

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

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

1. NAME: Ms. Melissa Johnson Emery
BUSINESS ADDRESS: PO Box 1531
Conway, SC 29528
TELEPHONE NUMBER: 843-488-0600
2. Date of Birth: 1969
Place of Birth: Darlington, SC
3. Are you a citizen of SC? Yes
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Divorced on May 25, 2007, Georgetown County Family Court, Ms. Emery was moving party. Two 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) Francis Marion College: August 1987 – May 1991; Bachelor of Science;
 - (b) USC School of Law: August 1991 – May 1994; Juris Doctor.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
SC - 1994
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.

Francis Marion College:

 - (a) Senator of the Student Government Association, 1989-91;
 - (b) President's Advisory Committee, 1990-91;
 - (c) Pi Gamma Mu Honor Society, Inducted in 1990;
 - (d) Pi Sigma Alpha Honor Society – Rho Lambda Chapter, Inducted in 1990.

USC School of Law:

 - (a) Student Bar Association, 1991-94;
 - (b) Women's Law Society, 1991-94;
 - (c) Young Lawyers Division – Student Chapter, 1993-94.
10. Describe your continuing legal or judicial education during the past five years.

<u>Conference/CLE Name</u>	<u>Date</u>
(a) Family Court Procedural & Substantive Law	10/11/07;
(b) Children's Issues in Family Court	03/28/08;
(c) Family Law Intensive Workshop	11/21/08;
(d) Family Court Procedural & Substantive Law	12/17/08;
(e) 2009 SC Family Court Bench Bar	12/04/09;



- | | | | |
|--|-----|--|-----------|
| | (f) | Family Court Procedural & Substantive Law | 12/10/09; |
| | (g) | Steering Your Way Through Family Court | 05/21/10; |
| | (h) | ABA 2010 Annual Meeting – Family Court Seminar | 08/05/10; |
| | (i) | Family Court Procedural & Substantive Law | 12/09/10; |
| | (j) | The 8 Types of Clients and How to Survive 7 of Them | 02/23/11; |
| | (k) | Family Court Procedural & Substantive Law | 12/08/11; |
| | (l) | ADR: An Ethical Perspective | 12/28/11; |
| | (m) | Presenting the Family Law Case: The Basic Essentials | 04/27/12; |
| | (n) | 2011 Richland County Bar Ethics Seminar | 01/19/13; |
| | (o) | What Every Lawyer Should know to Enjoy the Practice of Law | 06/21/13. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?
- (a) I have coordinated and participated as a presenter for the annual Horry County Family Court Procedural & Substantive Law Seminar from 2000 to present. This is an annual seminar that is conducted each year by the Horry County Family Court Bar, which I have chaired since 2000. In working closely with our resident judges, the committee presents a practical nuts & bolts type seminar which aides the Family Court practitioner with substantive and procedural issues dealt with in Family Court.
- (b) I was part of the presentation faculty for the seminar Presenting the Family Law Case: The Basic Essentials on April 27, 2012. This is a seminar presented by the Family Law Council of the SC Bar on a bi-annual basis to teach attorneys who are new to Family Court the basic procedures for practicing in Family Court.
- (c) I was part of the presentation faculty for the seminar Steering Your Way Through Family Court on May 21, 2010. This is the first seminar presented by the Family Law Council of the SC Bar, now done on a bi-annual basis to teach attorneys who are new to Family Court the basic procedures for practicing in Family Court.
- (d) I was part of the presentation faculty for the seminar Children’s Issues in Family Court on March 17, 2006 and March 28, 2008. This seminar dealt directly with the issues of children in Family Court. It also served as training for Guardians ad Litem in Family Court.
- (e) I was part of the presentation faculty for the seminar Hot Tips from the Coolest Domestic Law Practitioners on September 23, 2005. This is a seminar conducted by the Family Law Council each year to educate new and experienced attorneys alike in Family court.
- (f) I was part of the presentation faculty for the seminar Guardian ad Litem Training on March 5, 2004. This seminar dealt directly with the issues of children in Family Court and served as training for Guardians ad Litem in Family Court.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- SC Family Lawyer’s Toolkit, Second Edition; Published by the SC Bar in 2010
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 SC in 1994;
- (b) Also admitted to practice before the Federal District Court in 1996.

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) Law Clerk to the Honorable James E. Lockemy, Circuit Judge of the Fourth Judicial Circuit – August 1994 to August 1995;
 - (b) Law Offices of John R. Clarke, North Myrtle Beach, SC, Associate, Civil and Domestic Litigation, August 1995 to November 1996;
 - (c) Jeffcoat Pike & Nappier, LLC, Myrtle Beach, SC, Associate, Domestic Litigation to include GAL work and mediation, November 1996 to August 2000;
 - (d) Monckton Law Firm, Myrtle Beach, SC, Associate, Domestic Litigation to include GAL work and mediation, August 2000 to March 2001;
 - (e) Jeffcoat Pike & Nappier, LLC, Myrtle Beach, SC, Partner, Domestic Litigation to include GAL work and mediation, March 2001 to October 2007;
 - (f) McLain & Lee, LLC, Conway, SC, Partner, Domestic Litigation to include GAL work and mediation, October 2007 to December 2010;
 - (g) Melissa Johnson Emery, LLC, Conway, SC, Owner, Domestic Litigation to include GAL work and mediation, January 2011 to Present.

If you are a candidate for Family Court, please provide a brief written description of your experience within each of the following Family Court practice areas: divorce and equitable division of property, child custody, adoption, abuse and neglect, and juvenile justice. Include information about cases you have handled in each of these practice areas, or if you have not practiced in an area, describe how your background has prepared you to preside over such matters as a Family Court Judge.

I have practiced in the Family Court area since 1995, and exclusively since 1996.

Divorce/Separate Support and Maintenance/Equitable Division: The majority of my cases fall into this category. I have dealt with each ground for divorce as allowed by statute in my cases throughout my practice as a family court practitioner. Some of my cases have been so disturbing that I feared for the life of my client. I have had to seek Ex Parte Orders and Emergency Hearings on the most severe cases. As part of most divorce cases, the issue of equitable division of assets and debts must be dealt with. My cases dealing with this issue have ranged from parties with little by way of assets and debts to parties with estates worth millions of dollars. Some of the cases have included businesses that must be evaluated and buy outs discussed. I have also handled cases that deal with common law marriage and these are very difficult once the relationship goes sour.

Children's Issues: Many of the divorce cases I have handled also included issues involving the minor children of the parties. In most cases, there is generally a primary caretaker of the children, but more and more there is a blending of duties between parents in regarding to the children. Because both parents are such an integral part of raising children while they are married, it is hard to explain to parents that their time and rights to their children could be drastically cut when going through a divorce. In addition to the contested custody cases, I have also dealt with complex issues involving children such a child endangerment, drug and

alcohol abuse , parental alienation, visitation restrictions and adoptions. I have also dealt with many modification actions wherein parties have moved from the area or have had other substantial changes of circumstance. I have handled many adoption cases, as I have a personal interest in this area. (I have a few family members who are adopted, including my own daughter.) I have tried two complex termination of parental rights cases in the last few years. I have also done adult adoptions. I have represented parents seeking to change the name of their child, one of which resulted in a contested trial.

Another role in which I have addressed children's issues is as a Guardian ad Litem. I have served as a Guardian ad Litem for contested custody cases and adoptions for over fifteen years. I have participated in trials as the Guardian for the minor children involved in the action, and have conducted investigations so that I could represent the best interests of my charge. I have served as a Guardian in termination of parental rights actions, to include one particular case in which twin girls were horribly burned, allegedly by one or both of their parents.

DSS/ Juvenile Justice: All family court appointments dealing with the Department of Social Services and juvenile justice came to me for many years in my prior firm. I have handled many cases as the attorney for a litigant in a DSS case or I have served as the Guardian ad Litem for the minor child(ren) in abuse and neglect cases. I have conducted investigations on behalf of the client. I strongly believe that any attorney appointed to these cases should serve their client just as any paid client is served. Often these people need help the most, and I know that these children are the neediest in the court system. I have handled cases as the attorney for a juvenile who has been arrested, and have also served as the GAL for the juvenile when their parent or guardian is not present or was the victim of the alleged crime.

Mediation: Horry County is a pilot county for mediation, and I have served as a certified family court mediator for approximately thirteen years. I must say that I truly enjoy this aspect of family law. It is rewarding to help parties reach a resolution that can begin the healing process, especially for their children. The litigants may not always get what they want; however, if they have had a hand in reaching a resolution, the end result is usually very successful and contempt actions tend to be avoided.

15. What is your rating, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, etc.? If you are currently a member of the judiciary, list your last available rating, if any.
BV (4.4) rating
16. What was the frequency of your court appearances during the past five years?
 - (a) federal: none;
 - (b) state: Average of 3 – 4 times per week.
17. What percentage of your practice involved civil, criminal, domestic, and other matters during the past five years?
 - (a) civil: 0%;
 - (b) criminal: 0%;
 - (c) domestic: 100%;
 - (d) other: 0%.

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: 0%;
- (b) non-jury: 100% in family court.

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

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) Bret Baum v. Sabrina Baum (2011-DR-26-3004). This was a divorce case wherein the primary issue was the transmutation of property owned by the Husband prior to the marriage. Wife claimed that the Husband's business had transmuted due to the fact that she had helped create a section of the business during the marriage and helped him work that part of the business. However, the section created added no value to the business and actually lost money for the business. Wife's argument of working with the business should be enough to transmute the business to marital property although she never invested any money into the business and never took on any liability related to the business but did a minimal task with the business. The Court found that the business had not transmuted but did give Wife a special equity in the income derived from her efforts.
- (b) Eileen K. Lee v. Thomas F. Lee, Jr. (2010-DR-22-071). This was a divorce wherein the parties separated due to the sexual and mental abuse of the parties' minor child by the Defendant Father. While the private divorce case was pending, there were separate actions involving SCDSS and criminal charges against the Defendant Father. While the Family Court had found that the Defendant Father had abused his son, he still continued to fight in the divorce action to have access to the minor child even though he was under a court order to receive services which he refused. He contested each and every issue before the Court and this added to the level of difficulty because of the threat of harm against the Plaintiff Mother and the minor child. He challenged the notion that the marriage was broken by his acts against the minor child as those acts did not constitute grounds for divorce under the laws of SC.
- (c) Dewey Cecil Baldwin v. Mary Florence Matherly Baldwin (2010-DR-26-0768). This case dealt with a modification of alimony requested by the Plaintiff. At the time of the divorce, the parties agreed that the Plaintiff would pay permanent periodic alimony to the Defendant. They agreed that alimony would continue until such time as Defendant remarried or either party died, as that was the current statute at the time. Subsequently, the alimony statute was changed to include the current cohabitation clause as a way to terminate alimony. Defendant had been living with her paramour for over fifteen years but would not marry him because she would lose her alimony. Plaintiff sought to terminate the alimony because of the change in the statute regarding cohabitation as well as the fact that she was living in a relationship that was tantamount to marriage. Defendant argued that the cohabitation term did not apply to her because the law was changed after their Final Order was entered. This case challenged the Family Court judge to determine if the statutory change was retroactive to orders that came before it. During the trial, and after briefs on the

topic were submitted and argued, the parties agreed to a resolution that found the relationship was tantamount to marriage and an agreement was reached. Alimony was subsequently terminated. Therefore, the issue of the statute being retroactive did not have to be addressed.

- (d) Irene Wanda Shubeck v. Theodore Richard Shubeck (2008-DR-26-2666).

This case dealt with a divorce, alimony and equitable distribution. The problematic aspect of this case was based upon the fact that the parties owned several businesses in a flea market setting which took in a lot of cash that may or may not have been accurately reported. While the parties were able to maintain a very comfortable lifestyle during the course of the marriage, the values and incomes of their businesses were sketchy at best. With difficulty, the attorneys and the Court had to pick through financial records and proof of lifestyle, to include items purchased throughout the marriage, to determine what values could be assigned to their property as well as what income could be used in determining support obligations.

- (e) David Wayne Schamens & Pilianna M. Schamens v. William Gaither & Julie Gaither (05-DR-26-2225).

This case dealt with the termination of parental rights of both parents and the adoption of the minor child by her maternal uncle and aunt. The parents of the child had been involved in litigation over the child for an eight year period of time. Both of them eventually abandoned the litigation as well as the minor child. Mother had an order allowing supervised visitation; however, she made only sporadic efforts to see her daughter. Father had supervised custody (due to sexual abuse allegations) and was to be supervised by his wife. The step-mother raised the minor child for a period of two years with no monetary support from either parent and little or no visitation with either parent. Mother's brother and sister-in-law petitioned to terminate the parents' parental rights and adopt the minor child. Both parents came forward to contest the action. Eventually, Father voluntarily gave up his parental rights. Mother fought the action in a four day trial. The Court terminated her parental rights on six separate grounds and granted the adoption.

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.

Daniel Griffin v. Terri Lopez (02-DR-26-1152).

In this case I represented the Defendant who filed a Rule to Show Cause contempt action against the Plaintiff after the case was finalized. The Plaintiff was found to be in contempt and he appealed the ruling. After initial briefs were filed by the parties, the Plaintiff dismissed the appeal allowing the contempt finding to stand

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

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?

Francis Marion University Board of Trustees – May 1998 to June 2013. All reports were timely filed.

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. N/A
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
- (a) I ran for Horry County Family Court Seat 2 in 2008. I withdrew from the race in January 2008;
- (b) I ran for Family Court At-Large Seat 5 in 2013. I lost the race by vote of the General Assembly.
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?
- I have had no other employment since graduating law school in 1994 other than the ones listed above. Prior to graduating law school, I worked as a law clerk for Koon & Cook, PA in Columbia from May 1993 until May 1994. In addition, I had jobs as a server/wait staff in three restaurants between high school and graduating law school.
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
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. Have you ever been investigated by the Department of Social Services? Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No
37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? Also, if applicable, indicate your coverage and deductible for your current malpractice policy.
- I have been covered under malpractice insurance since I began practice in 1994 until present. Current policy: \$500,000 each claim/\$1,000,000 aggregate; \$1,000 deductible.
38. Are you active on or a member of a social media or Internet site or have you, to your knowledge, been featured or depicted on a social media or Internet site, such as, Facebook, LinkedIn, Twitter, etc.?
- I have a Facebook page that is only used for the purpose of keeping up with postings on my child's school, Burgess Elementary. I have no "friends" on Facebook and do not interact with anyone on any social sites. I do not believe that my use of social

media for the purposes of keeping up with my child's school will have any effect on my ability to serve in a judicial capacity.

39. 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
40. 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
41. 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." None
42. 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." None
43. 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.
Stationary and postage - \$127.00
44. 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
45. 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
46. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? If so, give details. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
47. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No
48. 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
49. 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) SC Bar Association;
 - (b) Horry County Bar Association;
 - (c) SC Bar Family Law Section Council, 2003 – present; Section Delegate, 2012; Chair, 2010; Vice Chair, 2009; Secretary 2008;
 - (d) SC Fee Disputes Board, April 2012 – June 2013;
 - (e) Horry County Family Court Executive Committee, 2000 – present;
 - (f) Certified Family Court Mediator, 1999 – present;
 - (g) Coastal Women's Law Society, 2000 – present; President 2000-03.

50. 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) Burgess Elementary School Improvement Council, 2008–present; Secretary 2008-09;
- (b) Francis Marion University Board of Trustees, 1998 – June 2013.

51. 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.

With the exception of my first year in practice, I have dedicated my entire professional life to practicing in Family Court and have practiced in no other area. I am very passionate about this area of the law. We deal with people's children, livelihood, and assets that they have worked their entire lives to acquire. They are truly at their most vulnerable and have put their complete trust in their lawyer to take care of their family issues and the presiding judge to make a fair decision. Having gone through the process of adopting a child and also a divorce myself, I have been on the "litigant" side of Family Court as well. Therefore, I am well acquainted with the fact that someone going into the Family Court arena has to put their trust in the system and the fact that the judge presiding over the matter has the requisite knowledge of law and concern for the litigants. I believe that my life experience has prepared me to be a judge who will understand the fact that those appearing in front of me are not just a caption and case number but people who need to know that the judge is compassionate and will strive to be as fair as possible.

I will also provide information as to an incident that happened approximately 13 years ago. While I do not believe that it would have a negative impact upon my ability to serve as a judge, it was brought to the attention of the Committee last year during my judicial screening, and I would like to include it in my application at this time as well:

In the spring of 2000 I was retained by a young woman who had just been served with an Ex Parte Order removing her child from her custody and placing the child with his father. There was also a Notice of Emergency Hearing which set the hearing for two or three days from the date of service. The supporting document for this Ex Parte Order was an affidavit by this woman's ex-boyfriend (not the child's father). She denied the allegations and stated that this man had since come to her and apologized for helping the child's father take custody and signing such an affidavit. He then stated that he would be willing to sign a new affidavit renouncing the first affidavit. An affidavit was prepared by my office, and my assistant personally delivered the affidavit to the man. He was working and said that he needed time to review and would deliver it back to us as the hearing was the next day. He delivered the signed affidavit to my client who brought it to me. While I did not see him sign it, I did verify that he had signed the document, compared the signatures from the previous affidavit, and I notarized the statement. This was a huge mistake and I know that and I regret it. Subsequently, the hearing was held and this man was called into Court to address the issue of the two affidavits. He admitted to the Court that he had signed them both. He had previously stated to the Guardian ad Litem that he had signed both affidavits as well. The Court referred the man to the Solicitor's Office due to the fact that he had signed both documents. I went to the Solicitor's Office on my own accord and advised them that this man had not signed the second document in front of a notary. While I knew he had signed both documents, I felt

that I had an obligation to advise the Solicitor handling the matter of what had transpired. I could not in good conscience allow this information to go unknown. The notarizing of that affidavit was a mistake I made early on in my career and it taught me a huge lesson that I have never forgotten or made again.

52. References:

- (a) Dr. Fred Carter
PO Box 100547
Florence, SC 29502
843-661-1210
- (b) Martha L. Hamel
PO Box 65
Pawleys Island, SC 29585
843-235-3600
- (c) Deborah B. Dantzler
1203 Main Street
Conway, SC 29526
843-248-5537
- (d) Rev. Craig Cheney
328 Highfield Loop
Myrtle Beach, SC 29579
843-492-6700
- (e) Penny Dirmyer
Horry County State Bank, 1300 2nd Ave.
Conway, SC 29526
843-488-6391

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

Signature: Melissa Johnson Emery

Date: August 15, 2013