

**JUDICIAL MERIT SELECTION COMMISSION**  
**Sworn Statement to be included in Transcript of Public Hearings**

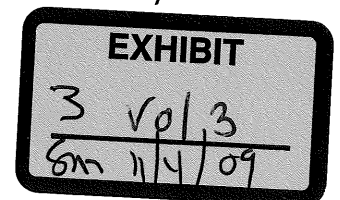
**Family Court**  
**(Incumbent)**

Full Name: Peter L. Fuge  
Business Address: Post Office Box 1124  
Beaufort, SC 29901  
Business Telephone: 843-470-5283

1. Why do you want to serve another term as a Family Court Judge?  
It is an honor to serve our state as a Family Court Judge. I have dedicated my life to this job.
2. Do you plan to serve your full term if re-elected? Yes.
3. Do you have any plans to return to private practice one day? No.
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice? Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I believe that *ex parte* communications or the perception of *ex parte* communications between counsel and judges poison the system. The Code of Judicial Conduct specifically requires that a judge not initiate, permit or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding, with very limited and narrow exceptions as set forth in Canon 3 B (7). There are statutorily authorized circumstances where a litigant or a child is in imminent harm from being sexually or physically abused and the exigencies of the circumstances and common sense require immediate action to protect the victim. This Order should include a provision that insures that all parties are promptly notified of the contents of the Order and all parties are given an opportunity to immediately appear in Court to respond to the Order if they believe the Order was improvidently issued. I believe that *ex parte* Orders for Protection should be issued sparingly and all necessary precautions should be taken to protect all parties' procedural and substantive rights.

Rule 21 of the South Carolina Family Court Rules of Practice states that an Emergency Order for Temporary Relief may be issued upon an *ex parte* application. I interpret this to mean that only in an emergency situation may such an Order be issued. I do not believe that during my term, I have come across a situation where a financial emergency existed that required an *ex parte* Order. The attorney can



always ask for a hearing on five (5) days notice or less in accordance with Rule 21 of the Family Court Rules.

The Code of Judicial Conduct states that a judge should afford every person who has a legal interest in a proceeding, or that person's lawyer, a right to be heard according to the law. Therefore, I believe that *ex parte* Orders should be avoided if possible and *ex parte* communications should be limited to those instances expressly authorized by the Code of Judicial Conduct.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

When I practiced law I was involved in a case where a judge would not recuse himself after he had made disparaging comments about one of the litigants outside of court. See *Mallet v. Mallet*, 323 S.C. 141, 473 S.E. 2d 804. All that judge had to do was recuse himself. Instead he tried the case and the appellate court looked upon his conduct with great disfavor.

The Code of Judicial Conduct requires a judge to disqualify himself or herself in any proceeding in which her or his impartiality might reasonably be questioned. I cannot think of any instances when a judge should not recuse himself if it is shown that there is some reasonable factual basis for a litigant to believe that the judge has a personal bias or prejudice concerning a party or a party's lawyer or the judge has personal knowledge of disputed evidentiary facts concerning the proceedings. Judges have a responsibility to conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Code of Judicial Conduct requires a judge to disqualify himself or herself in any proceeding where the judge served as a lawyer in the matter in controversy or a lawyer with whom the judge previously practiced law served during such an association as a lawyer concerning the matter, or the judge has been a material witness in the matter. Accordingly, if any of these criterion have been met, the judge should immediately recuse himself.

Once again, I can't emphasize enough how important it is for a judge to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. I do not believe that judges should be intimidated or threatened by belligerent litigants who make unsubstantiated claims of a conflict of interest. A judge should always avoid any appearance of bias or prejudice if a reasonable man could infer from facts presented that the judge may be biased.

I was fortunate to observe the conduct of Judge William Howell when he served as a Circuit Court Judge. Judge Howell's brother practiced law in Beaufort County and Judge Howell made sure that everyone in

the Courtroom understood that he would not give any preferential treatment whatsoever to his brother. People could waive any possible conflict of interest or appearance of conflict of interest and he always made sure that this was done first outside of the presence of the judge and thereafter on the record.

A lawyer-legislator is a more difficult issue, in that, oftentimes, lawyer-legislators often have to appear before a member of the judiciary for which they voted one way or the other. It is the duty and obligation of the legislature to elect the best possible judges to serve our state. It is the duty of all judges to provide our citizens with fair and impartial trial and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A lawyer-legislator would never be able to earn a living in the practice of law if he wasn't free to practice before all judges of this state.

If a litigant or his counsel raises this issue, it should be thoroughly and openly discussed on the record so that the litigant knows that he or she is getting a fair and impartial trial. I believe the complainant litigant has the responsibility of providing objective evidence that the impartiality of the judge should be called into question.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

If someone disclosed a fact that objectively and reasonably gave the appearance of bias and asked me to recuse myself, I would recuse myself even if I believed that the disclosed fact would not actually prejudice my impartiality. The appearance of bias or prejudice is just as damaging as the actual bias or prejudice. There is usually more than one judge sitting in Beaufort County. It would not be difficult or inconvenient to have another judge hear the matter. If there is a reasonable bias, even if disputed, the recusal should be granted.

8. How do you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

This issue is thoroughly dealt with in Canon 4 of the Code of Judicial Conduct. A judge should not engage in financial or business dealings that may reasonably be perceived to exploit the judge's judicial position or involve the judge in frequent transactions or continuing business relationships concerning those persons likely to come before the court on which the judge serves. I believe that the Canons require a judge to conduct all of his extrajudicial activities so that they do not cast doubt on his capacity to act impartially as a judge or interfere with the proper performance of his judicial duties. I discourage members of my family from engaging in any dealings that would reasonably appear to exploit my judicial position. Section 3E(1) sets

forth some very limited exceptions to this rule but I personally see no benefit of serving as a fiduciary or trustee unless it would be my wife's estate. Our legal system is based upon the principle that an independent, fair and competent judiciary will apply the laws that govern. As a public servant I do everything I can to insure that my immediate family do not engage in any dealings that would appear to exploit my judicial position. My spouse is a homemaker. My children are grown and have moved out of my residence. I have explained the rules to each of them.

9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

The Code of Judicial Conduct prohibits a judge from accepting any gift, request, favor or loan from anyone unless specifically authorized in Canon 4 D (5). The judge also has the responsibility to urge family members residing in his household not to accept a gift, request, favor, or loan from anyone. This is because a gift to a judge or his family member might be viewed as intended to influence the judge.

My children are grown and married. I reside with my wife in our home in Bluffton, South Carolina. We spend most of our free time with our children and grandchildren. Most of our vacations are with our grandchildren or children. I see no reason why I should accept a gift from anyone other than family members for birthdays, Christmas, etc. I do not accept any gifts from any third parties unless specifically authorized in Canon 4 D (5) because, once again, it is my belief that a judge should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

10. How do you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

If I became aware of misconduct of a lawyer or a fellow judge, I would refer to the Code of Judicial Conduct and comply with the same. The Code of Judicial Conduct requires that any judge who receives information indicating a substantial likelihood that another judge has committed a violation of the Code of Judicial Conduct must take appropriate action. It would be my responsibility to inform the appropriate authority, that being the Commission on Judicial Conduct. The same is true if I receive information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct which raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer. I am duty bound to report the information to Commission on Lawyer Conduct and thereafter comply with all of their requests and directives.

11. Are you affiliated with any political parties, boards or commissions which, if you were re-elected, would need to be re-evaluated? No.

12. Do you have any business activities that you have remained involved with since your election to the bench? No.

13. Since family court judges do not have law clerks, how do you handle the drafting of orders?

If a case is contested or complicated I often draft my own orders. I take typed or handwritten notes.

Sometimes I require both counsel to submit proposed Orders by computer disk or e-mail. The two proposed Orders can be edited and merged into one Order and can be easily revised by me.

Sometimes I issue an oral directive by conference call to both counsel or send a fax or e-mail to each counsel simultaneously giving my ruling and they can send a proposed Order to me after the other side has had a chance to review it. I keep a list of all outstanding Orders.

In simple cases that can be ruled upon immediately from the bench with limited findings of fact, I use form Orders and handwrite the details in the spaces provided.

14. What methods do you use to ensure that you and your staff meet deadlines?

I keep notes on every case listing when the order is signed. I also have my secretary back up my system using a computer. She also keeps a list of outstanding orders to insure they are promptly executed. All deadlines are placed on a calendar which I review with my secretary several times a week.

15. What specific actions or steps do you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

This question addresses the "Guardian Ad Litem Statutes".

Section 20-7-121 *et. seq.* of the Code of Laws of the State of South Carolina deals with what is commonly referred to as the Public Guardian *ad Litem* Program that is administered by the Office of the Governor. Section 20-7-122 *et. seq.* of the Code of Laws sets forth the responsibilities and duties of this type of Guardian *ad Litem*. Section 20-7-124 *et. seq.* of the Code of Laws charges the guardian *ad litem*, in general, with the duty of representation of a child's best interest and sets forth specific supervised acts. This is primarily used in DSS actions. In cases where a member of this volunteer Guardian *ad Litem* Program is appointed to represent the best interest of a child I make every effort to insure that all of the requirements set forth in the South Carolina Guardian *ad Litem* Program Statute are followed during the pendency of a case. I always question each Guardian *ad Litem* or review each case file to insure compliance.

Section 20-7-1545 *et. seq.* of the Code of Laws deals with the appointment of a private guardian *ad litem* in cases in which custody or visitation of a minor child is an issue. This Statute sets forth the requirements and qualifications of the guardian *ad litem*. In all such cases

I require private guardian ad litem to comply with this Statute. For example, upon appointment to a case, a guardian *ad litem* must provide the court with an affidavit attesting to compliance with the statutory qualifications. In most instances, the guardian *ad litem* is a licensed attorney at law, but if there is a lay guardian who has met the statutory qualifications the court is authorized to appoint an attorney for him. In my short tenure I have not seen a case where a lay guardian ad litem was appointed. I always make sure that the guardian strictly complies with Section 20-7-1549 *et. seq.* which sets forth the guardian's duties and responsibilities. I insure that all guardian *ad litem*s attend all hearings except when their attendance is excused or their absence is stipulated by all parties and I make sure the guardian ad litem provides a written report to the court and all parties in a timely fashion as required by Section 20-7-1549 *et. seq.* I make sure that the written report complies with the time requirements and insure that the guardian not include a recommendation concerning which party should be awarded custody. There are exceptional circumstances which require the court to request such a recommendation. So far in my short tenure on the bench I have not made that request. I always make sure that the parties are given the opportunity to cross-examine the guardian *ad litem* at the final hearing and, from time to time, I have left the record open for a short period of time so that both parties can question the guardian once they have had an opportunity to thoroughly review the report and compare it to the evidence adduced at trial.

In summary, I do everything I can to insure that the court complies with the Private Guardian *ad Litem* Statute and the Public or Lay Guardian *ad Litem* Statute by reviewing these Statutes and the case files and/or by questioning the attorneys and the guardians about compliance.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I believe in the separation of powers between the judiciary, executive and legislative branches of government. It is not the province of the judiciary to create laws. It is the purpose of the judiciary to enforce the law and to apply the law to the facts in each case. It is not the province of the judiciary to meddle in the executive or legislative branches of the government.

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?

I have always been very active with Continuing Legal Education. I am the former Chairman of the South Carolina Commission on CLE and Specialization. I have spoken at more than 30 seminars. I have been practicing law for more than 30 years and I am no longer required to attend CLE seminars but I have voluntarily chosen to attend and participate in Continuing Legal Education. This week I am speaking at

the annual South Carolina Association for Justice Convention. Several months ago I spoke to the Volunteer Guardian ad Litem program in support of National Adoption Week. I have just started the Beaufort County Juvenile Drug Court which I will preside over in the evenings at no charge.

18. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

No. I lead a relatively quiet life. My wife and I have been married for 39 years. I work more than 40 hours per week. Our children are all grown and have married. We are very close to our children and we devote most of our free time to our grandchildren. I sincerely enjoy being a judge. I don't feel any strain in my personal relationships.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

The Code of Judicial Conduct defines *de minimis* as an insignificant interest that could not raise reasonable question as to a judge's impartiality. Canons 3E(1)(c) and 3E(1)(d) discuss the requirement that a judge disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. Because of the subjective nature of the term "*de minimis*," I believe that I would probably recuse myself in almost any case where I knew that I or a member of my family residing in my household or a member of my family within a third degree of relationship, had a financial interest.

The safest thing to do is to announce on the record any possible conflict I might have as a result of any "*de minimis*" financial or personal interest in the subject matter and the parties and lawyers can, out of my presence, decide whether to waive this disqualification. If they believed this is a conflict of interest or that the Court cannot act in a manner that promotes public confidence in the integrity and impartiality of the Court, I would recuse myself and transfer the case to another judge. On the other hand, there must be a reasonable basis for the claim and I will not recuse myself because of baseless claims.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

I believe that a judge should be patient, dignified and courteous to all litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity and require similar conduct of lawyers,

staff, court officials and others within the judge's direction or control. A judge should at all times act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?  
I believe that the Code of Judicial Conduct applies seven days a week, twenty-four hours a day.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?  
No, to both questions.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?       None.
27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?       No.
28. Have you sought or received the pledge of any legislator prior to this date?       No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?  
No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
No, to both questions.
31. Have you contacted any members of the Judicial Merit Selection Commission?       No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?   Yes.

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

s/ Peter L. Fuge

Sworn to before me this 9<sup>th</sup> day of August, 2009.

Notary Public for South Carolina

My commission expires: 12-23-2012



**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying:  
Family Court, Judge for the Fourteenth Judicial Circuit, Seat 2

1. NAME: Mr. Peter L. Fuge  
BUSINESS ADDRESS: PO Box 1124  
Beaufort, SC 29901  
E-MAIL ADDRESS: pfugej@sccourts.org  
TELEPHONE NUMBER: (office): 843-470-5283
2. Date of Birth: 1947  
Place of Birth: Springfield, MA
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 4, 1970, to Meredith Brantley Fuge. Never divorced, three children.
6. Have you served in the military? No.
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, 1965 to 1970;
  - (b) B.S. Degree in Business Administration;
  - (c) University of South Carolina School of Law, 1971 to 1974  
J.D. Degree.
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.

I have been admitted to practice in all state courts of South Carolina since 1974 and the U.S. District Courts in 1977. I have not taken the bar exam for any state other than South Carolina. I have been a member in good standing since admission to practice. I have only taken the bar exam once.
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.

As an undergraduate, I was a member of Phi Kappa Sigma Fraternity and held several offices. In Law School, I was a judge in the Student Court for the University of South Carolina and I was also an officer of the Student Bar Association.

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) Estate Planning in SC                   | 6/21/02         |
| (b) Hot Tips - Domestic (Speaker)           | 9/20/02         |
| (c) Hot Tips – Domestic (Speaker)           | 9/13/03         |
| (d) Family Law Section Mtg. – Midwinter Bar | 1/23/04         |
| (e) Hot Tips – Domestic (speaker)           | 9/24/04         |
| (f) Revised Lawyer’s Oath CLE               | 10/8/04         |
| (g) Solo & Small Firm Section               | 1/20/05         |
| (h) Family Law Section – Midwinter Bar)     | 1/21/05         |
| (i) Young Lawyers Div.                      | 1/22/05         |
| (j) 60 Tips to Build Successful Practice    | 4/22/05         |
| (k) Hot Tips – Domestic (Speaker)           | 9/23/05         |
| (l) Domestic Violence & Crim. Just. Sys.    | 6/9/06          |
| (m) Hot Tips – Domestic (Speaker)           | 9/22/06         |
| (n) Judges & Attys. Sub. Abuse & Ethics     | 12-1-06         |
| (o) Alaska at Sea CLE                       | 8-2-07 – 8/5/07 |
| (p) SCTL A                                  | 8/2/07          |
| (q) Hot Tips – Domestic (Speaker)           | 9/21/07         |
| (r) 2008 Orientation School                 | 6/4/08          |
| (s) 2008 Judicial Conference                | 8/20/08         |
| (t) Family Court Judges' Conference         | 4/22/09         |

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.

- (a) “Alimony”  
SCTLA Annual Meeting  
August 14-16, 1986;
- (b) “Trends: Retirement & Pension”  
SC Bar Annual Meeting  
June 16-19, 1988;
- (c) “Getting and Keeping Military Benefits”  
Hot Tips from the Experts  
February 1989;
- (d) “Returning Military Dependents to the United States: The Survivor’s Benefits Plan in Marital Dissolution Actions”  
Hot Tips from the Experts  
June 1990;
- (e) “1990 Alimony Statue and Other Alimony Issues”  
Family Law Issues CLE  
November 1990;
- (f) “Other Alimony: What is it and Sequestration to Preserve Assets”

- Hot Tips from the Experts  
May 1992;
  - (g) Moderator  
Mid year Meeting of the South Carolina Bar  
January 24, 1997;
  - (h) "Common Evidentiary Problems in Family Court Cases"  
Hot Tips from the Experts  
August 1998;
  - (i) "Clauses in Marital Settlement Agreements Which May Help Avoid  
Common Pitfalls"  
Hot Tips from the Experts  
September 2002;
  - (j) "A Survey of Recent Developments in the Law Concerning Antenuptial  
Agreements"  
Hot Tips from the Experts  
September 2003;
  - (k) "Pitfalls You May Incur if Your Settlement Agreement Provides for  
Court Ordered Arbitration or Mediation"  
Hot Tips from the Experts  
September 2004;
  - (l) "What Happens When One of the Parties Dies During Litigation"  
Hot Tips From the Experts  
September 2005;
  - (m) "Putative Father Registry"  
Hot Tips from the Experts  
September 2006;
  - (n) "Temporary Hearings and Temporary Relief in the Family Court"  
Hot Tips from the Experts  
September 2007;
  - (o) "The 7 Habits of Highly Ineffective People"  
SCAJ Annual Convention  
August 2009.
12. List all published books and articles you have written and give citations and the dates of publication for each.  
None, other than the written seminar materials I presented as a speaker.
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 - admitted 1974;
  - (b) United States District Court - admitted 1977.
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.

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

(a) If you are a candidate for Administrative Law Judge, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

1974-76 Dowling, Dowling  
Sanders & Dukes, P.A.  
Beaufort, SC  
General Practice

1976-77 Peter L. Fuge  
Attorney at Law  
Beaufort, SC  
General Practice

1977-80 Fuge & Denton, P.A.  
Beaufort, SC  
General Practice

1980-95 Harvey & Battey, P.A.  
Beaufort, SC

During the early stages of my practice at Harvey & Battey, I was the general practice of law with a primary emphasis on litigation. As time went on, I began to focus on the field of matrimonial law. Since the early 1980's, the general emphasis of my practice has been in domestic relations.

1995 to 2/08 Peter L. Fuge, P.A.; Beaufort, SC

General Practice with emphasis on domestic relations.

02/2008 to Present Family Court Judge; 14<sup>th</sup> Judicial Circuit, Seat 2

15. What is your rating in Martindale-Hubbell? A/V.

22. Have you ever held judicial office? Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court.

Yes. In February 2008, I was elected by our Legislature to Family Court Judge, Fourteenth Judicial Circuit, Seat 2, Beaufort, South Carolina. Jurisdiction of the Family Court as set forth in §20-7-420 *et. seq.* South Carolina Code, Ann.

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.

I am a new judge. I was sworn in in April of 2008 to fill Judge Jane Fender's unexpired term. To my knowledge none of my opinions have been appealed. I try to take the time to draft a lot of my own orders when faced with difficult facts or hard decisions. A sampling of the orders are as follows:

(a) Kimberley O'Dell v. Todd B. O'Dell  
Case No. 2006-DR-07-380

I include this order to show the court that I attempt to be as thorough as possible when applying the law to the facts. This is an Order on Rule to Show Cause and it discusses the use of a Limited Power of Attorney not revoked by the wife which was sent to the husband's counsel under the misimpression that she would receive a portion of the proceeds from the sale of real estate and the husband's unilateral decision to lower support without prior court approval;

(b) Natasha Lynn Langford v. Samuel Elliot Langford  
Case No. 2009-DR-07-499

I include this simple temporary order for the purpose of showing that the focus of a temporary order should be to maintain the status quo. This young couple had been operating under a week on - week off visitation arrangement for a very long time. The mother and the father lived separate and apart after separation but in January of 2009 the mother began the week on - week off arrangement which continued until approximately May 1, 2009. It was my intention to insure that both parties were treated equally in the custody determination. I attempted to establish as many safeguards as possible to protect the children from any immoral or dangerous conduct;

(c) Thomas M. Dailey v. Susan M. Centeno, f/k/a Susan M. Dailey  
Case No. 2007-DR-07-838

This Order discusses the issue of a reduction of child support based upon a substantial change of circumstances. The father used very poor judgment, but his problems were created by the downturn in the real estate market and his own personal bad choices. The prior Order was unattainable.

The prior order was issued by a North Carolina court while both parties continued to reside in South Carolina. I found there was a substantial change of circumstances and I relieved the father of the responsibility to pay for private school for two of the parties' children. The order discusses the father's inability to pay attorney's fees and I reviewed the E.D.M. v. T.A.M. case law before I made a decision to deny an award of attorneys fees. This man possessed few assets and he had no ability to pay attorneys fees. He was initially represented by counsel but he appeared pro se at the final hearing;

(d) Rosella Joyner v. Wendell V. Roberson, Sr.  
Case No. 2008-DR-07-1717

I enclose this order because I believe it was obvious to this court that there had been continuous litigation between the parties since 2002 concerning the issue of custody. Although the parties appeared pro se I treated them the same as I would treat any other litigant and I required them to comply with Rule 4 of the ADR Rules as well as our laws concerning the appointment of a Guardian ad Litem.

The prior orders were attached to the order as exhibits to explain the history of this case and I believe that this is a fair order which treats pro se litigants

with respect, but requires them to comply with our Rules of Civil Procedure and the Family Court Rules;

(e) Pamela Boatright, n/k/a Pamela Wilderom v. Matthew Boatright, and Cliff and Deborah Boatright  
Case No. 2007-DR-07-1339

I tried to be as thorough as possible and I issued a lengthy memo to counsel which the order tracks. This is a sad case because you can see that the grandparents love their grandson very much but they came to believe they would exclude the biological mother from this child's life. I followed the recent decision of Moore v. Moore and I applied the law to the facts. The mother was possessed of limited resources yet she continued to fight for the custody of her son. She was awarded custody by this court on July 28, 2009.

24. Have you ever held public office other than judicial office? 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?

I was the City Prosecutor for the City of Beaufort from 1979-1981. I was appointed and upon completion of my term, I was awarded a citation from the City of Beaufort for my good work.

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. None.

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

I ran for Family Court Judge for the Fourteenth Judicial Circuit in 1998 and lost by one (1) vote to the Honorable Robert S. Armstrong. We have remained good friends. He has served our state well.

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?

When I first moved to Beaufort after graduating from law school, I taught business law at the Technical College of the Lowcountry on a part time basis for a few years. Over the years, I have taught a paralegal course at the Technical College of the Lowcountry as a community service on behalf of the local bar.

28. Are you now an officer or director or involved in the management of any business enterprise? No.

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. None.

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?

While attending undergraduate school in 1967 and 1968 at the University of South Carolina, I was involved in two fraternity party incidents which resulted in me being charged with disorderly conduct or some other minor infraction. All charges were dropped. I do not specifically recall the details of the incidents other than they both took place at fraternity parties where twenty or thirty people were rounded up for being too loud.

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?

In 1992, I was sued by Susan Crowley, who was represented by Mr. James Lee Murphy. I represented Mr. Murphy's wife in a divorce action and he solicited this client falsely claiming malpractice and allegedly promising Ms. Crowley a large recovery. After four years of accepting the benefits of a written settlement agreement she reached with her husband, which was approved by the Court, Ms. Crowley became dissatisfied with the same. She alleged legal malpractice. I was represented by Homes & Thompson. We filed a Motion for Summary Judgment, which was granted. That Order was appealed. On appeal, the Order was reversed. Thereafter, it was settled for a nuisance value.

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.
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. None.

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. None.
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. None.
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? No.
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? No.
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, 1974 to present
    - Family Law Section Council
    - Secretary, 1994
    - Vice Chairman, 1995
    - Chairman, 1996
    - House of Delegates, 1995 (to fill unexpired term of Jane Fender)
    - Lawyers Caring About Lawyers, 1990 to 2002
    - Lawyers Helping Lawyers, committee member, 2002 to 2007;
  - (b) Supreme Court Commission on Continuing Legal Education & Specialization
    - Commission Member 1990-96
    - Chairman, 1995-96
    - Family Law Specialization Advisory Board (Past Chairman);
  - (c) American Bar Association, 1979 to present
    - Member, Family Law Section
  - (d) South Carolina Trial Lawyers Association, 1974 to present



Family Law Section  
Chairman 1986 to 87;

- (e) Association of Trial Lawyers of America, 1979 to present;
- (f) Board of Directors for Beaufort County Drug Court  
Board member 2004 to 2007;
- (g) National Council of Juvenile and Family Court Judges  
Member 2008 to present.

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.

None, except for church affiliation with Church of the Cross, Episcopal Church, 110 Calhoun Street, Bluffton, SC 29910.

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 am of Irish ancestry and my family has been riddled with the disease of alcoholism. I was fortunate enough to join AA and on December 25, 1985, stopped drinking before bad things happened. My older brother had a terrible time with alcohol and I chose not to follow his path. I have remained abstemious from alcohol since December 25, 1985. I have had the privilege of helping other members of the Bar and members of the general public recover from alcoholism. This has been one of the most positive influences in my life.

I helped draft the bylaws of the South Carolina Bar's Lawyers Helping Lawyers. I was a member of the selection committee when we chose Robert Turnbull, Esquire to be the Committee Director and I served on the Board until 2007. I try to be an example to others. I am honored to have helped many good men and women overcome their drinking problems and be restored to a responsible and productive life.

For many years, I have been a member of the steering committee for the annual Attorneys and Judges Substance Abuse and Ethics seminar put by MUSC and the South Carolina Bar. We present a seminar annually at MUSC to educate attorneys and judges concerning the legal issues facing the bench and bar and developments in the law concerning substance abuse and related issues.

I am starting a Juvenile Drug Court in Beaufort County. I will work for free. Our first hearings are tentatively scheduled to begin in two weeks. I have been working for many months on this project.

49. References:

- (a) Reverend Charles E. Owens, III  
The Church of the Cross  
110 Calhoun Street  
Post Office Box 278

- Bluffton, South Carolina 29910  
(843) 757-2661
- (b) Dr. B. Perry Woodside, Ph.D.  
Dixon Hughes, PLLC  
525 East Bay Street  
Charleston, SC 29403  
(843) 722-6443
- (c) James L. Rowe, President  
Kingshorn Insurance Company  
51 Haul Away  
Hilton Head Island, South Carolina 29928  
(843) 785-2101
- (d) Hubert L. Bernheim, C.P.A.  
Post Office Drawer 9  
Hilton Head Island, South Carolina 29938  
(843) 671-6005
- (f) Brian Jackson, Vice President  
Carolina First Bank  
110 Buckwalter Parkway  
Bluffton, South Carolina 29910  
(843) 757-7595

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: Peter L. Fuge

Date: 8/24/09



State of South Carolina  
The Family Court of the Fourteenth Judicial Circuit

**PETER L. FUGE**  
JUDGE, FAMILY COURT  
FOURTEENTH JUDICIAL CIRCUIT  
Allendale, Beaufort, Colleton  
Hampton and Jasper Counties

102 Ribaut Road  
Post Office Box 1124  
Beaufort, SC 29901  
Phone: (843) 470-5283  
Fax: (843) 470-5285

November 2, 2009

VIA e-mail: [jig@scsenate.org](mailto:jig@scsenate.org) & facsimile (803)212-6600

Joseph James Gentry, Esq.  
S.C. Senate Judiciary Committee  
PO Box 142  
Columbia, SC 29202

Re: Matthew A. Gregory, Sr. - Complaint to Judicial Merit Selection Commission

Dear Mr. Gentry,

Enclosed herewith please find a transcript of the September 15, 2009 hearing, which Mr. Matthew A. Gregory, Sr. complains of. Please also find Page 18 of the Guide for New Family Court Judges, issued June 5, 2008 by the Children's Law Center, which deals with probable cause hearings and some hospital notes that were attached to her pleadings.

Mr. Matthew A. Gregory, Sr. claims to be the brother of the putative father, John Gregory, II. John Gregory, II, is presently incarcerated in the State of North Carolina at New Hanover Correctional Facility. Sheila Rogge lives with Matthew A. Gregory, Sr. and allegedly cares for his children. No paternity tests have been performed and the true father of Baby [REDACTED] is unknown at this time. Ms. Rogge chose not to testify because of the potential criminal implications of her delivering the child with drugs in both her and the child's system.

Of particular interest is testimony of the caseworker. She testified that Ms. Rogge and the baby both tested positive for illegal substances. Mr. Matthew A. Gregory, Sr. has marked up the medical notes so I have provided clean copies.

Matthew A. Gregory, Sr. attempted to provide expert testimony concerning drug testing. Upon objection by the South Carolina Department of Social Services counsel the court

disallowed his testimony as an expert. The putative paternal grandfather, Mr. John Gregory, Sr., was in the courtroom during the Probable Cause Hearing (PCH). You can see at Page 21 of the transcript that John Gregory, Sr., stood up in the courtroom and screamed out, "...They're not, judge that's a lie". I had him removed from the courtroom and at the conclusion of the hearing I conducted a contempt hearing concerning his conduct. Pages 24-29 of the Transcript deals with that hearing and ultimately I admonished this man and released him.

In summary, Ms. Rogge was not authorized to present any witnesses at the Probable Cause Hearing. I attempted to accommodate her to insure that justice was served. Mr. Matthew A. Gregory, Sr. did give, what he perceived to be, expert testimony for which he was not qualified. DSS counsel objected and her objection was sustained. Mr. John Gregory, Sr. screamed out during the court proceedings. I had him removed from the courtroom and ultimately I decided not to hold him in contempt.

I believe that my actions preserved the integrity of the court and, of course, the best interest of the child was my paramount concern. Please find some of the medical notes from the Medical University of South Carolina (MUSC) and Beaufort Memorial Hospital. This child was born premature with illegal substances in his system. He went through withdrawals and seizures and he was transported to the Medical University of South Carolina. On the way to MUSC he also experienced seizures. He stayed at MUSC for approximately one week and was returned to Beaufort Memorial Hospital where he stayed another week. Ms. Rogge told the court in open court that she is a patient and attends a methadone clinic, Transcript page 19. She denies using drugs other than methadone. Other drugs were found in the baby's system.

Sometime after the hearing Ms. Rogge underwent a hair analysis. The test was negative for all drugs, including methadone. Upon receipt of the test I knew something was wrong because she admitted she was attending a methadone clinic. I immediately ordered her to be re-tested. The new test results showed positive for methadone and negative for other drugs, but the person who administered the test sent correspondence advising the court that she had chemically altered her hair and shaved her entire body. On the date of the hearing her hair was one color and on the day of testing it was another.

The merits hearing is scheduled for later this month. Because of the conduct of the parties and the untruthful allegations of Matthew A. Gregory, Sr., I have decided to recuse myself from any further hearings in this matter.

With kind regards, I am

Respectfully yours,

Peter L. Fuge

Enclosures

(Transcript being sent via e-mail)

STATE OF SOUTH CAROLINA )  
 ) IN THE FAMILY COURT  
COUNTY OF BEAUFORT ) 2009-DR-07-1363  
  
Department of Social )  
Services, )  
 )  
PLAINTIFF, ) TRANSCRIPT OF RECORD  
 )  
VS. ) September 15, 2009  
 )  
Sheila Rogge, Et Al\*\*\*, ) Beaufort, South Carolina  
 )  
DEFENDANTS. )  
\_\_\_\_\_ )

B E F O R E:

THE HONORABLE PETER L. FUGE, Judge

A P P E A R A N C E S:

TRACY KLATT, Esquire  
Attorney for the Plaintiff

SHEILA ROGGE, Self-Represented Litigant

MISSY BROWN  
Court Reporter

I N D E X

| <u>WITNESS</u>               | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|------------------------------|---------------|--------------|-----------------|----------------|
| MAGNELIA COTTRELL***         | 4             | 10           |                 |                |
| MATTHEW GREGORY              | 17            |              |                 |                |
| JOHN GREGORY, SR. (CONTEMPT) | 24            |              |                 |                |

E X H I B I T S

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EV</u> |
|------------|--------------------|-----------|-----------|
|------------|--------------------|-----------|-----------|

NO EXHIBITS PRESENTED DURING HEARING

1 P R O C E E D I N G S

2 SEPTEMBER 15, 2009

3 MS. KLATT: This is case number 2009-DR-07-1363  
4 in the interest of [REDACTED]\*\* and [REDACTED].  
5 Defendant Sheila Rogge is present. She is not yet  
6 represented by counsel. Magnelia Cottrell \*\*\* is here on  
7 behalf of DSS. Also present today are Matt Gregory who is  
8 we believe the paternal uncle of the infant child [REDACTED]  
9 [REDACTED].

10 This is a probable-cause hearing. The children were  
11 placed into emergency-protective custody yesterday,  
12 September 14, 2009, pursuant to an ex-parte order requested  
13 by DSS. We received a report that [REDACTED] [REDACTED] was born on  
14 September 2<sup>nd</sup> 2009 and tested positive for cocaine, opiates,  
15 benzos, marijuana, barbituates, methadone and amphetamines.

16 And Ms. Cottrell \*\*\* is here to testify to the facts  
17 of the removal.

18 THE COURT: Put her on the stand. Come forward.  
19 Swear her in, please.

20 **MAGNELIA COTTRELL\*\*\*,**

21 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

22 THE COURT: All right. Your witness.

23 DIRECT EXAMINATION BY MS. KLATT:

24 Q. Ms. Cottrell, when did you first become involved with  
25 Sheila Rogge?



1 A. The Department received a report on August 5<sup>th</sup> and the  
2 investigation was initiated that day. And I went to the  
3 home, the address 44 Rice Circle, and spoke with Ms. Rogge.  
4 And she was at home. I let her know why I was there due to  
5 the allegations of the report.

6 And she informed me that she was attending the  
7 methadone clinic and she did not have prenatal care for her  
8 two-year old -- I mean for her baby that she was carrying.  
9 And she had not had any medical care for the child that was  
10 two-years old, [REDACTED]. And -- And I asked her, you know,  
11 why. And she said she just didn't have whatever paperwork  
12 she needed like birth certificates and stuff to take down  
13 there.

14 While I was there I called Beaufort Pediatric and  
15 scheduled an appointment for her that very day because I  
16 told her her child needed to be cared for. We also made an  
17 appointment for her to receive prenatal care.

18 She told me she was attending the methadone clinic  
19 every day. And I asked her what was her drug of choice.  
20 At first she told me it was methadone. I said, that  
21 doesn't make any sense. Tell me what you mean. You on  
22 methadone to get off of methadone or what? And she said,  
23 well, it's cocaine. She said, it's not crack; it's  
24 cocaine.

25 So I told her that the long length of time that she

1 had been taking the drug, I said, your baby's going to be  
2 on the drug too. And she said that she was told that her  
3 baby would not be born addicted to this methadone.

4 And so I did make contact with her again. There were  
5 other children in the home and I asked her about those  
6 kids. And she told me that was her -- the baby she was  
7 carrying, brother's home that she was living in with the  
8 four children that she cared for during the day while he  
9 was at work.

10 And I saw the house. It was a very nice house. The  
11 children's bedroom, I saw where the girls stayed and the --  
12 the boys stayed. And she said her and Matt shared a  
13 bedroom.

14 She told me that the baby's dad was locked up in  
15 prison in North Carolina.

16 And it was later on that I called her back questioning  
17 her about the other children in the home because I was  
18 concerned about their care and their welfare also. And at  
19 that time she did not want to talk to me because she said  
20 that those children were not a part of the case, that the  
21 case was merely concerning her. So I said, okay, we can  
22 work -- work with that, I said, if you don't want to talk  
23 about those other children.

24 So I called her so we could schedule another  
25 appointment for this month. At that point she told me that

1 she had had the baby in September. She had the baby  
2 September 2<sup>nd</sup>. The baby was born here in Beaufort Memorial.  
3 And the baby -- She didn't tell me at that time, but I  
4 later learned that the baby had seizures. So Beaufort  
5 Memorial had the child transported to MUSC.

6 At MUSC -- The child was born weighing I think 4.6  
7 pounds. And so they weren't going to release the child  
8 until it gained some weight and everything.

9 In the process of time the child was test -- drug  
10 tested and there were five or seven different drugs found  
11 in the system. And we have the report from Beaufort  
12 Memorial. And that's when we began to initiate the ex  
13 parte.

14 Q. Did Ms. Rogge test positive for any drugs when the  
15 child was born?

16 A. She tested positive for methadone is the only  
17 paperwork I have on her.

18 Q. And have you been able to determine who -- who the  
19 fathers of her children are?

20 A. She gave me names. Her -- her oldest son, a two-year  
21 old, [REDACTED]\*\*\*, and I think his father's name  
22 is also [REDACTED]\*\*\* or however you pronounce that.  
23 And she said that [REDACTED], [REDACTED]'s father is Gregory.  
24 And his name is... (looking through file) Okay. His name  
25 is John A. Gregory, II. And he is currently incarcerated

1 in New -- New Hanover Correctional Facility in North  
2 Carolina. And those were their two fathers.

3 She told me she didn't have any contact with her baby,  
4 who she calls, [REDACTED], she doesn't have any contact with his  
5 father. She doesn't receive any support from the father.

6 Q. Does she have any idea where he is?

7 A. No, I don't think she does.

8 Q. Does Ms. Rogge have any relatives in the area?

9 A. At first she told me her rel -- her mom lived in North  
10 Carolina. As recently as we had the report for the ex  
11 parte I spoke with grandparents on last evening who are  
12 interested in [REDACTED] the youngest, coming to live with  
13 them and possibly the two-year old, [REDACTED]

14 Q. Now are these Ms. Rogge's parents or Mr. Gregory's?

15 A. These are Mr. Gregory's parents.

16 Q. Are they here today?

17 A. Yes.

18 Q. And where do they live?

19 A. He told me they lived in Myrtle Beach, South Carolina.

20 Q. What is the medical condition of the infant at this  
21 time?

22 A. The child now is currently at Beaufort Memorial  
23 Hospital, is scheduled to be discharged today. The child  
24 was having seizures as late as Friday. I think is the last  
25 -- Thursday's the last report that I heard. But he's

1 supposed to be gaining weight and looking better. And --  
2 But he's currently at Beaufort Memorial and I hope that he  
3 will be discharged today.

4 Q. Has the hospital discovered the cause of these  
5 seizures?

6 A. I think it's in relationship with the paperwork that I  
7 have from Beaufort Memorial to the -- the methadone and  
8 drug use of Ms. Rogge.

9 Q. What are your recommendations for the Court today?

10 A. My recommendation today is that there is probable  
11 cause for the removal of the children and that [REDACTED]  
12 [REDACTED]\*\*\* and [REDACTED] remain in the custody of DSS, that  
13 Sheila Rogge submit to hair-follicle testing and that we  
14 schedule a merits hearing.

15 MS. KLATT: Thank you. No further questions.

16 THE COURT: Wow. Okay. Anybody else have any  
17 questions of this witness?

18 MS. ROGGE: Yes.

19 THE COURT: Somebody wants to ask a question?

20 MS. ROGGE: Yes.

21 THE COURT: Certainly.

22 MR. JOHN GREGORY, SR.: May I speak?

23 THE COURT: No, you may not.

24 Ma'am?

25 MS. ROGGE: I would like to ask ---

1 THE COURT: Well, then stand up and ask. It's  
2 okay.

3 Stand right there.

4 MS. ROGGE: Okay.

5 THE COURT: Just stand right there and ask your  
6 questions.

7 MS. ROGGE: Okay.

8 CROSS EXAMINATION BY MS. ROGGE:

9 Q. With the baby, [REDACTED], I was told that he was having  
10 seizures only after he was born at ---

11 THE COURT: No, this isn't for you to testify.  
12 This is for you to ask her questions. So if you have a  
13 question for her, ask her a question.

14 Q. Do you know who told you or what doctor's name or  
15 nurse told you that his last seizure was Friday?

16 A. I have a report from the hospital saying that is why  
17 the child had to remain in the hospital, because of  
18 seizures. And they said several seizures. So they could  
19 have been several in the past or they could have been  
20 several that day, but they -- I believe it was Thursday  
21 when I heard that.

22 Q. Okay, because I was told that he is not having  
23 seizures, that's not -- since he was born.

24 What day -- We had scheduled an appointment. May I  
25 ask why I wasn't informed on anything that was going on

1 considering you guys taking the children out of the home?

2 A. We did schedule an appointment. I think we scheduled  
3 it for the eighteenth because that's the time you said that  
4 you would be straight from doing -- At that time the child  
5 was at MUSC and you said that you had an appointment for, I  
6 think it was [REDACTED], on the eleventh and you couldn't get in  
7 before that time. So that's why it was put off until the  
8 eighteenth for us to conduct a face-to-face visit at the  
9 home.

10 In the meantime is when the hospital contacted us  
11 about all these drugs in the child's system and the child  
12 having seizures and we getting reports from MUSC and from  
13 Beaufort Memorial is when we started the ex parte. You  
14 were notified of the ex parte the day that we conducted it.

15 Q. Uh-huh. But also you said that I had told you that I  
16 had an appointment for [REDACTED]

17 A. You did.

18 Q. You also said that I did not have any prenatal care  
19 for ---

20 A. In the five months since you had been in South  
21 Carolina you told me the child had not had a doctor here  
22 since you'd been here.

23 Q. Okay. So, -- The drug test that you guys had  
24 scheduled for me, may I ask if you found any -- any drugs  
25 from that test other than methadone?

1 A. I haven't got the results of that test back.

2 Q. Okay. But how long ago did you schedule that for?

3 A. When I talked you about last week or week before last  
4 I told you that the personnel that conducts that was on  
5 vacation. And I told you as soon as she got back I was  
6 going to ask her about it. We haven't gotten the results  
7 of that yet.

8 Q. Okay. About what -- what date did I take that? Do  
9 you recall?

10 A. No, ma'am.

11 Q. Okay. Because it's been several -- at least a month.

12 A. I don't think it's quite that long, Ms. Rogge. But I  
13 can kind of do some research on it when I get back to the  
14 office. But right now I don't know the exact date that you  
15 took the test. I know the exact -- I probably have the  
16 exact date that you told me you were going. Until I get  
17 the results back I wouldn't know.

18 Q. Yes, ma'am. Did you say that you had a paper or any  
19 kind of evidence stating that there was proof of cocaine in  
20 the drugs -- in the child?

21 A. We have a medical report, yes.

22 Q. Is it a report or is it proof of drugs in the child?

23 A. Medical notes. We have that.

24 Q. May I see it, please?

25 A. Ms. Klatt?



1 MS. KLATT: Your Honor, if I may, it's attached  
2 to the summons and complaint, which -- and she has a copy  
3 of that.

4 MS. ROGGE: All right.

5 Q. Would this be it, ma'am?

6 THE COURT: I don't have it attached to mine.

7 A. Yes.

8 MS. ROGGE: May I bring this to you?

9 THE COURT: Maybe it's because -- Don't step  
10 forward. Just give it to her. Give it to the bailiff.

11 MS. KLATT: Your Honor, it should be attached to  
12 the summons and complaint.

13 THE COURT: Okay. Yeah, here it is.

14 BY MS. ROGGE:

15 Q. Now, in this report I believe that it says that this  
16 is just what the baby was tested for. I don't see where it  
17 says that this was found in him. It says that they did a  
18 drug screen for the following. Now, in my opinion I  
19 believe that a drug screen does not indicate any kind of  
20 drugs being found in this child.

21 A. As late as yesterday we have this from the lab. And  
22 it's showing here where cocaine, positive.

23 Q. Yes, but do you have that?

24 A. It has Lazapan, positive, Hydrocodone, positive. And  
25 they said that it was such little merconium that they use

1 to test the baby with that they could only use one panel,  
2 that they're going to send off for further testing and  
3 that's being done at MUSC. And -- But we do have positive  
4 testing that I just -- that I think we just gave you.

5 THE COURT: I think we should put the Beaufort  
6 Memorial progress report dated 9/10/09 into the record. It  
7 says that the drug screen was positive for the following,  
8 cocaine, opiates, -- I can't read it. Benzos, marijuana,  
9 barbituates, methadone and amphetamines. They have  
10 contacted DSS and they will call later. It goes on.

11 Can we get an extra copy? We can put that in the  
12 record. Well, it's in the emergency -- I'd like to take  
13 the one from the ex-parte order dated September 14<sup>th</sup>, we'll  
14 just take judicial notice of that. It's attached.

15 Okay. Do you have any further questions?

16 MS. ROGGE: Can -- Can I ask somebody else to  
17 come up? Or may I ask?

18 THE COURT: When she completes you'll be  
19 authorized to take the stand yourself or you can present a  
20 case for yourself or whoever you want. I want you to know  
21 that I'm going to order you to get counsel.

22 Are you employed, madam?

23 MS. ROGGE: No, sir, but ---

24 THE COURT: Okay. Well, then we'll deal with  
25 that.

1 Do you have any other questions of the witness?

2 MS. ROGGE: No, sir.

3 THE COURT: Okay. You may step down.

4 (The witness stepped down from the witness stand.)

5 This is -- Does DSS have any other witnesses they'd  
6 like to present?

7 MS. KLATT: No, sir.

8 THE COURT: Okay. Then we have the Beaufort  
9 Memorial report into evidence and the testimony of the  
10 worker. If you would like to present any evidence on your  
11 behalf, you may do so.

12 I must advise you though that what you -- that you  
13 have a -- I can't tell you what to do. But there are some  
14 criminal aspects to this trial. You may want to seriously  
15 consider whether or not you give any testimony. But you do  
16 what you want.

17 In America you don't have to testify against yourself  
18 and offer evidence against yourself. If you take the  
19 stand, you might very well wind up doing things to yourself  
20 that you would not wish -- that you would not intend. But  
21 you do what you need to do.

22 MS. ROGGE: Can you explain what you mean?

23 THE COURT: You can go to jail for having a baby  
24 -- delivering a baby with drugs in his system you can go to  
25 jail for it. It's a crime. I'm going to refer this case

1 to the Solicitor's office immediately for criminal  
2 investigation. So, ---

3 MS. ROGGE: Can I just ---

4 THE COURT: --- I want you to be advised that I'm  
5 going to do that. So, if you want to take the stand, you  
6 take the stand. But that's your decision. Because I'm  
7 going to send you down the hall to see if you can get an  
8 attorney appointed for you in this civil matter. And of  
9 course if you're arrested, that's an entirely different  
10 thing. Then you'll -- Then you might have to get a counsel  
11 or a public defender or whatever the case may be.

12 MS. ROGGE: I just want to show you that at the  
13 clinic that I'm going to, Recovery Concepts, ---

14 THE COURT: So, yeah. Swear her in.  
15 So if you want to testify, okay.

16 THE BAILIFF: Raise your right hand.  
17 Please raise your right hand.  
18 Ma'am?

19 MS. ROGGE: Can I get a ---

20 THE COURT: Either swear -- You either raise your  
21 right hand or sit down. You're -- Okay.

22 (Ms. Rogge sat down.)

23 THE COURT: Now, do you have witnesses that you'd  
24 like to present on your behalf that are relevant witnesses?

25 MS. ROGGE: Yes.

1 THE COURT: Relevant to the allegations about the  
2 drug use or the drugs that showed up in your child's  
3 bloodstream and the welfare of your other child?

4 MS. ROGGE: Yes.

5 THE COURT: Okay. You may call your witnesses.

6 MS. ROGGE: Matthew Gregory.

7 **MATTHEW GREGORY,**

8 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

9 THE BAILIFF: Okay. Have a seat and state your  
10 name and spell your last name for the Reporter, please.

11 THE WITNESS: My name is Matthew Gregory. Last  
12 name's spelled G-R-E-G-O-R-Y.

13 THE COURT: Your witness, ma'am.

14 Matthew, what, sir?

15 THE WITNESS: Gregory, G-R-E-G-O-R-Y.

16 THE COURT: Okay.

17 DIRECT EXAMINATION BY MS. ROGGE:

18 Q. Okay, Matthew. With these papers from Recovery  
19 Concepts we have proof of ---

20 MS. KLATT: Your Honor, I'm going to object to  
21 this unless Mr. Gregory is employed by the clinic.

22 THE COURT: Identify the witness.

23 Q. Mr. -- Mr. ---

24 THE COURT: Hold on. What is your -- Your name  
25 is Matthew Gregory. Where do you live?

1 THE WITNESS: I live at 44 Rice Point Circle in  
2 Beaufort, South Carolina.

3 THE COURT: 44 Rice Point Circle. I'll help you  
4 out here. In Beaufort?

5 THE WITNESS: Yes, sir.

6 THE COURT: Okay. And what do you do for a  
7 living?

8 THE WITNESS: I'm a software engineer and a  
9 system administrator.

10 THE COURT: So you work for the -- You sell  
11 software or you're involved with software, computers?

12 THE WITNESS: Software design and development.  
13 That's correct.

14 THE COURT: Okay. All right. And what is your  
15 relationship to this woman?

16 THE WITNESS: I am not her legal brother-in-law,  
17 but my brother and her were planning on getting married  
18 before his legal troubles. And I offered her a place to  
19 stay and in exchange of services while she lived in my home  
20 ---

21 THE COURT: You're a friend of hers.

22 THE WITNESS: Yes.

23 THE COURT: And she lived in your home?

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay.

1 THE WITNESS: And I'm also on her patient  
2 information release sheet and involved in her care at her  
3 treatment center.

4 BY MS. ROGGE:

5 Q. Have you witnessed me trying from the methadone clinic  
6 and staying clean at the home?

7 A. Yes, I have. Specifically I went with you the very  
8 first day when you got here to the methadone clinic and I  
9 asked them if you could be withdrawn from the methadone and  
10 how long it would take. And I asked them if they would do  
11 regular drug tests. And I made sure that it was very plain  
12 to both them and to you that my highest priority was for  
13 you to get done at the methadone clinic to finish the  
14 program because not only is it very expensive, but it could  
15 also cause problems for you.

16 Q. On the drug test from the methadone clinic, ---

17 MS. ROGGE: Which I do have here, Your Honor.

18 Q. --- in the past six months have I failed a drug test?

19 A. No, you have not. And I have seen all of the drug  
20 tests for the past six months. And I have very much been  
21 keeping track of things because I would not have anyone  
22 doing drugs in my home. And every single month for the  
23 past six months you have passed a drug test with nothing in  
24 your system except for methadone.

25 Q. Have you witnessed me trying my best to stay clean in

1 the methadone clinic?

2 A. Yes, I have. And more than that, they specifically  
3 told me in a meeting between you and I, the clinic  
4 counselor, the equivalent of a social worker for the  
5 clinic, and the nurse, a registered nurse, said that you  
6 would go into withdrawal and miscarry your baby if you went  
7 into the withdrawal program while you were pregnant.

8 Q. Now, what would occur if I had failed a drug test with  
9 say cocaine or opiates?

10 A. They would have immediately moved you out of the  
11 clinic and put you into a drug rehab program. That's  
12 according to their own documentation at the clinic.

13 MS. KLATT: Your Honor, I'm going to renew my  
14 objection.

15 THE COURT: Sustained. He has no -- There's no  
16 basis or foundation for this.

17 MS. ROGGE: Your Honor, may I show you drug tests  
18 that I've taken [sic] for the past six months?

19 THE COURT: If you want to take the stand now,  
20 you're going to waive your privilege. Now, so you do what  
21 -- You listen to me.

22 Have you got some relevant evidence from this witness  
23 as to why your child was born with cocaine, opiates,  
24 benzos, marijuana, barbituates, methadone and amphetamines  
25 in the child's system ---



1 MR. JOHN GREGORY, SR.: They're not, Judge.  
2 That's a lie.

3 THE COURT: I want him out of here.

4 (Deputy approached Mr. John Gregory, Sr.)

5 THE COURT: What is this man's name?

6 MR. JOHN GREGORY, SR.: I'm John Gregory, Sr.

7 THE COURT: Fine, Mr. Gregory.

8 I'd like this gentleman placed under arrest. Put him  
9 in the back room. I'll deal with him in a minute.

10 THE DEPUTY: Okay.

11 (Whereupon, Mr. John Gregory, Sr., was taken into  
12 custody.)

13 THE COURT: I'm not going to allow any contempt  
14 of court. You think you're going to have disrespect for  
15 this Court? You're not.

16 Take him out of here.

17 THE DEPUTY: Sir, right here.

18 THE COURT: Put him ---

19 MR. JOHN GREGORY, SR.: I'd like to say  
20 something.

21 (Mr. John Gregory, Sr., was taken out of the courtroom  
22 by the deputy.)

23 THE COURT: Now, do you have any first-hand  
24 evidence explaining why this child had all these in there?

25 THE WITNESS: Yes, sir. May I answer that ---

1 THE COURT: First hand. You gave a test? You  
2 gave a blood test to the child?

3 THE WITNESS: No.

4 THE COURT: Okay, then.

5 THE WITNESS: I was simply ---

6 THE COURT: What first-hand evidence do you have  
7 ---

8 THE WITNESS: That I asked ---

9 THE COURT: --- that a little baby was --- that  
10 he doesn't have that in his system?

11 THE WITNESS: That I asked about that exact same  
12 thing and that it was a drug test plus, not a drug test  
13 positive.

14 THE COURT: Okay. Fine. You can sit down.  
15 Do you have anything else you want to ask him?

16 MS. ROGGE: No, sir.

17 THE COURT: Okay. All right.

18 (The witness stepped down from the witness stand.)

19 THE COURT: Do you have any other witnesses that  
20 you want to present?

21 MS. ROGGE: No, sir.

22 THE COURT: Okay. Fine. All right.

23 Do you have a recommendation for the Court?

24 MS. KLATT: Yes, sir. We would ask -- request  
25 that the Court find that there was probable cause to place

1 the children in emergency-protective custody, that DSS  
2 retain legal custody of both children, that Ms. Rogge and  
3 Mr. Gregory allow DSS to make a home visit as required by  
4 policy and state law.

5 THE COURT: I'm not sure Mr. Gregory has any  
6 standing in this case.

7 MS. KLATT: If Ms. Rogge is going to -- is --  
8 continues to live in his home, we would ask that he be  
9 cooperative as well.

10 THE COURT: Yes. But is there going to be a  
11 paternity test? Are we going to find out who the father is  
12 of this child?

13 MS. KLATT: Yes.

14 THE COURT: Thank you.

15 MS. KLATT: We also request that Ms. Rogge submit  
16 to a hair-follicle drug screen as soon as it can be  
17 arranged, that she have supervised visitation with the  
18 children at DSS. And that is all at this time. There will  
19 be -- The next hearing is scheduled for October 13<sup>th</sup>.

20 THE COURT: Okay.

21 Okay. I'll accept that recommendation. That will be  
22 the order of this Court and I will deal with the contemtor  
23 right now as well.

24 What else?

25 MS. KLATT: One additional request that Ms. Rogge

1 sign all necessary releases so that we can ---

2 THE COURT: Absolutely.

3 MS. KLATT: --- receive her records from Recovery  
4 Concepts.

5 THE COURT: Absolutely. And I'm going to send  
6 her down the hall right away to appoint a -- If she can,  
7 depending on what her financial circumstances are. She's  
8 watching four children. I'm sure she's employed. He's  
9 paying her something. So she can deal with the Clerk of  
10 Court and they'll tell you whether or not you're entitled  
11 to counsel. So you're -- If you're -- If she meets the  
12 qualifications, then I'll appoint an attorney for her. It  
13 will be the next one on the list. The Clerk is ordered to  
14 -- I'll order that she receive counsel.

15 MS. KLATT: Thank you.

16 (Whereupon, courtroom was cleared and Mr. John  
17 Gregory, Sr., was brought before the Court and the  
18 following proceedings were had:)

19 THE COURT: All right, sir. You -- I don't know  
20 who you are so you might want to tell the Court your name.

21 MR. JOHN GREGORY, SR.: My name's John Gregory.

22 And ---

23 THE COURT: What is your address?

24 MR. JOHN GREGORY, SR.: It's 204 Ashton Circle,  
25 Myrtle Beach, South Carolina.

1 THE COURT: Okay. Your zip code?

2 MR. JOHN GREGORY, SR.: 29588.

3 THE COURT: All right.

4 Sir, I am charging you with contempt of court. Your  
5 conduct is unacceptable, totally unacceptable.

6 And it is important that we preserve the order in  
7 judicial proceedings and we simply cannot allow people to  
8 do what you just did. Do you understand that?

9 MR. JOHN GREGORY, SR.: Yes, sir, I understand  
10 that, but some things I don't understand.

11 THE COURT: Well. What don't you understand?  
12 You understand you can't stand up and scream in Court?

13 MR. JOHN GREGORY, SR.: Yes, sir. I didn't  
14 scream, but I did make a statement.

15 THE COURT: Well, I kept a -- We have a record of  
16 what you said and an audio and I'm sure that whether or not  
17 you screamed or not will be something your lawyer will want  
18 to argue. But you -- I can tell you that you certainly  
19 screamed.

20 MR. JOHN GREGORY, SR.: May I talk with you?

21 THE COURT: No, I'm not going -- You can talk on  
22 the record. You can say whatever you want to say. If you  
23 have something to say, please, say it.

24 MR. JOHN GREGORY, SR.: I -- Sir, I felt like  
25 there was a little girl there that was being mistreated.

1 And she had some people here to try to help her and they  
2 weren't allowed to help her at all. And I read reports  
3 where she's had these drug tests and she's come back  
4 negative for everything except -- I can't think of what the  
5 drug is now that they're giving her at the clinic.

6 THE COURT: Uh-huh.

7 MR. JOHN GREGORY, SR.: And so I don't understand  
8 how anything could be in the baby when there's nothing in  
9 the mother. I was at MUSC with my wife. I talked to the  
10 nurses there. I asked them if the baby was going through  
11 withdrawals or having any problem from the methadone and  
12 they told me the baby was doing fine.

13 THE COURT: Okay.

14 MR. JOHN GREGORY, SR.: They didn't say anything  
15 about withdrawals. And I felt like that -- that she's been  
16 -- that she's done everything she can to solve the problem  
17 she had, which apparently was -- was taking pain  
18 medication. And she did admit she took cocaine one time  
19 back in February or March.

20 THE COURT: Uh-huh.

21 MR. JOHN GREGORY, SR.: But I can't see how she  
22 can be on any of these other drugs when they've told her if  
23 she doesn't -- The tests indicate she's clean from it. And  
24 she had those tests in her hand. She wanted to present  
25 them to you, but I wasn't seeing that -- that she was being

1 listened to or that anybody was ---

2 THE COURT: So you think you can just stand up in  
3 court and scream as a result of that?

4 MR. JOHN GREGORY, SR.: No, sir, I don't think  
5 so.

6 THE COURT: Okay.

7 MR. JOHN GREGORY, SR.: I just emotionally felt  
8 like that she was being mistreated and I just had a hard  
9 time taking it.

10 THE COURT: All right.

11 MR. JOHN GREGORY, SR.: I'm a Christian School  
12 principal. I've worked with children for 36 years. And I  
13 think this young girl was trying to do what was right.

14 THE COURT: Uh-huh.

15 MR. JOHN GREGORY, SR.: And I don't think what's  
16 been said about her is true. It's been testified in court  
17 and I think they believe it's true, but I don't think it is  
18 true.

19 THE COURT: Well, did you know that there's  
20 another hearing that will be heard, conducted in the very  
21 near.

22 MR. JOHN GREGORY, SR.: Yes, sir, I think it's  
23 next month.

24 THE COURT: You think so?

25 MR. JOHN GREGORY, SR.: Well, from what I saw in

1 the paperwork it said October something. And so in the  
2 meantime I'm concerned about her children being in somebody  
3 else's care.

4 THE COURT: Okay. But who -- Who are you to do  
5 this?

6 MR. JOHN GREGORY, SR.: Well, I'm the ---

7 THE COURT: Who appointed you -- Who appointed  
8 you the rule maker?

9 MR. JOHN GREGORY, SR.: I'm not appointed the  
10 role maker. I'm ---

11 THE COURT: Rule maker. Who are you to make the  
12 rules? I'm trying to figure out ---

13 MR. JOHN GREGORY, SR.: Sir, I didn't make the  
14 rules.

15 THE COURT: --- who you think you are to make the  
16 rules, what's fair, what's not fair. Are you related to  
17 her by blood?

18 MR. JOHN GREGORY, SR.: I'm related to her baby.

19 THE COURT: You are?

20 MR. JOHN GREGORY, SR.: Yes, sir.

21 THE COURT: Is there a paternity test  
22 establishing someone in your family as the father of this  
23 child which is born out of wedlock?

24 MR. JOHN GREGORY, SR.: No, sir.

25 THE COURT: Okay.



1 Well, I'm going to think about this for a minute. You  
2 go ahead and sit down. Sit him in the back room.

3 (Whereupon, proceedings stood at recess and were  
4 continued when the following matters were heard:)

5 THE COURT: All right. Mr. Gregory, I have  
6 considered your conduct and I know that what you did was in  
7 the heat of emotion. This is a probable-cause hearing.

8 I've thought about it. I sat back in my office for a  
9 minute or two. And I'm going to go ahead and let you go.  
10 But I'm telling you, if you ever come to my Court again and  
11 speak out like that, I'm going to have to hold you in  
12 contempt of court. It's wrong. It's just wrong.

13 But I am not going to -- I'm not going to become upset  
14 with you. I'm going to keep my head and I'm going to let  
15 you go with this admonishment.

16 Let him go.

17 MR. JOHN GREGORY, SR.: Thank you. And I do wear  
18 a hearing aid and I may have spoken louder than I thought I  
19 did. One of my hearing aids is broke.

20 THE COURT: Just go. Thank you.

21 \*\*\*END OF REQUESTED TRANSCRIPT OF RECORD\*\*\*  
22  
23  
24  
25