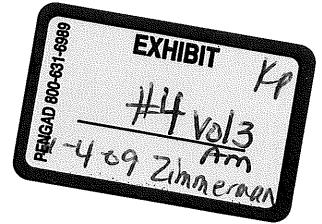


JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE



Court, Position, and Seat # for which you are applying:
Administrative Law Court, Seat 6

1. NAME: Mr. Lee W. Zimmerman
BUSINESS ADDRESS: 1301 Gervais St., 11th Floor,
Columbia, SC 29201
E-MAIL ADDRESS: lzimmerman@mcnair.net
TELEPHONE NUMBER: (office): 803-799-9800
2. Date of Birth: 1951
Place of Birth: Cincinnati, Ohio
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 August 10, 1974, to Nancy Picciano Zimmerman. Never divorced. Two children.
6. Have you served in the military?
Yes. June 1969 – July 1993, USAF, Lt. Colonel, 290-42-1438, Honorable.
Serial number: XXX-XX-XXXX
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) United States Air Force Academy, 1969-73, B.S.
 - (b) University of Pittsburgh, 1973-74, M.A.
 - (c) University of Colorado, 1978-81, J.D.
 - (d) The George Washington University, 1988-89, LL.M.
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.
 - (a) Colorado, 1981
 - (b) New York, 1993
 - (c) South Carolina, 2000
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.
College:
 - (a) Summer Research Program, B-1 Bomber Special Program Office, Wright-Patterson AFB, Ohio (Summer 1972)
 - (b) Flight Sergeant, Basic Cadet Summer Training (Summer 1971)
 - (c) Flight Commander, Spring Semester (1973)

- (d) Chairman, Rally Committee Dad's Day Weekend (1972)
- (e) Intramural Football (1969)
- (f) Water Polo (1969-70)
- (g) Swimming (1970)
- (h) Lacrosse (1970-72, Coach 1972)
- (i) Squash (1970-73)
- (j) Rugby (1971-73, Official 1972)

Law School:

- (a) Legal Intern, Lowry AFB, Co. (Summer and Winter Breaks 1978-81).
- (b) Air Force Institute of Technology Liaison Officer, University of Colorado (1980-81), responsible for administrative and managerial duties related to all active duty Air Force students at the University.
- (c) Conducted administrative hearing in Air Force ROTC cadet disenrollment action and reported finding to the ROTC Commanding Officer (1980).

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) Pros and Cons of Tort Reform | 1/20/2004; |
| (b) Administrative and Regulatory Law | 1/23/2004; |
| (c) Environmental and Natural Resources | 1/23/2004; |
| (d) Coming Technology | 2/24/2004; |
| (e) 33rd Annual ABA Env. Law Conference | 3/11/2004 |
| (f) Revised Lawyer's Oath | 9/21/2004; |
| (g) Best Ethical Practices | 9/24/2004; |
| (h) Effective Mediation Strategies | 10/26/2004; |
| (i) Admin and Reg. Law Committee Seminar (Presenter) | 1/21/2005; |
| (j) Environmental and Natural Resources | 1/22/2005; |
| (k) Attorney EDF Training | 1/10/2005; |
| (l) Civility, Presidents and Professions | 1/25/2005; |
| (m) Civil Court Mediation Certification | 2/10/2005; |
| (n) Tort Reform or Torts Deformed | 2/22/2005; |
| (o) Current Issues Update | 10/28/2005; |
| (p) Legal Jeopardy | 1/24/2006; |
| (q) New Court Developments | 2/21/2006; |
| (r) Loss Prevention | 3/25/2006; |
| (s) SCARLA Seminar and Annual Mtg. | 9/22/2006; |
| (t) Loss Prevention Team | 10/6/2006 |
| (u) Act 387 | 11/3/2006; |
| (v) Loss Prevention | 4/21/2007; |
| (w) SCARLA Conference | 9/21/2007; |
| (x) US Supreme Ct. and Punitive Damages | 10/16/2007; |
| (y) SC Bar – Env. And Nat. Res. Section | 1/24/2008; |

- | | | | |
|--|------|---------------------------------------|-------------|
| | (z) | SC Bar - Gov't and Admin. Law Section | 1/25/2008; |
| | (aa) | Attorney Disciplinary Counsel | 1/22/2008; |
| | (bb) | Trial by Jury | 4/9/2008 |
| | (cc) | Government Law Update | 6/20/2008; |
| | (dd) | Loss Prevention Presentation | 10/4/2008; |
| | (ee) | Expert Witnesses on Parade | 10/14/2008; |
| | (ff) | SCARLA Conference | 9/19/2008; |
| | (gg) | Discovery Problems and Abuses | 11/18/2008; |
| | (hh) | Municipal Attorneys Assoc. Mtg. | 12/5/2008; |
| | (ii) | Flowing from Bates v. State Bar | 1/20/2009. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- S.C. Bar Convention, Multi-jurisdictional Law Practice (1/2005).
 - N.Y.S. Bar CLE – Practice before the Dept. of Environmental Conservation (1999)
 - Toxic Tort Presentations, Regional Installation Restoration Program Workshops, Air Force Environmental Law Division (1986-88).
 - Adjunct Faculty, Air Force Judge Advocate General's School, Environmental Law and Advance Environmental Law (1989-93).
12. List all published books and articles you have written and give citations and the dates of publication for each.
- “Federal Agency Participation as a Potentially Responsible Party in CERCLA Section 122 Settlements at Third-Party Sites,” LL.M. Thesis, The National Law Center, George Washington University, 1991.
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.
- Colorado, October 30, 1981
 - U.S. District Court, District of Colorado, January 4, 1982
 - U.S. Court of Military Appeals, January 14, 1982
 - U.S. Supreme Court, March 27, 1989
 - New York State, May 1993
 - South Carolina, November 13, 2000
 - U.S. District Court, District of South Carolina, July 26, 2005
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.
- Assistant Staff Judge Advocate, United States Air Force Academy, 1981-83.
Claims Officer and Chief, Military Justice and Labor Law. Investigated tort and medical malpractice claims and adjudicated personnel and tort claims filed at the USAFA; represented management in administrative

hearings before the EEO and Merit Systems Protection Boards; Hearing Officer in cadet disenrollment cases; represented the Air Force in Special and General Courts-Martial, including a two-week premeditated murder case; Cadet Squadron Professional Ethics Advisor.

- (b) Deputy Staff Judge Advocate, Eielson AFB, Alaska, 1983-85.
Chief, Military Justice and Labor Law. Responsible for all military justice actions at a base with over 4,000 military and 600 civilian personnel; Article 32, UCMJ, Investigating Officer and Legal Advisor on Administrative Discharge Boards; lead prosecutor in ten courts-martial; Alaskan Air Command nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.
- (c) Staff Attorney and Chief, Environmental Torts, Air Force Claims and Tort Litigation Staff, Headquarters, USAF, 1985-89.
Analyzed major tort claims against the Air Force; represented the United States in over fifteen toxic tort cases alleging personal injury from asbestos exposure, radiation exposure, and ingestion of contaminated waste; negotiated and coordinated settlement of cases with the U.S. Department of Justice and U.S. Attorneys throughout the United States; provided inputs for responses to Presidential and Congressional inquiries; lectured on "toxic tort" liability to over 500 lawyers and engineers at seven regional workshops; appointed as a Special U.S. Attorney and a member of the Department of Justice trial team in Clark v. United States, the first toxic tort case litigated against the Department of Defense; Headquarters, Air Force nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.
- (d) Student, The National Law Center, The George Washington University, 1989-90.
Competitively selected by U.S. Air Force to obtain LL.M. in Environmental Law; one semester legal internship at Headquarters, U.S.E.P.A.
- (e) Regional Counsel, Air Force Central Region Environmental Office, Dallas, Texas, 1989-93.
Managed the legal office responsible for providing environmental legal services to the Air Force's Central Region Compliance Office and 40 major Air Force installations in the central United States; coordinated the resolution of potential liability with Department of Justice, EPA and private party attorneys at 45 Superfund sites; negotiated Compliance Agreements and Consent Decrees with EPA, state regulatory agencies, private potentially responsible parties, and contractors; developed a guidance manual for federal agencies named as potentially responsible parties at Superfund sites; conducted environmental compliance audits at Air Force facilities.
- (f) Attorney, East Amherst, New York, 1993-94.

Provided legal and environmental forensic consulting services to environmental contractors; kept clients informed of developments in environmental laws and regulations and advised clients on the marketing of environmental services to government and private entities.

- (g) Attorney, Division of Environmental Enforcement, New York State Department of Environmental Conservation, Western Field Unit, Buffalo, New York, 1994-95.

Provided legal support in enforcement of the state's Inactive Hazardous Waste Site Program; identified parties that were potentially responsible for site cleanup costs; negotiated consent orders for site investigation and remediation; coordinated site cleanup activities with other government agencies; ensured parties complied with consent orders.

- (h) Staff Attorney, Ecology and Environment, Inc., 1995-96.

Provided in-house corporate and environmental legal support; advised corporate officers on statutory and regulatory initiatives; conducted Applicable or Relevant and Appropriate Requirements (ARARs) analysis in the preparation of Remedial Investigations/Feasibility Studies at Superfund Sites; prepared protocols for environmental audits at major industrial facilities; supervised outside counsel in litigation involving remedial action contractor issues.

- (i) Hearing Officer, Office of Administrative Hearings, New York State Department of Social Services, Buffalo, New York, 1996-98.

Designated by the Commissioner of the Department of Social Services to conduct administrative fair hearings in nine counties in Western New York; elicited testimony from parties and directed cross-examination; identified and analyzed issues raised at the hearings; prepared complete and accurate records of the hearings; compiled and organized documentary evidence; reviewed hearing records, weighed the evidence, and drafted recommended decisions for the Commissioner's signature.

- (j) Assistant Regional Attorney, New York State Department of Environmental Conservation, Region 9, Buffalo, New York, 1998-2000.

Provided legal advice, counsel and assistance to Department of Environmental Conservation program staff; conducted legal and factual research on specific environmental legal issues; prepared notices of violation, administrative complaints, consent orders, litigation referrals, litigation papers, memoranda of law, and briefs; represented the DEC in environmental violation settlement negotiations; administratively settled 19 cases with total penalties of \$323,000; represented the DEC and staff in hearings and served as liaison with the Office of the New York Attorney General in litigation involving the DEC.

- (k) Senior Corporate Counsel, Safety-Kleen Corp., Columbia, S.C., 2000-02.

Provided legal advice to hazardous waste and solvent recycling facilities throughout the United States; negotiated settlement of regulatory and

enforcement actions with state environmental agencies; assisted outside bankruptcy counsel in identifying, evaluating, and resolving creditors' claims against company; established legal foundation for closure and post-closure care of the Pinewood Hazardous Waste Landfill.

(l) Special Counsel, McNair Law Firm, P.A., Columbia, S.C., 2002-Present.

Member of the Administrative/Regulatory Practice Unit. Represent industry and business in regulatory, land use, government relations, and health and safety matters; advise clients on regulatory permitting and compliance issues, including environmental due diligence in the sale/purchase of business and real property assets; represent companies named as potentially responsible parties at federal and state Superfund sites; represent clients before the South Carolina Administrative Law Court in environmental/agricultural permitting actions, Certificate of Need actions, and Alcohol Beverage Control Act matters; serve as Town Attorney for the Town of Blythewood, South Carolina.

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

(d) 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.

Since joining the McNair Law Firm in 2002 I have been lead or associate counsel on approximately nine matters before the Administrative Law Court.

Five matters were fully litigated. One involved an appeal of DHEC's denial of a construction and demolition landfill. The case involved the interpretation of the South Carolina Solid Waste Policy and Management Act and the interplay between state regulations and local ordinances. The Administrative Law Judge agreed with the legal positions taken by my client and reversed DHEC's denial of the permit. Other fully litigated matters included a health facility matter, in which the Administrative Law Judge upheld our client's challenge to DHEC's issuance of a Non-applicability Determination to a health care facility, the upholding of our client's agricultural permit, and two matters challenging a penalty imposed by the Department of Revenue against a holder of a beer and wine permit.

Matters resolved without full litigation included a challenge to DHEC's imposition of a penalty under the Pollution Control Act. The day prior to the scheduled hearing an agreement was reached with DHEC, resulting in the Court issuing a Consent Order approving DHEC's request to withdraw the notices of violation with prejudice. In two other cases the Administrative Law Judge granted our Motions to Dismiss based on lack of subject matter jurisdiction.

15. What is your rating in Martindale-Hubbell?

Listed, Not rated.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21.

16. What was the frequency of your court appearances during the last five years?
- (a) federal: One;
 - (b) state: ALC: nine. Magistrate: two. Circuit: two.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 90%;
 - (b) criminal: 10%;
 - (c) domestic: None.
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: None;
 - (b) non-jury: 100%.

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

Chief counsel in Alcohol Beverage Control Act matters and environmental/agricultural permitting matters. Associate counsel in health care matters.

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) United States v. Garries, General Court-Martial, USAF Academy, 1983. This was a capital murder case. I served as assistant trial counsel in this two and a half week General Court-Martial before a ten member jury. Over 30 fact and expert witnesses presented evidence. I conducted the direct examination of seven prosecution witnesses, including a forensic chemist. I also had primary responsibility for opposing a defense motion for dismissal based on lack of jurisdiction and presented the oral argument on the issue of priest-penitent privilege that arose unexpectedly during the course of the proceeding. Airman Garries was convicted of premeditated murder and was sentenced to confinement for life.
 - (b) United States v. Mayes, General Court-Martial, USAF Academy, 1982. This was a three day prosecution of an Air Force Academy cadet for theft and forgery. The case was significant because it was the first time in over 10 years that a cadet was criminally prosecuted by the Air Force. Prior to the Mayes case, cadets who committed criminal acts were administratively discharged from the Air Force or disenrolled for violating the Academy Honor Code. The conviction that resulted from the case was significant because it demonstrated to the Wing of Cadets

that theft, especially from their fellow cadets, would be criminally prosecuted.

- (c) Clark, et. al. v. United States, U.S. District Court, Western District of Washington, 1986.

This case was significant because it was the first "toxic tort" case brought against the United States Department of Defense. The plaintiffs alleged that contaminated groundwater from an old landfill at McChord AFB, Washington contaminated their drinking water well. At the time of this proceeding I was serving as Chief, Environmental Torts at the Air Force Claims and Tort Litigation Staff. The Department of Justice assigned me to the DOJ trial team for this case and I was responsible for the preparation of all Air Force fact witnesses. The judge-only trial lasted two weeks and resulted in a finding against the United States with a small monetary award to the plaintiffs.

- (d) Valley Proteins d/b/a Carolina By-Products v. DHEC, 03-ALJ-07-0216-CC, 2004.

This was an appeal of an Administrative Order issued by DHEC to Carolina By-Products. The appeal was based on DHEC exceeding the statutory authority granted by the General Assembly in the Pollution Control Act. The day before the scheduled hearing, DHEC decided to withdraw the Administrative Order. Before consenting to the withdrawal, Carolina By-Products insisted on a Stipulated Order of Dismissal in which DHEC agreed to grant Carolina By-Products immunity from administrative and civil penalties for any future spills or discharges of raw material or offal from trailers during transportation. The case was significant because it resulted in DHEC acknowledging limits on its authority under the Pollution Control Act.

- (e) Wasteco v. DHEC, 06-ALJ-07-0421-CC, 2007.

This was an appeal of a DHEC decision that a proposed construction and demolition landfill was not consistent with a county's solid waste management plan. In finding in favor of our client, the Administrative Law Judge agreed with our client's position that DHEC has exclusive authority to issue, deny, revoke or modify solid waste permits and DHEC may not delegate this authority to local governments. This case also was significant because it was the first case interpreting the interplay between the Solid Waste Policy and Management Act and local ordinances.

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). None.
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). None.

22. Have you ever held judicial office? No.

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.

Not Applicable.

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?

Yes. Elected to Williamsville Central School District Board of Education, Williamsville, New York. Served 1999-2000. During the time I held office, New York did not require the filing of a report similar to the State Ethics Commission report.

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. Not Applicable.

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

Yes. Spring 2009. Found qualified, but not nominated for Administrative Law Court, Seat 5.

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?

Yes. United States Air Force.

Cadet, United States Air Force Academy 1969-73

Student, Cooperative Master's Program, University of Pittsburgh 1973-

74.

Undergraduate Navigator Training, Mather AFB, CA 1974-75

Navigator, 22nd Military Airlift Squadron, Travis AFB, CA 1975-78.

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?
No.

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 to all questions.
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? No.
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. Include the disposition, if any, of such charges or allegations. 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 to both questions.

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 Administrative and Regulatory Law Association
 - (b) Richland County Bar Association
 - (c) American Bar Association
 - (d) John Belton O'Neall Inn of Court
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) Town Attorney, Town of Blythewood
 - (b) Air Force Association
 - (c) St. Joseph Catholic Church
 - (d) United States Air Force Academy Association of Graduates
 - (e) American Red Cross of Central South Carolina, Development Committee
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.

Between the ages of 18 and 42 I served in the United States Air Force, rising from the rank of Basic Cadet to Lieutenant Colonel. Throughout my Air Force career I adopted and tried to internalize the Air Force's core values – "Integrity First, Service Before Self, Excellence in All We Do."

These core values continued to guide my life after leaving the Air Force while serving as an attorney for the New York State Department of Environmental Conservation, a hearing officer for the Department of Social Services, Vice President of a School District's Board of Education, Town Attorney for the Town of Blythewood, and Special Counsel with McNair Law Firm.

Whatever success I have achieved in my professional and personal life has been the result of applying these core values. I will continue to apply these values in the following ways if I am fortunate enough to be elected to a seat on the South Carolina Administrative Law Court.

Integrity is the foundation of an independent, trusted and respected judiciary. A judge with integrity is courageous, honest, responsible, and accountable for his actions. The judge with integrity will do what is right, even

when no one is looking, or his decision may be unpopular. A judge without integrity cannot be effective.

Service Before Self means that a judge's professional duties take precedence over personal desires. A judge's professional duties are to follow the law, respect others, refrain from displays of anger, exercise self-control, and demonstrate faith in the judicial system.

Excellence in All We Do requires a judge to set the example for all who appear in court. Knowledge of the law and legal procedure is paramount, but only a judge who constantly strives for excellence is in a position to demand excellence from the attorneys, agency staff, and court staff who appear in the courtroom.

I expect serving as an Administrative Law Judge will present challenges, but I will approach these challenges with integrity, service, and legal competence – the core values I have applied to conduct my personal and professional life.

49. References:

- (a) Wachovia Bank and Pentagon Federal Credit Union.
- (b) Bill Youngblood
McNair Law Firm, P.A.
1301 Gervais Street
Columbia, South Carolina 29201
803-799-9800.
- (c) Julie McIntyre
DHEC
2600 Bull Street
Columbia, South Carolina 29201
803-898-3350.
- (d) William A. White
Moore and VanAllen
100 North Tyron St., Suite 4700
Charlotte, North Carolina 28202
704-331-1098.
- (e) James K. Lehman
Nelson Mullins Riley & Scarborough
LLC, P.O. Box 11070
Columbia, South Carolina, 29211
803-255-5564.

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: Lee Zimmerman

Date: August 17, 2009

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings
Administrative Law Court
(New Candidate)

Full Name: Lee W. Zimmerman
Business Address: 1301 Gervais Street, 11th Floor
Columbia, South Carolina 29201
Business Telephone: 803-799-9800

1. Do you plan to serve your full term if elected? Yes.
2. Do you have any plans to return to private practice one day? No.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Ex parte communication should never be allowed concerning substantive matters or matters on the merits in pending or impending proceedings. *Ex parte* communications concerning non-substantive matters or matters not on the merits may be tolerated only in those rare circumstances when all parties cannot be included in the communications and no party will gain an advantage as a result of the *ex parte* communication. In such a circumstance all non-participating parties must be promptly advised of the communication and be given an opportunity to respond.

Ex parte communication may also be allowed with non-parties only in circumstances as discussed in Canon 3 of the Code of Judicial Conduct, i.e., with a disinterested expert on the law applicable to the pending action followed by disclosure to the parties, with court personnel or other judges, or when all parties consent to *ex parte* communication in mediation or settlement efforts.

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

Recusal is appropriate in those cases in which a judge's impartiality might reasonable be questioned on the bases of personal bias or prejudice because of a pre-existing relationship with a party or a lawyer, or a personal or economic interest in the outcome of the case. In the circumstance where a lawyer-legislator, former associate, or law partner is expected to appear before the court, potential impartiality would have to be decided on a case-by-case basis, evaluating factors such as the judge's existing relationship with the individuals and

whether the judge was associated with the individuals when the individuals began handling the case.

6. 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?

A judge is required to perform judicial duties without bias or prejudice. While I would carefully evaluate a party's recusal request, unless there was actual bias or prejudice I would usually not grant such a request. Granting such a motion solely on the basis of an "appearance" of bias would result in a judge who was a former agency lawyer never hearing a proceeding involving the judge's former agency.

7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Neither I nor my spouse would accept a gift from anyone or any organization which may reasonably be expected to appear before the Administrative Law Court or who has an interest in a matter before the Court. I would not accept a social hospitality invitation unless I or my spouse personally knows the inviter and the inviter or the inviter's organization does not and is not reasonably expected to appear before the Court or have a direct interest in a matter before the Court.

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

Misconduct must never be ignored. The circumstances of the misconduct and how I became aware of the misconduct would control what action I would find necessary to take. Actions range from directly communicating with the judge or lawyer who committed the misconduct to immediately reporting the judge or lawyer to the appropriate discipline authority when the misconduct raises a substantial question as to the judge's fitness for office, or the lawyer's honesty, trustworthiness or fitness as a lawyer.

9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated? No.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?

Yes. American Red Cross Development Committee. St. Joseph Church Capital Campaign.

11. How would you handle the drafting of orders?

A judge is responsible for every order the judge issues, and therefore the judge is ultimately responsible for the drafting of the orders. However, except for ministerial orders or very straight-forward decisions, input from the parties is important and assists in judicial efficiency. If, at the end of the hearing on the issue before the court, I have made a decision as to the prevailing position, I would ask the

prevailing party to prepare a proposed order, send it to the Court and to opposing counsel, and give opposing counsel appropriate time to submit written comments on the proposed order. After reviewing the proposed order and comments, I would draft the final order. In the event I had not decided all the issues before me at the conclusion of the hearing, I would ask both parties to submit a proposed order to the Court and allow both parties to submit written comments on opposing counsel's order. After reviewing the proposed orders and comments, I would draft the final order.

12. What method would you use to ensure that you and your staff meet deadlines?

All pending matters and deadlines would be reviewed during a weekly status meeting with staff. At this meeting, matters would be prioritized based on the complexity of the actions needed to meet deadlines. Work hours and assignments will be adjusted as necessary to ensure deadlines are met.

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

Judges should apply and enforce the law as written, enacted and intended by the General Assembly. The General Assembly's intent should be ascertained primarily from the plain language of the statute or regulation. Words used in a statute or regulation should be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the scope of the statute. If the language of the statute or regulation is clear and unambiguous, the Judge should apply the law as written and should not look for or impose another meaning. The bottom line is that the law should be interpreted consonant with the purpose, design and intent of the legislature.

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

First and most importantly, I would support the Chief Judge of the Administrative Law Court in efforts to continually improve the functioning of the Administrative Law Court. I also will participate in the activities of the South Carolina Administrative and Regulatory Law Association, the Administrative Law Section of the South Carolina Bar, and the John Belton O'Neall Inn of Court. Within the bounds of the Code of Judicial Conduct, I would make a special effort to offer guidance to newly admitted attorneys in presenting an effective case to the Court. This may include minimal guidance during the proceeding, but also a standing offer to meet with the attorney after the conclusion of the proceeding to provide more formalized feedback.

15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?
No.
16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
No.
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?
Yes, unless I was convinced there was a very compelling reason not to hear the case. Under the Code of Judicial Conduct "de minimis" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. The Canons require a judge to disqualify himself only when the judge or his family has a more than de minimis interest that could be substantially affected by the proceeding.
18. Do you belong to any organizations that discriminate based on race, religion, or gender?
No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses?
Yes.
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas.
5-10%. All cases before the Administrative Law Court occurred between 2002 and 2009. I have been involved as lead counsel or assistant counsel in five environmental/agricultural permit matters (DHEC), two Certificate of Need matters (DHEC), and three beer, wine, alcohol enforcement matters (DOR).
21. What do you feel is the appropriate demeanor for a judge?
A judge should set the example for all court personnel, attorneys and parties to the proceeding and witnesses appearing before the Court. A judge should require order, decorum, and civility in all dealings, both in the courtroom and outside the courtroom. A judge should demonstrate competence and confidence and should be patient, dignified and courteous to all.
22. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?
The rules apply at all times, in both professional and personal matters.
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

It is never appropriate for a judge to express anger. A judge may often find it necessary to be stern and deliberate with counsel and pro se litigants, but should never become angry or express uncontrollable rage.

24. 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.
25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not Applicable.
26. Have you sought or received the pledge of any legislator prior to this date? No.
27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
28. 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.
29. Have you contacted any members of the Judicial Merit Selection Commission? No.
30. 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/ Lee W. Zimmerman

Sworn to before me this 17th day of August, 2009.

Notary Public for S.C.

My Commission Expires: 07-29-2015