have got exemplary remarks from the Citizens**
20 **Committee: very well qualified, impressive, great**
21 **experience for heading up DSS in Dorchester**
22 **County for six years, very good demeanor. And**
23 **you got your attaboy/attagirls from, again, this**
24 **anonymous world of responders. But there are a**
25 **few who do take issue with your candidacy do stem**

1 from the last two questions. Those questions, in
2 the theme of which, for me, is bias. And you are
3 in a crosshair conflict-driven, contentious
4 context. I get that. Speak to the person, to
5 the naysayer, who would suggest that you will not
6 be unbiased. And that you will not bring your
7 employer's history, baggage or attributes, to the
8 case that Mr. Rutherford appears for his third
9 time in Family Court, or Mr. Strom his third
10 time, to resolve one of these sticky questions.
11 How can you help assure us and the folks reading
12 this transcript that you will be totally
13 unbiased?

14 A. I think you can see that in some of the positive
15 comments I have. The people who work with me on
16 a regular basis know that I am not just a speaker
17 for the department. I really care about
18 children. I'm in the agency. I've been there
19 six years. I do not plan, unless you consider me
20 and put me on to the next level, of leaving the
21 department because the children are our biggest
22 resource. And the biggest trust is given to us
23 to make sure that they progress in life in a safe
24 and happy environment. Defense counsel who work
25 with me on a regular basis know that I am

1 constantly questioning case workers, questioning
2 their motives, questioning why they're doing
3 things. I think that would follow me onto the
4 bench of not just, oh, you're DSS so you must be
5 right, because we all have faults. We all have
6 biases that we bring into our work and we need to
7 address those head-on. And I think through
8 questioning and listening to the testimony, I am
9 always fair and impartial, even within the
10 department. When I'm questioning, if somebody
11 can change my mind, I'm happy to listen to them.
12 And I would hope anyone who works with me on a
13 regular basis would know that I am not just a
14 puppet for DSS.

15 Q. One question or comment, again you spoke to it
16 earlier, demeanor. One -- again, one of the
17 negatives, which again, are far outweighed by the
18 positives, I will tell you. But very unfriendly
19 demeanor. You spoke to your personality as an
20 introvert.

21 A. Uh-huh.

22 Q. It's hard to sell yourself and be
23 effusively outgoing and warm and bubbly and
24 everything that apparently that this writer would
25 have you be. But a robe is very heavy and, to

1 some, the robe is worn so heavily that it brings
2 either the best out or the worst out. And a
3 sense of heavy-handiness or presumption. Yes,
4 the robe warrants respect. But how you treat
5 people is -- exhibits your character, again, as a
6 person with or without a robe, without a title.
7 Again, speak to that person who is that taking
8 issue with your apparent misread personality
9 instead of the warm, gregarious that takes issue
10 with your demeanor.

11 A. I would, if I knew who that individual was,
12 approach them. I wish they would have told me
13 personally. I have had attorneys who I may have
14 brushed off and they approached me and said are
15 you mad, did I do something wrong. And I had to
16 explain no, I was in the middle of emergency,
17 nothing's wrong. I think I'm open to that, if I
18 know that somebody has an issue, to address it
19 with them. I feel that I am very friendly,
20 especially in a professional setting. I'm not
21 sure in a social setting if they wanted small
22 talk or chit-chat. I don't know whether it came
23 from that area. But everyone in a courtroom,
24 whether they're a pro se defendant or an attorney
25 for an agency or defense Bar, deserves the

1 respect of the court to treat them fairly,
2 impartially and make them feel welcome, that they
3 have a right to be in that courtroom and have the
4 court resolve their issues that they're having
5 within their family. And I think my temperament
6 throughout my time at DSS proves that I have that
7 temperament to get the job done.

8 Q. **This may be a better question to ask of your**
9 **husband and your two children. What would your**
10 **kids say about your temperament as a parent? And**
11 **that you really don't have to answer and don't**
12 **take long if you don't want to answer. But I**
13 **would imagine that they would sing your praises**
14 **as a parent?**

15 A. Yes, they would. My oldest is in Clemson
16 currently and my youngest is in high school. He
17 has picked up my habit of arguing as a lawyer, so
18 he very much likes to debate with me. I haven't
19 quite convinced him yet that he can switch his
20 position mid argument and I'll still win but they
21 seem to think that I'm very fair and even keeled.
22 Obviously, no yelling. It helps that I have good
23 boys but yeah.

24 Q. **Good for you. I'm sure attorneys who would**
25 **appear before you would love not to hear that**

1 **they can argue it either way; you've made your**
2 **mind up.**

3 A. No --

4 **Q. You will win.**

5 A. It's just usually, as a good attorney, you always
6 look at both sides so that you know the strength
7 in your case and also the strength in their case.
8 I think that makes you a better attorney.

9 CHAIRMAN RANKIN: Thank you. Representative Murphy.

10 REPRESENTATIVE MURPHY: Thank you, Mr. Chairman. And
11 I just want to speak mainly a comment because --
12 address some of the comments and everything. And
13 when Deanne took over the Dorchester County DSS
14 department it was a dumpster fire, to say the
15 least. It was a revolving door of attorneys,
16 case workers and it was a failing, failing agency
17 and it was very -- you just didn't want to go to
18 DSS court, the way it was being run. Deanne came
19 in. No one knew Deanne. As she stated she, had
20 just moved into the area. And we all questioned
21 her sanity over taking that job because it was
22 literally -- it was -- just was not the place for
23 litigants, for children, for anybody to be. And
24 she turned that program and that agency around.
25 I've had the pleasure to be -- appear in court

1 and I've been on the opposite side. And I've
2 been where I've represented a family in a DSS TPR
3 action that I was representing the grandparents
4 when we were trying -- DSS was trying to TPR the
5 mother's parental rights. Deanne has always been
6 very well prepared. She's thought outside of the
7 box. When she says that she sits down with her
8 case workers and explains to them the pros and
9 the cons of the case, I mean, she does. She
10 listens to the attorneys, the defense Bar. She
11 will call out her case workers. And I say that
12 not just to sing her praises, but, you know, when
13 you're in Dorchester County and you manage a
14 general practice, you really practice also in
15 Berkeley and Charleston County. And Berkeley
16 County particularly, it's night and day as far as
17 how their DSS department is run. And I attribute
18 all of that to the job that Deanne has done, in
19 conjunction with our administrative judges,
20 particularly Judge Wiley and Judge McLin, for
21 really getting a handle on that DSS docket. In
22 Dorchester County, we have -- we're a county of
23 about 170,000 plus citizens. We only have two
24 Family Court courtrooms. And when people think
25 or comment that Deanne has an unfriendly

1 demeanor, I believe that when you go to
2 Dorchester County and it's DSS day, there
3 literally could be 50 to 75 people in that
4 courtroom, and she's -- or in the courthouse and
5 she's responsible for managing that caseload.
6 But I have always found her courteous, easy to
7 deal with. And I know that she's spoke in all
8 candor that her weakness would be that she's been
9 basically a DSS lawyer and everything. But from
10 my experience, she is very knowledgeable, she is
11 very well educated, she researches her cases.
12 She's a great trial attorney, and I am very
13 confident listening to your concerns, Mr.
14 Rutherford, about the perception that she would
15 have to overcome that. And I think if she's been
16 -- if she is given the opportunity then I think
17 she would go far in alleviating any concerns that
18 other members may have. And I just wanted to
19 give you a shout out, Deanne, because I've
20 personally have worked with you, worked against
21 you. I've visited the DSS office, listened to
22 your concerns about the quality of the physical
23 location and the structure and I think you're
24 just doing a wonderful job. I hope that you're
25 successful in this endeavor. And I would hate

1 that that's going to cause us -- could cause us
2 to lose you in Dorchester County as a DSS
3 attorney because I think you're just an asset to
4 Dorchester County. And if we could replicate
5 what we do in Dorchester County statewide, I
6 think we would go a long way, Mr. Strom, to
7 answering a lot of the concerns that you had. So
8 thank you.

9 MS. GRAY: Thank you.

10 REPRESENTATIVE RUTHERFORD: And you should know that's
11 about the nicest thing I've ever heard him say
12 about anybody, and I've known him for years. He
13 doesn't even talk that much but I mean,
14 literally, you should truly be impressed. Truly.

15 MS. GRAY: Thank you.

16 CHAIRMAN RANKIN: All right. Lucy Grey.

17 MS. GRAY - EXAMINATION BY MS. McIVER:

18 Q. Thank you, Mr. Chairman. Ms. Gray, obviously I
19 want to commend you on the work that Senator
20 Murphy has discussed that you've done with DSS
21 and it sounds like you've done a tremendous job
22 there.

23 A. Thank you.

24 Q. And thank you for your work. I want to go back
25 to one of the issues that Senator Young raised

1 with you, and it's come up a couple of times but
2 your lack of experience in private practice. And
3 I have limited experience in the Family Court but
4 when I was in the Family Court some of the issues
5 that I found the most challenging were some of
6 the complex adult cases involving financial
7 declarations, prenuptial agreements, QDROs and
8 some of the things in divorces. If you were
9 appointed to the bench, how would you go about
10 preparing for a hearing, a divorce hearing, where
11 these types of complex issues were involved?

12 A. I think obviously reviewing the court file -- if
13 it's my first time with the case and I'm not
14 familiar with the history, reviewing the case
15 file and the pleadings, the previous orders, to
16 get an idea of the issues that are going to be
17 raised. If there were previous court orders, how
18 they -- some of those issues may have been
19 resolved in the past that may need modifying. I
20 think it's very important to prepare as much as
21 you can. Obviously, I don't want any information
22 that may bias me one way or the other. But I
23 think thoroughly reviewing the court file and
24 obviously doing some research into the statutes
25 and the case law that are cited by the attorneys

1 or the parties in the action to make sure I have
2 a full understanding of what evidence is going to
3 be presented to the court and weigh that
4 appropriately.

5 **Q. Have any of your experiences with DSS or with**
6 **just being in the Family Court exposed you to**
7 **issues related to prenuptial agreements or**
8 **qualified domestic relations orders?**

9 A. No.

10 Q. Okay. Are there CLEs or any types of training
11 that you feel like would be helpful to try and
12 gain an understanding about the complexities of
13 QDROs or military divorces or other issues kind
14 of related to -- I know you're a military wife.
15 To issues that are specific to these complex
16 types of divorces?

17 A. I believe there are. And those are obviously
18 issues that, if elected to the bench, I would
19 participate in those CLEs. I haven't reached out
20 for some of those CLEs at this time, simply
21 because of being the only DSS attorney.
22 Sometimes it's limited. DSS actually sets up
23 trainings that are specifically DSS oriented so
24 that they require us to attend to address those
25 issues. And me finding time to go to outside

1 ones that are not necessarily issues I would be
2 involved with in my job I haven't had the
3 opportunity to do. But if given that
4 opportunity, I would definitely attend any of
5 those CLE's, not just on those issues, but any
6 other upcoming issues that affect the Family
7 Court.

8 **Q. Great. Thank you, Ms. Gray.**

9 **A. You're welcome.**

10 CHAIRMAN RANKIN: Mr. Safran.

11 MS. GRAY - EXAMINATION BY MR. SAFRAN:

12 **Q. Thank you. We've kept you up here a long time**
13 **and so I don't want to continue the torture. I**
14 **just want to ask you a few things. I think**
15 **everything you've heard probably is reflective of**
16 **the various issues that people have with DSS and**
17 **certainly you shouldn't be the punching bag,**
18 **okay. We understand that. I think probably the**
19 **reason you're getting asked so many questions is,**
20 **is you come across so eloquently that they think**
21 **that, you know, you can give us answers to some**
22 **things that there may not be enough time in the**
23 **day to work out. And I guess a couple of quick**
24 **things. Certainly there is a concern I think**
25 **among members of the Bar that those who don't**

1 have consistent experiences with DSS have run
2 into frustration because of maybe a lack of
3 proper balance between the obvious and sincere
4 need to protect. But at the same time you get
5 people in there who have -- they're ill equipped
6 to wield power. And they abuse it and they do
7 things that people run into that they find
8 abhorrent because kids are getting taken away,
9 you ultimately go through this process and then
10 there's nothing really substantively there. So,
11 you know, you get the sense that while caution is
12 always supposed to be very, very high on the
13 priority list, that sometimes it goes beyond
14 that. And I'm sure you've run into that.

15 A. Uh-huh.

16 Q. And I'm assuming when you say that I sit down
17 with the folks and talk to them before we go out
18 there that maybe you do have to kind of temper it
19 a little bit. So I think that's a positive in
20 your situation. The flip side on another matter
21 is, is you're obviously well versed in all the
22 issues that would come across the desk on a DSS
23 case. And we sit here and listen to the
24 different judges that come in and we can't
25 exclude the fact that a big portion of what they

1 do are areas that, while you're certainly
2 knowledgeable and intelligent and could pick it
3 up over time, they are vital to what a Family
4 Court judge does on a day-to-day basis. I know
5 that there -- if you would have asked me 30 years
6 ago where I had a background that was pretty
7 narrow at the time, I could have said, hey, I
8 could be a great judge tomorrow. And what I
9 found out over time was I was completely wrong,
10 that I wouldn't have been able to be anywhere
11 close to that primarily experience and having
12 gone through the practicalities of all these
13 things makes a tremendous difference. I mean, I
14 think you might agree with that. And I guess the
15 question becomes when these folks are kind of
16 having concerns about background, how do you make
17 up, I guess, for the fact that while you are
18 obviously tremendously talented in the area
19 you've chosen, that all this other stuff, while
20 maybe not Chinese, it's still somewhat foreign to
21 you? I mean, how do you feel like that
22 transition would occur and is there something
23 else that you think you might be able to do in
24 the interim to make you more attractive and
25 facilitate gaining that experience that would, I

1 guess, be something you might want to look into?

2 I mean, am I making myself clear?

3 A. Yes, you are. I think just looking at my
4 background and the experience I had. I came to
5 South Carolina not going to law school here and
6 not going to undergrad here. I had to learn
7 South Carolina law to pass the Bar and also to
8 work for the Court of Appeals. My work ethic. I
9 walked in there obviously not knowing too much
10 and worked and taught myself and learned and was
11 constantly thirsting for that knowledge to be the
12 best I could be at that job. I'd never been an
13 assistant solicitor, let alone a Family Court
14 assistant solicitor. Again, I went in with my
15 work ethic. You learn, you listen, you talk to
16 people, you are respectful for other positions
17 and especially the court because all those areas
18 will mentor you and tell you and basically on-
19 the-job training, if you would equate it to that.
20 When I came in for DSS, although I had hd some
21 tangential interaction as a DJJ Family Court
22 assistant solicitor, I had never practiced DSS
23 law. And again, it's going in, having that work
24 ethic to do that job the best you can, putting in
25 the time, putting in the effort, finding out,

1 realizing if there are any deficiencies,
2 acknowledging those and knowing that you need to
3 take steps to make it a strength and not a
4 weakness. And I think going on to the Family
5 Court bench, the same would apply. That if there
6 are any areas where I don't feel I am as strong
7 as I could be, trust me, I will work on those
8 areas and they will be strengths, and strengths
9 that people acknowledge in the future.

10 Q. **And I think that's a good response. I guess the**
11 **one question I still have is there's a learning**
12 **curve that goes with anybody that becomes a judge**
13 **because, again, it's a new game completely. By**
14 **the same token, experience is hard to, I guess,**
15 **ignore. And sometimes, particularly experience**
16 **on a level where you've kind of been in the**
17 **breech, so to speak, it's hard to replicate even**
18 **with the greatest of work ethics. Is that**
19 **something necessarily that you feel like might --**
20 **if for some reason we had concerns, is that**
21 **something that you might consider pursuing or**
22 **would you stay at DSS forever?**

23 A. I'd never say never. I think it would be easy to
24 give you a pat answer of if that is a weakness
25 and that prevented me from proceeding in this

1 process that I'll go work in the private sector
2 and get that experience. But I don't think
3 that's going to be a completely honest answer to
4 this body. I love what I do. I love DSS. I
5 actually even like trying to fix the issues that
6 DSS has. It's something that I love so I can't
7 tell you honestly that if I don't proceed to the
8 next level I would immediately go out and get
9 that private practice experience. I understand
10 it may have been seen as a deficit, but I think my
11 strengths outweigh any deficit that that brings.

12 **Q. Well, I appreciate your candor and thank you for
13 your time.**

14 CHAIRMAN RANKIN: All right. Any other questions?

15 (None being heard.)

16 CHAIRMAN RANKIN: If not, Ms. Gray, thank you so much.
17 You gave an opening statement and I'm not going
18 to invite you to give a closing --

19 MS. GRAY: I'm fine.

20 CHAIRMAN RANKIN: -- but if you want one, you can have
21 it.

22 MS. GRAY: No, sir. I'm good.

23 SENATOR RANKIN: All right. Very good. I want to
24 thank you again for offering your candidacy, and
25 your husband's service. And this will now

1 conclude this portion of the screening process
2 and we want to remind you that pursuant to the
3 Commission's evaluative criteria, the Commission
4 expects candidates to both follow the spirit and
5 the letter of the ethics laws. Any violation or
6 the appearance of impropriety will be deemed
7 potentially deserving of heavy weight in
8 screening as a serious potential consequence as
9 well. On that note, as you know, the record will
10 remain open until the formal release of the
11 Report of Qualifications, and you may be called
12 back at such time as the need arises. Again,
13 thank you for your offering yourself and your
14 service to the state in the capacity at DSS that
15 you've been doing.

16 MS. GRAY: Thank you for your time.

17 CHAIRMAN RANKIN: Very well. Thank you. Safe
18 travels.

19 (Off the record.)

20 CHAIRMAN RANKIN: Martha M. Rivers Davisson, correct?

21 MS. DAVISSON: Yes, sir.

22 CHAIRMAN RANKIN: Tell us what you go by.

23 MS. DAVISSON: Martha Rivers.

24 CHAIRMAN RANKIN: Martha Rivers, all right.

25 MS. DAVISSON: But my husband, Doug Davisson, is here,

1 so we have to include it all.

2 CHAIRMAN RANKIN: All right. We're going to go on the
3 record first because we're going to have -- he's
4 got some questions he wants us to ask you. We're
5 going to put you under oath. Raise your right
6 hand, please, to take an oath.

7 MS. DAVISSON: Listen, he's learned in 20 something
8 years I don't have any problems with that.

9 CHAIRMAN RANKIN: Oh, he's sent me the questions.
10 Raise your right hand, if you will, please.

11 MARTHA M. RIVERS DAVISSON, having been duly sworn,
12 testifies as follows:

13 CHAIRMAN RANKIN: Before you are the two documents
14 you've prepared, the PDQ and the Sworn Statement
15 for submission into the record. Do you have any
16 edits that you need to make to either of them?

17 MS. DAVISSON: No, sir. I think one was amended
18 during the course of to reflect Doug's job
19 change, and it is included, so I have no other.

20 CHAIRMAN RANKIN: You have no objection to those being
21 made a part of the record?

22 MS. DAVISSON: No, sir.

23 CHAIRMAN RANKIN: All right. You are aware of our
24 role in JMSC's investigation into your
25 qualifications. You are aware that our inquiry

1 focuses on nine evaluative criteria, including a
2 ballot box survey, a thorough study of your
3 application materials, verification of your
4 compliance with state ethics laws, a search of
5 newspaper articles in which your name appears,
6 study of previous screenings, which you have not
7 had, correct?

8 MS. DAVISSON: I have had, twice.

9 CHAIRMAN RANKIN: All right. My apologies. And then
10 finally the checks for economic conflicts of
11 interest. Despite your husband's invitation, he
12 has not submitted an affidavit in opposition to
13 your election, nor has anyone else. There are no
14 witnesses present to testify. And now you have
15 the opportunity to make an ever so brief
16 statement. I would urge you to make it brief but
17 you have the floor if you'd like. Otherwise,
18 we'll turn it over to questions.

19 (Exhibit Number 3 was marked for identification
20 purposes - (18 pages) Personal Data Questionnaire for
21 Ms. Martha M. Rivers Davisson.)

22 (Exhibit Number 4 was marked for identification
23 purposes - (6 pages) Sworn Statement of Ms. Martha M.
24 Rivers Davisson.)

25 (Exhibit Number 5 was marked for identification

1 purposes - (1 page) Amendment to Personal Data
2 Questionnaire for Martha M. Rivers Davisson)
3 MS. DAVISSON: Given the time this morning, I will
4 defer on opening statement and just thank all of
5 y'all for being here.

6 CHAIRMAN RANKIN: And my apologies of it because it
7 was me. I asked too many questions but I won't -
8 -

9 MS. DAVISSON: That's perfectly understandable.

10 MS. DAVISSON - EXAMINATION BY MS. FOSTER:

11 **Q. Ms. Rivers, please state for the record the city**
12 **and circuit in which you reside.**

13 A. I live outside of the City of Aiken in the Second
14 Judicial Circuit.

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

22 **Q. Ms. Rivers, why do you want to serve as a family**
23 **judge and why do you feel that your legal and**
24 **professional experience qualify and will assist**
25 **you to be an effective judge?**

1 A. I've practiced law in South Carolina for 23 years
2 now. The majority of that time has been
3 primarily Family Court focused. It would be a
4 personal honor to serve as a judge. I have a
5 strong conviction for the judicial system as a
6 mechanism of justice ultimately, and as a
7 professional honor as well. I don't -- I hold
8 the court in very high esteem and I think that
9 would be a wonderful way to serve the state of
10 South Carolina. I work with families on a very
11 personal level, and I feel like I have a skill
12 set that could help them best in the judiciary at
13 this point in my career.

14 Q. **Ms. Rivers, are there any additional areas -- are**
15 **there any areas of the law for which you would**
16 **need additional preparation in order to serve as**
17 **a Family Court judge, and how would you handle**
18 **that additional preparation?**

19 A. For anyone who's practiced in the Family Court,
20 there is never enough preparation for whatever is
21 coming around the bend. There is always
22 something new to learn in that court and you
23 always have a situation. You think you've seen
24 it all and then you turn around the next day in
25 the office and there's something that you've

1 never heard of before. That being said, I think
2 probably the area that I would be the weakest in
3 is the juvenile justice side of it. I have
4 handled juvenile justice cases in my career but
5 that has not been a focus of my practice in any
6 manner. I do serve as a public defender contract
7 attorney in criminal law and I have stayed with
8 criminal law somewhat throughout my career. I
9 think that would be helpful, although there are
10 variations between the juvenile justice and the
11 adult criminal world.

12 **Q. Ms. Rivers, please briefly describe your**
13 **experience in handling complex, contested Family**
14 **Court matters and specifically discuss your**
15 **experience with the financial aspects of Family**
16 **Court work.**

17 A. I have handled divorces between people that have
18 substantial assets. Identifying the assets which
19 you agree upon is always an issue. Most
20 recently, I had a case with two -- each party had
21 inherited property and monetary assets during the
22 litigation. My client inherited additional funds
23 and you always -- that is the biggest crux of
24 anything that's complex like that. You know,
25 ironically, some of the most what I would

1 consider complex litigation actually involves
2 people without any assets. Because the folks
3 that have the assets, once you identify them,
4 then you're just arguing about the division. You
5 can have issues of future worth versus present-
6 day worth and those sorts of allocations. I
7 think there's always something to be said. We
8 have an economic difference between sexes in most
9 of the cases, and that's just a fact of the life.
10 Women often want to take the house. That's not
11 necessarily the asset to take. They defer 401(k)
12 or other retirement assets in order to take the
13 house. So I feel like in my time I've been able
14 to identify those sorts of things and handle that
15 division as an advocating attorney, and I would
16 hope I could go forward as a member of the
17 judiciary in doing so.

18 Q. **Ms. Rivers, the Commission received 99 ballot box**
19 **surveys regarding you, with 21 additional**
20 **comments. The ballot box survey, for example,**
21 **contained the following positive comments: Very**
22 **positive demeanor, understands litigants from all**
23 **income levels and is thoroughly familiar with DSS**
24 **and private actions in Family Court. Also**
25 **handles criminal cases and would understand**

1 juvenile court proceedings. Courteous and
2 compassionate, patient and pleasant in her
3 interactions with counsel and litigants. Another
4 stated, Ms. Davis would make a tremendous Family
5 Court judge. I have known her for over 20 years
6 and she is extremely qualified. One of the
7 written comments expressed concerns. One comment
8 stated that you create unnecessary drama and stir
9 up trouble. What response would you offer to
10 this concern?

11 A. I certainly I hope don't do that. I'm not aware
12 of when I've done that. I just really don't have
13 much of a response to it. I'm sorry that someone
14 felt like I was doing that at the time, because
15 I'm sure it wasn't helpful if that was the
16 perception I was giving.

17 Q. **Describe the most challenging ethical dilemma you
18 have encountered. How did you handle it?**

19 A. Quite frankly, I'm drawing a little bit of a
20 blank. I think, you know, I most worry about
21 conflicts of interest in handling ethics. And so
22 there have been a handful of occasions where
23 you've spoken to someone or determined that you
24 had involvement with a situation on the other
25 side or somehow were connected to it before you

1 realized it, in which case I completely back out,
2 don't talk to anyone else. And if I've
3 received any money for anything, hand it back
4 over.

5 **Q. Ms. Rivers, what improvements to the Family Court**
6 **would you seek to make if you were serving on the**
7 **Family Court bench?**

8 A. The things that I think are most necessary in the
9 Family Court are not things necessarily the
10 judiciary can fix at this time. But I do have
11 grave concerns over the guardian ad litem program
12 that's with the DSS part of the court. And I
13 think all you can do, is what I see more and more
14 judges doing now, is talking to the guardian ad
15 litems when they're in the courtroom to enforce
16 the role that they serve in trying to inform the
17 court as to the status of the child or children
18 and to protect their interest. Where this comes
19 up often is when the state is eventually -- the
20 agency's eventually moving for a termination of
21 parental rights and we currently have a volunteer
22 guardian ad litem program which can be rather
23 onerous on the volunteers because of the
24 placement of children throughout the counties in
25 the foster care system. And they -- if they come

1 to court and they haven't actually seen the
2 parent and child interact, it's very difficult
3 for them to give any sort of opinion as to
4 whether it's in the best interest of the child
5 for this parent's rights to be terminated. And
6 that, of course, is a very serious action to be
7 heard, and you don't want to delay it any more if
8 that is the appropriate action for the child. So
9 I think the court can only just encourage the
10 guardian ad litem coordinators who come to court
11 every month or every week, with the particular
12 county of the DSS and the guardians themselves
13 who are volunteering, as to what's expected of
14 them.

15 MS. FOSTER: Mr. Chairman, I would like to request
16 that we now go into executive session to handle a
17 matter.

18 CHAIRMAN RANKIN: All right. A motion from Senator
19 Sabb to now go into executive session.

20 EXECUTIVE SESSION

21 CHAIRMAN RANKIN: All right. We are back on the
22 record. And for the record, in executive session
23 no votes were cast and only discussion of other
24 matters. Now we'll resume the questions and turn
25 it back over to Ms. Foster.

1 MS. FOSTER: I would note the Midland's Citizens
2 Committee found Ms. Rivers well qualified in the
3 well qualified in the evaluative criteria of
4 ethical fitness, professional and academic
5 ability and character and qualified in the
6 evaluative criteria of constitutional
7 qualifications, reputation, physical health,
8 mental stability, experience and judicial
9 temperament. Under related comments, the
10 Committee stated no comment. Just a few
11 housekeeping issues.

12 Q. **Ms. Rivers, are you aware that as a judicial**
13 **candidate you are bound by the Code of Judicial**
14 **Conduct as found in Rule 501 of the South**
15 **Carolina Appellate Court Rules?**

16 A. Yes.

17 Q. **Ms. Rivers, since submitting your letter of**
18 **intent, have you contacted any members of the**
19 **Commission about your candidacy?**

20 A. No.

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

25 A. No.

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

5 A. No.

6 Q. Have you reviewed and do you understand the
7 Commission's guidelines on pledging in SC Code §
8 2-19-70(e)?

9 A. Yes.

10 MS. FOSTER: I would just note for the record that any
11 concerns raised during the investigation
12 regarding the candidate were incorporated into
13 the questioning of the candidate today. Mr.
14 Chairman, I have no further questions.

15 CHAIRMAN RANKIN: All right. I'll open it up for
16 questions from members of the Commission.
17 Senator Young.

18 SENATOR YOUNG: Thank you, Mr. Chairman.

19 MS. DAVISSON - EXAMINATION BY SENATOR YOUNG:

20 Q. Ms. Rivers Davisson, I want to thank you for your
21 interest in serving our state on the Family
22 Court. You and I have known each other a long
23 time and I wanted to ask you a few questions.
24 What do you think is the appropriate demeanor for
25 a Family Court judge?

1 A. Reserved, non-dramatic. I think a Family Court
2 judge has to address people who are highly
3 emotional litigants. More and more, the Family
4 Court sees people in a pro se capacity, so they
5 haven't had the opportunity to get the advice of
6 counsel or to know how to appear in court. So I
7 think a judge needs to be very patient with those
8 people.

9 Q. **You've practiced, all of your legal career, in**
10 **Barnwell County with an office in Barnwell**
11 **County; is that correct?**

12 A. That's correct.

13 Q. **You're currently practicing out of Williston?**

14 A. Yes.

15 Q. **And that's a small town that's located near the**
16 **border with Aiken County?**

17 A. It's a mile from Aiken County.

18 Q. **It's also not far from Orangeburg County?**

19 A. That's correct.

20 Q. **And do you practice in Aiken, Barnwell,**
21 **Lexington, Orangeburg and surrounding counties?**

22 A. I've been to Lexington a few times, but that's
23 less than Orangeburg, Calhoun, Barnwell, Bamberg,
24 Aiken. I'm in Bamberg and Barnwell with the DSS
25 court at least twice a month.

1 Q. And you do 608 appointments?

2 A. Yes.

3 Q. In your practice, you've handled a wide variety
4 of domestic matters?

5 A. Yes. I've acted as the guardian ad litem for
6 numerous cases and on the divorce litigant,
7 paternity, name change, DSS matters, DJJ matters.
8 Just a wide variety.

9 Q. You practiced -- when you first started, you
10 started working with Mr. Walter Beddingfield?

11 A. I did.

12 Q. He was a lawyer that attended the University of
13 Georgia; is that right?

14 A. He did.

15 Q. I think he was the center for Fran Tarkenton?

16 A. Yes.

17 Q. And you practiced with him and you started
18 learning about Family Court at that time; is that
19 right?

20 A. Yes. We never discussed the Carolina/Georgia
21 game.

22 Q. Carolina didn't have a whole lot to discuss with
23 Georgians, back then anyway. So you worked with
24 him for a while and then you went out on your own
25 it looks like in 2001; is that correct?

1 A. I did.
2 Q. And you've continued to practice in the Family
3 Courts of this state?

4 A. Yes.
5 Q. Tell me about your comfort level in handling
6 matters involving equitable distribution.

7 A. I feel I'm very comfortable. I've done thousands
8 of them, more than likely.

9 Q. Abuse and neglect cases?

10 A. Yes.
11 Q. Very familiar with that?

12 A. That is a large part of what I do currently
13 because of the 608 contract system.

14 Q. I'm going to come back to that in a moment. You
15 mentioned in your beginning comments that you
16 felt like that one area in which you have not
17 practiced as much as other areas is on the
18 juvenile criminal matters?

19 A. That's correct.

20 Q. But you have handled some of those; is that
21 right?

22 A. I have.

23 Q. What is your view of juvenile criminal matters
24 and sentencing in Family Court?

25 A. As in the process or my personal approach to

1 sentencing?

2 **Q. Your personal approach.**

3 A. It's -- I think the issue we have now is that the
4 pendulum is swinging away from the punitive more
5 to rehabilitative across the criminal justice
6 system. I don't disagree with that, particularly
7 in the juvenile area. What we've got going on,
8 though, is in the educational system. And not to
9 be preachy to legislators here about this, but we
10 don't have a good distribution of resources in
11 the educational system to handle necessarily the
12 people that need to be handled as alternative to
13 juvenile justice areas. So we had -- it's a
14 hot topic now, the criminalization of juvenile
15 behavior of the youth through the educational
16 system as a way of handling discipline. When,
17 probably in our day, it would have just been
18 handled by the school without referral to a
19 school resource officer and then ultimately
20 criminalization of the youth. Because that has
21 so many collateral consequences for their future.
22 I hope that answered your question.

23 **Q. What's your view of parents that don't pay child
24 support timely?**

25 A. I feel that it should be paid timely. So it's

1 very difficult sometimes when parties have their
2 finances, particularly when they've been
3 separated for a while, without a viewpoint of
4 paying any child support. I don't mind -- I
5 wouldn't mind giving an adjustment period so
6 that they can allocate their finances
7 appropriately. Because what people are doing is
8 they get set up and then you come up and say, oh,
9 you now have to pay child support. But as I
10 advise all of my clients that are looking at
11 child support, that is the second thing that
12 comes out, first taxes and then child support.
13 Because no matter what else is going on in your
14 life, that is the priority.

15 Q. On the abuse and neglect cases, if you could
16 recommend some things that can be done to improve
17 that children and families in the system what
18 would those things be?

19 A. Senator, I probably have a long list on that
20 regard. But as you may be aware, I'm often
21 concerned about paternity issues in abuse and
22 neglect. I have a great bit of concern for the
23 notices provided to alleged fathers and actual
24 fathers in this system, looking for relative
25 placement over foster care. Basically giving the

1 family and opportunity to address issues. Abuse
2 and neglect cases are poverty cases. It is
3 extremely rare to have people with income,
4 regular income or assets or resources. It's not
5 that those issues only come up in poor families
6 but the only way to address them in poor families
7 often ends up through the state system. And we
8 end up with the state determining where children
9 go. Whereas, in other instances, the family may
10 come together and determine how to raise this
11 child or these children. Sometimes in that
12 process the person who's being investigated is
13 not the person to give information as to
14 potential family members. In other words, if I'm
15 the parent who's accused of abuse and neglect,
16 I'm not going to necessarily tell you, DSS, who
17 else to place my children with, when I know full
18 well they may want custody of that child. So
19 it's a burden on the agency to determine this,
20 it's time consuming but it needs to be done. I
21 have found recently that the judicial
22 appointments, the judges that were serving now,
23 are being much more fastidious about checking
24 service certificates and making sure that all the
25 alleged parents are getting notices of hearings,

1 but it still happens. I was representing a
2 fellow in court last year and they said there had
3 even been a prior DSS action he had never been
4 informed of. So the agency takes the position he
5 doesn't want to be involved because he wasn't at
6 the prior action. But my client actually never
7 even knew, and this is in a small town. He
8 didn't even know she had had a DSS action against
9 him.

10 Q. I want to commend you on the ballot box comments.
11 Dozens of comments were submitted and it looks
12 like there was one comment that could be viewed
13 as negative. Everything else was glowing
14 positive and I want to commend you for that. I
15 think that speaks volumes for the reputation that
16 you earned in the community while you've
17 practiced in a very small town --

18 A. Thank you.

19 Q. -- for going on 20 years with your practice. And
20 I want to go back to that real quick, for the
21 record. You -- your practice in Williston,
22 you've represented clients from all walks of
23 life; is that fair to say?

24 A. I think so.

25 Q. And they -- you have clients that can pay your

1 fees and you have clients that you're not sure if
2 they're going to be able to pay it or not; is
3 that fair to say?

4 A. That is.

5 REPRESENTATIVE RUTHERFORD: Unfortunately.

6 Q. And so you've seen lots of stuff in your practice
7 with everyday South Carolinians; is that also
8 fair to say?

9 A. I think so.

10 Q. Finally, I want to compliment you on the Bar
11 report. It found you well qualified in all of
12 the substantive areas. Six areas that they
13 reviewed you were well qualified in all of them.
14 I think that also speaks volumes about you.

15 A. Thank you.

16 MS. DAVISSION - EXAMINATION BY SENATOR SABB:

17 Q. And did I also see that you got selected for the
18 Board of Governors, South Carolina Bar?

19 A. House of Delegates.

20 Q. House of Delegates, yeah.

21 A. Yes, sir.

22 Q. So I wanted to congratulate you on that. And as
23 I was listening to the exchange between you and
24 Senator Young, it sort of reminded me of those of
25 us who practice in small towns. Really I think

1 most of us deserve those pro bono awards but the
2 reality is we never fill out the paperwork. But
3 there's no question that too often we do more in
4 terms of giving our service and doing free stuff
5 during the run of the day than we actually get
6 paid for. And so thank you for being a small-
7 town lawyer too.

8 CHAIRMAN SMITH: Mr. Strom.

9 MR. STROM: Mr. Chairman, just quickly. I want to --
10 likewise, I've known you a long time and I want
11 to echo what Senator Young said. You enjoy an
12 excellent reputation. You're the people's
13 lawyer. You're out in some courtroom every day,
14 all the time helping folks. That's the kind of
15 people we need on the bench, so thank you for
16 offering up.

17 MS. DAVISSON: Thank you.

18 MS. DAVISSON - EXAMINATION BY CHAIRMAN RANKIN:

19 Q. Ms. Rivers, I want to ask a couple of things but
20 you certainly are well rounded in your work up to
21 this position. You have run twice before?

22 A. I have.

23 O. For Family Court?

24 A. Yes.

25 Q. And I should know this but when -- tell me your

1 **two prior runs. When were they?**

2 A. 2016/17 time frame. That was seat number eight.

3 No, one was seat seven; one was seat one. No,
4 this is seat one. I'm sorry, I don't have it in
5 front of me but I ran at that time frame in 2012.

6 Q. **And you participated in all these vettings, one**
7 **of which includes the Citizens Committee. You've**
8 **met with them three times, I guess, now?**

9 A. I have.

10 Q. **And so is that a healthy exchange? You feel like**
11 **that is a valuable process for us, for you the**
12 **candidate, for the Bar?**

13 A. Yes, in the sense that I think the Citizens
14 Committee is working diligently to look at the
15 demeanor of potential candidates to determine
16 what type of person is going to go on the bench,
17 as far as -- I imagine the judiciary has a
18 different set of stressors and that it's someone
19 who can deal with people of different backgrounds
20 and look at those issues. I can say that in the
21 past the Committee didn't have -- had very few
22 lawyers on it, which is not a negative except for
23 the sense of when you are trying to address legal
24 issues. As someone who's practiced for 25 years,
25 I have to say I don't explain things as

1 thoroughly as I used to in my youth to non-
2 lawyers. So I think that the basic
3 citizenry sometimes would like to have a greater
4 understanding of the legal background than they
5 do at the time that they're asking for the
6 information.

7 **Q. Your practice mix, if I'm correct, is about 50**
8 **percent Family Court or your --**

9 A. Yes. It could be more than 50 percent but it
10 just kind -- I practice in a small town and it
11 depends on the day-to-day as to what's going on.

12 **Q. And -- if I can find it. Forgive me here. My**
13 **system works so well. I'll queue up the wrong**
14 **candidate. Civil and criminal, give me the mix**
15 **of those.**

16 A. I do a very small amount of civil, which means a
17 couple of wreck cases. And some -- you know, you
18 always have the potential for someone to walk in
19 the door that has -- is a civil matter that they
20 need some work done on. And then criminal, I'm
21 actually doing a 608 contract with the Second
22 Judicial Circuit now for Barnwell and Bamburg, so
23 I have a handful of criminal cases from them: a
24 murder case, burglary, armed robbery and a couple
25 of other cases. And then the remainder of it is

1 the Family Court. I used to practice real estate
2 law as well but I quit doing any type of
3 mortgages or refinances and instead the abuse and
4 neglect work has kind of substituted for that.

5 Q. Your real estate practice, you ended that, I
6 guess --

7 A. I did --

8 Q. -- about '18 I think you wrote.

9 A. Yes. I will do a deed transfer for someone but
10 not a true closing.

11 Q. You clerked with Judge Houston?

12 A. I did.

13 Q. And Circuit Court judge, right?

14 A. Yes.

15 Q. Who -- as a Family Court judge or it could be a
16 circuit or any stripe for that matter, who would
17 you hold up as your top three?

18 A. I always appreciated Judge Sawyer. I thought he
19 was meticulous. He was very knowledgeable of the
20 rules when he practiced, but yet he was never
21 demeaning or harsh in his style. You know, you
22 say top three, but we all have, you know, our
23 pros and cons for all of them. Judge Gable was
24 our circuit attorney and I always appreciated the
25 fact that she took kind of a hometown folks view

1 of things. Judge Snellgrove is an excellent
2 judge. She is very knowledgeable and always
3 seeking to know more. And that's what -- the
4 type of Family Court judge I always like is not -
5 - or any judge, is not necessarily the one that
6 lets you get away with stuff but the one that
7 helps to show you how things should be done,
8 knows the rules, is able to apply the rules.
9 Because if we're on a fair playing field we all
10 have a shot. But when you -- when you don't have
11 someone that holds everyone accountable in that
12 way, I think that's when they system breaks down
13 a little bit.

14 Q. **Not naming the person, but just mention some of
15 the negatives. But what is it, that if you were
16 successful, you would absolutely not do as a
17 judge? What -- not a particular ruling, but
18 demeanor or --**

19 A. Senator, I've had the privilege of practicing in
20 front of a wide variety of Circuit Court and
21 Family Court judges. And you have to -- at this
22 age, you know, I remember when I was in law
23 school and a judge, I do not know who, so I'm not
24 commenting on any particular person, held a
25 female lawyer in contempt for wearing pants to

1 court. I've been court where the attorneys have
2 been fined for various small infractions in
3 court. And the person on the bench, although
4 keeping order and did have some good results in
5 many ways, was also quite feared by everyone in
6 the courtroom. And that is less in Family Court.
7 For one, you're dealing with a different type of
8 docket system. But I think you always have to be
9 reminded of how you appear to others. The
10 problem we have in Family Court is that sometimes
11 the players are all the same in the court over
12 and over again. And so you get very familiar and
13 you forget, particularly when you're dealing with
14 DJJ or DSS, that you're actually dealing with new
15 clients coming in and the importance of what's
16 going on to that person to give -- make sure they
17 have the appearance that you're not doing
18 anything untoward or that you're not running
19 roughshod over their case, but giving it the
20 actual diligence that it deserves.

21 Q. You were blessed to have run and lost for the
22 House of Representatives?

23 A. Yes.

24 Q. And never tarried there again, aye?

25 A. No, sir.

1 Q. All right. That's all I have. And again, as
2 Senator Young said, and Senator Sabb, your resume
3 is quite impressive.

4 CHAIRMAN RANKIN: Any other questions of anybody else
5 at this time?

6 (No replies are heard.)

7 CHAIRMAN RANKIN: If not, this will conclude this
8 portion of our screening process. And I want to
9 thank you for again offering to serve and to run.
10 And I take this opportunity to remind you that
11 pursuant to our evaluative criteria we expect you
12 and all other candidates to abide by both the
13 spirit and the letter of the ethics laws. Any
14 violation of or the appearance of impropriety
15 will be deemed worthy of potentially heavy in
16 weight in screening, and so we would caution you
17 to that. Also, as you know, the record will
18 remain open until the formal release of the
19 Report of Qualifications. You may be called back
20 at such time if the need were to arise. Thank
21 you very much, you and your husband, for joining
22 us. And again, our apologies for the late start.
23 Happy trails to you all on your way out.

24 MS. DAVISSON: Thank you.

25 (Off the record.)

1 CHAIRMAN RANKIN: All right. We are back on the
2 record. Ms. Ashley Phillips Case; is that
3 correct?

4 MS. CASE: Yes, sir.

5 CHAIRMAN RANKIN: Let's start by having you raise your
6 right hand.

7 ASHLEY PHILLIPS CASE, having been duly sworn,
8 testifies as follows:

9 CHAIRMAN RANKIN: You have with you a couple of good
10 looking people, or maybe one, the good looking
11 lady on the front. Who are these folks?

12 MS. CASE: My mother, Marion Phillips, is here, and my
13 husband, Roger Case, and my daughter was here. I
14 don't know if she'll come back in, but my
15 daughter, Molly Reeves Culbertson.

16 CHAIRMAN RANKIN: Welcome guest and family. Ms -- and
17 you go Ms. Case?

18 MS. CASE: Yes, sir. Ashley.

19 CHAIRMAN RANKIN: Ashley, all right.

20 MS. CASE: Yes, sir.

21 CHAIRMAN RANKIN: You have before you the two
22 documents you prepared, the Personal Data
23 Questionnaire and the Sworn Statement. Any
24 additions, amendments need to be made to those?

25 MS. CASE: No, sir.

1 CHAIRMAN RANKIN: Okay. Do you mind those being put
2 in the record, any objection?

3 MS. CASE: No objection.

4 CHAIRMAN RANKIN: Okay. You're aware of our role, the
5 Judicial Merit Selection Commission, in its
6 investigation of your candidacy and
7 qualifications, you're aware that we focus on
8 nine evaluative criteria which includes ballot
9 box survey, a thorough study of your application
10 materials, verification of your compliance with
11 the state ethics laws, search of newspaper
12 articles in which your name appears, study of
13 previous screenings and check for economic
14 conflicts of interest. No affidavits have been
15 filed in opposition to your campaign and no
16 witnesses have desired to be present to testify.
17 You now have the opportunity to make a brief
18 opening statement, if you'd like, but given our
19 tardiness, not yours, you certainly will not be
20 dinged if you don't. But you're certainly
21 welcome to do that.

22 (Exhibit Number 6 was marked for identification
23 purposes - (15 pages) Personal Data Questionnaire for
24 Ashley Phillips Case.)

25 (Exhibit Number 7 was marked for identification

1 purposes - (5 pages) Sworn Statement of Ashley
2 Phillips Case.)

3 MS. CASE: Yes, sir. Just very briefly. I'm from
4 Fountain Inn, South Carolina. I graduated from
5 Wofford College in January of '85, University of
6 South Carolina School of Law in December of '87.
7 Was in private practice for a few years before
8 going into the Family Court realm. I married my
9 husband, Roger Case, a little over 29 years ago.
10 Have three children. Molly Reeves is here with
11 me today.

12 CHAIRMAN RANKIN: Welcome Molly.

13 MS. CASE: And just appreciate the opportunity to be
14 here. I'm passionate about the work done in
15 Family Court and I appreciate the opportunity to
16 present myself as a candidate.

17 CHAIRMAN RANKIN: All right. Super, thank you. And
18 we'll turn it over now to counsel, Mr. Maldonado.

19 MR. MALDONADO: Thank you, Mr. Chairman.

20 MS. CASE - EXAMINATION BY MR. MALDONADO:

21 Q. Ms. Case, can you please state for the record the
22 city and circuit in which you reside.

23 A. I'm in Laurens County. That's the Eighth
24 Circuit. Fountain Inn is the city.

25 MR. MALDONADO: I'd note for the record that based on

1 the testimony contained in the candidate's PDQ,
2 which has been included in the record with the
3 candidate's consent, Ms. Ashley Phillips Case
4 meets the constitutional and statutory
5 requirements for this position regarding age,
6 residence and years of practice.

7 Q. Ms. Case, why do you want to serve as a Family
8 Court judge and why do you feel that your legal
9 and professional experience qualify and will
10 assist you to be an effective judge?

11 A. Well, I have had aspirations of serving on the
12 Family Court bench for quite some time. I
13 actually filed about 20 years ago but realized
14 pretty early on that I was not ready for that
15 position. I'm ready now. I have been practicing
16 for 32 years now. I feel like my life
17 experiences coupled with my professional
18 knowledge, they're an asset to me and would serve
19 me well on the Family Court bench. I have -- as
20 I stated, I was in private practice for a few
21 years then went with the Seventh Circuit
22 Solicitor's Office as the Family Court unit head.
23 And from there to the Thirteenth Circuit as the
24 Family Court unit head. As part of my job over
25 the last 29 years working in this area, I have

1 developed relationships and developed knowledge
2 of different agencies and entities that are
3 involved heavily in the Family Court, the
4 Department of Social Services, Department of
5 Juvenile Justice, guardian ad litem program, the
6 solicitor's office, the clerk's office, you know,
7 down to our courtroom staff and deputies and
8 detention centers. And I know from that
9 experience what I could reasonably ask of them,
10 or require of them, in a case that would come
11 before me and what I reasonably can't expect them
12 to do. So I believe all of that would assist me
13 in being an effective judge. I'm keenly aware
14 that the decisions made by Family Court judges
15 impact the lives of children and youth and
16 families across the state every single day in a
17 way that most people don't understand. And I
18 think that my experience would bring a unique
19 perspective, and a much-needed perspective, to
20 the Family Court bench.

21 Q. **Thank you. Ms. Case, are there any areas of the**
22 **law for which you would need additional**
23 **preparation in order to serve as a Family Court**
24 **judge and how would you handle such additional**
25 **preparation?**

1 A. I believe that the most lacking, I guess, would
2 be the area of equitable distribution. I think
3 most of us realize that, unless you're a tax
4 attorney, mathematical skills are not necessarily
5 a strong suit for lawyers. But I would be
6 provided with forms and formulas, documents from
7 attorneys who are appearing before me, checklists
8 that would enable me to learn and to value and
9 determine how to distribute that property. So I
10 think equitable distribution would be the area
11 that I would be lacking.

12 Q. **Thank you. Ms. Case, can you please describe --**
13 **briefly describe your experience in handling**
14 **complex contested Family Court matters and**
15 **specifically discuss your experience with the**
16 **financial aspects of Family Court work.**

17 A. Well, I would submit that any case that's in
18 Family Court is dealing with a complex matter.
19 When you're dealing with children and youth and
20 families and who's going to go where, and how
21 they're going to be taken care of, I think those
22 are all complex matters. I'm tasked with looking
23 at children and youth who don't have ideal home
24 lives, don't have ideal situations to return to,
25 and you have to balance those against removing

1 these children and these youth from homes and
2 putting them into a foster care system. You
3 know, is that the best thing or is it better to
4 try to provide services to help them. So I think
5 all those matters are complex. I read every
6 single week multiple psychological and
7 psychiatric evaluations of juveniles and take
8 what I can glean from those reports to make a
9 recommendation that would best serve this child
10 or this youth and this family. So I think all of
11 those are complex. In my past, I've had -- dealt
12 with issues regarding cell phones and the
13 protection of a password, the ability of the
14 state to require the production of a password to
15 a cell phone, you know, balanced against
16 someone's constitutional rights. And that was a
17 new area in South Carolina, not much precedent
18 there. Wrote a brief that has been used by our
19 office so I think that was one complex issue I've
20 had. Structuring sentences that are kind of out
21 of the box, not always going with the normal
22 recommendations that are given, but dealing in
23 working with like the juvenile parole board to
24 structure a sentence that keeps a juvenile from
25 spending an indeterminate amount of time in a

1 facility and allowing them to come back. So I
2 think thinking outside the box those are some
3 complex issues that I deal with. Learning some
4 medical issues that I don't -- that's not my
5 background. I had a victim in the past -- a
6 murder victim that had a past heart condition, or
7 preexisting heart condition, and studying and
8 learning a whole different realm to determine
9 whether this was a factor. So that was complex.
10 With regard to financial matters, other than
11 restitution, multiple payees, insurance, dealing
12 with that on a daily basis with victims, that
13 would be about the extent of my experience with
14 complex financial matters.

15 **Q. Thank you. What recommendations would you offer**
16 **to help improve the Family Court?**

17 A. I think time is a big issue. I think judges are
18 tasked with getting a lot accomplished in a
19 little bit of time. What's the answer: more
20 judges, more court time. I don't know that
21 that's feasible but I know -- I think time is the
22 most important thing. I think our judges are
23 competent and efficient most of the time. They
24 just need a little bit more time to accomplish
25 with what they've been tasked to do.

1 Q. Thank you. Ms. Case, the Commission received
2 129 ballot box surveys regarding you, with 24
3 additional comments. The ballot box surveys, for
4 example, contained the following positive
5 comments: Ashley has the highest intellectual,
6 moral and experiential qualities of anyone on the
7 ballot. She would make a wonderful judge. Also,
8 incredibly well versed in the Family Court law.
9 She has always been a go-to person if anyone has
10 questions about substantive law or procedural
11 steps. Two of the written comments expressed
12 concerns, including concerns about your
13 experience outside juvenile prosecution. How
14 would you respond to this concern?

15 A. Well, I would respectfully remind them and many
16 times educate them on the fact that Family Court
17 docket -- over 50 percent of the Family Court
18 docket deals with child abuse and neglect,
19 juvenile justice, domestic abuse, child support,
20 the exact areas where I have 29 years of
21 experience. I think, as a rule, the responses
22 from the Bar and the survey don't express the
23 same concern for judicial candidates who don't
24 have experience in those public matters as they
25 do with candidates like me who don't have as much

1 experience in the private matters. And I think
2 this is just a matter of that portion of our
3 population that's in those public matters. They
4 don't have the same voice or the same
5 representation. Many of our judges -- in just
6 reviewing transcripts from past years, most of
7 our Family Court judges come to the bench without
8 any experience. And particularly juvenile
9 justice matters, the Department of Social
10 Services matters as well, but they're
11 intelligent. You as a committee have the
12 foresight to nominate and qualify people who are
13 smart and know where to look and know how to
14 educate themselves. And I think many of these
15 judges who are seated now, this has become the
16 most rewarding part of their job is working in
17 this area. So I think the most important thing
18 is to nominate and qualify someone who's smart.
19 And I would submit to you that I'm intelligent
20 enough to know where to look for answers for
21 questions that I don't know the answers to, to
22 surround myself with people. I've got a good
23 relationship with many, many Family Court judges
24 who I can reach out to and ask questions. So I
25 think it's important to seat someone with that

1 intelligence and also with the demeanor and the
2 temperament that you want in a Family Court
3 judge. That's the thing you can't learn. You
4 can learn other areas of the law. I'm also
5 fortunate enough to be housed in the Family Court
6 building. So when I have time I can go down and
7 sit in on cases, which I have done a lot more in
8 the past couple of years, considering that I was
9 running for this position. And observe and see
10 how these matters are handled. I'm willing to
11 work hard. It doesn't scare me at all. I work
12 hard now. And although my experience in that
13 child custody divorce area is more peripheral
14 than practical, I do get a lot of that with my
15 caseload. Because rarely do I have a child who
16 comes to me with an intact family. So you're
17 dealing with custody issues; you're dealing with
18 financial issues; you're dealing with divorces
19 and split homes. So I have been able to learn
20 peripherally about that. And I would just
21 respectfully remind you as a committee that one
22 of the best judges we have in South Carolina,
23 Letitia Verdin, came from my exact background.
24 And y'all had the foresight to recognize her
25 potential.

1 Q. Thank you. Ms. Case, your SLED report indicated
2 that an Ashley Phillips was a party to a lawsuit
3 in 2008. The case Sandra Phillips v. Willie Lee
4 Chapman. Can you describe your role, if any, in
5 this lawsuit?

6 A. Sandra Phillips?

7 Q. Yeah. Sandra Phillips v. Willie Lee Chapman.

8 A. You mentioned that to me in the screening
9 process. I don't recall anything and I've
10 checked with my insurance company to make sure it
11 wasn't any kind of accident I've had. I'm not --
12 I don't have any knowledge of that.

13 Q. Thank you.

14 MR. MALDONADO: I would note that the Upstate Citizens
15 Committee reported Ms. Case to be well qualified
16 as to ethical fitness, professional and academic
17 ability, character, reputation and judicial
18 temperament. The Committee found Ms. Case to be
19 qualified as to the constitutional
20 qualifications, physical health, mental stability
21 and experience. I'll finish up with some
22 housekeeping questions.

23 Q. Ms. Case, are you aware that as a judicial
24 candidate you are bound by the Code of Judicial
25 Conduct as found in the Rule 501 of the South

1 **Carolina Appellate Court Rules?**

2 A. Yes, sir.

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

6 A. No, sir.

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

11 A. No, sir.

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

16 A. No, sir.

17 Q. Ms. Case, have you reviewed and do you understand
18 the Commission's guidelines on pledging in SC
19 Code § 2-19-70(e)?

20 A. Yes, sir.

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

1 CHAIRMAN RANKIN: All right. Senator Young.

2 SENATOR YOUNG: Thank you, Mr. Chairman.

3 MS. CASE - EXAMINATION BY SENATOR YOUNG:

4 Q. Ms. Case, thank you for your interest and
5 continuing your service to our state in a
6 different capacity, serving on the Family Court
7 bench. I know -- I think I've been on the
8 Commission when you've come before us before. I
9 wanted to ask you a few questions for the record.
10 What do you think is the appropriate demeanor for
11 a Family Court judge?

12 A. I personally would strive to be courteous and
13 respectful to anyone who came before me. Again,
14 by virtue of my background, I'm in court --
15 Family Court three times a week every week of the
16 year, unless they're in chambers. So I've had
17 the opportunity over the last 25 plus years to
18 appear before almost every Family Court judge in
19 this state. And again, I'm not trying to stroke
20 your ego but I think you have done a very good
21 job of seating Family Court judges. I think we
22 have a wonderful, competent Family Court bench.
23 And most of them I can take away many positive
24 things with how they run their courtroom. I also
25 note some things that I would try not to do. I

1 think the most important is to be courteous and
2 respectful, but also have the confidence and the
3 control to run your courtroom efficiently. I
4 think listening is a big factor. I think most
5 people just want to be heard. And I would want -
6 - when you walk out of my courtroom, I would want
7 you to -- regardless of the outcome, to feel like
8 you've been given a fair shake and that somebody
9 has listened to you. So in a nutshell, courteous
10 and respectful to all litigants and attorneys and
11 then the confidence and control to run your
12 courtroom the right way. I think it's important
13 to make sure that you are in charge but also be
14 cognizant of the fact that Family Court is an
15 emotionally charged forum.

16 Q. **In the area of parents that don't pay child
17 support timely, what is your view of how that
18 should be handled?**

19 A. Well, children deserve to be supported by their
20 parents. It's a fine balancing act for those who
21 can pay and aren't, those who could pay if they
22 worked a little harder to get a job and those who
23 just flat out refuse to pay. Now, I'm not
24 opposed to giving a second chance, putting in a
25 payment plan to allow someone to catch up and pay

1 like they're supposed to. But I also would not
2 be afraid to give some jail time if they
3 continued to not support their children.

4 Q. You mentioned that you had appeared in front of
5 just about every Family Court judge in the state.
6 Is there a particular judge that you would try to
7 emulate in terms of demeanor and how they handle
8 a courtroom?

9 A. They're so many good ones. And I will say a most
10 recent appointment is Judge Salvini is doing an
11 excellent job when I've been before her. She's
12 very knowledgeable, very compassionate but also
13 very much in control. Judge Tiffany does a great
14 job. Judge Smoak, we just had him and he's a
15 wonderful jurist. They're just -- there's so
16 many, I hate to -- I hate to narrow it down but
17 those would be three I would like to emulate.

18 Q. Do you -- you have had a very distinguished
19 career at the solicitor's office. I note that
20 you received the Ernest F. Hollings Award for
21 excellence in Family Court in 2005. Received the
22 solicitor of the year award, looks like, multiple
23 times. Do you handle abuse and neglect cases at
24 all?

25 A. I don't handle them directly. But again, by

1 virtue of what I do, we have reports of abuse and
2 neglect quite often when we're dealing with our
3 juveniles. And I work very closely with the
4 Department of Social Services and the attorneys
5 and the case workers that we have there. I'm
6 very hands-on where that's concerned. If there's
7 a report, you know, I want to talk with the case
8 worker. I want to talk with the attorney before
9 we go into the courtroom to make recommendations
10 to the court. I don't -- I'm not in favor of
11 knee jerk emergency protective custody orders. I
12 think we need to look at it and see what we can
13 put in place prior to that, if it's not very
14 egregious. But I'm involved quite a bit. And I
15 will say before they split the Department of
16 Social Services off, we handled Department of
17 Social Services abuse and neglect cases through
18 the solicitor's office. And I did handle
19 those then but it's been several years ago.

20 Q. I note that the Upstate Citizens Committee found
21 that you would be well qualified in the area of
22 judicial temperament. They also found you well
23 qualified in a number of other areas. They noted
24 -- I know that this has been brought up by the
25 screening counsel, but they noted that because of

1 the fact that you've been in the solicitor's
2 office maybe don't have as much experience
3 handling equitable division and custody matters.
4 Just to make sure I understand what your response
5 to that is, would you please address that in
6 terms of how you would be prepared to handle
7 those matters on the court if you were elected?

8 A. And that is correct, I don't have a lot of
9 practical experience doing that. In ways that I
10 have tried to help educate myself in addition to
11 studying diligently the law and the statutory
12 provisions, I have observed many private cases.
13 As I stated, I'm in the courthouse in the Family
14 Court building so I have the opportunity to go in
15 and observe, talk with judges. I sit down with
16 our judges in Greenville and we have six of them.
17 Sit down and talk with them and try to educate
18 myself. With regard to the equitable
19 distribution, you have forms and you have
20 formulas and you have checklists that you go by.
21 And I think you just need to know where to look
22 for your answers. You're given the information
23 by the attorneys. And I know they'll be
24 differing somewhat but you as a judge need to
25 look at this and put together the most equitable

1 distribution possible. And I think that's the
2 most important thing. I don't think you ever
3 have a judge that's, you know, well versed, has
4 practical experience in every area.

5 **Q. Do you handle cases in both Greenville and**
6 **Pickens?**

7 A. Not at this time but for years I did. We've
8 finally gotten someone to help me, so -- but I'm
9 over the Pickens juvenile court.

10 Q. **But you're primarily working now out of**
11 **Greenville all the time?**

12 A. Yes, sir.

13 Q. **Let me ask you, in the areas of abuse and**
14 **neglect, I mean, you may -- it sounds like you**
15 **feel like you're comfortable enough to answer**
16 **this. Do you have any recommendation based on**
17 **your experience with those cases on how the state**
18 **can improve, how those cases are handled in the**
19 **Family Court system so it's better for the**
20 **children and the families that are in the system?**

21 A. Well, and I watched the news this morning about
22 DSS wanting more -- more funding and that there
23 wasn't really a -- they weren't really in favor
24 of funding an agency that is struggling a little
25 bit like DSS is struggling. But I think that's a

1 key issue. You have to -- I mean, you have to
2 compensate people to get good people or they move
3 on. And it's unfortunate. You know, I'm in the
4 hallway with these workers each and every day.
5 They go from working a case that night to having
6 to be in court for a probable cause hearing that
7 -- 72-hour hearing, you know, the next afternoon
8 because of the court schedule. You have workers
9 who aren't able to follow up on things and you
10 have private attorneys that are, you know,
11 picking that apart. So I think you've got the
12 heart with these people that are working these
13 cases. They just need to be able to survive on
14 what they're paid. So that would be my take on
15 that.

16 Q. **Has Greenville County done anything unique to**
17 **address those types of cases, to your knowledge?**

18 A. The abuse and neglect cases?

19 Q. **(Nods head.)**

20 A. I'm not aware of anything that we do differently,
21 no, sir.

22 Q. **I also want to commend you on the ballot box**
23 **comments. They were very favorable for you and**
24 **very little that was not very gracious and**
25 **complimentary of you and the reputation you've**

1 **earned, and I want to thank you for that.**

2 A. Thank you, sir.

3 CHAIRMAN RANKIN: All right. Any further questions?

4 Ms. Logan.

5 MS. CASE - EXAMINATION BY MS. BLACKLEY-LOGAN:

6 Q. **Good afternoon. It's good to see you.**

7 A. It's good to see you.

8 Q. I wanted to acknowledge that we used to work
9 together in the solicitor's office in Spartanburg
10 County, and I haven't seen you in God knows how
11 long, so it's good to see you here today.

12 A. Yes, ma'am.

13 Q. Wanted to commend you on your work record thus
14 far and have kind of kept up with you and what
15 you were doing in Greenville. And I'm in
16 Greenville a lot more so I want to commend you on
17 that. I do have a quick question. When
18 scheduling your DSS cases and as such in
19 Greenville, are there certain days you do it or
20 you just have a regular scheduling?

21 A. Now, there are certain days the clerk's office --
22 and that's the point I made in my opening or my
23 first question with Mr. Maldonado was that so
24 much of a Family Court judge's time is taken up
25 with these matters. You know, DSS has 72-hour

1 hearings on Monday afternoons, Wednesday
2 afternoons, along with DJJ 48-hour detention
3 hearings, along with domestic abuse cases. Those
4 are in an emergency time slot on every Monday and
5 Wednesday. I have court all day on Thursdays.
6 DSS has court all day on Tuesdays and another
7 court at least half-a-day on Wednesday. And then
8 as-needed, the judges work us in.

9 Q. **What do you see as the problem in regards to**
10 **moving these cases, especially the DSS cases,**
11 **outside of funding? And so I'm assuming from**
12 **your last response to the question from Senator**
13 **Young was that, based on lack of funding, there's**
14 **a high overturn rate with employees of Department**
15 **of Social Services?**

16 A. I think there's a turnover -- high turnover rate
17 with employees. I don't know that that
18 necessarily delays the cases. I know in
19 Greenville they're scheduling A, B, C in cases --
20 A, B and C cases with the DSS docket at every
21 court slot they have so they're prepared to jump
22 from one to another. Also in Greenville,
23 they have a status conference with all the
24 attorneys and all the guardian's attorneys on
25 Thursday mornings where they're in there and they

1 can say, you know, this is either going to be a
2 trial or we've got an agreement worked out or
3 it's going to have to be continued. So I think
4 Greenville's got as a good a handle on it as
5 anybody.

6 Q. Do you know you all's benchmark rates on moving
7 the cases? Is it above 85 percent?

8 A. I do not know that.

9 Q. Okay. Well, I know that your temperament has
10 always been great in the past. I assume it is
11 still the same. I wish you the very best and
12 it's great to see you.

13 A. Thank you. Living with Roger has not changed my
14 temperament too much.

15 Q. Thank you.

16 CHAIRMAN RANKIN: All right. Ms. McIver.

17 MS. McIVER: Thank you. I have kind of a strange
18 comment. You've been answering a lot of
19 questions and I'm sure there will be some more.
20 But before you get back to that, I was reminded
21 of a friend when I saw your mom and your daughter
22 sitting out there and you too of course, sir, who
23 told me one time that one of her best memories
24 was being able to shine on stage in front of her
25 mom. And she said being an adult and getting to

1 do that was one of the greatest pleasures of my
2 life. And I was thinking about that seeing your
3 mom and your daughter here and reading one of
4 your letters. And I just would like to read this
5 into the record for your benefit, but also for
6 your mom and for your daughter. It says, "She
7 was a child of parents who were pillars of our
8 community. Her mother continues to be one of the
9 most admired ladies in town. Her late father was
10 an exemplary citizen, a very successful man and
11 my friend. Given her family background, it comes
12 as no surprise that Ashley grew into an adult in
13 whom we all take some justifiable pride. In
14 summary, Ashley likes people and people love and
15 admire Ashley." And this letter is certainly in
16 line with all of the comments that you've gotten
17 in your ballot box that Senator Young mentioned.
18 And I just thought this was an impressive letter
19 from somebody who obviously knows you and your
20 family well, and I just wanted to point that out
21 and congratulate you for the excellent reputation
22 that clearly you've earned.

23 MS. CASE: Well, thank you. I need to call it quits
24 now.

25 CHAIRMAN RANKIN: I will take my cue from you. As you

1 took your cue from your mother, no doubt, as a
2 great child. So unless there are other
3 questions, that is a great note to end on. And I
4 want to thank you again for being here,
5 bringing your family. Holly --

6 MS. REEVES: Molly.

7 CHAIRMAN RANKIN: Molly. And you were involved in the
8 church?

9 MS. REEVES: At Trinity United Methodist Church.

10 CHAIRMAN RANKIN: Trinity United Methodist Church
11 where -- which also was one of your -- sources of
12 one of your reference letters.

13 MS. CASE: Yes, sir.

14 CHAIRMAN RANKIN: Which no doubt is a compliment to
15 both you and your daughter, so.

16 MS. CASE: Thank you.

17 CHAIRMAN RANKIN: This concludes this portion of the
18 screening process. And I want to remind you, as
19 you know, that pursuant to the evaluative
20 criteria, we expect candidates to follow both the
21 letter and the spirit of the ethics law. Any
22 violation or the appearance of impropriety will
23 be deemed very serious and potentially deserving
24 of heavy weight in screening deliberations. On
25 that note, as you know, the record will remain

1 open until the formal release of the Report of
2 Qualifications. You may be called back if such
3 need were to arise. And we again will conclude
4 your -- this portion of it and, again, thank you
5 all for being here. And what a testament to your
6 mother and that you get to hear this with your
7 granddaughter to your left is a beautiful moment
8 and a testament, ma'am, to your legacy and that
9 of your family. So God bless you all. Thank
10 you.

11 MS. CASE: If I could be like her I could quit now.

12 CHAIRMAN RANKIN: Senator Young moves to go into
13 executive session, seconded by Ms. Logan, Clerk
14 of Court. We'll now into executive Session.

15 EXECUTIVE SESSION

16 (At this time, Representative Smith re-joined the
17 Commission and resumed duties as Chair.)

18 CHAIRMAN SMITH: We're back on the record and Senator
19 Rankin moves we come out of Executive Session.
20 All in favor say, Aye.

21 (Ayes are heard.)

22 CHAIRMAN SMITH: All opposed.

23 (No replies are heard.)

24 CHAIRMAN SMITH: Ayes have it. Let me state while we
25 were in executive session there were no matters

1 discussed and there were no votes taken. There
2 was just a lot of food consumed, so. We'll start
3 with the first candidate. State your name,
4 please.

5 CHAIRMAN SMITH: How are you?

6 MS. NICHOLS-GRAHAM: Fine.

7 CHAIRMAN SMITH: Good afternoon.

8 MS. NICHOLS-GRAHAM: Good afternoon.

9 CHAIRMAN SMITH: All right. Ms. Nichols-Graham, you
10 ready?

11 MS. NICHOLS-GRAHAM: Yes.

12 CHAIRMAN SMITH: All right. Will you raise your right
13 hand, please, ma'am.

14 KIMAKA NICHOLS-GRAHAM having been duly sworn,
15 testifies as follows:

16 CHAIRMAN SMITH: Ms. Nichols-Graham, you have before
17 you your Sworn Statement and your Personal Data
18 Questionnaire. Are those both documents that you
19 submitted to the Commission?

20 MS. NICHOLS-GRAHAM: Yes.

21 CHAIRMAN SMITH: Any changes or updates that need to
22 be made?

23 MS. NICHOLS-GRAHAM: No.

24 CHAIRMAN SMITH: Are they both correct, to the best
25 of your knowledge?

1 MS. NICHOLS-GRAHAM: Yes.

2 CHAIRMAN SMITH: Do you have any objection to us
3 making those as exhibits to your sworn testimony
4 here today?

5 MS. NICHOLS-GRAHAM: No.

6 CHAIRMAN SMITH: Without objection we'll make those as
7 exhibits to your sworn testimony. Ms. Nichols-
8 Graham, the Judicial Merit Selection Ccommission
9 has throughly investigated your qualifications
10 for the bench. Our inquiry has focused on nine
11 evaluative criteria and has included a ballot box
12 survey, a thorough study of your application
13 materials, verification of your compliance with
14 state ethics laws, search of newspaper articles
15 in which your name appears, study of previous
16 screenings and checks for economic conflicts of
17 interest. There have ben no affidavits filed in
18 opposition to your candidacy today and no
19 witnesses are present to testify. Do you wish to
20 make a brief opening statement to the Commission?

21 (Exhibit Number 8 was marked for identification
22 purposes - (22 pages) Personal Data Questionnaire for
23 Ms. Nichols-Graham.)

24 (Exhibit Number 9 was marked for identification
25 purposes - (5 pages) Sworn Statement of Ms. Nichols-

1 | Graham.)

2 MS. NICHOLS-GRAHAM: No additional statement -- I
3 don't think is necessary, other than to thank you
4 all for your time and for your attention to these
5 matters. I look forward to answering any
6 questions that you may have.

7 CHAIRMAN SMITH: All right. Thank you very much.

8 Will you answer any questions that counsel may
9 have.

10 MS. NICHOLS-GRAHAM - EXAMINATION BY MS. WILKINSON:

11 Q. Good afternoon, Ms. Nichols-Graham. Please state
12 for the record the city and circuit in which you
13 reside.

14 A. I reside in Greenville and it's the Thirteenth
15 Judicial Circuit.

16 MS. WILKINSON: Mr. Chairman, I note for the record
17 that based on the testimony contained in Ms.
18 Nichols-Graham's PDQ, which has been included in
19 the record with her consent, Ms. Nichols-Graham
20 meets the statutory requirements for the position
21 regarding age, residence and years of practice.

22 Q. Ms. Nichols-Graham, why do you want to serve as a
23 Family Court judge and why do you feel that your
24 legal and professional experience qualify and
25 will assist you to be an effective judge?

1 A. I believe that I maintain the characteristics
2 that the State is looking for, for a judge. I
3 know that my experiences in practicing law and my
4 personal experiences uniquely qualify me to be a
5 Family Court judge. I believe that I am fair and
6 I'm honest. And I believe that everyone should
7 be treated with respect. I have had the
8 opportunities to represent a lot of children and
9 families in our courts. And that experience, I
10 believe, qualifies me to serve as a Family Court
11 judge. I know that I have experienced and
12 witnessed things in the community and in South
13 Carolina that have fueled a desire in me to help
14 people. And if given the opportunity by the
15 Commission and by the state of South Carolina, I
16 would like to be able to help people and serve
17 the State from the Family Court bench.

18 Q. **Are there any areas of the law for which you
19 would need additional preparation in order to
20 serve as a Family Court judge and how would you
21 handle that additional preparation?**

22 A. I believe that I am a well-rounded candidate for
23 Family Court. However, I know that acquiring
24 legal information and expertise is a continuing
25 process. And that I would continue to stay up

1 front of the laws and the changes in the statutes
2 and in case law as these issues are not set in
3 stone, so we're always evolving. I also would
4 observe any hearings that -- of any types of
5 cases where I felt like I may not have as much
6 experience. I do have a lot of experience
7 dealing with children who also appear in DJJ
8 cases on the administrative side. I do not have
9 as much direct representation experience
10 representing juveniles in Family Court. But I
11 definitely have experience with working with the
12 families and the communities and juveniles
13 for the exact same facts that have placed them in
14 juvenile court. So I would observe additional
15 hearings and I would continue to receive
16 trainings to stay up -- you know, to stay updated
17 on the law.

18 Q. **Please briefly describe your experience in
19 handling complex, contested Family Court matters
20 and specifically discuss your experience with the
21 financial aspects of Family Court work.**

22 A. I have been practicing law for over -- well,
23 right at 21 years, at this point. I have been a
24 legal aide lawyer, a legal services lawyer and
25 that has given me the opportunity to represent

1 people in all kinds of cases in Family Court.
2 Primarily, I would say most of my Family Court
3 experience has been involving custody matters.
4 And those cases are complex; the facts are always
5 changing. I do have experience representing
6 individuals that have some financial means, just
7 by way of our ability to represent people who are
8 victims of domestic violence that may, you know,
9 have access to resources that need to be divided.
10 So I have extensive experience dealing with
11 custody matters. Also, I have experience dealing
12 with divorce and litigation and equitable
13 division. And I also have experience dealing
14 with contested termination of parental rights and
15 adoption cases, representing either side. And
16 those cases are very complex and complicated.
17 And let's see. So in my -- it's my opinion that
18 I do have experience dealing with complicated
19 matters and complex matters before Family Court.
20 Maintaining the well-being of a child, I would
21 not necessarily put a price tag on that in making
22 sure that our children our safe. I don't know if
23 there is any particular value, a money amount,
24 that we could place on that responsibility that
25 Family Court judges have.

1 Q. Ms. Nichols-Graham, the Commission received 187
2 ballot box surveys regarding you, with 24
3 additional comments. The ballot box survey, for
4 example, contained the following positive
5 comments: Kimaka's knowledge of family and
6 education law would make her an asset to the
7 Family Court bench. She is kind and fair. She
8 has the patient temperament needed to serve on
9 the bench. Another commenter stated, she is well
10 qualified to be a judge. She is very
11 knowledgeable and is very thoughtful about the
12 law. She is even tempered. She's involved in
13 her community and sets the standard for the Bar.
14 These are the written -- they're also a few
15 written comments that express concerns regarding
16 your level of courtroom experience, especially
17 the last few years during which time you have
18 been the managing attorney for South Carolina
19 Legal Services. What response do you give to the
20 concerns regarding your courtroom experience
21 these last few years?

22 A. I would say that it's unfortunate that there is
23 concern about my courtroom experience because of
24 the depth of my courtroom experience from the
25 very beginning of my practice of law in 1998.

1 And that I continue to be able to be in the
2 courtroom and represent individuals in contested
3 cases as well as uncontested cases. Because of
4 the volume of cases that we have at Legal
5 Services and the long tenure of my service at
6 Legal Services, I do have the ability to step in
7 and to take over cases when attorneys leave
8 unexpectedly, when we have contract attorneys who
9 are unable to fulfill their duties and their
10 responsibilities. I do stay actively involved in
11 litigation and Family Court litigation. I'm
12 constantly addressing issues of legal strategy.
13 Even if I'm not in the courtroom, I'm constantly
14 involved in the cases. And a lot of cases that
15 appear in Family Court, being that we serve four
16 counties, I do -- I am able to get in and out of
17 the courtroom in those four counties. If I were
18 to, I guess, multiply my appearances in one court
19 by four, then maybe I would be seen more often
20 than I have been seen in one particular county.
21 But I enjoy my courtroom experiences and I wish I
22 knew the individuals that had those concerns so
23 that I could address them directly and give them
24 some -- and get a feel for who they are and how
25 long they've been involved in the Family Court --

1 you know, in the Family Court practice because,
2 perhaps, they are newer practitioners. I'm not
3 quite certain of where those comments are coming
4 from. But there was a time when I was in Family
5 Court I mean a lot, three or four days out of the
6 week. Everyone who was served with papers would
7 get legal representation. And because of my
8 experience and my commitment to the community, I
9 am now in a managerial role. But I'm responsible
10 still for all of our cases, whether or not I
11 appear in court. I'm responsible for how our
12 clients are treated. I'm responsible for how our
13 attorneys treat their attorneys. And I'm
14 responsible -- or I assist with legal strategy on
15 several matters. Whether or not they see me in
16 court, I am indeed present. But I do have the
17 opportunity of -- I still get to appear in court
18 and I still get to have contested hearings and
19 present, you know, cases and witnesses, proffer
20 evidence and cross-examine and all of the things
21 of that nature. It's just not my primary
22 responsibility as the managing attorney of a
23 larger legal services office that is charged with
24 making sure that a lot of people have access to
25 justice.

1 MS. WILKINSON: I would note that the Upstate Citizens
2 Committee found Ms. Nichols-Graham qualified in
3 the evaluative criteria of constitutional
4 qualification, physical health and mental
5 stability. The Citizens Committee found Ms.
6 Nichols-Graham well qualified in the evaluative
7 criteria of ethical fitness, professional and
8 academic ability, character, reputation,
9 experience and judicial temperament. In the
10 summary statement, the Committee noted it has
11 rated Ms. Nichols-Graham as well qualified in the
12 past and continues to believe she is well
13 qualified.

14 Q. **Ms. Nichols-Graham, I now have some housekeeping**
15 **issues. Are you aware that as a judicial**
16 **candidate you are bound by the Code of Judicial**
17 **Conduct as found in Rule 501 of the South**
18 **Carolina Appellate Court Rules?**

19 A. Yes.

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

23 A. No.

24 Q. **Are you familiar with § 2-19-70, including the**
25 **limitations on contacting members of the General**

1 | Assembly regarding your screening?

2 A. Yes.

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

7 | A. No.

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

12 A. No.

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

16 A. Yes.

17 MS. WILKINSON: I would note for the record that any
18 concerns raised during the investigation
19 regarding Ms. Nichols-Graham were incorporated
20 into the questioning of her today. Mr. Chairman,
21 I have no further questions.

22 CHAIRMAN SMITH: All right. Thank you very much. Any
23 questions for Ms. Nichols-Graham? Senator Sabb.

24 SENATOR SABB: Thank you, Mr. Chairman and thank you
25 Ms. Nichols-Graham for appearing again. I real

1 have more of a comment than I do anything else.
2 I think I asked the question. Don't know that I
3 got an answer but I think I kind of know the
4 answer as to whether or not it were possible to
5 make a motion and incorporate what we experienced
6 the last time around into this record. And then
7 I think the whole proceeding would be
8 unnecessary, given how stellarly you've performed
9 each time you've appeared before us. I still
10 remember your -- I called it a closing argument
11 from the last time. But I guess I would just --
12 and I wish I had written it down, and quote one
13 of the comments that our attorney made in terms
14 of one of the committees concluding that you have
15 been well qualified as found by them before.
16 Nothing has changed. In fact, things have been
17 primarily enhanced and that you continue to be
18 well qualified now. And so I'd just rest on that
19 point, Mr. Chairman.

20 CHAIRMAN SMITH: Thank you, Mr. Sabb. I was going to
21 make that same comment, if we didn't. I think
22 all of us have seen you up here and been
23 impressed with you over the years and appreciate
24 you offering again, appreciate your service to
25 the state of South Carolina. You know, I heard

1 one of the comments about being a legal aide
2 lawyer, but that's a calling. And someone that
3 has a passion, and it shows a dedication to the -
4 - to your profession and to the citizens of your
5 state to provide services to those who are most
6 in need of it. So I thank you for what you do in
7 that regard. With all sincerity, that's
8 something you ought to be proud of and y'all do
9 great work. You know, when I was in law school,
10 I spent one summer just interning over at -- we
11 used to have the legal aide services in every
12 county back then. And I did that over in Sumter
13 one summer in between the Bar when -- just to
14 kill some time and get some experience or watch
15 what happens. And, you know, I learned over
16 there, there was very dedicated individuals to
17 the profession and also to the people that they
18 serve, that they did it on a shoestring budget.
19 And I tell you, it really -- it brought a lot of
20 things into perspective to me, as forming me as a
21 lawyer, to go and start my practice off in law
22 just experiencing some of that. So I appreciate
23 what you do in that regard.

24 MS. NICHOLS-GRAHAM: Thank you.

25 CHAIRMAN SMITH: All right. Any further questions?

1 Senator Young. I was about to say the lack of
2 questions don't mean that we're not familiar with
3 you.

4 SENATOR YOUNG: Thank you, Mr. Chairman.

5 MS. NICHOLS-GRAHAM - EXAMINATION BY SENATOR YOUNG:

6 Q. I want to thank you for your -- continuing your
7 interest in serving our state on the Family Court
8 bench. I know -- I think we -- it was last year
9 that we went through screening?

10 A. Yes.

11 Q. And one of the questions I want to ask you about
12 is in the area of abuse and neglect. And I've
13 asked this I think of every candidate that I've
14 had an opportunity to question this time and
15 last. If you could improve the system as to the
16 abuse -- as to the children and the families that
17 are in the system with abuse and neglect cases,
18 what would you recommend be done?

19 A. I think I would definitely take a look at the
20 treatment plans and make sure if it all possible
21 that they relate and are geared directly to the
22 reason that the state has had to intervene and
23 make sure they take a -- that takes a priority in
24 guiding making sure we don't get lost. In the
25 reason that the children were removed from their

1 household, I am positively -- well, I guess I
2 should say I have some optimism -- I am
3 optimistic that we may be taking a look at that,
4 South Carolina may be taking a look that, and
5 providing some additional training and making
6 sure there is a correlation with that to make
7 sure that there is some evidence-based screening
8 and analysis involved in preparing treatment
9 plans. Because that is the roadmap for what the
10 family is supposed to be following and adhering
11 to in order to improve their situation. I am
12 aware of the different levels of trauma that
13 individuals and families are dealing with. And I
14 hope all of that information is shared with the
15 court and that their recommendations for -- you
16 know, adequate resources to deal with that level
17 of trauma. As a children's advocate -- which I
18 have always been a children's advocate, it is
19 probably what has -- what propelled me to go to
20 college and to ultimately to become an attorney.
21 I would want to make sure that the best interest
22 of the children is at the forefront in making
23 sure that it's not something that is overlooked.
24 Having practiced law for over 21 years and done a
25 great deal of custody cases, private as well as

1 public, on the DSS docket, I notice it's very
2 easy to lose sight of that when you're in battle
3 and you get lost. Attorneys get taken over by
4 the excitement of practicing law and the desire
5 to win is very easy to overlook and forget about
6 the best interest of the child. And hopefully we
7 can take a look at making sure that the best
8 interest of a child. And if rehabilitation or
9 treatment is possible, making sure that those
10 things are taken care of primarily for the
11 children who are already involved in the foster
12 care system. Of course, there are cases that
13 involve interventions where the children remain
14 with the families, and we treat those somewhat
15 differently. But I guess you would say -- I
16 guess -- I think those are the main issues, but I
17 look forward to discussing those things in more
18 detail with you or with anyone because I, of
19 course, have lots of ideas. But we are -- we
20 have a lot of work to do when it comes to DSS.

21 **Q. If you had to emulate a certain Family Court
22 judge or judges, if you're elected to the bench,
23 who would that be?**

24 A. When it comes to temperament, it would always be
25 Judge Verdin. Letitia Verdin has been an

1 excellent role model and even-tempered judge.
2 You can't tell when the wind is blowing. When
3 she's in the courtroom she is even keeled. And I
4 would say if I had to pick one it would be Judge
5 Letitia Verdin.

6 SENATOR YOUNG: that's all I have.

7 CHAIRMAN SMITH: Any further questions.

8 (No replies are heard.)

9 CHAIRMAN SMITH: I'm going to make an observation that
10 we've asked that question often and seems like
11 Judge Verdin is at the top of the list with a lot
12 of people, so that's very impressive. So if you
13 have -- in people would emulate her, it sounds
14 like this bench would be in great shape in this
15 state. I really am impressed with that.

16 MS. NICHOLS-GRAHAM: May I add one thing?

17 CHAIRMAN SMITH: Oh, absolutely.

18 MS. NICHOLS-GRAHAM: Having been a managing attorney
19 of the office in Greenville, it has given me the
20 opportunity to improve skills that I did not have
21 when I was a staff attorney and focused directly
22 on, you know, cases that were assigned to me.
23 That position has put me in a situation to have
24 to quickly review cases and facts and issues and
25 to make decisions, and to explain my decisions to

1 applicants as well as to the attorneys that I
2 work with and to members of the private Bar. And
3 I believe that has an enhanced my skills as an
4 attorney and it has given me additional skills
5 that would benefit the bench.

6 CHAIRMAN SMITH: All right. Thank you very much. Any
7 further questions?

8 (No replies are heard.)

9 CHAIRMAN SMITH: All right. Ms. Nichols-Graham, thank
10 you so much. This concludes this portion of your
11 screening process. I want to take this
12 opportunity to remind you that pursuant to the
13 Commission's evaluative criteria, the Commission
14 expects candidates to follow the spirit as well
15 as the letter of the ethics laws. And we will
16 view violations or the appearance of impropriety
17 as serious and potentially deserving of heavy
18 weight in the screening deliberations. As you
19 know, the record will remain open until the
20 formal release of the Report of Qualifications
21 and you may be called back at such time if the
22 need arises. I thank you for submitting your
23 application and being with us today. Thank you
24 for your service to the state of South Carolina.

25 MS. NICHOLS-GRAHAM: Thank you.

1 CHAIRMAN SMITH: All right. Have a safe trip back
2 home.

3 MS. NICHOLS-GRAHAM: Thank you.

4 (Off the record.)

5 CHAIRMAN SMITH: Ms. Scalzo, how are you doing today?

6 MS. SCALZO: Good. Thank you for having me.

7 CHAIRMAN SMITH: I appreciate you being here. I see
8 you've got a guest that I'm familiar with. Long
9 time, no see. Would you like to introduce him to
10 us, please?

11 MS. SCALZO: This is my husband, Chris Scalzo.

12 CHAIRMAN SMITH: All right. Chris, welcome. Good to
13 see you.

14 MS. SCALZO: Thank you, Mr. Chairman.

15 CHAIRMAN SMITH: All right. Ms. Scalzo, if you'll
16 please raise your right hand.

17 HEATHER VRY SCALZO having been duly sworn, testifies
18 as follows:

19 CHAIRMAN SMITH: All right. Ms. Scalzo, before you,
20 you have your Personal Data Questionnaire as well
21 as your Sworn Statement. Are those both
22 documents that you've submitted to the
23 Commission?

24 MS. SCALZO: They are.

25 CHAIRMAN SMITH: Are they correct?

1 MS. SCALZO: I believe so.

2 CHAIRMAN SMITH: Any changes or updates that need to
3 be made at this time?

4 MS. SCALZO: No. My update -- my amendment looks like
5 it's been updated.

6 CHAIRMAN SMITH: You have an amendment. Okay. And so
7 do you have any objection to us making those
8 documents and any amendments a part of the record
9 of your sworn testimony here today?

10 MS. SCALZO: I do not.

11 CHAIRMAN SMITH: All right. Without objection we'll
12 make those a part of the record of sworn
13 testimony. Ms. Scalzo, the Judicial Merit
14 Selection Commission has thoroughly focused --
15 investigated your qualifications for the bench.
16 Our inquiry is focused on nine evaluative
17 criteria that has included a ballot box survey, a
18 thorough study of your application materials,
19 verification of your compliance with state ethics
20 laws, a search of newspaper articles in which
21 your name appears, a study of previous screenings
22 and checks for economic conflicts of interest.
23 We've received no affidavits today filed in
24 opposition to your election and there are no
25 witnesses present to testify. Do you wish to

1 make brief opening statement to the Commission?

2 (Exhibit Number 10 was marked for identification
3 purposes - (17 pages) Personal Data Questionnaire for
4 Ms. Heather Vry Scalzo.)

5 (Exhibit Number 11 was marked for identification
6 purposes - (5 pages) Sworn Statement of Ms. Heather
7 Vry Scalzo.)

8 (Exhibit Number 12 was marked for identification
9 purposes - (1 page) Amendment to Personal Data
10 Questionnaire for Ms. Heather Vry Scalzo.)

11 MS. SCALZO: I just want to say thank you for having
12 me and I would consider it an honor to be
13 considered for a Family Court position.

14 CHAIRMAN SMITH: Thank you very much. Will you answer
15 any questions that counsel may have for you?

16 MS. SCALZO: Yes.

17 MS. SCALZO - EXAMINATION BY MS. BAKER:

18 **Q. Good afternoon, Ms. Scalzo. Please state for the**
19 **record the city and circuit in which you reside.**

20 A. I live in Greenville and that's in the Thirteenth
21 Circuit.

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

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

4 **Q. Ms. Scalzo, why do you want to serve as a family**
5 **judge and why do you feel that your legal and**
6 **professional experience qualify and will assist**
7 **you to be an effective judge?**

8 A. Well, first I want to serve as a judge because I
9 think it would be an honor and -- to serve the
10 citizens of South Carolina in that way. I'm also
11 very passionate about being in the courtroom.
12 And as you can see from my practice areas that
13 I've been involved in, I've been in court a lot.
14 And I love being in the courtroom. As a juvenile
15 defender and now as a 608 attorney, I'm in court
16 two to three times a week. And if I could be
17 there every day I would just love it. I love the
18 vibrancy of being in court. I love dealing with
19 all the players. And I've had the pleasure of
20 primarily practicing in Greenville Family Court
21 where we have terrific security, clerks, court
22 reporters, judges, opposing counsel, DSS case
23 workers, DJJ intake and probation counselors.
24 And working with -- in Family Court has just been
25 a pleasure. And I think that as much as I love

1 practicing law as a lawyer and practitioner, I
2 think that I would love being on the bench. I
3 think my skill set is -- would be a good match
4 for being a judge. My background particularly
5 with dealing with all the cases on a public
6 document -- docket, I'm very comfortable with
7 that and I know that there are other areas I
8 haven't practiced as much in. But I think that
9 my background and experience in the areas that I
10 have practiced a lot in would be very beneficial
11 to the bench. Right now in Greenville, five of
12 our judges have -- were primarily domestic
13 practitioners. And so I think my public docket
14 background will be a good resource on the bench
15 for others. I think I just have a lot of
16 experience in those areas. And I think that I
17 could bring that to the bench and I would love
18 doing so.

19 **Q. Thank you. Ms. Scalzo, are there any areas of**
20 **the law for which you would need additional**
21 **preparation in order to serve as a Family Court**
22 **judge and how would you handle that additional**
23 **preparation?**

24 A. Well, I haven't done as many divorces as others,
25 but I have studied a lot on that and met with

1 some domestic practitioners and talked about some
2 of the things that come up a lot. I have pretty
3 much read Stuckey's Marital Litigation cover to
4 cover. I've read relevant case law, studied up
5 on that. But everything I've done, you know,
6 even though I haven't been the primary player, I
7 guess, or the attorney in a lot of that divorce
8 work, all the other areas I practice in, you
9 know, is -- touches on that, you know, child
10 custody and things like that. And as y'all all
11 know, divorce filings, according to the most
12 recent numbers in the judicial department, are
13 about 30 percent of what goes on in Family Court.
14 So it's just a, you know, smaller percentage of
15 what I haven't done as much of but I feel like
16 it's called the practice of law for a reason. I
17 would always be keeping on top of the current
18 case law and studying and I would always be
19 mindful of not making any rash decisions without
20 looking into what exactly I need to be looking at
21 in order to make a sound legal decision.

22 **Q. Ms. Scalzo, please briefly describe your**
23 **experience in handling complex contested Family**
24 **Court matters and specifically discuss your**
25 **experience with the financial aspects of Family**

1 **Court work.**

2 A. So I -- I haven't had a lot of experience as
3 being the lawyer with the financial work. I
4 mean, I have had a small piece. My practice --
5 when I ran my numbers back in July, about five
6 percent of my practice was divorces dealing with
7 financial issues. I have a lot more child
8 support modification cases I think which pertain
9 to financial issues. So as far as that, that
10 would be something that I would -- and I have
11 studied up on what goes into financial issues in
12 settling equitable distribution and things like
13 that.

14 Q. **Ms. Scalzo, The Commission received 157 ballot**
15 **box surveys regarding you, with 20 additional**
16 **comments. The ballot box survey, for example,**
17 **contained the following positive comments: She's**
18 **dedicated, hardworking and has a well of**
19 **compassion necessary for the unique issues which**
20 **come before Family Court judges. An excellent**
21 **attorney. She has been a go-to person for advice**
22 **and information. Knows Family Court rules, law**
23 **and procedure, and is always up to date on law**
24 **and rulings. Always looking to better knowledge.**
25 **Heather Scalzo has a huge amount of experience in**

1 almost all areas of family law. I know she was a
2 juvenile public defender in Family Court and that
3 she currently has a 608 DSS contract and that she
4 also has an extensive private family law
5 practice. Outstanding lawyer and will be an
6 asset to the bench with very relevant experience.
7 Five of the written comments express some
8 concerns. Several comments indicated that you
9 had limited Family Court experience. What
10 response would you offer to this concern?

11 A. I don't know that limited Family Court experience
12 is accurate. Based on my broad background, I
13 think I've handled almost every type of case in
14 Family Court. Maybe not to the extent equally in
15 every area but I do have a broad breadth of
16 knowledge of Family Court practice.

17 Q. Ms. Scalzo, the second concern indicated that you
18 may not have the temperament to be on the bench
19 and that you may bring your biases on the bench.
20 What response would you offer to this concern
21 regarding your temperament?

22 A. I would disagree with that. I think that anybody
23 who knows me well and has worked with me would
24 also disagree that I don't have the temperament.
25 I've worked well across the board with all of the

1 -- oh, I guess at all of the players in Family
2 Court, all of the different people that I would
3 come into contact with in the Family Court
4 setting.

5 **Q. Ms. Scalzo, one final concern indicated that you**
6 **may not always be prepared for court. What**
7 **response would you offer to this concern?**

8 A. Again, I don't think that's accurate. In fact,
9 sometimes I think I'm almost over-prepared for
10 court. I have been appointed at the last minute
11 and asked to stand in on a case before. And
12 perhaps that could be seen by an outside observer
13 as being unprepared if they are not knowing what
14 the background is. But I do my due diligence and
15 I'm always prepared for court.

16 **Q. Ms. Scalzo, you were listed as having a satisfied**
17 **tax lien in Greenville County. Could you please**
18 **explain the nature and disposition of the lien.**

19 A. So I believe that was from 2001. I was living in
20 New Jersey going to law school. And when I moved
21 back here that issue came up in 2004. I think it
22 was \$483 that the state of South Carolina was
23 saying that I had not paid. I could not find
24 documentation about the back and forth that we
25 had on that. But I did go to the Department of

1 Revenue. And they said that because of their --
2 the age of the case, they could not give me any
3 other paperwork on it but that it had been
4 satisfied in 2004 for the amount of \$483 plus the
5 interest and fees. So that's been satisfied and
6 I've requested an expungement letter but I have
7 not received that yet.

8 **Q. Thank you. Ms. Scalzo, could you describe how
9 your law practice has diversified over the years?**

10 A. So when I started out I was at Social Security as
11 a staff attorney. And I quickly realized that
12 being -- working in an office with paperwork all
13 day was not a job for me. I really wanted to get
14 in contact with people. And so when the contract
15 position for the juvenile public defender came
16 open in Greenville, I was delighted. I had done
17 the Child Advocacy Center clinic in law school.
18 I had already had that knowledge and experience,
19 so I jumped right in and, like I said, I love
20 being in the courtroom. So I did that contract,
21 and that was the primary basis of my contract for
22 a number of years -- primary basis of my practice
23 for a number of years. And then I expanded into
24 other areas. In the past year-and-a-half my
25 practice has really diversified. Almost 40

1 percent of it is domestic relations. And the
2 other is juvenile defense, which is also in
3 Family Court, as y'all know. And then a smaller
4 piece is probate and adult criminal. So I've
5 handled, like I said, almost any kind of case in
6 Family Court, just not in equal amounts. But I
7 do handle about anything and I've enjoyed it.

8 **Q. Thank you.**

9 MS. BAKER: I would note that the Upstate Citizens
10 Committee found Ms. Scalzo qualified in the
11 evaluative criteria of constitutional
12 qualifications, physical health, mental stability
13 and experience. The Committee found her well
14 qualified in the evaluative criteria of ethical
15 fitness, professional and academic ability,
16 character, reputation and judicial temperament.
17 The Committee stated in summary, the candidate is
18 well qualified in most areas. She's informed the
19 Committee that, since 2015, five percent of her
20 cases have been divorce and ten percent custody
21 and adoption. A large part of Family Court work
22 is divorce, custody and adoption. Given the
23 candidate's limited experience in these important
24 areas, the Committee rated her qualified.

25 **Q. Ms. Scalzo, I have a few housekeeping issues.**

1 Are you aware that as a judicial candidate you
2 are bound by the Code of Judicial Conduct as
3 found in Rule 501 of the South Carolina Appellate
4 Court Rules?

5 A. Yes.

6 Q. Ms. Scalzo, since submitting your letter of
7 intent, have you contacted any members of the
8 Commission about your candidacy?

9 A. No.

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

13 A. Yes.

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

18 A. No.

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

23 A. No.

24 Q. Have you reviewed and do you understand the
25 Commission's guidelines on pledging in SC Code §

1 **2-19-70(e)?**

2 A. Yes.

3 Q. I would just note for the record that any
4 concerns raised during the investigation
5 regarding the candidate were incorporated into
6 the questioning of the candidate today. Mr.
7 Chairman, I have no further questions.

8 CHAIRMAN SMITH: Okay. Thank you. Questions by
9 Senator Young.

10 SENATOR YOUNG: Thank you, Mr. Chairman.

11 MS. SCALZO - EXAMINATION BY SENATOR YOUNG:

12 Q. **Ms. Scalzo, thank you for your interest in**
13 **serving the state on the Family Court bench.**
14 **Have you run before?**

15 A. I have not.

16 Q. **You have some very positive comments from the**
17 **ballot box survey. What do you think is the**
18 **appropriate demeanor for a Family Court judge?**

19 A. I have been in front of a lot of judges and
20 excellent judges. And I think the demeanor that
21 a judge should have is one of patience and
22 civility, willing to listen and doesn't get
23 easily ruffled or show anger and treats everyone
24 with respect.

25 Q. **What is your view of parents who fail to pay**

1 **child support timely? How would you handle that**
2 **in court?**

3 A. Well, that's a tough one because children need to
4 be supported and parents have the obligation to
5 support. So, you know, if they were under the
6 obligation, then they need to pay or face the
7 consequence that they were told that they would
8 face having been placed under the order.

9 Q. **Would you -- it sounds like you would have little**
10 **tolerance for that?**

11 A. I think it would depend on the facts. I know
12 there -- you know, if there is a person who is
13 holding down a job but is behind but they are
14 faithfully paying what they can pay is different
15 than someone who is not trying to work or making
16 any headway towards working or putting forth any
17 effort to supporting their child. So I really
18 think it depends on the facts -- facts before me.

19 Q. **Do you believe that you are prepared to handle**
20 **contested cases involving equitable distribution**
21 **of assets?**

22 A. I do. I think I'm prepared. I think that, you
23 know, being a small business owner I know what --
24 how you run numbers and can look at those. And,
25 I mean, I've read the case law and what's -- how

1 you -- you know, looking at transmutation and
2 things like that. I've studied up on that sort
3 of thing and I would definitely would be very
4 diligent about those cases and making sure that
5 I'm following what the law is and looking
6 closely at what is presented to me, as far as
7 their financial declarations and the evidence
8 they give to support their numbers and how that
9 relates to the parties involved.

10 **Q.** **On the demeanor and how you would run a**
11 **courtroom, is there a particular judge or judges**
12 **that you would emulate in some respects?**

13 A. My favorite judges are judges that I know what to
14 expect when I walk in the courtroom. And one of
15 them that comes to mind is Judge Kinard Johnson.
16 He was very consistent and fair. And you knew
17 what to expect, you knew the decorum that was
18 expected, the rules that were to be followed.
19 But I also like the politeness and the smile that
20 you get from a judge like Judge Rochelle Conits
21 who will greet the parties when they come in.
22 And also have that kind of -- even in a tough
23 case have kind of that, for lack of a better
24 word, kind of more sunny disposition about, you
25 know, I'm here to be fair to you and I'm going to

1 this as pleasant as it can be. Because people
2 walking into court, the litigants in Family
3 Court, you know the saying no one goes home
4 happy, but you want the judge to be fair and
5 respect your time and listen to you. And so
6 those judges come to mind as two that I would
7 kind of meld together as having the rules and
8 decorum but also having that back and forth with
9 the parties where you greet them and you have --
10 show them that you're going to listen to them and
11 hear them out.

12 **Q. Do you still have a contract with Anderson County**
13 **public defender's office?**

14 A. I do.

15 **Q. That's where you -- you're handling juvenile**
16 **cases?**

17 A. I just do their probation violations.

18 **Q. Okay. So your PDQ, Personal Data Questionnaire,**
19 **says that as of June 2018, 20 percent of**
20 **your practice is abuse and neglect cases.**

21 A. Right.

22 **Q. Do you have any particular recommendations that**
23 **you would make in dealing with those, that in**
24 **your view, would improve the system for the**
25 **children and the families in abuse and neglect**

1 **cases?**

2 A. As a judge?

3 Q. **No, as --**

4 A. Oh, just right as a person?

5 Q. **Just your observations for being a practicing**
6 **attorney involved in the system.**

7 A. Well, I think -- I see a lot of issues in that
8 arena. One of them is that I think a lot of --
9 and I say parents, but care givers, I guess,
10 whose children are taken from them, feel very
11 defeated by DSS being involved with them in the
12 first place. And I think it would be better if
13 they had supports that were -- and not
14 necessarily to hand-hold, but more to walk along
15 side them, more of a mentoring for those parents
16 to be able to get the support they need to get
17 their children back. Because if our goal really
18 is for families to be made a whole, which I think
19 DSS says that's, you know, one of their
20 first goals, you know, make children safe but for
21 families to be returned, we need to put some more
22 things in place on the front end. Because right
23 now these parents are given a treatment plan and
24 a referral is made to services, but no one
25 assists them with the transportation to get there

1 or helps them find the housing that they don't
2 have because they've become homeless and things
3 like that. So I think if we could put some more
4 supports in place on the front end to help those
5 struggling families rather than just taking
6 children and placing them in foster care, I think
7 we could keep more families in tact. I mean,
8 there are some that, you know, obviously the only
9 thing you can do is take the children out of the
10 home because it's very unsafe for the children.
11 But there are a lot of situations that I've seen
12 where, if the family had more support, then the
13 children would have been better with their
14 parents. There's a lot of trauma involved in
15 taking children from their parents. And you see
16 that in residual cases. And I've seen that with
17 some of the juveniles I've represented in
18 criminal proceedings who've been in the foster
19 care system because they have trauma. I think to
20 put supports in place would keep children with
21 their families of origin and hopefully prevent
22 trauma.

23 **Q. Your answer to number 58 on the Personal Data
24 Questionnaire is very personal and very
25 compelling. I just want to compliment you on**

1 that. And I also notice that you received an
2 award it looks like you before you started
3 practicing law for your work on behalf of
4 children. And can you tell me more about that?

5 A. I can. So Rutgers Law School is a little bit
6 different than maybe some. They don't -- there's
7 no ranking when you are going through, so you
8 have no idea -- well, you probably have some idea
9 because people talk but you really don't have any
10 idea about where people rank. So graduation,
11 there's a list of awards and there's a list of
12 the top graduates and things like that, and
13 it's surprise, by surprise. So when you walk
14 across to get your diploma, there's an
15 announcement about whether or not you were
16 receiving an award that's voted on by the faculty
17 or whether you're in the top ten of the class.
18 So everything is by surprise. So my -- my award
19 -- and not everybody gets an award, obviously,
20 but my award was the Sera Ramcharitar Award on
21 behalf of my work for children, families and
22 women because I had extensive involvement with
23 the clinic, the Child Advocacy Clinic, and I
24 represented clients in different proceedings with
25 that. And I did some other things that they felt

1 went above just representing the client.

2 Q. You are on the faculty of the Children's Law
3 Center currently at the University of South
4 Carolina School of Law?

5 A. Yes. I'm one of -- a part-time trainer.

6 Q. Those are all my questions. Thank you very much.

7 A. Thank you.

8 (During this screening, Chairman Smith stepped out and
9 Senator Rankin took over as Vice Chairman.)

10 MS. SCALZO - EXAMINATION BY CHAIRMAN RANKIN:

11 Q. Ms. Scalzo, I am struck by the now thrice or
12 three-time mention on Rutgers. You and two other
13 candidates have attended either the law school or
14 graduate school at Rutgers, three today. I may
15 need to check that place out myself. I might
16 have a son or a daughter that might need to check
17 it out, particularly when you say no rankings.
18 We might get a Rankin in there yet. As Senator
19 Young has kindly reviewed, you do have a most
20 interesting and compelling resume in how you got
21 here. I noticed the training and you were one of
22 three -- the first certified in the juvenile
23 program, now three in the state, apparently.

24 A. That's correct.

25 Q. Only three. So you're a teacher of sorts in that

1 **regard, right?**

2 A. Right.

3 Q. All the classes you participated in are quite
4 interesting. And then one of particular note to
5 me is your personal shopper role at Tiffany's.
6 You think that particularly will help you with
7 equitable distribution in divorce hearings?

8 A. Well, I do have a -- I probably shouldn't tell
9 this story, but I do have a funny story about
10 that. If you would want --

11 Q. **Please. We need interesting.**

12 A. So back then, and I -- we went to New York in
13 May. And the sixth floor of the New York store,
14 the flagship store, used to be the personal
15 shoppers. So I had a little cubicle there but
16 that's no longer there, I was sad to see. But as
17 a newbie personal shopper, you answer the phone
18 as much as you can, people calling in. And then
19 you might get scraps from the seasoned personal
20 shoppers for their clients that they don't have
21 time to work with anymore. So I did work with a
22 couple of big names to get their Christmas lists
23 and stuff. But so much of what we did was high-
24 dollar things. So one of my big highlights was
25 selling an engagement ring for over \$30,000. So

1 -- and I worked on commission. Well, one of the
2 things that my mom laughed with me about -- and
3 this is how I knew I needed to go back to South
4 Carolina and not stay in New York, but I wanted
5 to make her cornbread. And so she said you're
6 going to need cast iron skillet. So I said
7 I don't know where you find a cast iron skillet
8 in Manhattan but I'll call around. So I called
9 and I was up there in that mid-90s so I had a
10 phone book. And I called this kitchen place and
11 they said, well, yeah, we have a cast iron
12 skillet but it's 12. And I said \$1,200, holy
13 cow. And I called my mom, I said how -- a cast
14 iron skillet's \$1,200. And she said did they say
15 1,200, Heather. I said they said 12. And she
16 said it probably was \$12. And I said oh, my,
17 I've been working at Tiffany's too long. Because
18 when you say 30 at Tiffany's, you usually mean
19 30,000, you know, or everything is rolled up. So
20 it was a \$12 skillet but I had to come back down
21 to my roots. So it was a fun time but --

22 Q. **And then your paternal grandparents were Horry
23 County residents.**

24 A. Yes.

25 Q. **What is their last name?**

1 A. Rabon.

2 Q. **Rabon. Aynor area or do you know where?**

3 A. Well, in Conway. The Rabon family, my biological
4 father is one of six, so there's a bunch of them.
5 And then my mom's family ended up in Conway. My
6 grandmother, my maternal grandmother, they're
7 Carters. Lou Ellen Carter was a school teacher.
8 My aunt, Jenny Caskey, is a school teacher as
9 well. So I have a lot of Horry connections.

10 Q. **Very good. All right. Any other questions?**

11 **Thanks for the bling and the Horry legacy.**

12 CHAIRMAN RANKIN: All right. Any other questions from
13 anybody else?

14 REPRESENTATIVE SMITH: I'd just like to make a motion
15 to redact the fact that she's a personal shopper
16 from the record because if my wife reads that,
17 she's going to be calling you. I'm going to get
18 in real trouble.

19 REPRESENTATIVE RUTHERFORD: Don't worry. I'll tell
20 her.

21 CHAIRMAN RANKIN: He wasn't old enough, but that
22 engagement ring was actually his. All right.
23 Ms. Scalzo, this concludes this portion of our
24 screening process. I thank you for your
25 participation today; your husband's presence and

1 your answers and testimony. I want to remind you
2 that of our evaluative criteria, which you're
3 familiar with, whereby we expect the candidates
4 to abide by both the letter and the spirit of the
5 ethics laws. Any violations or the appearance of
6 impropriety will be deserving of heavy weight in
7 our screening deliberations. On that note, as
8 you know, the record will remain open until the
9 official formal release and Report of
10 Qualifications. You may be called back as deemed
11 necessary, pray that doesn't happen. Again,
12 thank you for being here. Thanks for the
13 wonderful presentation. Y'all are free to roll
14 up through malfunction junction.

15 MS. SCALZO: Thank you so much.

16 | REPRESENTATIVE SMITH: Safe travels.

17 (Off the record.)

18 (At this time, Representative Smith resumed his duties as
19 chair of the Commission.)

20 CHAIRMAN SMITH: Mr. Smith, how you doing today?

21 MR. SMITH: I'm doing well. Thank you, sir.

22 CHAIRMAN SMITH: I see you have a guest with you.

23 Would you like to introduce your guest to the
24 Commission?

25 MR. SMITH: I would, yes, sir. This is my wife,

1 April. And April and I have been married for ten
2 years and are the proud parents of two sons, a
3 eight-year-old, Samuel, and a five-year-old,
4 William. And April is a school psychologist in
5 the Rock Hill school district. So I was probably
6 one of her first projects but she gave up on me a
7 long time ago, so.

8 CHAIRMAN SMITH: Welcome, April. Good to have you
9 here today.

10 MS. SMITH: Thank you.

11 CHAIRMAN SMITH: All right. Mr. Smith, will you raise
12 your right hand, please, sir.

13 MR. SMITH: Yes.

14 R. CHADWICK SMITH having been duly sworn, testifies as
15 follows:

16 CHAIRMAN SMITH: Before you, you have your Personal
17 Data Questionnaire and your Sworn Statement. Are
18 those both documents that you have submitted to
19 the Commission?

20 MR. SMITH: Yes, sir.

21 CHAIRMAN SMITH: Are they correct?

22 MR. SMITH: They are.

23 CHAIRMAN SMITH: Any changes or updates that need to
24 be made at this time?

25 MR. SMITH: No, sir.

1 CHAIRMAN SMITH: Do you have any objection to us
2 making those as exhibits to your sworn
3 testimony here today?

4 MR. SMITH: No objection at all.

5 CHAIRMAN SMITH: All right. Mr. Smith, the Judicial
6 Merit Selection Commission has thoroughly
7 investigated your qualifications for the bench.
8 Our inquiry has focused on nine evaluative
9 criteria and has included a ballot box survey, a
10 thorough study of your application materials,
11 verification of your compliance with state ethics
12 laws, a search of articles in newspapers in which
13 your name appears, study of previous screenings
14 and checks for economic conflicts of interest.
15 We've received no affidavits today in opposition
16 to your election and no witnesses are present to
17 testify. Do you wish to make a brief opening
18 statement to the Commission?

19 (Exhibit Number 13 was marked for identification
20 purposes - (20 pages) Personal Data Questionnaire for
21 Mr. Chadwick Smith.)

22 (Exhibit Number 14 was marked for identification
23 purposes - (5 pages) Sworn Statement of Mr. Chadwick
24 Smith.)

25 MR. SMITH: I do. And I will make it very brief

1 because I know you all have been extremely busy,
2 to say the least. But Mr. Chairman and members
3 of the Commission, thank you for giving me this
4 opportunity to appear before you today. I am
5 Chad Smith. I'm from Rock Hill and I've already
6 introduced my wife to you. For over 18 years I
7 have practiced before the Family Courts of this
8 state and have represented clients in virtually
9 every aspect of any type of Family Court action
10 that would come before the court. And I believe
11 that I have the experience, the temperament, as
12 well as the qualifications to serve as a Family
13 Court judge. And if I am found qualified and
14 nominated, I will do everything within my power
15 to uphold the words of the judicial oath, and not
16 only the words, but the spirit of the oath in
17 that I would treat everyone fairly, with civility
18 and with respect. And again, thank you for
19 giving me the opportunity to be here. And I will
20 be glad to answer any questions that you may
21 have.

22 CHAIRMAN SMITH: Thank you, Mr. Smith. Will you
23 answer questions that counsel may have, please,
24 sir.

25 MR. SMITH - EXAMINATION BY MR. HINSON:

1 Q. Good afternoon, Mr. Smith. Mr. Smith, will you
2 please state for the record the city and circuit
3 in which you reside.

4 A. Yes. Rock Hill, South Carolina, the Sixteenth
5 Judicial Circuit.

6 Q. Thank you.

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

14 Q. **Mr. Smith, why do you want to serve as a Family
15 Court judge and why do you feel that your legal
16 and professional experience qualify and will
17 assist you to be an effective judge?**

18 A. Since I have practiced for a number of years
19 before the Family Court, I have come to realize
20 the influence and the power that a Family Court
21 judge has. And the decisions that a Family Court
22 judge makes affect not only children, families,
23 they affect the extended family and they have a
24 very powerful impact on families throughout South
25 Carolina. And I believe that based upon my years

1 in private practice, my six years I have worked
2 now as a staff attorney with DSS, that I have the
3 experience and the knowledge to be able to serve
4 our state as a Family Court judge.

5 **Q. Mr. Smith, are there any areas of the law for**
6 **which you would need additional preparation in**
7 **order to serve as a Family Court judge and how**
8 **would you handle such additional preparation?**

9 **A.** The only area I can really think of would be that
10 -- cases involving juveniles. Although I have
11 represented juveniles before the Family Court, I
12 think that is one area that is not -- I don't
13 have most experience in. Although working with
14 DSS, I've become involved in numerous cases
15 involving juveniles who may be involved with DJJ
16 and then they ultimately end up coming in to
17 foster care. But I have even -- before I began
18 this process, have observed countless juvenile
19 hearings and I'm very familiar with the statutory
20 framework of juvenile hearings.

21 **Q. Mr. Smith, please briefly describe your**
22 **experience in handling complex, contested Family**
23 **Court matters and specifically discuss your**
24 **experience with the financial aspects of Family**
25 **Court work.**

1 A. Certainly. I have handled divorces from very
2 simple uncontested divorces to divorces that
3 dealt with millions of dollars and numerous
4 assets. So I feel like I have handled cases with
5 -- from one extreme to the other. In terms of
6 financial aspects, I have handled cases that have
7 been extremely complex with family-owned
8 businesses, with businesses that have different
9 partners and different -- they way they were
10 owned. So I feel like I have significant
11 experience in handling very complex cases.

12 Q. **Thank you. Mr. Smith, the Commission received**
13 **155 ballot box surveys regarding you, with 17**
14 **additional comments. The ballot box survey, for**
15 **example, contained the following positive**
16 **comments. One said you would make an exceptional**
17 **judge. Another stated that you are the highest**
18 **quality and the kind we hope to rise to the**
19 **bench. Two of the written comments did express**
20 **concerns. One concern expressed was that your**
21 **Family Court experience is limited to DSS matters**
22 **and not private family law matters. How would**
23 **you respond to that concern?**

24 A. I would respond to that -- and I'm not --
25 obviously I don't know who made the comments, but

1 I think it would probably be someone who is
2 probably not too familiar with my background.
3 Because I spent twelve years -- a little over
4 twelve years in private practice handling all
5 matters before the Family Court, divorce,
6 custody, adoption, and have been with DSS for six
7 years now. So double -- I spent double my time
8 in private practice.

9 Q. **Thank you. A second concern noted that DSS is a**
10 **difficult job, but there were inconsistencies**
11 **among your staff in how they handled matters.**
12 **How would you respond to that concern?**

13 A. Maybe I better ask how much time we have for me
14 to answer that. In terms of -- and I want to
15 make sure I understand the question. In terms
16 of different attorneys with DSS and how they
17 handle matters?

18 Q. **(Nods head.)**

19 A. All right. I think that is a problem throughout
20 the state and I have noticed that. Specifically
21 -- and this is just one example that kind of
22 comes to mind is prior to many of the recent
23 decisions from our Appellate Courts dealing with
24 intervention of foster parents in DSS cases. The
25 office of general counsel had instructed county

1 attorneys to always oppose those particular
2 motions. Now, I probably -- I chose to not
3 follow that rule because I felt that the Family
4 Court -- in the best interest of the child, the
5 Family Court should have all of the information
6 possible before making a decision as to terminate
7 parental rights, whether terminating parental
8 rights would be in the best interest of the
9 child. And a lot of times in cases where foster
10 parents were intervening, a child had been with
11 foster parents for three, four, five years. And
12 I always felt that they had a good bit of
13 information to provide to the court. So that was
14 one area I was certainly not consistent I think
15 kind of with internal DSS policy. But I have
16 noticed that as a problem throughout the state, I
17 believe.

18 **Q. Thank you for that. Mr. Smith, what do you
19 believe will be your biggest challenge as a
20 Family Court judge should you be elected to the
21 bench?**

22 A. I have thought about that. And I think, if I
23 were elected, personally I think one of the
24 biggest challenges would be handling -- just as a
25 new judge, handling temporary hearings. And the

1 reason I say that is I think it's extremely
2 difficult for parties to come in and be before
3 the court and, you know, the court ask the
4 parties what are the issues before the court, and
5 it's custody, equitable distribution, alimony,
6 child support, attorneys fees and just every
7 issue under the sun. And typically, I know in
8 York County a lot of times, those hearings are
9 scheduled for 15 minutes. Sometimes if it's more
10 complex it's for 30 minutes. And sometimes I see
11 attorneys hand up affidavits that are four or
12 five page affidavits and then have 70 pages of
13 attachments to that. I think it will be very
14 difficult to start with to be able to get through
15 all that information in that short amount of
16 time. And I would not have any issue with taking
17 a matter like that under advisement, with the
18 idea that they are there for temporary relief,
19 they need relief, and issuing an opinion or a
20 decision extremely quickly. But I do think to be
21 fair to the parties, the judge has to digest all
22 of that information.

23 Q. **Mr. Smith, how would you describe the appropriate**
24 **judicial temperament a Family Court judge should**
25 **have? And is there a sitting or former Family**

Court judge you would point to as an example of how you'd want to conduct yourself on the bench?

3 A. Certainly. I think a judge's temperament, it
4 sets the tone for how a hearing is conducted, how
5 people perceive our judicial system, how our
6 society has faith in our judicial system. I
7 think a judge, first of all, should be fair,
8 should be open minded, should be courteous to
9 everyone, the litigants, the court reporter,
10 deputies, to everyone in the courtroom. I think
11 a judge should be diligent and listen attentively
12 and ultimately make a decision based upon the
13 facts and the law. And I can certainly think of
14 -- in thinking in my kind of my home area, of
15 Judge David Guyton I admire a great deal. You
16 know, Judge Khoury from Lancaster, Judge Salvini.
17 And I say Judge Salvini just because she happened
18 to be in Rock Hill about a week ago. But I
19 admire those judges because typically cases I've
20 had before them, they want to know what are the
21 issues before the court, what is the court being
22 asked to decide. And whether you disagree --
23 whether you agree with their ruling or not, they
24 give reasons for their ruling. They cite, they
25 make findings of fact. They apply the law and

1 they conduct hearings in a very professional
2 judicial environment, which I think just adds to
3 the confidence of the public in our judicial
4 system.

5 **Q. Thank you, Mr. Smith.**

6 MR. HINSON: I would note that the Piedmont Citizens
7 Committee found Mr. Smith qualified in the
8 evaluative criteria of constitutional
9 qualifications, physical health and mental
10 stability. The Committee found him well
11 qualified in evaluative criteria of ethical
12 fitness, professional and academic ability,
13 character, reputation and judicial temperament.
14 The Committee stated in summary that Committee
15 was impressed by Mr. Smith's diligence,
16 thoughtfulness and determination to provide a
17 fair forum to all litigants in Family Court. We
18 believe that he would bring a balanced
19 perspective and empathy to the bench enhanced by
20 over 15 years of experience in Family Court
21 matters.

22 **Q. I just have a few housekeeping questions for you.**

23 A. Certainly.

24 **Q. Mr. Smith, are you aware that as a judicial
25 candidate you are bound by the Code of Judicial**

1 Conduct as found in the Rule 501 of the South
2 Carolina Appellate Court Rules?

3 A. I do.

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

7 A. No.

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

11 A. I am.

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

16 A. No, sir.

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

21 A. No.

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

25 A. I do.

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

6 CHAIRMAN SMITH: Thank you very much. Any questions
7 for Mr. Smith? Senator Sabb.

8 SENATOR SABB: Thank you, Mr. Chairman. Mr. Chairman,
9 I actually don't have any questions or comments
10 at this point. I would, however, ask that we go
11 into executive session to ask our lawyer some
12 questions.

13 CHAIRMAN SMITH: Okay. All right. With the candidate
14 or without?

15 SENATOR SABB: Without the candidate.

16 CHAIRMAN SMITH: All right. Without the candidate.
17 All right. Senator Sabb moves that we go into
18 executive session for a legal briefing. All in
19 favor say, aye.

20 (Ayes are heard.)

21 CHAIRMAN SMITH: All opposed?

22 (No replies are heard.)

23 CHAIRMAN SMITH: Ayes have it. Mr. Smith, if you and
24 your wife will just wait right outside for me
25 we'll be right back with you.

1 MR. SMITH: Yes, sir.

2 CHAIRMAN SMITH: Thank you very much.

3 EXECUTIVE SESSION

4 CHAIRMAN SMITH: Senator Young moves that we come out
5 of executive session. Let me state while we were
6 in executive session we were in there for a legal
7 briefing. There were no matters decided and no
8 votes taken. So Mr. Smith come on up and our
9 last candidate today at 15 minutes 'til 5:00, so
10 we're going to make sure you enjoy malfunction
11 junction on the way home. No, you go 77, so you
12 don't have to --

13 MR. SMITH: We'll go 77 North.

14 CHAIRMAN SMITH: You're 77.

15 MR. SMITH: That's right.

16 CHAIRMAN SMITH: We enjoy the malfunction junction at
17 Elmwood Avenue.

18 MR. SMITH: Right.

19 CHAIRMAN SMITH: All right. So we had a legal
20 briefing so we're going to proceed into any
21 further questioning. Anyone have questions for
22 Mr. Smith? Senator Young.

23 SENATOR YOUNG: Mr. Chairman, I do have some
24 questions. Let me get my stuff together here from
25 being in executive session just for a moment.

1 MR. SMITH - EXAMINATION BY SENATOR YOUNG:

2 Q. Mr. Smith, I wanted to thank you for your
3 interest in serving the state of South Carolina
4 on the Family Court bench. You have some very
5 positive comments that have been stated by your
6 peers, ballot box surveys, and you should be
7 commended for that. Can you address the question
8 of how do you think a Family Court judge should
9 be on the bench in terms of his or her demeanor?

10 A. I think a judge's demeanor should really just --
11 should be exemplary of -- the judge should be
12 civil, should be courteous to litigants and
13 everyone involved in any proceeding. The judge
14 should be diligent, should make a decision based
15 upon the facts and the law. But I think above
16 all, in terms of demeanor, should be respectful
17 and be courteous to everyone.

18 Q. Is there a particular judge that you would
19 attempt to emulate in certain respects? And if
20 so, who is that?

21 A. There are probably a number of judges. Again, I
22 guess, kind of going back to my home area, I
23 think of Judge David Guyton. And I know him very
24 well, obviously, because I've appeared in front
25 of him hundreds of times. We practiced together

1 in the same firm, at one point. Judge White from
2 Union. I can think of judges we've had from
3 Greenville, from Spartanburg, from literally all
4 over the state. And I think that judges who I
5 have admired the most have always had control
6 over the courtroom, have treated everyone with
7 respect. Have not berated lawyers in front of
8 clients at all. And again, whether you agree or
9 disagree with their particular ruling, they give
10 reasons for the ruling and they justify the
11 ruling. So those are judges who I respect and
12 would want to emulate if I were on the bench.

13 **Q. What is your view of parents who fail to pay
14 child support timely?**

15 A. Having two sons, one of whom is eight and the
16 other is five, I know how expensive it is to rear
17 children. And they need clothes, they need food
18 and all sorts of necessities. In a child support
19 case, I would certainly listen to the reasons as
20 to why child support was not being paid. But, in
21 my view, if there's an order of the court that
22 has ordered a parent to pay child support, I
23 think it is the responsibility and the duty of
24 the judge to enforce that order. Because I think
25 if that order is not enforced then there's a loss

1 of respect for our judicial system. So I would
2 enforce the order.

3 **Q. I noticed you clerked for Judge Hayes.**

4 A. I did, yes, sir.

5 **Q. Did you learn much from him?**

6 A. A tremendous amount. And I often will laugh and
7 say I did not realize at the time, as just
8 graduating from law school, that I was living
9 the good life clerking for Judge Hayes at the
10 time. And he had, in fact, asked me to stay for
11 a second year. But I guess, as all young lawyers
12 do, I wanted to get out and go practice and be in
13 a courtroom. But I learned a tremendous amount
14 from Judge Hayes, in terms of not only his
15 knowledge of the law. I was one of his law
16 clerks who probably didn't have to do a whole lot
17 of research for Judge Hayes because he knew most
18 everything. But in terms of civility, in terms
19 of diligence, I cannot think of anyone who I
20 would admire more than Judge Hayes.

21 **Q. How about -- I noticed that you are a Sunday**
22 **school teacher; is that right?**

23 A. I was. This is the first year in I think five --
24 six or seven years -- six years, I believe, that
25 my wife and I have not taught Sunday school. But

1 we did for our eight-year-old and then also our
2 five-year-old, so -- so that certainly had its
3 own challenges right there.

4 **Q.** I notice you're a deacon in your church.

5 A. Yes.

6 **Q.** Right?

7 A. Yes.

8 **Q.** So in your Family Court practice, I've read your
9 Personal Data Questionnaire and it appears that
10 you've had a very wide range of experience in
11 Family Court; is that fair?

12 A. That is fair to say, yes, sir.

13 **Q.** And you have some experience handling abuse and
14 neglect cases?

15 A. I do, yes.

16 **Q.** And one of the things that I have asked
17 candidates is -- is if they have experience with
18 abuse and neglect cases, if they could suggest
19 ways that we could improve the system for the
20 children and the families that are in that
21 system, what would those ways be?

22 A. One way -- and I hope this is being implemented
23 in York County beginning in January. We end up -
24 - and one thing I have been fortunate with is I
25 have kind of been on both sides. I have defended

1 numerous cases with DSS representing parents and
2 now obviously representing DSS. We are going to
3 have a new docketing type system in York County
4 that hopefully -- most of the time what we do
5 now, we will have a Monday afternoon docket from
6 two until five. And we may have 20, 25 cases on
7 that docket, which in my personal opinion is way
8 too many cases. But we are implementing a system
9 in conjunction with Judge Guyton to have more
10 court time throughout the month to have full days
11 to be able to deal with the number of cases that
12 we have. One thing that I wish DSS did maybe in
13 a different way -- and right now in York County
14 we're in a tough situation. Our managing
15 attorney retired about a month ago. So in terms
16 of handling all of the cases for York County,
17 it's me and we have one other attorney who is
18 with us for two days a week and then she's in
19 Union County for three days a week. So in terms
20 of handling the number of cases that we have --
21 and it's well over 400 cases, I know. I mean,
22 it's next to impossible for one attorney to be
23 able to do that. And I think having the
24 resources and having people in place would make a
25 huge difference, just from what I see personally.

1 Q. You have very high reviews from the Bar. Found
2 you well qualified in six categories that are
3 considered as well as the Citizens Committee, I
4 noticed, found you well qualified in everything
5 that they could possibly find you well qualified
6 in. One of the things -- another thing I'd like
7 to hear from you on is with respect to juvenile
8 cases.

9 A. Yes, sir.

10 Q. **What is your view on sentencing of juveniles in
11 juvenile court?**

12 A. I think -- you know, I think within probably this
13 last year that I have been with working with DSS
14 I seem to have become more involved with the
15 juvenile system, for the fact that -- and I'm not
16 sure if it's particular to York County or just
17 our area. But we seem to have a number of
18 juveniles who seem to be coming in for a
19 particular hearing and they don't have a parent
20 there and potentially they could be released.
21 But no one's there to take them and all of a
22 sudden we find them in the DSS system then, so
23 then they're kind of in a dual system. But in
24 terms of sentencing -- I should preface just the
25 times I have spent in court and just observing

1 different sentences, I think -- I mean, obviously
2 each case comes on its own merit and facts of
3 each case. But, you know, in my opinion, we're
4 looking at the cases that are extremely serious.
5 And I'll give this example, we had a child, I
6 believe he was still in DJJ custody where it was
7 40 or 50 different charges of breaking and
8 entering into -- in cars in York County. And I
9 think charges like that, charges that could be
10 even more serious, have to be dealt with in a
11 very serious way. I know there are various ways
12 of creative sentencing with juveniles. And
13 again, I would have to look at the particular
14 juvenile, the -- you know, the background of the
15 juvenile. I know a lot of our judges find it
16 very helpful, the particular evaluations that
17 they have had and psychological evaluations. So
18 I think those things are important in helping
19 determine and fashion a sentence that would be
20 appropriate. But ultimately, the Family Court
21 judge is sitting in -- in a way sitting as a
22 judge hearing a criminal case. And sentencing
23 would have to be appropriate enough to make sure
24 society is protected as well from that particular
25 juvenile.

1 SENATOR YOUNG: I don't have anything further at this
2 time.

3 CHAIRMAN SMITH: All right. Any further questions?
4 Senator Rankin.

5 MR. SMITH - EXAMINATION BY SENATOR RANKIN:

6 Q. Thank you for being here, sir. A real quick
7 question.

8 A. Yes.

9 Q. Wes Hayes.

10 A. Yes, sir.

11 Q. Do you know him well?

12 A. I do.

13 Q. You know that I've served with him for a long
14 time?

15 A. Yes, sir.

16 Q. Great guy. His successor is a great guy, but --

17 A. Yes.

18 Q. -- Wes was on this Commission for about 18
19 minutes. And his partner -- former partner, as
20 well, David Guyton, my law school classmate --

21 A. Yes, sir.

22 Q. -- you cited him as an example of a great judge.

23 A. Yes.

24 Q. You have practiced with and hold great people in
25 high regard, which obviously speaks well of you.

1 **Thank you.**

2 A. Well, thank you. Thank you.

3 CHAIRMAN SMITH: All right. Any further? Senator

4 Sabb.

5 SENATOR SABB: I yield.

6 CHAIRMAN SMITH: Ms. Logan.

7 MS. BLACKLEY-LOGAN: Good afternoon. You don't know

8 me but I know Elizabeth Owens very well. She's a

9 fellow Libertarian, and I saw the letter from

10 her.

11 MR. SMITH: Yes.

12 MS. BLACKLEY-LOGAN: It deemed you very remarkable, so

13 --

14 MR. SMITH: Well, thank you.

15 MS. BLACKLEY-LOGAN: -- she's quite an upstanding

16 attorney from your area --

17 MR. SMITH: She is.

18 MS. BLACKLEY-LOGAN: -- and has a high regard, and I

19 have a true high regard for her. So I wanted to

20 commend you on that.

21 MR. SMITH: I will mention that to her when I see her.

22 MS. BLACKLEY-LOGAN: Please do.

23 MR. SMITH: Please do.

24 MS. BLACKLEY-LOGAN: Thank you for being here.

25 MR. SMITH: Thank you very much.

1 CHAIRMAN SMITH: Senator Sabb.

2 SENATOR SABB: Thanks, Mr. Chairman. I, on the other
3 hand, recognize somebody in your past that's
4 really, really shady. And I'm curious about your
5 contacts with him and whether or not he learned
6 anything. And he used to be the solicitor in
7 your area, some guy named Thomas -- Tommy Pope.

8 MR. SMITH: I think I may have heard of him, yes, sir.

9 CHAIRMAN SMITH: Did he talk your ear off?

10 SENATOR SABB: That is a great answer. That's a great
11 answer. Anybody who denies knowing Tommy Pope
12 has good judgement.

13 CHAIRMAN SMITH: Any further questions?

14 (No replies are heard.)

15 CHAIRMAN SMITH: All right. Mr. Smith, this concludes
16 this portion of your screening process. I want to
17 take this opportunity to remind you that pursuant
18 to the Commission's evaluative criteria, the
19 Commission expects candidates to follow the
20 spirit as well as the letter of the ethics laws.
21 We will view violations or the appearance of
22 impropriety as serious and potentially deserving
23 of heavy weight in the screening deliberations.
24 On that note, and as you know, the record will
25 remain open until the formal release of the

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

5 MR. SMITH: Thanks, Mr. Chairman.

6 CHAIRMAN SMITH: All right. Y'all have a safe drive
7 back home.

8 MR. SMITH: We will. Thank you.

9 CHAIRMAN SMITH: Good to see y'all. Senator Young
10 moves that we go into executive session. All in
11 favor say aye.

12 (Ayes are heard.)

13 CHAIRMAN SMITH: All opposed?

14 (No replies are heard.)

15 CHAIRMAN SMITH: Ayes have it. We'll go into
16 executive session.

17 EXECUTIVE SESSION

18 CHAIRMAN SMITH: Senator Sabb moves that we come out
19 of executive session. All in favor say, Aye.

20 (Ayes are heard.)

21 CHAIRMAN SMITH: All opposed?

22 (No replies are heard.)

23 CHAIRMAN SMITH: So we're back on the record. Let me
24 state while we were in executive session no votes
25 were taken, no matters were decided. We will

1 move forward with the votes.

2 VOTE

3 CHAIRMAN SMITH: All right. So we're going to start
4 with the candidates and we'll go through this one
5 by one. The first one is Honorable George C.
6 James, Jr. All those who vote for him qualified
7 and nominate. So all those in favor of Justice
8 James being found qualified please raise your
9 hand.

10 (Hands are raised.)

11 CHAIRMAN SMITH: All right. And I have Representative
12 Rutherford's proxy and he votes qualified. And
13 all those who find -- who desire to nominate
14 Justice James please raise your hand.

15 (Hands are raised.)

16 CHAIRMAN SMITH: And Representative Rutherford's proxy
17 votes for -- to nominate him. So let the record
18 reflect that's a unanimous decision by the
19 Commission. The next candidate is the Honorable
20 Stephanie Pendarvis McDonald. All in favor of
21 finding Judge McDonald qualified raise your hand.

22 (Hands are raised.)

23 CHAIRMAN SMITH: All right. And all those who find --
24 who vote to find her nominate -- to nominate her
25 raise their hand.

(Hands are raised.)

CHAIRMAN SMITH: So let the record reflect both of those votes were unanimous. So she is hereby qualified and nominated. Next is the Honorable Allison Rene Lee. All in favor of finding her qualified raise your hand.

(Hands are raised.)

CHAIRMAN SMITH: All right. And then all in favor of nominating her raise your hand.

(Hands are raised.)

CHAIRMAN SMITH: And let the record reflect that Representative Rutherford votes proxy for her to be qualified and nominated. And the record reflects that that was unanimous nomination.

REPRESENTATIVE MURPHY: Mr. Chairman?

CHAIRMAN SMITH: Yes.

REPRESENTATIVE MURPHY: On McDonald, too. I don't know if you announced --

CHAIRMAN SMITH: Okay. Let me say, yeah,
Representative Rutherford gave me his proxy to
vote Judge McDonald qualified and nominated also.

MS. CRAWFORD: Mr. Chairman, for the Circuit Court At Large, Seat 13, the candidates are, in alphabetical order, Amanda Bailey, Erin Bailey, Debbie Chapman, The Honorable Joe M. Crosby, H.

1 Steven DeBerry, IV, The Honorable Marvin H.
2 Dukes, III, William Vickery Meetze and Jane H.
3 Merrill.

4 REPRESENTATIVE MURPHY: Mr. Chairman, I would move to
5 find all the qualified -- or all the candidates
6 qualified.

7 CHAIRMAN SMITH: All right. Is there any objection to
8 finding all the candidates qualified?

9 (No replies are heard.)

10 MR. STROM: Second.

11 CHAIRMAN SMITH: Seconded without objection. And we
12 all find all the candidates that were just read
13 as qualified and we'll move to the nomination
14 procedure.

15 MS. CRAWFORD: Mr. Chairman, I'll now call out the
16 names of each of these candidates again in
17 alphabetical order. Each Commission member has
18 three votes. Any candidate that receives six or
19 more votes for qualified and nominated will be
20 considered qualified and nominated at the end of
21 that vote, unless there's a tie. Any candidate,
22 if there's a tie, then they would go to the -- we
23 would go to the next ballot. Any candidate that
24 does not get any ballot votes will be removed
25 from consideration on any subsequent ballot

1 votes.

(Off the record.)

3 MS. CRAWFORD: The first candidate Amanda A. Bailey.

4

(Hands are raised.)

6 MS. CRAWFORD: Erin E. Bailey.

7 (Hands are raised.)

8 MS. CRAWFORD: Debbie Chapman.

9 | (Hands are raised.)

10 CHAIRMAN SMITH: Representative Rutherford votes for
11 Debbie Chapman as his proxy.

12 MS. CRAWFORD: The Honorable Joe M. Crosby

13 (Hands are raised.)

14 MS. CRAWFORD: H. Steven DeBerry, IV.

15 (Hands are raised.)

16 MS. CRAWFORD: The Honorable Marvin H. Dukes, III.

17 (Hands are raised.)

18 MS. CRAWFORD: William Vickery Meetze.

19 (Hands are raised.)

20 MS. CRAWFORD: Jane H. Merrill. No votes. Okay. So
21 on the next ballot we remove Erin E. Bailey then
22 we remove Jane Merrill. Two votes remaining.

23 (Off the record.)

24 MS. CRAWFORD: Fist candidate Amanda A. Bailey.

25 (Off the record.)

1 MS. CRAWFORD: So now we're going back to the second
2 round again. Amanda A. Bailey.

3 (Hands are raised.)

4 MS. CRAWFORD: Six votes. Seven. The Honorable Joe
5 M. Crosby.

6 (Hands are raised.)

7 CHAIRMAN SMITH: Representative Rutherford votes his
8 proxy for Crosby.

9 MS. CRAWFORD: Steven DeBerry, IV.

10 (Hands are raised.)

11 MS. CRAWFORD: Marvin H. Dukes, III.

12 (Hands are raised.)

13 MS. CRAWFORD: William Vickery Meetze.

14 (Hands are raised.)

15 MS. CRAWFORD: So Amanda Bailey is qualified and
16 nominated.

17 (Off the record.)

18 MS. CRAWFORD: Honorable Joe M. Crosby.

19 (Hands are raised.)

20 CHAIRMAN SMITH: Representative Rutherford votes his
21 proxy.

22 MS. CRAWFORD: Marvin H. Dukes, III.

23 (Hands are raised.)

24 MS. CRAWFORD: William Vickery Meetze.

25 CHAIRMAN SMITH: One thing if we can take a break. So

1 I do want to call -- because one thing we're
2 going to run into is Representative Rutherford
3 gave me instructions on his proxy. Off the
4 record.

5 (Off the record.)

6 CHAIRMAN SMITH: Before we had Representative
7 Rutherford's proxy and we needed to confirm he
8 gave us the first two votes, but he didn't give
9 us what to do after the third ballot. So
10 unfortunately we can't get a hold of him, so I'm
11 going to continue to vote his proxy that he
12 instructed me to on the subsequent ballots. All
13 right. With that being said, we're back on the
14 record and Erin we turn it back over and we'll go
15 back to voting.

16 MS. CRAWFORD: Yes, sir. You want me to say
17 the remaining candidates or y'all remember?

18 CHAIRMAN SMITH: Yes, ma'am. If you would, please.

19 MS. CRAWFORD: Crosby, Dukes and Meetze. First
20 candidate, Honorable Joe M. Crosby.

21 (Hands are raised.)

22 CHAIRMAN SMITH: And let me say Representative
23 Rutherford votes for Judge Crosby. That will be
24 two votes.

25 MS. CRAWFORD: The Honorable Marvin H. Dukes, III.

(Hands are raised.)

MS. CRAWFORD: William Vickery Meetze. Qualified and nominated, then, would be the Honorable Marvin H. Dukes, III. So the three candidates qualified and nominated are Amanda A. Bailey, Debbie Chapman and The Honorable Marvin E. Dukes, III. The next race is Family Court, Fourth Circuit, Seat Three reelection. The Honorable Michael S. Holt.

10 CHAIRMAN SMITH: All in favor to find him qualified
11 raise their hand.

(Hands are raised.)

13 CHAIRMAN SMITH: Representative Rutherford votes that
14 he be qualified. So let the record reflect
15 that's unanimous. And then all those in favor of
16 nominating Judge Holt raise their hand.

(Hands are raised.)

18 CHAIRMAN SMITH: Representative Rutherford proxy votes
19 to nominate him, so let the record reflect that
20 is unanimous.

21 MS. CRAWFORD: Mr. Chairman, the next race is Family
22 Court, Sixth Circuit, Seat Two reelection, The
23 Honorable Deborah A. Matthews.

24 CHAIRMAN SMITH: All right. All those in favor of
25 finding Judge Matthews qualified raise their

1 hand.

2 (Hands are raised.)

3 CHAIRMAN SMITH: And Representative Rutherford votes
4 for her to be found qualified. And then all
5 those in favor of her being nominated raise their
6 hand.

7 (Hands are raised.)

8 CHAIRMAN SMITH: Let the record reflect both votes
9 were unanimous and Representative Rutherford
10 votes to nominate her.

11 MS. CRAWFORD: The next race is Master-in-Equity
12 Berkeley County reappointment. We just need a
13 vote on qualified or not qualified.

14 CHAIRMAN SMITH: All right. And so all those in favor
15 of finding Judge Van Slambrook qualified raise
16 their hand.

17 (Hands are raised.)

18 CHAIRMAN SMITH: Representative Rutherford votes he's
19 qualified. Let the record reflect that's
20 unanimous vote.

21 MS. CRAWFORD: The next race is Family Court, Tenth
22 Circuit, Seat Three. We have two candidates, M.
23 Scott McElhannon, Brittany Dreher Senerius.

24 CHAIRMAN SMITH: Anyone want to make the motion for
25 both of them to be found qualified?

1 MR. STROM: I move.

2 REPRESENTATIVE MURPHY: Second.

3 MR. STROM: And nominated.

4 CHAIRMAN SMITH: Any objection?

5 (No replies are heard.)

6 CHAIRMAN SMITH: So both candidates are found
7 qualified and those in favor of nominating M.
8 Scott McElhannon raise their hand.

9 (Hands are raised.)

10 CHAIRMAN SMITH: Representative Rutherford votes his
11 proxy both find him qualified and to nominate Mr.
12 McElhannon. So let the record reflect that's
13 unanimous. And then those for Brittany Dreher
14 Senerius.

15 (Hands are raised.)

16 CHAIRMAN SMITH: Representative Rutherford votes his
17 proxy to find her nominated. All right. So let
18 the record reflect those were unanimous votes for
19 qualified and nominated.

20 MS. CRAWFORD: The next race is Family Court, Fifth
21 Circuit, Seat One. We have four candidates.
22 I'll read them all first. Laurel Eden Harvey
23 Hendrick, Shawn L. Reeves, C. Vance Stricklin,
24 Jr., Blakely Copeland Cahoon.

25 SENATOR RANKIN: Well, I move, Mr. Chairman, that all

1 four of these candidates be found qualified.

2 SENATOR SABB: Second.

3 CHAIRMAN SMITH: And a second motion by Senator Rankin
4 seconded by Senator Sabb. Any objections?

5 (No replies are heard.)

6 CHAIRMAN SMITH: And Representative Rutherford finds
7 them all qualified, so let the record reflect
8 that's a unanimous vote for all four candidates
9 to be found qualified. And we'll move to ballot
10 on the four candidates.

11 MS. CRAWFORD: Laurel Eden Harvey Hendrick.

12 SENATOR SABB: Mr. Chairman, can we take two minutes?

13 CHAIRMAN SMITH: And review?

14 SENATOR SABB: Yes, sir.

15 CHAIRMAN SMITH: Okay. Yes, sir. I think that's
16 probably wise.

17 (Off the record.)

18 MS. CRAWFORD: The candidate Laurel Eden Harvey
19 Hendrick.

20 (Hands are raised.)

21 CHAIRMAN SMITH: And proxy with Representative
22 Rutherford.

23 MS. CRAWFORD: Shawn L. Reeves.

24 (Hands are raised.)

25 MS. CRAWFORD: C. Vance Stricklin, Jr.

(Hands are raised.)

CHAIRMAN SMITH: Proxy for Representative Rutherford.

MS. CRAWFORD: Okay. And then we have one more.

Blakely Copeland Cahoon.

(Hands are raised.)

MS. CRAWFORD: So three qualified and nominated are
Eden Hendrick, Vance Stricklin and Blakely
Cahoon. Honorable Brooks P. Goldsmith. We just
need to find him qualified or vote on his
qualifications.

CHAIRMAN SMITH: All in favor of finding Judge Goldsmith qualified? And Representative Rutherford votes to find him qualified.

(Hand are raised.)

MS. CRAWFORD: The next race is Circuit Court --

SENATOR RANKIN: A quick break, ma'am.

MS. CRAWFORD: This is not Circuit Court. That's Family Court. This says circuit, but it should be family.

SENATOR RANKIN: Quick Break.

MS. CRAWFORD: Break.

(Off the record.)

MS. CRAWFORD: Candidates for the Family Court, Ninth
Judicial Circuit, Seat Five. Is there a motion?

1 SENATOR SABB: Mr. Chairman, I would move to find all
2 four candidates qualified.

3 REPRESENTATIVE MURPHY: Second.

4 CHAIRMAN SMITH: So Senator Sabb finds -- moves that
5 all four candidates be found qualified, and
6 that's seconded by Representative Murphy. All in
7 favor raise your hand.

8 (Hands are raised.)

9 CHAIRMAN SMITH: Let the record reflect that's
10 unanimous and Representative Rutherford votes to
11 find all of them qualified. All right. Then
12 we'll proceed to ballot.

13 MS. CRAWFORD: The first candidate is Spiros Stavros
14 Ferderigos.

15 CHAIRMAN SMITH: Representative Rutherford proxy votes
16 for and nominate Mr. Ferderigos. So let the
17 record reflect that's unanimous.

18 MS. CRAWFORD: Kathleen Moraska Ferri.

19 CHAIRMAN SMITH: Representative Rutherford votes to
20 find her -- to nominate her by proxy.

21 MS. CRAWFORD: Marissa K. Jacobson.

22 (Hands are raised.)

23 MS. CRAWFORD: Julianne M. Stokes.

24 (Hands are raised.)

25 CHAIRMAN SMITH: Representative Rutherford votes by

1 proxy for Stokes.

2 MS. CRAWFORD: So the three candidates are Ferderigos,
3 Jacobson and Stokes. Family Court, Third
4 Circuit, Seat Three, we have one candidate,
5 Ernest Joseph Jarrett.

6 CHAIRMAN SMITH: All in favor of finding him qualified
7 raise their hands.

8 (Hands are raised.)

9 CHAIRMAN SMITH: Representative Rutherford votes by
10 proxy to find him qualified. All those vote to
11 nominate him raise their hands.

12 (Hands are raised.)

13 CHAIRMAN SMITH: Representative Rutherford votes by
14 proxy. So let the record reflect both those
15 votes were unanimous. Qualified and nominated.

16 MS. CRAWFORD: Family Court, Thirteenth Circuit, Seat
17 Five, reelection. The Honorable Tarita A.
18 Dunbar.

19 MR. STROM: Can we go off the record.

20 CHAIRMAN SMITH: All right. Let's take a quick break
21 real quick.

22 (Off the record.)

23 CHAIRMAN SMITH: Mr. Safran goes -- moves that we go
24 into executive session, seconded by Ms. McIver,
25 to have a legal briefing. All in favor say, aye.

(Ayes are heard.)

CHAIRMAN SMITH: All opposed?

(No replies are heard.)

EXECUTIVE SESSION

CHAIRMAN SMITH: All right. So back on the record.

Mr. Strom moves that we come out of executive session seconded by Senator Rankin. All in favor say, aye.

(Ayes are heard.)

CHAIRMAN SMITH: All opposed?

(No replies are heard.)

CHAIRMAN SMITH: We received a legal briefing while in executive session. No votes were taken and no matters were decided. Now we're going to proceed to the qualified and nominated --

MS. CRAWFORD: Family Court Thirteenth Circuit, Seat
Five reelection. The Honorable Tarita A. Dunbar.

CHAIRMAN SMITH: All right. All in favor of finding her qualified raise your hand.

(Hands are raised.)

CHAIRMAN SMITH: And Representative Rutherford votes his proxy to find her qualified. Let the record reflect that was unanimous. And then all in favor of nominating Judge Dunbar raise their hand.

(Hands are raised.)

CHAIRMAN SMITH: Representative Rutherford moves to nominate her. Let the record reflect that that is also unanimous. Next candidate?

MS. CRAWFORD: The next race is the Family Court At Large, Seat One. I'm going to read the candidates first. Deanne A. Gray, Martha Rivers Davisson, Ashley Phillips Case, Kimaka Nichols-Graham, Heather Vry Scalzo and Chadwick -- Chad Smith.

11 MR. MURPHY: Move to find all the candidates
12 qualified.

13 SENATOR RANKIN: Second.

14 CHAIRMAN SMITH: All right. So Representative Murphy,
15 seconded by Senator Rankin moves to find all
16 qualified -- all candidates qualified. All in
17 favor raise their hand.

(Hands are raised.)

19 CHAIRMAN SMITH: Let the record reflect that's
20 unanimous. And Representative Rutherford finds -
21 - moves to find them all qualified. All right.
22 We'll proceed to ballot.

23 MS. CRAWFORD: And three votes. First candidate is
24 Deanne A. Gray.

(Hands are raised.)

1 MS. CRAWFORD: Martha Rivers Davisson.
2 (Hands are raised.)
3 MS. CRAWFORD: Ashley Phillips Case.
4 (Hands are raised.)
5 MS. CRAWFORD: Kimaka Nichols-Graham.
6 CHAIRMAN SMITH: All right. Representative Rutherford
7 votes.
8 MS. CRAWFORD: Heather Scalzo.
9 (Hands are raised.)
10 MS. CRAWFORD: Chad Smith.
11 (Hands are raised.)
12 MS. CRAWFORD: Let's try that one more time just to be
13 safe. Chad Smith.
14 (Hands are raised.)
15 CHAIRMAN SMITH: Representative Rutherford votes proxy
16 for Smith and then also for Graham. And then he
17 also votes for Davisson.
18 MS. CRAWFORD: That would be six for Davisson. So the
19 three candidates then qualified and nominated are
20 Martha Rivers Davisson, Kimaka Nichols-Graham and
21 Chad Smith. And that's all the races we've done
22 so far.
23 CHAIRMAN SMITH: All right. With that being said,
24 we're going to -- Senator Rankin moves that we
25 adjourn. All in favor say, aye.

1 (Ayes are heard.)

2 CHAIRMAN SMITH: All opposed.

3 (No replies are heard.)

4 CHAIRMAN SMITH: Ayes have it. We stand adjourned.

5 We come back tomorrow at 9:30 a.m.

6 (There being nothing further, the proceeding concluded at
7 6:50 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
3 IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
4 CERTIFY THAT I REPORTED THIS PROCEEDING, ON TUESDAY, THE
5 3RD DAY OF DECEMBER, 2019, AND THAT THE FOREGOING 197 PAGES
6 CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOMASK
7 REPORT OF SAID PROCEEDING.

8 I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
9 COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
10 PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
11 INTERESTED IN SAID CAUSE.

12 IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
13 9TH DAY OF DECEMBER, 2019.

14 
15

16 JENNIFER NOTTLE, COURT REPORTER
17 MY COMMISSION EXPIRES JULY 11, 2023
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