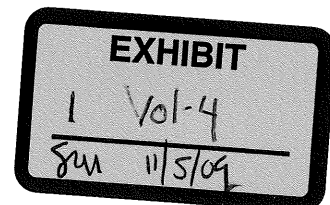


**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying:
Family Court, Family Court Judge, Seat 2

1. NAME: Mr. Timothy M. Cain
BUSINESS ADDRESS: P.O. Box 678
Walhalla, SC 29691
E-MAIL ADDRESS: tcainj@sccourts.org
TELEPHONE NUMBER: (office): (864) 638-4290
2. Date of Birth: 1961
Place of Birth: Seneca, Oconee County, SC
3. Are you a citizen of South Carolina? Yes
Have you been a resident of this state for at least the immediate past five years?
5. Family Status: Married on August 3, 1985, to Peggy Renee Patterson Cain. Never divorced, one child.
6. Have you served in the military? N/A.
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) Anderson College, Anderson, South Carolina, August 1979 – December 1980. Transferred to University of South Carolina;
 - (b) University of South Carolina, Columbia, South Carolina; January 1981 - May 1983. Bachelor of Science Degree in Criminal Justice;
 - (c) University of South Carolina School of Law, Columbia, South Carolina August 1983 - May 1986. Juris Doctor Degree;
 - (d) National College of District Attorneys, University of Houston, Houston, Texas.
June 1989. Graduate, Career Prosecutor Course.
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.
Admitted to practice law in South Carolina, November 1986. I have taken no other bar examinations nor applied for admission to any other State Bar Association.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
 - (a) Dean's List - 1980, 1981, and 1982;



- (b) S.C. Criminal Justice Association - 1980–83;
- (c) Alpha Phi Sigma (National Criminal Justice Honor Society) 1981-83;
- (d) Vice-President, Towers Government (USC Student Dormitory Government) 1982-83;
- (e) Phi Alpha Delta Law Fraternity 1983-86;
- (f) Moot Court, 1985.

I also served as a Hall Advisor, Senior Hall Advisor and Residence Hall Director at USC.

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) Annual Judicial Conference	08/21/06
(b) Ethics 2000	12/13/05
(c) SC Bar - Family Court Section Meeting	01/23/04
(d) Family Court Judges Conference	04/28/04
(e) SCTLA	08/05/04
(f) Annual Judicial Conference	08/19/04
(g) Judicial Oath of Office	08/19/04
(h) Family Court Bench/Bar Seminar	12/3/04
(i) Seminar for Chief Administrative Judges	12/10/04
(j) SC Bar - Family Law Section	01/21/05
(k) Family Court Judges Conference	04/27/05
(l) SCTLA	08/04/05
(m) Annual Judicial Conference	08/24/05
(n) Family Court Bench/Bar Seminar	12/02/05
(o) SC Bar - Family Law Section Meeting	01/27/06
(p) Oconee County Bar - Legal Education Seminar	02/24/06
(q) Family Court Judges Conference	04/26/06
(r) Orientation School for New Family Court Judges	07/10/06
(s) SCTLA	08/03/06
(t) Mini Summit on Justice for Children	08/22/06
(u) Annual Judicial Conference	08/23/06
(v) Family Court Bench/Bar Seminar	12/01/06
(w) SC Bar - Family Law Section	01/26/07
(x) Family Court Judges Conference	04/25/07
(y) Orientation School for New Family Court Judges	07/11/07
(z) NCJFC - 60 th Annual Conference	07/22/07
(aa) Annual Judicial Conference	08/22/07
(bb) Family Court Bench/Bar Seminar	12/07/07
(cc) SC Bar - Family Law Section	01/25/08
(dd) Family Court Judges Conference	04/23/08
(ee) Orientation School for New Family Court Judges	06/04/08
(ff) SCAJ	08/07/08

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|--|------|--|----------|
| | (gg) | Annual Judicial Conference | 08/20/08 |
| | (hh) | Family Court Bench/Bar Seminar | 12/05/08 |
| | (ii) | Family Court Judges Conference | 04/22/09 |
| | (jj) | Orientation School for New Family Court Judges | 06/05/09 |
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) I have lectured at the SC Bar Program "Bridge the Gap" for new lawyers.
 - (b) I have made presentations on the topics of appellate advocacy and domestic relations to lawyers attending the Annual SC Bar Meeting
 - (c) In January 1997, I assisted in the presentation of an Ethics Program for the Oconee Bar entitled "The Case of the Silent Alarm - A Study in Professionalism". The program was based on a seminar approved by the Georgia State Bar. I was one of the moderators for this program and provided proof of compliance to the S.C. Commission on Continuing Legal Education and Specialization on behalf of the Bar.
 - (d) In September 2000, I participated as a lecturer in a continuing legal education seminar at Clemson University. My topic was "A View of Ethics from the Bench".
 - (e) I have attended several meetings of the Anderson and Oconee County Bar Associations to discuss rules of practice and procedure in the Family Court.
 - (f) Instructor at the 2004 Seminar for Chief Administrative Judges.
 - (g) Instructor at the Orientation School for New Family Court Judges for the years 2006, 2007, 2008, and 2009.
 - (h) Guest lecturer at Anderson University, Anderson, SC, Department of Criminal Justice.
 - (i) Lecturer at Legal Education Seminar presented by the Oconee County Bar in February 2006.
 - (j) Lecturer at Legal Education Seminar (Ethics) presented by the Oconee County Bar on May 1, 2009.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) S.C. Appellate Practice Handbook (S.C. Bar CLE 1985), Contributing Author;
 - (b) Marital Litigation in S.C., Roy T. Stuckey and F. Glenn Smith (S.C. Bar CLE 1997), Editorial Board;
None.
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) Admitted to practice before the State Courts of South Carolina in 1977;

- (b) Also admitted to practice before the Federal District Court and Fourth Circuit Court of Appeals in 1980.
 - (c) South Carolina Supreme Court and all State Courts in South Carolina; November 1986;
 - (d) United States District Court for the District of South Carolina; 1986;
 - (e) United States District Court for the Western District of North Carolina; **admitted Pro Hac Vice** on November 30, 1998, in the matter of Carver v. Freeman, Case No. 2:98CV209-T.
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:
- (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.
After graduation from law school, I engaged in the general practice of law, including practice in the areas of criminal law, family law, real estate, corporations and partnerships, wills and estates, personal injury, workers compensation, social security disability and government and administrative law.
 - (a) During the first two years, while working with the Law Firm of Miley and Macaulay, my practice primarily involved trial work in the areas of domestic relations, criminal law and personal injury, as well as an office practice which included real estate and wills. During this time, I was fortunate to work closely with and learned from an experienced attorney who had been in practice for several years. This firm later became Miley, Macaulay and Cain. While working with this Firm, I also became a part-time Assistant Public Defender for Oconee County for approximately one (1) year during 1987, and was responsible for representing juveniles charged with crimes and offenses in Family Court who were not represented by private counsel. As an Assistant Public Defender, I represented juveniles in Family Court charged with a variety of offenses ranging from criminal sexual conduct, assault and battery, malicious damage to property as well as status offenses. I was also responsible for representing defendants in General Sessions Court. My work with juveniles and adults included representation at each stage of the legal process, including intake interviews, pre-trial conferences, preliminary hearings and other court appearances and trials;

- (b) In January 1988, I was offered a position as a part-time Assistant Solicitor for the Tenth Judicial Circuit (Oconee and Anderson Counties). I represented the State of South Carolina in child abuse and neglect proceedings in Family Court, as well as in adult protective services cases in Family Court;
- (c) In July 1988, I accepted a full-time position as Assistant Solicitor and served in this capacity until December 1989. During my two (2) years as an Assistant Solicitor, I prosecuted numerous child abuse and neglect cases in the Family Court and Court of General Sessions and handled cases through each stage of the legal process and worked with various agencies involved in these proceedings. These agencies included law enforcement, the Department of Social Services, the Guardian *ad Litem* Program, Department of Mental Health, Department of Juvenile Justice, Victim-Witness Assistance Program, school officials, as well as numerous professionals such as physicians, psychologists, therapists and others involved in the process. Cases I handled in the Family Court included physical abuse, sexual abuse, physical neglect, educational neglect and mental injury. I also represented DSS in several adult protective services cases brought before the Family Court involving elderly clients and persons with special needs and prosecuted juvenile cases in Family Court. During my time as Assistant Solicitor, I also prosecuted cases, including abuse and neglect cases, in the Court of General Sessions and tried cases in Anderson and Oconee Counties. I prosecuted many types of cases, including cases involving death, assault and battery with intent to kill, burglary and other cases involving crimes against persons and property. In General Sessions' cases, I have represented the State of South Carolina at each stage of the legal process, including bail hearings, preliminary hearings, motion hearings and trials. I have also represented the State in civil forfeiture proceedings;
- (d) In 1990, I joined the Law Firm of Brandt & Fedder, with offices in Walhalla and Seneca. My primary office was located in Seneca, and I practiced at that location from January 1990 to April 14, 2000. In 1991, this firm became Brandt, Fedder, Graham & Cain. When I went back into private practice in January 1990, my primary areas of practice included domestic relations, criminal law and real estate law. I also assisted in representing several governmental entities which were clients of the firm, including Oconee County and two (2) municipalities. In late 1992, Mr. W.J. Fedder, who had been in practice since 1956, and whose primary areas of practice included estate

planning, corporations, partnerships and other business formations, real estate and workers compensation, expressed a desire to limit his practice. As a result, and in an effort to maintain these areas of practice and the client base of the firm, I began to devote more attention to these areas of law. Again, I was very fortunate to have the opportunity to work with other attorneys with a wide variety and depth of legal experience;

- (e) In 1992, I was retained as Attorney for Oconee County after the resignation of Larry C. Brandt from this position, and I served as County Attorney until April 2000;
- (f) In 1993, after the dissolution of the Firm of Brandt, Fedder, Graham & Cain, I formed my own Professional Association, Timothy M. Cain, P.A., and practiced under the style and name of Fedder and Cain, with Mr. Fedder acting in an "of counsel" position with the firm. At that time, Mr. Lindsey O. Graham moved to the Seneca location where we had an office-sharing arrangement and were associated until the time he left the practice of law to serve in the United States Congress;
- (g) In January 1996, I, along with attorneys Bradley A. Norton and Karen F. Ballenger, formed the Law Firm of Ballenger, Fedder, Cain & Norton, L.L.P., with offices in Walhalla and Seneca. Mr. Fedder and the late William H. Ballenger were "of counsel" to the firm. Mr. Norton primarily worked with me in the Seneca office, and in July 1998, upon the dissolution of that firm, we formed the firm of Fedder, Cain & Norton, L.L.P.

While in practice, I had the opportunity to handle many types of matters in the Family Court and Circuit Court. These included divorce cases for Plaintiffs and Defendants on the grounds of adultery, physical cruelty, habitual drunkenness or dependence on drugs and/or alcohol and one year's continuous separation, as well as many actions for separate maintenance. These cases often involved issues of child custody, adoption, visitation, child support, equitable division of property and alimony. Cases involving equitable division of property have included the valuation and division of real property and intangible personal property, including securities, stock and pension plans and interests in closely held corporations. I also handled many adoptions and was court appointed many times as Guardian *ad Litem* in many cases involving child custody. In addition, I have been appointed to act as attorney for the Guardian *ad Litem* in abuse and neglect proceedings in Family Court and have also represented Defendants in abuse and neglect proceedings in the Family Court in actions initiated by the Department of Social Services;

(h) Subsequent to my departure from the Solicitor's Office, the Oconee County Department of Social Services began to employ the services of contract attorneys to represent DSS in child abuse and neglect matters as well as adult protective services. In December 1998, I was asked to serve as a backup attorney for the primary contract attorney for DSS. In this capacity, I represented DSS in several actions, including temporary hearings, merits hearings and termination of parental rights proceedings;

(i) As for my civil practice, I handled cases in Magistrate's Court, the Court of Common Pleas, in both jury and non-jury matters, and before the Master-in-Equity. I handled cases involving personal injury, property damage, automobile accidents, slip and fall, trip and fall, mechanics liens, contract disputes, boundary line disputes, right-of-ways and easements, condemnations, mortgage foreclosures and have handled matters in the Probate Court involving actions for the appointment of conservators, guardians and disputes concerning the validity of testamentary documents and the administration of estates. I have represented clients in four (4) medical malpractice cases, one (1) of which involved a federal tort claim against the United States Army. I have also handled workers compensation and Social Security disability claims.

While most of my civil practice involved representing Plaintiffs, I have also represented Defendants in cases involving automobile accidents, workers compensation claims, mechanics liens, contract disputes, boundary disputes and have represented local governmental entities in several lawsuits involving various matters. I have also represented landowners as well as governmental entities in condemnation trials.

I have represented Oconee County, the Oconee County Sewer Commission, the Oconee County Aeronautics Commission and other government entities in matters pending with various state and federal agencies, including the South Carolina Department of Health and Environmental Control and the Federal Aviation Administration.

I feel that my experience in handling many types of cases in the Family Court, as well as my work in criminal law and general civil practice, which has included the formation and valuation of business entities such as corporations, partnerships and limited liability companies, as well as my experience in real estate matters, has assisted me in my work as a Family Court Judge. Often, a Family Court Judge is required to make decisions concerning valuations and equitable divisions of these types of business interests, and some understanding of these types of

business entities and the methods of formation and valuation is helpful.

As my practice developed over time, I had the opportunity to represent people from all walks of life in a variety of types of cases. Additionally, I understand the everyday challenges that members of the Bar face as they try to represent their clients in a competent and professional manner while trying to earn a living practicing law;

- (j) Since April 2000, I have served as a Family Court Judge. As a Family Court Judge, I have heard and decided cases involving divorce on all grounds, child custody, the Uniform Child Custody Jurisdiction and Enforcement Act, Uniform Interstate Family Support Act, visitation, child support, alimony, common law marriage, child abuse/neglect, protection of vulnerable adults, separate maintenance and support, juvenile delinquency, juvenile waiver hearings, contempt, adoption, equitable division of property and debt, attorney's fees and other matters.

15. What is your rating in Martindale-Hubbell? BV. (Last available rating)

22. Have you ever held judicial office?

Yes. April 2000 to present, Family Court, Seat 2. Elected February 2000. The Family Court is a Court of limited jurisdiction to hear and determine actions involving the validity of marriages, divorce, separate maintenance, adoptions, child abuse/neglect, protection of vulnerable adults, juvenile delinquency, and other matters as provided by law.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

- (a) James Allen Eckstein v. Constance O. Eckstein. Case No. 99-DR-42-4914. Order signed June 30, 2000. This case involved a determination of jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act. A finding was needed as to whether the State of South Carolina or the State of Oklahoma had jurisdiction to hear and determine a child custody matter;
- (b) James Lee Roddy v. Frances L. Cleveland. Unpublished Opinion No. 03-UP117 filed February 13, 2003. (SC Court of Appeals). This case involved an action for termination/reduction of alimony;
- (c) SCDSS v. Mother, Husband and John Doe. Unpublished Opinion No. 2007-UP-338 (SC Court of Appeals). This was a termination of parental rights action which, in addition to the issues involving the termination of the Defendants' parental rights, also involved the legal doctrines of *res judicata* and collateral estoppels;
- (d) SCDSS v. Gunderson, et al. Unpublished Opinion No. 2007-UP-256 (SC Court of Appeals). This was a termination of parental rights action. The central issue on appeal was whether the Defendant-Father had been

precluded from visiting his biological child by a prior order of the court, thereby barring an action to terminate his rights on the ground of willful failure to visit;

(e) Waetzig v. Waetzig. Case No. 2008-DR-04-1822. This case involved the issue of whether or not the trial court should set aside a Qualified Domestic Relations Order entered into by written stipulation and consent upon a motion filed pursuant to Rule 60(b)(1) of the SC Rules of Civil Procedure.

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 retained and designated as County Attorney for Oconee County in April 1992 and represented Oconee County until my election to the Bench. I have also previously represented the City of Walhalla, the City of Westminster and the Town of Central in various matters when my law partners were the City Attorneys for these municipalities. I have also acted as special counsel to the City of Seneca. Reports to the State Ethics Commission were not required by reason of my representation of these entities.

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? None.

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?

None other than part-time or temporary employment while a full time student.

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.

A potential conflict could exist if a former client or former business associate was involved as a party in an action pending in the Family Court. Disclosure should be made and recusal would resolve such potential conflicts.

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.
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?

It is my understanding that the records check conducted by the State Law Enforcement Division (SLED) at the time of my last judicial screening revealed that a lawsuit was filed in the United States District Court, District of South Carolina, in the case of Julian Edward Rochester vs. Sallie Smith, Oconee County, et al., Case No. 93-CV-3164, and that the SLED report indicated that I was a named Defendant in this case. I would like to provide some background information concerning this matter before addressing the specific case which is the subject of that SLED report.

From January 1988 until December 1989, I served as an Assistant Solicitor for the Tenth Judicial Circuit. Thereafter, I acted as legal counsel to Oconee County from 1992 until my election to the Family Court Bench.

It is my recollection that Mr. Julian Rochester, the Plaintiff in the above-referenced action, was the subject of various criminal investigations by law enforcement agencies in Oconee County during my time as an Assistant Solicitor and counsel to Oconee County. As a result of these investigations, Mr. Rochester was convicted of the offense of Criminal Sexual Conduct With A Minor and sentenced to thirty (30) years imprisonment as reflected by Judgment Roll 13,687, Records of Oconee County, South Carolina. I never represented Mr. Rochester.

Subsequent to Mr. Rochester's conviction, he filed numerous Pro Se lawsuits naming various state and county officials. My involvement in these matters generally related to forwarding such pleadings to the County's liability insurance carrier and/or defense counsel retained by the carrier.

At the time of filing of the action in Case No. 93-CV-3164, Mr. Rochester had seven (7) pending lawsuits in Federal Court. He also filed other actions in State Court. The caption on the Summons is as follows: "Julian Edward Rochester, #17159 v. Sallie C. Smith, Clerk; Oconee County; and State of South Carolina". The caption on the Complaint is as follows: "Julian Edward Rochester, 171519 v. Sallie C. Smith, - Clerk; and Oconee County; and State of South Carolina".

I was not named as a Defendant in the caption of the Summons or the Complaint, which contained various allegations against the Clerk of Court which appeared to relate to civil rights claims and a request for monetary damages and other relief. The Complaint (which was set forth on a form provided by the Federal Courts) named as additional Defendants: "Oconee

County, S.C., Walhalla, S.C. 29691: The State of South Carolina, c/o Attorney General Office, P.O. Box 11549, Columbia, S.C. 29211; Oconee County Attoy; Timothy M. Cain attoy, 205 W.M. St. P.O. Box 738, Walhalla, S.C. 29691". However, a review of the Complaint revealed no allegations as to me individually, as an attorney or in my capacity as Assistant Solicitor or attorney for Oconee County.

By Order of the Honorable Robert S. Larr, United States Magistrate Judge, dated November 2, 1993, the Clerk of Court for the United States District Court was "authorized to direct service of process only upon Defendant Sallie C. Smith"(the Clerk of Court). To my knowledge, this action was never served upon me as a Defendant but was served upon Clerk of Court Sallie C. Smith and forwarded to the County's liability insurance carrier and later to defense counsel employed by the carrier. It is my understanding that the case was dismissed.

It is also my understanding that my name was included as an additional Defendant in the case of Julian Edward Rochester, #17159 v. Sallie C. Smith, Clerk of Court Oconee County filed in Case No. 94-CV-1274 in the United States District Court. Again, I was not listed as a Defendant in the caption of the Summons or the Complaint but was listed as an "additional defendant" along with several officers with the Oconee County Sheriff's Department, the State of South Carolina, County of Oconee, the County Sheriff, a County Magistrate, a former Deputy Solicitor, the Director of the Oconee County Law Enforcement Center, the Chief of Police of Walhalla, the City of Walhalla, the Tenth Circuit Solicitor and the County Supervisor. Although the Complaint listed my name as a Defendant in Item III(C)(18) as Assistant Solicitor, it also listed my name in Items III(C)(17) and (23) but stated: "He is only the County's Atty., not a defendant hear." (Emphasis added). Again, I was not served with the Summons and Complaint. This action also appears to involve allegations of civil rights violations; however, once again, I am unable, from a review of the Complaint, to glean any specific allegations directed to me or any conduct on my part.

It is my understanding that this case was also dismissed.

I was never served as a Defendant in either of the above-referenced actions, was never required to file any responsive pleadings as a Defendant and never required to make an appearance. Again, I am informed that these cases were ultimately dismissed.

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) Oconee County Bar Association - President, 1995;
 - (b) S.C. Bar Association;
 - (c) National Conference of Juvenile and Family Court Judges;
 - (d) S.C. Family Court Judges Association;
 - (e) Chief Justice's Family Court Advisory Committee.
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) St. Luke United Methodist Church, Walhalla, SC. Member of Community Outreach Committee, 2007-08;
- (b) Oconee Assembly;
- (c) Walhalla Elementary School Improvement Council;
- (d) Chickasaw Point Property Owners Association;
- (c) Falcon's Lair Community Service Association (POA).

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.

Since becoming a member of the judiciary, it has been my honor to serve as an Acting Associate Justice, by designation of the Chief Justice, on the South Carolina Supreme Court on several occasions. I have also been appointed to the Chief Justice's Family Court Advisory Committee, which is responsible for making recommendations to the Chief Justice regarding the administration of justice in the Family Courts. I have also served as an instructor at the school for new family court judges and administrative judges.

On two (2) occasions, the Chief Justice has assigned cases from counties outside of my circuit for complete disposition of all matters therein. These cases involved public figures and were resolved in a timely fashion with no appeals having been taken.

Since becoming a Family Court Judge, I have presided in seventeen (17) counties in South Carolina from the foothills to the coast. This has given me a greater appreciation for our state, its people, and those who work in our judicial system.

Prior to my election to the bench, I served as a member of the Budget and Allocations Committee for the United Way of Oconee County and the Board of Directors of the United Way of Oconee County. In 1993, I received an award from the Fraternal Order of Police, Lodge No. 22, for service to the law enforcement community in Oconee County. I was also appointed by the President of the Oconee County Bar Association to serve as the Bar's representative on the Magistrate Selection Advisory Committee and have previously served as a member of the Oconee County Bench-Bar Liaison Committee. While engaged in the practice of law, I represented numerous indigent persons on a **pro bono** basis. For three (3) years, I served as a member of the Board of Directors of the Carolina-Georgia Blood Center.

Oconee County was formerly governed by the Council-Supervisor form of local government. The County Supervisor was also the Chairman of the County Council. During my time as County attorney from 1992 to April 2000, I represented both Democratic and Republican Supervisors, as well as Councils comprised of a majority of Democrats and Councils comprised of a majority of Republicans.

I was raised in rural Oconee County on a small farm. I have two (2) sisters. My parents both retired from the local textile mill, where I also worked for four (4) summers while in college and law school. During most of my time

in college and law school, I was employed in part-time positions. While in college, I tutored students in mathematics and was a Residence Hall Advisor at the University of South Carolina. During my first year of law school, I was the Director of a men's residence hall, supervising six (6) staff members and two hundred forty-three (243) students. I also clerked for the Law Firm of Kligman & Fleming, where I learned how to examine real estate titles in Richland and Lexington Counties, and later worked as a Law Clerk in the Fifth Circuit Solicitor's Office (Richland and Kershaw Counties).

My wife, Renee, has been a great blessing and inspiration to me throughout our twenty-four (24) year marriage. As a licensed MSW, she has been very involved in children's issues in our community and for several years coordinated a program with local high schools which she helped develop, known as HUGS (Help, Understanding, Guidance and Support) to help pregnant teenagers stay in school to complete their education.

I was fortunate to grow up in an environment in which I learned important values by following the examples set by my parents as they faced challenges of everyday life and am hopeful that I will set the same example for my own son.

If given the opportunity to continue to serve on the Family Court Bench, I will devote my energy and efforts to improving the legal system, as well as the practice in Family Court.

49. References:

- (a) Mr. Boliver H. Wilhite
P.O. Box 160
Walhalla, SC 29691
(864) 638-5737
- (b) Ms. Sallie C. Smith
P.O. Box 678
Walhalla, SC 29691
(864) 638-4280
- (c) Mr. Steve Hanvey
Principal, Walhalla Elementary School
P.O. Box 370
Walhalla, SC 29691
(864) 886-4480
- (d) Ms. Wanda Garber
Branch Manager, SC State Credit Union
P.O. Box 759
Seneca, SC 29679
(864) 886-9273

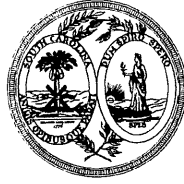
(e) Ms. Mary S. Mann
14010 Rhine Court
Seneca, SC 29672
(864) 885-9269

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: Timothy M. Cain

Date: 8/5/09



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

Timothy M. Cain
Judge

Post Office Box 678
205 West Main Street
Walhalla, SC 29691-0678
Phone: (864) 638-4290
Fax: (864) 638-4293
tcainj@sccourts.org

October 6, 2009

Andrew T. Fiffick, IV, Esquire
SC Judicial Merit Selection Commission
Post Office Box 142
Columbia, South Carolina 29202

Re: Amendment to Sworn Statement and Personal Data Questionnaire
Family Court, Seat 2

Dear Mr. Fiffick:

Please allow this letter to serve as an amendment to Item Number 7 of the Personal Data Questionnaire Addendum and Item Number 26 of the Sworn Statement submitted in connection with my application for re-election to the position of Family Court Judge, Seat 2.

Subsequent to submitting my application materials to the Commission, I have spent approximately Three Dollars (\$3.00) in postage, paper and envelopes to send a letter to the members of my local Legislative Delegation informing them that I am seeking re-election to this position.

Necessarily, should there be any questions, please do not hesitate to call upon me.

Thanking you for your attention to this matter, and with kind personal regards, I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "T. M. Cain".

Timothy M. Cain

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

Family Court
(Incumbent)

Full Name: Timothy Martin Cain
Business Address: 1912 Queen Drive
Walhalla, SC 29691
BusinessTelephone: (864) 638-4290

1. Why do you want to serve another term as a Family Court Judge?
I have enjoyed my time on the Family Court Bench and would like to continue to try to make a positive contribution to the legal system and the people it serves.
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 do not engage in *ex parte* communications involving pending matters except those permitted by law, such as review of emergency petitions. I do not discuss pending matters with attorneys and litigants absent all parties or their counsel being involved in the discussion.
6. 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 warranted if a conflict of interest exists or there is an appearance of impropriety.
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?
Such matters must be resolved on a case-by-case basis taking into consideration the totality of the circumstances and considering applicable rules. If there is an appearance of bias, the better course is recusal.
8. How do you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?
After full disclosure of the nature of any such relationship, recusal may be warranted. If there is an appearance of impropriety or if

- impartiality could reasonably be questioned, the Judge should recuse himself/herself from presiding over the matter.
9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?
I have made it a practice not to accept gifts except from relatives or close friends. I have accepted social hospitality, attended Bar related functions and social events sponsored by professional groups with other judges and lawyers.
10. How do you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
Misconduct involving a violation of law or the Code of Professional Conduct/Code of Judicial Conduct should be reported to the appropriate authorities.
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?
My individual P.A. from my law practice remained in place to facilitate the "winding up" of the P.A.'s business and to file the necessary returns. However, this P.A. was dissolved on November 6, 2003.
13. Since family court judges do not have law clerks, how do you handle the drafting of orders?
Due to the high volume of cases in family courts, most orders are prepared by one of the attorneys involved in an action at the instruction of the Judge. The proposed order is sent to opposing counsel prior to it being sent to the Judge. I often prepare the order in contested cases but, generally, prepare detailed instruction memorandums.
14. What methods do you use to ensure that you and your staff meet deadlines?
Monthly reports listing matters under advisement which reflect the status of outstanding orders are submitted each month to the South Carolina Court Administration.
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?
In contested cases, it is not unusual for several hearings to take place at various stages in a particular case during the course of litigation prior to the final hearing. At such hearings, I review interim reports from the Guardian *ad Litem* (GAL) and make inquiries as appropriate to make sure that the GAL is being provided access to all of the persons and information (s)he needs to conduct a full investigation.

I also review the information provided to try to determine if the GAL is conducting a "balanced" investigation into all relevant aspects of the case. A determination is made at final hearings as to whether the final GAL report has been submitted within the statutory time frames and, if not, if the parties mutually consent.

While I generally do not request a recommendation from the GAL on the issue of custody, if such a recommendation is requested, I set forth specific reasons for the request on the record. I also give each party an opportunity to object to any portion of the report which is not consistent with the requirements of the S.C. Rules of Evidence.

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

Trial Judges should apply the law as enacted by the legislative branch of government and established through precedent by the appellate courts to a particular set of facts in a given case.

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 will continue to participate in legal seminars and speak to school and community groups about Family Court and the legal system. I will continue to work with the County Clerks of Court and the Bar to find ways to maximize the efficient use of court time.

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?

Any job can cause stress. I look to my faith and family as sources of strength and encouragement to help me deal with such stress. My work as a Judge has not caused a strain in my relationships with family or close friends, as I would recuse myself from any contested matter before the Family Court which involved family or friends.

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?

This would be addressed on a case-by-case basis taking into consideration the applicable facts. If I was aware of the interest, I would disclose the same and determine if either party sought recusal. Recusal is warranted if there is an actual conflict of interest, appearance of impropriety, or if the Judge's impartiality might reasonably be questioned.

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?
A Judge should show respect for others and be firm, patient and courteous while maintaining order and decorum in proceedings before the Court.
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? At all times.
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?
Anger is not appropriate. A Judge should be firm and serious and convey a sense of concern and attention about the people and issues before the Court.
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? \$0.00.
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.
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/ Tim M. Cain

Sworn to before me this 5th day of August, 2009.

Notary Public for South Carolina

My commission expires: 02-26-2013