

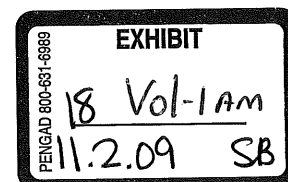
JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:

Circuit Court, 8th Judicial Circuit, Seat 1

1. NAME: The Hon. Frank Robert Addy, Jr.
BUSINESS ADDRESS: P.O. Box 1210, Greenwood, SC 29648
E-MAIL ADDRESS: frankaddy1@yahoo.com
TELEPHONE NUMBER: (office): (864) 942-8625
2. Date of Birth: 1967
Place of Birth: Greenwood, SC
3. Are you a citizen of South Carolina? Yes
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married on September 6, 1997, to Kelly Sprouse Addy. Never divorced. Two children.
6. Have you served in the military? NA
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) University of South Carolina
September, 1986 – May, 1990
BA, International Studies, *cum laude*; *Phi Beta Kappa*
(Minor – Business Administration)
 - (b) University of South Carolina School of Law
September, 1990 – May, 1993
Juris Doctor
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

South Carolina, admitted November 15, 1993
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
 - (a) University of South Carolina
Student Government; Director, Students for a Better Carolina
Phi Beta Kappa
 - (b) School of Law, University of South Carolina
Articles Editor, *ABA Real Property, Probate & Trust Journal*.
Moot Court Team Int'l, Advocate
President, International Law Society
Palmetto Law Society



10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

| <u>Conference/CLE Name</u> | <u>Date(s)</u> |
|---|----------------|
| (a) 11 th Annual Probate Bench/Bar | 09/12/03; |
| (b) 55 th Annual SC Assoc. of Probate Judges Conf. | 09/21/03; |
| (c) Probate Judges' Legislative Conference | 02/02/04; |
| (d) SC Assoc. Probate Judges, SCAC Conf. | 08/05/04; |
| (e) SC Trial Lawyers Assoc. Conf. | 08/05/04; |
| (f) Judicial Oath of Office | 08/19/04; |
| (g) 12 th Annual Probate Bench/Bar | 09/17/04; |
| (h) Greenwood Bar – Revised Oath and Bar CLE | 09/30/04; |
| (i) 56 th Annual SC Assoc. of Probate Judges Conf. | 10/10/04; |
| (j) 2004 SC Bar Convention | 01/21/05; |
| (k) Probate Judges' Legislative Conference | 02/28/05; |
| (l) 2005 Probate Judges/Court | 05/06/05 |
| (m) 13 th Annual Probate Bench/Bar | 09/16/05; |
| (n) 57 th Annual SC Assoc. of Probate Judges Conf. | 09/21/05; |
| (o) 2006 SC Bar Convention | 01/27/06; |
| (p) SC Trial Lawyers Assoc. Conf. | 08/03/06; |
| (q) SC Assoc. of Judges, SCAC Conf. | 08/04/06; |
| (r) 14 th Annual Probate Bench/Bar | 09/15/06; |
| (s) 58 th Annual SC Assoc. of Probate Judges Conf. | 10/04/06; |
| (t) 2007 SC Bar Convention | 01/25/07; |
| (u) Probate Judges' Legislative Conference | 02/13/07; |
| (v) Orientation School for New Probate Judges | 03/15/07; |
| (w) 59 th Annual SC Assoc. of Probate Judges Conf. | 09/09/07; |
| (x) 15 th Annual Probate Bench/Bar | 09/14/07; |
| (y) 2008 SC Bar Convention | 01/25/08; |
| (z) Probate Judges' Legislative Conference | 02/05/08; |
| (aa) 16 th Annual Probate Bench/Bar | 09/14/08; |
| (bb) Judicial Selection in SC – SC Bar, SCWLA | 09/17/08; |
| (cc) 2008 S.C. Solicitor's Association Conference | 09/28/08; |
| (dd) SC Assoc. of Probate Judges Fall Conference | 10/05/08; |
| (ee) SC Bar Association Annual Convention | 01/23/09; |
| (ff) Probate Judges' Legislative Conference | 02/24/09. |

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

- (a) "Dual Diagnosis" October 9, 2001
 South Carolina Association of Probate Judges
 - Presentation addressing the problematic practical and procedural issues concerning stabilization and treatment of individuals who are mentally ill and also chemically dependent.

- (b) "New Probate Judge's School"
 SC Court Administration & SCAPJ, January 10, 2003 & March 15, 2007
 Planned topics, organized speakers and materials, and moderated the 2003 New Probate Judge's School. Personally addressed the topics of ethics and estate taxation at the 2003 and 2007 schools.
- (c) "Therapeutic Commitments – Jurisdictional Issues and Supplemental Proceedings"
 South Carolina Association of Probate Judges, August 6, 2004
 Lecture on the jurisdictional validity of commitment orders throughout the state and between states with additional discussion of supplemental proceedings when the person is non-compliant with the court's order.
- (d) "General Probate Issues"
 Greenwood County Bar, September 30, 2004
 Presentation was geared to the general practice lawyer who only occasionally practiced in probate and addressed the procedural aspects of a variety of common problems. Lecture included a discussion of recent changes in the law, disclaimers, omitted spouse vs. elective share petitions, conservatorships, wrongful death settlements, limitations of actions, and other matters.
- (e) "Creditor's Claim Presentment in the Probate Court"
 SC Morticians Assoc., October 24, 2004
 Presentation concerned the procedures law for presenting a claim against a decedent's estate.
- (f) 13th Annual Probate Bench/Bar, Course Planner and Moderator
 SC Bar CLE Division, September 16, 2005
 I planned and moderated the 2005 Bench/Bar and was subsequently told that the attendance for the event surpassed all previous probate bench/bar conferences.
- (g) "Temporary and Emergency Measures in Probate Proceedings"
 South Carolina Association of Probate Judges, September 25, 2005
 - Procedural overview of Rule 65, SCRCP, governing temporary injunctions as compared to Section 62-3-607 governing emergency orders in the estate context and 62-5-310 governing appointment of emergency temporary guardians.
- (h) "The Probate Process and Presentation of Creditor's Claim in South Carolina's Probate Courts"
 South Carolina Oncology Association, May 18, 2006
 Presentation was a procedural overview of the process for probating an estate, presenting claims against an estate, and explanation of the time limits involved in both.
- (i) "Roundtable Discussion"
 South Carolina Association of Probate Judges, August 4, 2006

Served as a panel member and discussed hypothetical situations applicable to the courts.

(j) "Recent Issues in the Probate Court"

Greenwood County Bar, February 23, 2007

Presentation discussed the recent *Franklin* and *Brown* opinions concerning the unauthorized practice of law in the probate context and also addressed competency issues when a lawyer feels his client may be suffering from Alzheimer's dementia.

(k) "Probate Potluck – Round Table Discussion"

South Carolina Association of Probate Judges, September 12, 2007

Served as a panel member and discussed various probate topics and problems.

(l) "Involuntary Mental Illness Commitments"

SC Summary Court Judges Assoc., May 6, 2008

Presentation concerned the procedural and substantive law concerning involuntary commitments of persons suffering from mental illness and chemical dependency.

(m) "Caring for Our Aging Parents"

Women's Forum, GCC, April 1, 2009

Presentation regarding issues surrounding caring for aging parents who are experiencing decreased mental or physical capacity.

12. List all published books and articles you have written and give citations and the dates of publication for each.

Probate Bench Book

I coordinated the compilation and editing of this book and the final version is due to be released to the Probate Judge's Advisory Committee and Court Administration. The book addresses all aspects of the court's jurisdiction and procedures as well as substantive law.

13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

(a) South Carolina Bar, admitted November 15, 1995

(b) US District Court for South Carolina, admitted June 13, 1997 (inactive)

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

(a) Eighth Circuit Solicitor's Office

September, 1993 – February, 1997

Prosecuted all types of felony and misdemeanor cases, including homicide and serious felonies.

Promoted to Deputy Solicitor for Abbeville County during my tenure and successfully reduced Abbeville's pending docket from roughly 20 pages to 6 over the course of approximately 2 ½ years.

- (b) Sheek, Addy & Medlock, PA
March, 1997 – February, 1998
Upon passing of my father, I engaged in general private practice including personal injury, domestic, and criminal cases.
- (c) Chief Public Defender for Greenwood and Abbeville Counties
February, 1998 – June, 1999
Responsible for defending clients charged in general sessions as well as juvenile court. Oversaw operation of the office and defended all manner of criminal cases.
- (d) Probate Judge for Greenwood County
June, 1999 – Present
Responsible for contested civil hearings concerning all aspects of the court's jurisdiction: estates, trusts, protective proceedings, and therapeutic commitments. Managed the case docket and successfully reduced delinquency in pending cases.
Served as Special Referee over the years for common pleas matters referred to me for trial or hearing.
- (e) Greenwood County Clerk of Court
June, 2003 – August, 2003
Upon the retirement of Greenwood's clerk of court and pursuant to state law, I assumed the role of acting clerk of court until the Governor made his appointment.
- (f) Circuit Court Judge by Special Appointment of Chief Justice
September, 2006 – November, 2007
Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice while Greenwood's resident judge was recovering from cancer. Presided over jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as well.
- (g) Special Referee
I have served as Special Referee numerous times over the years for common pleas matters referred to me for trial or hearing. Jurisdiction was limited to trying the cases specifically referred to me.
- (h) Judge of the Eighth Circuit Drug Court
August 2008 – Present
Appointed by the Chief Justice on August 18, 2008, to serve as judge for the Eighth Circuit Adult Drug Court program. Will preside over and supervise drug court participants throughout their participation in the program, from accepting their guilty plea to completion of or termination from the program. Worked with Solicitor in establishing the program and crafting the model.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases

handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

My experience in circuit court is unique among the candidates seeking this seat.

For two years, I served as circuit judge by order of special appointment while our resident circuit judge was recovering from cancer. In that time, I presided over guilty pleas, jury trials, motions, bond hearings, and probation revocations. In short, I have essentially handled same matters which come before a circuit judge on a daily basis. The unsolicited and discretely obtained feedback I received concerning my performance during this period was overwhelmingly positive.

Prior to my election to the bench, I was an assistant and deputy solicitor for roughly four (4) years and chief public defender for two (2) years. While serving as Deputy Solicitor, I successfully brought the pending case docket for the county I supervised down from over twenty (20) pages to fewer than six (6) pages. My desire and ability to move a backlogged docket, and then to keep the cases moving, would be of significant value on the civil side.

I have prosecuted and defended homicides, including death penalty, and I obtained a conviction on one if the first LWOP cases brought to trial. I have prosecuted or defended, in trial and via guilty plea, practically every criminal offense known, including rapes, drug offenses, assaults, robberies, and burglaries.

Concerning the civil matters which a circuit judge must hear and the civil docket which a circuit judge must administer, I have served as probate judge since 1999, and the trials in probate court require me to apply the same rules of evidence and procedure as are applied in the court of common pleas. Estate and trust matters involve application of the same principals of law and equity which apply in any civil case, and the stakes involved in most of the trials I hear are exceedingly high for the parties. In addition to complex and contested litigation concerning trusts and estates, I preside over often emotional cases concerning guardianships, conservatorships and involuntary commitments. I know

that compassion is a necessary and invaluable characteristic for a judge, and I make every effort to render well-reasoned, thoughtful, and thorough decisions in all the cases I hear, regardless of the amount in controversy or the emotional context of the litigation.

Just as a circuit judge must run the civil docket, as judge for my court, I must also supervise my court's docket, keep cases moving, and ensure that matters under my supervision are addressed in a fair and procedurally correct manner. In short, as judge for my court, I have the same responsibility for case and docket management as circuit judges do for their court, and I will be able to immediately apply my ten (10) years of experience to management of the civil docket.

Additionally, I have served as special referee for non-jury matters and hearings referred to me from the circuit court docket. These hearings require application of the same rules of civil procedure and the same principals as are applied under the circuit court's civil jurisdiction. I also served as acting clerk of court upon the retirement of Greenwood's clerk. Many might characterize this job as purely ministerial, but I gained an appreciation for the inner workings of that office and the incredible management skills necessary to keep that office running. Our clerks of court are an indispensable asset to our courts, and no aspect of the law would function without their efforts.

Like most lawyers, I have also been in private practice, so I appreciate the demands on a lawyer's time, the pressures of running an office, and the stresses and obligations that lawyers face on a daily basis. While in private practice, my firm's practice area could best be described as general practice, handling civil, criminal, family and summary court cases. Although circuit judges must sometimes be firm with attorneys so that a docket keeps moving, judges should also have an appreciation for the rigors, demands, and stresses of private practice. I have a judicial philosophy which has served me well for the last ten (10) years. A good judge is one who remains firm, yet retains compassion and empathy for the parties. One of the benefits in working with the public throughout my legal career is that I understand and truly appreciate that every case is special, emotional, and unique for those involved. For example, what one might characterize as "a simple wreck case" may only involve a few thousand dollars of damages, but for most citizens, the outcome of such a case is of significant importance to them, regardless of whether they are plaintiff or defendant. I fully appreciate the emotional character involved in most litigation, and for courts to remain credible to the public, the parties must feel that the court gave their side a full and fair hearing, decisions rendered must be correct and free of bias or political consideration, and most importantly, the court's verdict must represent a proper application of the law, as written, to the particular factual scenario. Judicial activism invites

uncertainty for the parties and results in disparate application of the law from judge to judge.

I firmly believe that courts and judges face a public confidence problem when the law is not applied as written, when parties feel as if they did not have a full opportunity to be heard, or whenever a judge's decision appeared to be swayed by political considerations. Judges must also possess the demeanor necessary to treat all who come before them with patience and respect, and such character must be present, practiced, and demonstrated daily.

In conclusion, my varied judicial and professional experience and my judicial demeanor have prepared me well for this position.

15. What is your rating in Martindale-Hubbell?

I am not rated in Martindale-Hubbell although there is a brief "Judge Profile" for me on their online listing. Having been a judge for the last ten years, I have never sought a Martindale-Hubbell rating since my current occupation does not depend upon client referral.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?

- (a) federal: 0%;
- (b) state: 100%.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

- (a) civil: 25%;
- (b) criminal: 65%;
- (c) domestic: 10%.

* I answer this question based upon the general period before I was elected to the bench. In my current judicial office, all cases are civil. As acting circuit judge from 2006-07, most of the matters I handled were criminal, although I did address some civil matters during this period.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 10%;
- (b) non-jury: 90%.

* I answer this question based upon the general period before I was elected to the bench. Although many probate cases go to trial, they are usually non-jury, and the most recent jury trials I oversaw were conducted when I served as circuit judge by appointment.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?

I served as sole counsel for the vast majority of my cases prior to election to the bench.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) State v. Darvin Wayne Allen (1999 Death Penalty case) This was a death penalty case wherein I represented the defendant. This case was challenging from a defense point of view in that the homicide happened several years before Allen and his co-defendants were identified as suspects, and it was the co-defendants who gave inconsistent statements identifying Allen as the shooter. The police charged Allen subsequent to Allen being convicted of armed robbery of a Pizza Hut; that case involved several of the co-defendants who were alleged to be involved in the homicide.

Because of attorney-client privilege, I am not at liberty to discuss the factual information or legal preparation involved in this case. Suffice it to say, however, that our work in terms of investigation, research, and trial strategy was extensive and fruitful. I am certain that the first motion we made would have resulted in reversal on appeal had Allen been convicted.

Due to the strength of our preparation and despite previous resistance on the part of the victims and others to any plea which contemplated Allen's potential release from prison, we were able to obtain a favorable 20 year negotiated life plea for Allen early in the guilt phase, which was a positive result in light of the high potential for a verdict of death (assuming a conviction in the guilt phase).

(b) State v. Keith A. Scurry, 322 S.C. 514, 473 S.E.2d 61 (S.C. App. 1996) (Armed Robbery case – made new case law and resulted in statutory law change) Armed robbery case which I prosecuted with only a few hours of preparation time (the solicitor assigned the case had an unexpected death in the family). Defendant robbed a convenience store with a lug wrench which he hid under a towel. The victim testified that she thought the concealed lug wrench was a gun. The defendant testified he brought the lug wrench into the store in the event he had to pry the cash register open. The defendant was convicted of armed robbery. The trial judge, *sua sponte*, vacated the conviction and imposed a conviction for common law robber under the justification that the defendant never intended to use the lug wrench as a deadly weapon. I sufficiently protected the record and appealed. The court's order was vacated and the sentence for armed robbery was imposed. This case also resulted in my contacting my local legislator who, with my encouragement, filed a bill to address situations in the armed robbery statute whereby a defendant would use a fake gun or verbally inform the victim that the defendant is armed with a deadly weapon.

This bill was introduced and ultimately signed into law which changed the definition of armed robbery to specifically include representations of a deadly weapon, by word or by appearance.

- (c) Wallace v. Roach et al., In Re the Estate of John C. Wallace 01-ES-24-428 (Statute of Elizabeth, real property, and equitable issues) This case concerned an effort by judgment creditors to set aside a series of arguably defective deeds involving real property which the judgment creditors maintained had been executed in violation of the Statute of Elizabeth. The defendant had misappropriated proceeds from the consignment sale of several RV's from numerous defendants. The property he owned had been arguably held in a trust of questionable validity prior to the subsequent transfers. The case, therefore, required application of complex real property law and equitable principals because of the number and questionable character of the transactions, and the outcome turned upon whether an express or resulting trust had been created as well as application of principals of real property law and equitable doctrines.
 - (d) Carol Scurry v. R. Brooks Scurry, Jr. et al., In Re the Estate of R. Brooks Scurry, Sr. 98-ES-24-357 (2000) (Complex estate litigation) This case concerned a \$5 million federally taxable estate and a Will with a very complex funding formula for the various trusts. The issues surrounding the litigation concerned contractual duress, reformation of a Will, proper funding of generation skipping trusts, a marital deduction trust and the right to withdrawal, attorney's fees, right to contribution for a mortgage, removal of trustee, as well as other issues. This matter could have been certified as "complex litigation" if such a designation existed in the estate context.
 - (e) State v. Willie James Ervin (One of the first applications of LWOP law) (1996) Co-counsel and I prosecuted this case which concerned the violent rape and kidnapping of a young woman by an individual who had a New Jersey conviction for rape, thereby making him eligible under the recently enacted LWOP statute. See Section 17-25-45. The charges arose shortly after South Carolina's adoption of the 2-3 Strike law which allows for the Solicitor to seek life imprisonment without parole for such defendants. This case was one of the first cases wherein this new penalty was applied, and a great deal of work was done both to obtain the conviction as well as to prove application of out-of-state law. The defendant remains in prison on the kidnapping charge. State v. Ervin, 333 S.C. 351, 510 S.E.2d 220 (S.C. App. 1998)
20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter). Do NOT attach a separate list of your briefs.

- I have not handled a civil appeal.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).
- Aside from filing the notice of appeal in State v. Scurry, I have not personally handled a criminal appeal.
22. Have you ever held judicial office?
- (a) Acting Circuit Court Judge
September 2006 – November 2007
Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice (see question 2 of Personal Data Questionnaire Addendum for listing of specific terms of court). As a court of general jurisdiction, I presided over general sessions jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as needed or requested.
- (b) Probate Judge for Greenwood County
June, 1999 – Present
Appointed in June, 1999. Subsequently reelected without opposition in 2000, 2002, and 2006
Responsible for contested civil hearings concerning all aspects of the court's jurisdiction under Section 62-1-302 (Supp. 2005): decedent's estates, trusts, Article 5 protective proceedings, and therapeutic commitments under Title 44.
- (c) Special Referee
I have served as Special Referee numerous times over the years for common pleas matters referred to me for trial or hearing. Jurisdiction was limited to trying the cases specifically referred to me.
- (d) Drug Court Judge, Eighth Circuit Adult Drug Court
Appointed in August 2008, and I gladly serve without compensation. Responsible for accepting guilty pleas, supervising, and presiding over all participants in the adult drug court program. Please note that I intend to continue serving as drug court judge regardless of the outcome of my candidacy for seat 1. I am extremely pleased with the way the Eighth Circuit Drug Court program is helping addicts break the cycle of addiction, and I am proud to be a part of this effort.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
- (a) Wrenn, et al. v. Gillenwater, In Re the Estate of Janelle B. Smith, 06-ES-24-4 (September 12, 2008) This was a constructive trust case, and I provide it largely because it is the most recent example of my legal writing and because it clearly demonstrates the restraint a judge must exercise when hard facts invite a judge to question or misapply the law.

This matter was a difficult case in that the facts cried out for a result which simply was not permitted under the law.

- (b) Walker v. McLeod, et al. 03-CP-24-1513 (December 30, 2005) I provide this order as an example of an order from a matter I handled as Special Referee. The case concerned a motion to set aside default and a damages hearing. Defendants acted *pro se*, but the case is significant in that, after a full hearing at trial, it became apparent that the plaintiff had exaggerated the relief he was entitled to under a contract between himself and the defendants. This case represents a good example of how a disingenuous party may, at times, attempt to procedurally box-in a defendant, and courts should not permit a party to profit by their less than candid assertions prior to litigation.
- (c) Matthews v. Bryan, et al., In Re the Estate of Kay Matthews, 02-ES-24-22 This case involved a partition action and a petition to set aside a deed. I heard this case both as special referee under the jurisdiction of common pleas and as probate judge under the court's Title 62 jurisdiction. The plaintiff was the second spouse of decedent. This was an emotional case for the parties, largely because of criminal accusations involving the plaintiff and one of the defendant's children. Defendants were seeking partition of property which had been deeded out of their mother's estate and held as tenants in common between plaintiff and defendants. Plaintiff sought to set aside the deed to pay estate administrative expenses. Also involved in this case were issues of personal property, accounting for expenses, and valuation of estate assets.
- (d) Wallace v. Roach, et al., In Re the Estate of John C. Wallace (see Question 19 (c) for discussion of case)
- (e) State v. Jane Blackwell (2007 "Ware Shoals High Cheerleading Scandal" – case concerned competing concepts of legal ethics, first amendment, and media access): This case was a very high profile case with a great deal of national media attention. Imposition of a gag order is rarely done. In this case, it was necessary to preserve the integrity of the process and to prevent one party from trying the case in the media to the detriment of the other parties and the court system. Factually, the case concerned the cheerleading coach of Ware Shoals High School, Moore, who had allegedly provided alcohol to her cheerleaders and facilitated inappropriate sexual encounters between them and two national guard recruiters. Blackwell was the principal who allegedly knew of the improprieties and attempted to cover them up. Media attention on this case was very intense and lasted for several months after the story initially broke. Agents for the state and an attorney for Blackwell actively forwarded a great deal of information into the press concerning the allegations, subsequent investigations, and

defenses. A member of Blackwell's defense team was arguably more active in allowing or encouraging media access to his client's case; he did have an arguable justification under Rule 3.6 (c) of Rule 407, SCACR. However, much of the recent information entering the media by Blackwell's counsel was very prejudicial to Moore, who had not been seeking media attention. In short, although the information was beneficial to one defendant, it was damaging to the other parties involved.

The solicitor ultimately moved for a gag order on the grounds that the information being circulated by counsel for Blackwell would prejudice the jury pool in both Moore's and Blackwell's case. Many members of the print and television media were present for the hearing, and several news organizations entered an appearance and intervened opposing the motion. After weighing the potential prejudice to the parties, applicable 1st Amendment rights, and the ethical obligation of counsel, I granted the motion finding that the pretrial publicity posed a substantial likelihood of prejudice to all concerned parties. (Note that only the parties and their counsel were prevented from speaking to the media; the media, of course, was not subject to the order.)

Aside from the *Allen* case mentioned above, this was the second high-profile case I have handled, although I neither seek nor relish such publicity.

24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty?

My current judicial office is elected. I file my ethics commission reports in a timely fashion.

25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. N/A.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

In January 2009, I was found qualified and nominated for Seat 2 of the Eighth Judicial Circuit by the JMSC. I withdrew from the race in early February 2009 so that Judge Eugene "Bubba" Griffith could be elected without opposition.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

From 1997 to 1998, I assisted my grandparents with the family business after the passing of my father. My father and grandparents had

owned a jewelry store in Greenwood for 40 to 50 years; the store was a registered sub-S corporation. My grandfather and I sold the business in 1998.

28. Are you now an officer or director or involved in the management of any business enterprise?

Aside from my father's trust, I am not involved in any business venture.

29. A complete, current financial net worth statement was provided to the Commission.

30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.

I do not have any outstanding or ongoing business or professional relationships with any firms or attorneys which would require recusal.

Presumably, a corporation in which I own stock could be a party to litigation, but when such situations have arisen in the past, the parties agree that I may hear the matter.

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?

In June 2005, I received a ticket in the City of Newberry for speeding under 10 miles over the limit, and I mailed in the fine of \$145.00 on or about June 20, 2005. I also assume that 2 points were also assessed against my driver's license.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?

Aside from PCR matters, I have never been sued.

36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)?

No, although while I was in college, I did serve as president of "Students for a Better Carolina," a student government organization whose purpose was to encourage members of the general assembly to fully fund USC pursuant to statutory formula. However, this was prior to enactment of lobbying reforms of the early and mid 1990's.

37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.

38. S.C. Code § 8-13-700 provides, in part, that “[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.” Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I am unaware of any such charges or allegations.

39. S.C. Code § 8-13-765 provides, in part, that “[n]o person may use government personnel, equipment, materials, or an office building in an election campaign.” Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I am unaware of any such charges or allegations.

40. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.

(a) 3 rolls of stamps – purchased on July 23, 2009 - \$133.22

(b) 2 reams of paper and envelopes – purchased on July 23, 2009 - \$69.11

(c) 1 box of business cards - \$77.04

41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.

42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened?

I have spoken with my local delegation and a few other members of the general assembly in July and August concerning my candidacy, but I am aware of the prohibition on pledging at this stage of the process. Therefore, I have neither asked for nor received any pledge from any member of the General Assembly.

43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

Since deciding to run, I have had both solicited and unsolicited conversations with friends and colleagues who have offered to contact legislators on my behalf, but I have made the prohibition against pledging clear to those with whom I have spoken, and I received assurances that any contact with the legislature will be within the requirements of the law.

44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.

45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) South Carolina Bar Association, 1993 - present
 - (b) President, SC Association of Probate Judges, 2005-06
 - (c) SC Association of Probate Judges, 1999 – present
 - (d) Chairman, Advisory Committee to the Chief Justice, 2001-03
 - (e) Co-Chair of SC Bar Probate Code Revision Committee, Article 3, 2009
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Cub Scout Pack 222, den leader since 2005
 - (b) IAAP Executive of the Year, 2003
 - (c) Greenwood Masonic Lodge AFM #91 (since 1998)
 - (d) High School Moot Court Coach
 - (e) Links at Stoney Point (social and pool membership)
 - (f) Greenwood Country Club (social, pool and tennis membership)
48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

I would like to share the reason that I have elected to file for this position. First, I am not running for this position out of a desire for prestige, money, power, or to otherwise better my personal station. My current judicial position more than adequately meets my personal, financial, and professional needs, and I have deliberated seriously on the implications for my family and myself in seeking this seat, because success in this endeavor would mean less freedom, a more exacting schedule, and substantial time away from my family.

My faith is very personal to me, and for that reason, I hesitate mentioning it, but being a person of faith I am running because I firmly believe that everyone is blessed with certain talents which are unique to that individual and that our obligation in this life is to apply those talents to our community's common betterment, in service to man and to our maker. Overall, I have enjoyed being a judge and practicing law, and I am confident that my unique talents and varied personal and professional experiences would serve the bench well.

Not only have I previously served in virtually all legal capacities in the circuit court, I have had a wide variety of other jobs which gives me insight into other occupations. I have trucked vinyl siding and worked in a warehouse; I traded bonds at one bank and processed cancelled checks at another; I have worked for an asbestos manufacturer and in a retail family business.

When my father passed away in 1997, I was still rather young. He and my grandparents owned a very successful retail jewelry store in Greenwood, and much of my youth was spent behind the counter of that store. At the time of my father's death, I was a Deputy Solicitor earning a very good income and truly enjoying prosecuting cases, so I did not relish having to leave and help my family with the store. If I made one mistake in this time period, it was in believing that I could practice law and help run a jewelry store at the same time; the law is truly a jealous mistress. However, leaving was not a mistake, and I am glad I did what I did, both because I fulfilled an obligation, and because leaving set me on the path to seek this seat.

My greatest personal mentor was my father. My father was a very humble but fun man blessed with incredibly good judgment about things, and he gave me two pieces of advice which I value. First, do what you love. There is no reason to spend a third of your life working in a job you hate. Luckily, I enjoy the intellectual demands of being a judge, applying the law, and working with lawyers and the public to resolve their problems. I couldn't imagine doing anything else.

Second, "move your inventory." This is the most practical and true piece of professional advice I have ever received. You cannot make money in retail if your inventory doesn't sell. Similarly, courts break down if they can't move their cases. Docket backlogs have many causes, some of which are legitimate, but judges must consistently do everything they can to keep cases moving. Just as my father and grandparents succeeded in business because they succeeded in moving their inventory, a measure of a judge's success can be gauged by how well that judge manages to move their cases.

I have always had the utmost respect for the late Judge Jim Johnson. He presided over the first complete trial I ever saw, and I remain in awe of his intellect, demeanor, and diligence. He and Jim Moore are my professional role models, and I hope that I may continue to serve and someday match their abilities.

49. References:

- (a) The Hon. Daniel Wideman
Sheriff (Retired) of Greenwood County
126 Stratford Road
Greenwood, SC 29649
(864) 229-6852
- (b) W. Townes Jones, IV, Esq.
Attorney at Law
116 Court Avenue West
Greenwood, SC 29646
(864) 223-1111
- (c) The Hon. E. Charles Grose, Jr.
600 Monument Street
Box P-133

Greenwood, SC 29646
(864) 229-9505

- (d) Ms. Holly Bracknell
Wells Fargo Securities
340-C Main Street
Greenwood, SC 29646
(864) 223-2211 (my banker / broker)

- (e) Rev. Ken Timmerman
First United Methodist Church of Myrtle Beach
P.O. Box 1367
Myrtle Beach, SC 29578-1367
(843) 448-7164

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Signature: Frank R. Addy, Jr.

Date: August 10, 2009

Frank R. Addy, Jr.
Candidate for Circuit Judge
Eighth Judicial Circuit, Seat 1

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frankaddy1@yahoo.com

October 30, 2009

Bonnie B. Goldsmith, Esq.
Assistant Chief Counsel
House Judiciary Committee
Post Office Box 11867
Columbia, South Carolina 29211
Via Hand Delivery

RE: Frank R. Addy, Jr. – Amendments to PDQ and Sworn Statement

Dear Ms. Goldsmith,

Please note the following amendments to my PDQ and Sworn Statement:

Question #10, PDQ

Since the submission of my application, I have attended the following CLE's:

| | | |
|------|---|-----------------------|
| (gg) | 16 th Annual Probate Bench/Bar | September 11, 2009 |
| (hh) | 2009 SC Solicitor's Conference | September 27-30, 2009 |
| (ii) | 61 st Annual SCAPJ Conference | October 18-21, 2009 |

Question #11, PDQ

In the interim, I recently gave the following lecture at the SCAPJ conference:

"Motion Sickness - Motions Practice in the Probate Court: A Comparison with the SC Rules of Civil Procedure"

SCAPJ, October 9, 2009

- This presentation addressed the application of the SC Rules of Civil Procedure to the probate courts and covered topics such as amendment of pleadings and the recent *Gause* case, summary judgment, discovery abuses and sanctions, and relief under Rule 55 as compared to Rule 60.

Question #13, PDQ

I was admitted to the South Carolina Bar on November 15, 1993, not 1995.

Question #26, Sworn Statement

On October 22, 2009, I spent \$17.12 on a name badge. Therefore, to date I have spent \$296.49 in this race.

Thank you for your kind attention.

Sincerely,

Frank R. Addy, Jr.