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PROCEEDINGS

November 26, 2018

Judicial Merit Selection Commission, 2018

REPORTER: Patricia Bachand

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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4 JUDICIAL MERIT SELECTION COMMISSION

5 TRANSCRIPT OF PUBLIC HEARINGS

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7 BEFORE:

8 SENATOR LUKE A. RANKIN, CHAIRMAN

9 REPRESENTATIVE G. MURRELL SMITH, JR., VICE CHAIRMAN

10 SENATOR RONNIE A. SABB

11 SENATOR TOM YOUNG, JR.

12 ROBERT W. HAYES, JR.

13 REPRESENTATIVE J. TODD RUTHERFORD

14 REPRESENTATIVE CHRIS MURPHY

15 MICHAEL HITCHCOCK

16 LUCY GREY MCIVER

17 ANDREW N. SAFRAN

18 ERIN B. CRAWFORD, CHIEF COUNSEL

19 * * * * *

20 DATE: November 26th, 2018

21 TIME: 9:30 A.M.

22 LOCATION: Gressette Building, Room 105

23 1101 Pendleton Street

24 Columbia, South Carolina 29201

25 REPORTED BY: PATRICIA G. BACHAND, COURT REPORTER

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22 Court Reporter's Legend:

23 dashes [--] Intentional or purposeful interruption

24 ... Indicates trailing off

25 [sic] Written as said

1 REPRESENTATIVE SMITH: Representative Murphy
2 moves that we come out of executive session. All in favor
3 say "aye."

4 (At this time the members audibly say "aye.")

5 REPRESENTATIVE SMITH: All opposed?

6 (Hearing none.)

7 REPRESENTATIVE SMITH: The ayes have it.
8 Let me state that while we were in executive session there
9 was no votes taken and no decisions made. Judge Turner.

10 JUDGE TURNER: Good morning.

11 REPRESENTATIVE SMITH: How are you doing
12 this morning?

13 JUDGE TURNER: I'm doing well. How are you?

14 REPRESENTATIVE SMITH: I'm well.

15 REPRESENTATIVE MURPHY: Mr. Chairman, before
16 we start I was going to make a motion regarding --

17 REPRESENTATIVE SMITH: Representative
18 Murphy.

19 REPRESENTATIVE MURPHY: Excuse me, Judge
20 Turner.

21 JUDGE TURNER: Yes, sir.

22 REPRESENTATIVE MURPHY: Mr. Chairman, I
23 would move that candidate Judge Huntley Crouch, we just
24 screened her last -- I think it was last year. She's only
25 been on the bench since, I believe, July 1st. I think that

1 nothing has significantly changed since her last screening,
2 and I ask that -- I would move that we would waive her
3 screening today.

4 REPRESENTATIVE SMITH: All right.
5 Representative Murphy moves that we waive screening on
6 Candidate Huntley Smith Crouch. Any discussion on that?

7 (Hearing none.)

8 REPRESENTATIVE SMITH: All in favor of that
9 motion signify by raising your hand.

10 (At this time the members affirm the motion.)

11 REPRESENTATIVE SMITH: Let the record
12 reflect that decision's unanimous and we'll waive screening
13 of Huntley Smith Crouch. And who's the screening attorney?
14 Carmen, will you let Judge Crouch know that, please?

15 MS. SIMON: I will.

16 REPRESENTATIVE SMITH: Thank you very much.
17 All right. Judge Turner, how are you doing today?

18 JUDGE TURNER: I'm doing well. How are you?

19 REPRESENTATIVE SMITH: Doing well. I think
20 we saw you last year, too, didn't we?

21 JUDGE TURNER: You did.

22 REPRESENTATIVE SMITH: Unfortunately, we'd
23 do the same for you if you weren't already here. So while
24 you're here we may as well enjoy this time in front of the
25 screening committee.

1 JUDGE TURNER: I appreciate that.

2 REPRESENTATIVE SMITH: I bet there's nothing
3 more you would enjoy than coming and visiting with us.
4 Representative Rutherford's got a lot of questions for you
5 today. Are you ready?

6 JUDGE TURNER: I guess I'm ready. Ready as
7 I'll ever be.

8 REPRESENTATIVE SMITH: Judge Turner, raise
9 your right hand, please.

10 WHEREUPON,

11 THE HONORABLE MATTHEW PRICE TURNER, being
12 duly sworn and cautioned to speak the truth, the whole
13 truth and nothing but the truth, testifies as follows:

14 REPRESENTATIVE SMITH: Judge Turner, the
15 personal data questionnaire and the sworn statement there
16 before you, are these documents you submitted to the
17 Commission?

18 JUDGE TURNER: They are.

19 REPRESENTATIVE SMITH: Have you made any
20 amendments to those?

21 JUDGE TURNER: I have not.

22 REPRESENTATIVE SMITH: Are they true and
23 correct to the best of your knowledge?

24 JUDGE TURNER: To my knowledge, yes, sir.

25 REPRESENTATIVE SMITH: Do you have any

1 objection to us making those a part of the record?

2 JUDGE TURNER: I do not.

3 REPRESENTATIVE SMITH: Will you hand them to
4 Lindi for me, please, sir.

5 (EXHIBIT NO. 1 - JUDICIAL MERIT SELECTION
6 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
7 HONORABLE MATTHEW PRICE TURNER)

8 (EXHIBIT NO. 2 - JUDICIAL MERIT SELECTION
9 COMMISSION SWORN STATEMENT OF THE HONORABLE
10 MATTHEW PRICE TURNER)

11 REPRESENTATIVE SMITH: Judge Turner, the
12 Judicial Merit Selection Commission has thoroughly
13 investigated your qualifications for the bench. Our
14 inquiry has been limited to nine evaluative criteria, a
15 ballot box survey, a thorough study of your application
16 materials, a verification of your compliance with state
17 ethics laws, a search of newspaper articles in which your
18 name appears, a study of previous screenings, and checks
19 for economic conflicts of interest.

20 We've received no affidavits in opposition
21 to your election. No witnesses are here to testify today.
22 Do you wish to make a brief opening statement to the
23 Commission? And let me remind you, you don't have to if
24 you don't want to.

25 JUDGE TURNER: Yes, sir. No, sir, I

1 appreciate you guys letting me be here. But I know that
2 you have a busy day, so other than that, thank you.

3 REPRESENTATIVE SMITH: Will you answer any
4 questions that Counsel may have of you, please, sir.

5 EXAMINATION BY MR. TRIPLETT:

6 Q. Judge Turner, after serving less than a year on
7 the family court, why do you want to continue serving as a
8 family court judge?

9 A. Well, let me just say first, I've enjoyed my
10 short time on the bench so far. I've enjoyed traveling to
11 different areas and meeting other attorneys, working with
12 other clerks of court and staff. There's some great people
13 who make this process work, and I've thoroughly enjoyed
14 that.

15 I've also enjoyed getting to help people in
16 another aspect. It's a lot different than practicing law,
17 but I feel like I can help others and help the attorneys
18 and litigants through the process. I really enjoy working
19 with juveniles in particular, because I feel like that's an
20 area where I can maybe have the most impact with what I do,
21 maybe based on something I say or do in the courtroom that
22 hopefully will change the course those young individuals
23 are headed on.

24 But I've only been on the bench about seven
25 months, and I have a lot of ahead of me, so I want to

1 continue on in this journey.

2 Q. So, Judge Turner, please explain one or two brief
3 accomplishments that you feel like you've completed during
4 your tenure, and then a goal you would like to accomplish
5 if reelected.

6 A. It's hard to say that any goals have been
7 accomplished so far in my short time. Personally, I want
8 to be the best judge I can be. I want people to think of
9 me as being fair and easygoing, and a judge who always
10 tries to do what's right, regardless of the situation.

11 A couple of things that I want to work on or that
12 I would like to see done are make sure that we catch up the
13 backlog we have, especially in my county, and make sure
14 that attorneys aren't sitting out in the waiting room for a
15 long time waiting on cases. 'Cause sometimes we get
16 behind, as you guys do here, and you know how that goes.

17 And those are things that don't happen overnight.
18 And, you know, you have to talk to other judges and talk to
19 the clerks, the scheduling clerks, talk to agency attorneys
20 and figure out ways to improve that.

21 And so I have met with the DSS attorney in my
22 county, I've met with the clerk of court and been working
23 on trying to rearrange how some things are scheduled, try
24 to make sure enough time's requested for hearings and that
25 sort of thing, to try to make sure we clean up the backlog

1 and make sure that you can get hearings scheduled quicker.
2 And make sure that there is sufficient time so that there's
3 not a backlog in the hallway during the day when court gets
4 behind.

5 Those are some of the things I'd like to work on.
6 As well as improving the time, I guess, usage with DSS in
7 particular. In my county that's one thing we're trying to
8 work on is making sure that we're more efficient. That's
9 something I'd like to see done.

10 **Q. And, Judge Turner, what do you think your**
11 **reputation is among attorneys that practice before you?**

12 A. I wish I knew. I've asked some people if they
13 have heard anything because I -- I'd like to know. I'd
14 like to know if people disagree with the way I'm doing
15 things or don't like what I'm doing. And I'm certainly
16 open to hearing those things and trying to change if that's
17 the case.

18 But I guess people are afraid to tell me
19 anything, 'cause so far I haven't had any comments. But
20 again, I hope they think that I'm fair, that I'm easygoing
21 and that I'm going to try to do what's right. But I don't
22 really know. You know, I've had people say I'm doing a
23 good job, but I don't know if they truly mean that. I hope
24 they do. But it's hard to know what my reputation is.

25 **Q. Judge Turner, the Commission received 148 ballot**

1 box surveys regarding you, with 9 additional comments, all
2 of which were positive, including:

3 "I've appeared before this judge many times. His
4 judicial temperament and demeanor are excellent, as well as
5 his knowledge of the law and application of it to his
6 cases. Highly qualified."

7 Another is, "Matthew is an outstanding judge and
8 is a welcomed addition to the family court bench. And I
9 have been impressed with this new, young family court
10 judge."

11 Judge Turner, being new to the family court
12 bench, what was the most difficult -- what has been most
13 difficult or challenging for you, going from practicing in
14 the court to presiding over it?

15 A. Well, there are a lot of challenges. I don't
16 know -- it's hard to say what's the easiest. One that
17 comes to mind is having to try to decide who gets the
18 children when you have two seemingly fit parents, and
19 trying to figure out the best way to work that out, a
20 situation where everybody gets to have time with the child
21 or children.

22 Trying to decide whether or not a juvenile has to
23 be detained when there's not an agreement, balancing the --
24 you know, having a juvenile detained versus, you know,
25 protecting society and keeping other crimes from being

1 committed. DSS cases, trying to figure out, you know,
2 whether or not to send that -- those kids back home.

3 There are just lots of challenges. Those are --
4 those are three that stick out in my mind, all dealing with
5 children. And to me that's always the hardest areas is
6 what to do with them.

7 Q. Thank you, Judge Turner. There are a few
8 housekeeping issues to address. Judge Turner, since
9 submitting your letter of intent have you contacted any
10 members of the Commission about your candidacy?

11 A. I have not.

12 Q. Are you familiar with Section 2-19-70, including
13 the limitations on contacting members of the General
14 Assembly regarding your screening?

15 A. I have.

16 Q. And since submitting your letter of intent have
17 you sought or received a pledge of any legislator either
18 prior to date or pending the outcome of your screening?

19 A. I have not.

20 Q. Have you asked any third parties to contact
21 members of the General Assembly on your behalf, or you are
22 aware of anyone attempting to intervene in this process on
23 your behalf?

24 A. I have not. And I'm not aware of anybody.

25 Q. Have you reviewed and do you understand the

1 Commission's guidelines on pledging and South Carolina Code
2 Section 2-19-70, Subsection E?

3 A. I am.

4 MR. TRIPLETT: I would note that the
5 Piedmont Citizens Committee reported that Judge Turner is
6 well qualified in the evaluative criteria of economic
7 conflicts of interest, professional and academic ability,
8 character, reputation and experience and judicial
9 temperament, and qualified in the remaining evaluative
10 criteria of constitutional qualifications, physical health
11 and mental stability.

12 The Committee has issued a summary statement
13 commending Judge Turner: "Though he's only been on the
14 bench a short time, Judge Turner has deep family law
15 experience. The Committee was impressed by his work ethic
16 and the seriousness with which he has take his judicial
17 responsibilities."

18 I would just note for the record that any
19 concerns raised during the investigation regarding the
20 candidate were incorporated into the questioning of the
21 candidate today. And, Mr. Chairman, I have no further
22 questions.

23 REPRESENTATIVE SMITH: All right. Thank you
24 very much. Any questions for Judge Turner? Mr. Safran.

25 EXAMINATION BY MR. SAFRAN:

1 Q. Judge, I just want to be really quick.

2 A. Yes, sir.

3 Q. I really appreciate what we saw as far as the
4 responses that shows that in the short time you've been
5 there, you've obviously gained affection of the people who
6 are practicing, and respect, in front of you.

7 We heard something last week, and it troubled me
8 a little bit. And I think you made one comment that I just
9 wanted to kind of ask about. It just appeared to me -- and
10 I don't think this was anybody's fault, but it just seemed
11 like some of the people who might have had some time on the
12 bench in family court became a little bit more preoccupied
13 with moving the hearings within their scheduled time frame,
14 as opposed to taking the time to go ahead and address the
15 merits of the case. I don't get the impression that's what
16 you were doing.

17 And I guess what I'm hopeful is, is that as a
18 practicing lawyer that -- you know, not far removed that,
19 that's going to stick with you in terms of -- certainly,
20 you know, if somebody comes in and says they only need an
21 hour but they need three, you've got to let them know,
22 "Don't let this continue to be a problem."

23 You know, at a pretty much sharp contrast --
24 because later in the day we had a family court judge who
25 was like you, universally admired, who said, "You know

1 what, it may be set for fifteen minutes, but if it takes
2 thirty, it's thirty. If it takes forty-five, I'm going to
3 do it."

4 And I asked him specifically, "You're not
5 spending the night at the courthouse in order to do that?"
6 And of course he wasn't. But I don't do family court work,
7 I haven't in years, but it just was a little concerning to
8 me that people seem to be more concerned about how the
9 trains were running as opposed to what might have been
10 inside the train.

11 And have you kind of -- have any experience or
12 concerns with that, at least in the seven months you've
13 been there?

14 A. You know, that's one of the additional challenges
15 that I didn't bring up earlier is trying to stay on track
16 as much as you can, but also make sure that everybody has
17 an opportunity to be heard, and that you give the case that
18 consideration it needs. And so far I've taken the approach
19 where, you know, if it runs over, I'm going to let it run
20 over.

21 I mean, you know, there becomes a fine line you
22 can't let it take up your whole day, obviously. But I
23 think that the attorneys always want a little additional
24 time, and they understand I'm not going to give them all
25 day.

1 And it's funny, usually things work out by the
2 end of the day. You usually have another case that settled
3 and maybe put an agreement on the record, or have one
4 continued. And so more times than not you end up getting a
5 bulk of that time back. And so thank goodness, so far it's
6 worked out.

7 I mean, you know, I was told that when I started
8 to be mindful of your court staff, your court reporter, the
9 security. You don't want to keep people there late when
10 they have children they have to go get. Even if I'm
11 willing to stay all night, that's not fair to everything
12 else. And so those are the kind of things you have to keep
13 in mind.

14 But I have a few times when I've -- when I've
15 been able to I've taken cases under advisement, just so
16 that I could move on and have additional time to review the
17 file and review the documents I was handed. When I do that
18 -- I don't know that I've ever let it carry on over to the
19 next week, unless it was maybe a Thursday or a Friday
20 hearing. So if I've taken it under advisement, I'll go
21 ahead and rule on it, usually by the end of the week if I
22 can.

23 But that's what I've done so far as a new judge.
24 'Cause of course being new, I'm going to be a little bit
25 slower. And I haven't seen all the fact -- situations and

1 all the scenarios that some of the more experienced judges
2 have seen. But that's how I've tried to handle it so far.
3 And I'm going to give the people the time.

4 To me one thing that -- with the public is, you
5 know, they -- I don't think that they have a lot of trust
6 in the court system. And so I want to make sure that
7 everybody feels like they have the opportunity to be heard
8 and that their side was heard. And so that's what I've
9 been trying to do.

10 Q. Well, I think you hit it on the head, in that so
11 many folks' real initiation to the court system is usually
12 through the family court. And I guess if they're being
13 rushed out of the door, regardless of whether they've been
14 fully heard, you know, within reason it's not going to
15 leave a very good flavor, I'm sure.

16 A. That's right.

17 Q. And the fact that you're mindful of it, I think
18 is very important. And we do again appreciate your coming
19 up here. Sorry to have to make you travel after such a
20 limited period since your last time.

21 A. That's all right. It's part of the process.

22 Q. Thank you.

23 A. Thank you.

24 REPRESENTATIVE SMITH: Any other questions
25 of Judge Turner? Senator Young.

1 SENATOR YOUNG: Thank you, Mr. Chairman.

2 EXAMINATION BY SENATOR YOUNG:

3 Q. Judge, good morning.

4 A. Good morning.

5 Q. I want to compliment you on your Bar comments.

6 They are exceptional. And I know you've only been on the
7 bench a short period of time, but you -- I want to
8 publically compliment you for that.

9 The second thing I want to ask you -- or the
10 first thing I want to ask you is, I know you had extensive
11 experience handling family court matters before you went to
12 the bench. And now that you are on the bench, in the area
13 of abuse and neglect cases do you have -- if you had to
14 name one thing that you could change to try to make the
15 system more effective for the children and the families
16 involved in the abuse and neglect system, what would that
17 be, and why?

18 A. That's hard to say. I don't know how you -- how
19 you pinpoint that. One problem I see is efficiency. And I
20 know that particularly in my county, right now there's one
21 attorney. And so when they schedule court it's usually --
22 and we don't have a big docket, it's usually just in the
23 afternoon they're supposed to be there at two.

24 And so if you have a trial, you usually don't
25 have enough time for it, that attorney is trying to come in

1 the courtroom and put on -- put some cases through where
2 the other attorneys -- the defense attorneys are the ones
3 representative the parents are outside, and they need to
4 talk to that attorney to try to see if they can come up
5 with an agreement. And so that creates a problem, 'cause
6 the DSS attorney is in the courtroom trying to -- trying to
7 do their job.

8 But I do know that in my county they've just
9 hired two new attorneys. I don't know if they're both
10 going to be in Laurens, but hopefully at least one of them.
11 So one can be out in the lobby trying to talk about cases
12 and work things out, while one's in the courtroom putting
13 the cases through.

14 But to me that's been one issue -- I know like in
15 Greenville -- I've been in Greenville a fair amount, and
16 they have four or five DSS attorneys, so three of them are
17 out in the hallway working while one's in the courtroom.
18 And that's been great. And their system seems to be lot
19 more efficient.

20 And that's something I've been talking to the DSS
21 attorney about in my county, about making sure that they
22 and the caseworkers are there earlier before -- before two,
23 so they can actually talk and try to work things out. And
24 so I think that's a communication issue. And it's gotten a
25 little bit better, but it's something that we have to stay

1 on top of.

2 But all those cases are hard. It's hard to know
3 what to do and how to move it. I think a lot of it -- to
4 me a lot of the issue is communication in terms of working
5 them out between the attorney, the caseworkers, and the
6 attorneys representing the parents.

7 **Q. Thank you very much.**

8 REPRESENTATIVE SMITH: All right. Any
9 further questions of Judge Turner?

10 (Hearing none.)

11 REPRESENTATIVE SMITH: Judge Turner, I
12 appreciate you being here today. And I appreciate your
13 service to the state of South Carolina. I want to
14 reiterate what you heard. You've only been on the bench
15 for a short time, but I'll tell you what's impressive is
16 that you have these comments and people are singing your
17 praises on the job you're doing.

18 I hope you -- you're a relatively young
19 judge, so I hope we're -- you know, you're not going to see
20 me here in twenty years. But if you continue in this job,
21 I hope you keep the same type of attitude and the same type
22 of work ethic that you have now. It will serve you well
23 throughout your career. So I appreciate it.

24 All right. This will conclude this portion
25 of our screening process. I want to take this opportunity

1 to remind you that pursuant to the Commission's evaluative
2 criteria, the Commission expects candidates to follow the
3 spirit as well as the letter of the law. And we will view
4 violations or the appearance of impropriety as serious and
5 potentially deserving of heavy weight in the screening
6 process.

7 As you know, this record's going to remain
8 open until the formal release of the report of
9 qualifications, and you may be called back at such time if
10 the need arises. Hopefully, you won't.

11 So I appreciate you being here. Sorry we
12 had to bring you here. If you weren't first on the
13 schedule, you may be staying home and holding court. But
14 it's nice to see you. And I appreciate the service to the
15 state of South Carolina.

16 JUDGE TURNER: Good to see you guys. I
17 appreciate it.

18 REPRESENTATIVE SMITH: Thank you, Judge
19 Turner.

20 (Candidate excused.)

21 CHAIRMAN RANKIN: Michael Todd Thigpen.

22 MR. THIGPEN: Yes, sir.

23 CHAIRMAN RANKIN: Good morning.

24 MR. THIGPEN: Good morning.

25 CHAIRMAN RANKIN: If you will raise your

1 right hand, please.

2 WHEREUPON,

3 MICHAEL TODD THIGPEN, being duly sworn and
4 cautioned to speak the truth, the whole truth and nothing
5 but the truth, testifies as follows:

6 CHAIRMAN RANKIN: You have completed two
7 statements there, a PDQ and a sworn statement; is that
8 right?

9 MR. THIGPEN: Yes, sir.

10 CHAIRMAN RANKIN: Any changes that need to
11 be made to those documents?

12 MR. THIGPEN: No, sir.

13 CHAIRMAN RANKIN: Do you mind those being
14 made a part of the record? Object to that?

15 MR. THIGPEN: No, sir.

16 CHAIRMAN RANKIN: If you'll hand those to
17 the young lady to your left. Thank you so much.

18 (EXHIBIT NO. 5 - JUDICIAL MERIT SELECTION
19 COMMISSION PERSONAL DATA QUESTIONNAIRE OF MICHAEL
20 TODD THIGPEN)

21 (EXHIBIT NO. 6 - JUDICIAL MERIT SELECTION
22 COMMISSION SWORN STATEMENT OF MICHAEL TODD
23 THIGPEN)

24 CHAIRMAN RANKIN: Mr. Thigpen, we have
25 thoroughly investigated your qualifications for the bench.

1 We have focused on nine criteria, which includes a ballot
2 box survey, a study of your application materials, a
3 verification of your compliance with state ethics laws, a
4 search of newspaper articles in which your name has
5 appeared, a study of previous screenings, and a check of
6 economic conflicts of interest.

7 We have received no affidavits filed in
8 opposition to your election. No witnesses are present to
9 testify against you. And I will at this time extend you
10 the offer to make a very brief opening statement, if you so
11 desire. You are not required to do so.

12 MR. THIGPEN: Well, first of all, I'd just
13 like to thank the Commission for the opportunity to be
14 here. I have done this -- this is the third time I've been
15 here. I understand how much time you all take out of your
16 schedules to do this, so I appreciate that. And with that
17 said, I'd just be happy to answer any of your questions.

18 CHAIRMAN RANKIN: Answer any questions that
19 Mr. Franklin has for you.

20 MR. FRANKLIN: Thank you, Mr. Chairman.

21 Good morning, Mr. Thigpen. Please state for
22 the record, the city and circuit in which you reside.

23 MR. THIGPEN: I reside in Roebuck, South
24 Carolina, which is in the 7th Judicial Circuit.

25 MR. FRANKLIN: Mr. Chairman, I note for the

1 record that based on the testimony contained in the
2 candidate's PDQ, which has been included in the record with
3 the candidate's consent, Michael Todd Thigpen meets the
4 statutory requirements for this position regarding age,
5 residence, and years of practice.

6 EXAMINATION BY MR. FRANKLIN:

7 **Q. Mr. Thigpen, why do you want to serve as a family**
8 **court judge, and why do you feel that your legal and**
9 **professional experience qualify and will assist you to be**
10 **an effective judge?**

11 A. I would like to serve as a family court judge
12 because I do believe that my twenty-two years of experience
13 as a family court attorney will allow me to do a -- provide
14 a public service to the citizens of South Carolina. I
15 believe that I will enjoy the job.

16 As I stated, I've been practicing twenty-two
17 years. My practice has been devoted almost exclusively to
18 family court cases. During that time I've represented
19 thousands of clients in all areas of family court. I've
20 served as a guardian ad litem in approximately nine hundred
21 cases, representing children in private cases on the issues
22 of custody visitation, adoption, termination of parental
23 rights, name changes.

24 I also served as a contract attorney for the
25 Spartanburg County Volunteer Guardian ad Litem Program, so

1 I have extensive experience in DSS cases. I did that for
2 about thirteen years.

3 I've been certified as a family court mediator
4 since 2002. And I've been asked by attorneys, or appointed
5 by the court to mediate approximately five hundred cases in
6 the last five years, since mediation became mandatory in my
7 circuit in 2013.

8 So I believe that experience will allow me to do
9 a good job as a family court judge.

10 **Q. Are there any areas of the law for which you**
11 **would need additional preparation in order to serve as a**
12 **family court judge, and how would you handle that**
13 **additional preparation?**

14 A. I don't know that I would need additional
15 preparation, per se. But probably the least area I have
16 experience in was probably with juvenile justice cases. I
17 have been appointed in those cases early on in my career.
18 I've served as an attorney for juveniles. I've served as a
19 guardian for juveniles. Some of that has overlapped in the
20 DSS work I did for a number of years.

21 But I would pay special attention to the
22 statutes, go back and review all of that before I took the
23 bench, and observe some other family court judges doing
24 that.

25 **Q. Briefly describe your experience in handling**

1 complex contested family court matters, and specifically
2 discuss your experience with the financial aspects of
3 family court work.

4 A. As I put in my application, I've probably done --
5 I've actually counted this time. I've represented clients
6 in probably fourteen hundred -- or more than fourteen
7 hundred divorce, decree of separate maintenance, annulment
8 actions. Most -- a lot of which involved issues of
9 alimony, child support, equitable division.

10 One that comes to mind is that of a fifty-year
11 marriage where they were trying to argue that a number of
12 acres across the road from what they conceded to be the
13 marital residence was non-marital. I had to deal with that
14 issue and prove that if it -- it was marital, or in the
15 alternative it was transmuted in the marital property.

16 I've dealt with many cases involving millions of
17 dollars in assets, including various types of retirement
18 accounts. I had one case where I can remember we had to
19 appraise like thirty pieces of rental property. So I
20 believe I have sufficient experience trying -- or serving
21 as an attorney in those kind of cases.

22 And like I said, I've been a mediator for quite a
23 while and I've mediated many cases that involved lots of
24 dollars in assets, issues of alimony. So I believe I have
25 sufficient experience in complex financial cases.

1 Q. Mr. Thigpen, the Commission received 166 ballot
2 box surveys regarding you, with 26 additional comments.
3 The ballot box survey, for example, contained the following
4 positive comments:

5 "Mr. Thigpen has all the qualities of a great
6 judge. He will be a great asset to the family court
7 bench." "Todd Thigpen is a great mediator, guardian ad
8 litem, and attorney. He treats others with respect and has
9 a calm demeanor. Highly recommend him." "He is known for
10 his honesty. Judges now go to him for his advice many
11 times."

12 And finally, "Todd Thigpen is an excellent lawyer
13 and mediator. He can be counted upon for his encyclopedic
14 knowledge of statutes and case law. His temperament is
15 well suited for the bench."

16 However, two of the written comments expressed
17 concerns. The first one is, "Todd has the opinion in the
18 local legal community as being lazy and low rent. His
19 responses are untimely and vague. Clients complain in
20 formal discussions about cases. Shows lack of vigor to
21 truly represent his client's best interest. There's a
22 concern that the winks and nods in current conversations
23 about cases would translate to similar positions on the
24 bench, where the attorney involved is likely more important
25 than the facts presented."

1 **What response would you offer to that concern?**

2 A. Well, I think the -- as you can tell from the
3 comment, I believe it's kind of overreaching. But
4 apparently somebody doesn't like me, out of the 166 people
5 who responded to the ballot box survey. But I would just
6 take the high road here. I can't speculate who that is.

7 I do believe that the fact that I've been found
8 well qualified by the Citizens Committee and the Bar
9 committee for the -- in 2016, and again this year, proves
10 that it is not the local -- the opinion of the local legal
11 community that, that's true. And I believe that the ballot
12 boxes speak for themselves as far as the other comments.

13 **Q. Second, "He has previously served as a guardian**
14 **ad litem in my domestic cases. I do not feel that he was**
15 **adequately fulfilling his obligations in investigating the**
16 **case."**

17 **What response would you offer to that criticism?**

18 A. Again, in that comment I believe that it was
19 specific enough that you and I were able to -- at least I
20 felt I was able to identify who that was. I won't get into
21 that, but basically -- quite frankly, I don't recall
22 serving as a guardian ad litem in any case that I -- that,
23 that lawyer was involved in, other than to say I was
24 appointed last year at some point maybe earlier this year.
25 The parties reconciled. The case was dismissed. I was

1 never asked to do any investigation.

2 Q. Mr. Thigpen, you were named as a defendant in a
3 lawsuit filed in stated court in 2011 entitled "Bank of
4 America v. Manfred Volk, and Sun Trust Mortgage v. Earl
5 Kingery. Please explain the nature and disposition of that
6 lawsuit.

7 A. First of all, I think that's two different cases.
8 The Bank of America v. Manfred Volk, I was the guardian ad
9 litem for their children. They had a house that went into
10 foreclosure. The foreclosure attorney actually named me as
11 a party because I had outstanding guardian fees. They
12 eventually sold the home. I was actually paid out of the
13 closing proceeds.

14 As far as the Earl Kingery, I was owed attorney
15 fees in a case I had represented his exwife. I do recall
16 receiving that lawsuit. There's no public record that I
17 found on that. And that's why I put in there, there may be
18 others. But I don't know whatever happened with that
19 lawsuit. It was a foreclosure on a house after he passed
20 away, after he was divorced from my client. So my client
21 had no interest in that estate, I guess you could say.

22 Q. Mr. Thigpen, what do you believe to be the
23 appropriate demeanor of a family court judge? And which
24 family court judges would you seek to model yourself after
25 in that regard?

1 A. I believe the judge, first of all, needs to be
2 respectful and courteous to not only the litigants and the
3 lawyers, but also to their staff and court personnel. In
4 court a judge needs to be patient. I think that Justice
5 Kittredge -- I have a friend of mine from law school who is
6 now sitting on the family court bench, had a plaque to go
7 on her bench. And said he was given it to -- when he was a
8 family court judge, it says "Patience." And I believe she
9 looked at that all the time and says that does help.

10 But the main thing I think a family court judge
11 is -- to follow the rule we've been taught since we were
12 children is, "Do unto others as you would have them do unto
13 you."

14 I've jokingly said to two of my lawyers that I
15 had cases with before they got on the bench, "Don't forget
16 where you came from." I think every judge needs to
17 remember that.

18 As far as who I would emulate, I've told people
19 that -- and I think you all know you are screening for
20 this, this year too -- Judge Tommy Edwards from Anderson is
21 retiring. I've said of anyone, I would try to emulate what
22 he's done. If you see him in the hall, he's nice. If you
23 see him on the bench, he's nice. I've never seen him make
24 -- have a unkind word to anyone.

25 Even in some cases I've been involved with, that

1 were contentious in front of him, the lawyers may be
2 getting combative with one another, but he always
3 maintained his demeanor and was cool, calm and collected.

4 Q. Thank you. Mr. Thigpen, when you were before the
5 Commission in 2012, you responded to a concern about your
6 visual impairment as follows:

7 "I have been practicing law in the family court
8 for over sixteen years, and I have sat in every chair in
9 the family court, other than the judge's seat. I've sat at
10 the guardian table, defense, table, plaintiff's table.
11 I've tried numerous cases over the years. And my vision
12 has never, in my opinion, impaired me in any ability to do
13 my job. And I don't think it would impair me to be a judge
14 either."

15 Do you have this same self assessment today? And
16 has anything changed for better or worse since 2012?

17 A. I would state the same thing today. I don't
18 think my vision has ever been an issue with me practicing
19 law. Quite frankly, if I thought my vision would impeded
20 me from being a good family court judge, I would not be
21 here.

22 As I've told you, the application you all have in
23 front of you, I typed myself. I don't have any visual aids
24 in the courtroom. The only thing I have in my office is a
25 pocket magnifying glass if I have to read the phone book or

1 the desk book numbers.

2 My wife said, "Show them your phone." 'Cause she
3 can't read it. She's got the bigger iPhone now. But I
4 don't know of anything that -- I've cross-examined
5 witnesses, I've observed witnesses. The main thing I do in
6 the family court courtroom, if I'm in here is I watch what
7 the judge is doing, 'cause that's your audience.

8 And I kind of look at their facial expressions
9 and what they're kind of nodding -- if they're laying back
10 in the chair, then maybe I need to move on to some other
11 subject. So I mean, I was trained early on to kind of
12 watch what the judge is doing.

13 So I think I can see what the witness is doing
14 and what the lawyers are doing, just as easily as I can see
15 what the judge is doing when I try cases now.

16 **Q. And given your diagnosis, pursuant to the**
17 **Americans With Disabilities Act will you be perform the**
18 **essential job functions required of a family court judge**
19 **without any reasonable accommodation --**

20 A. Yes, sir.

21 Q. -- with or without?

22 A. Yes, sir.

23 Q. Thank you. Now for a few housekeeping issues.

24 Mr. Thigpen, are you aware that as a judicial candidate you
25 are bound by the code of judicial conduct as found in Rule

1 501 of the South Carolina Appellate Court Rules?

2 A. Yes, sir.

3 Q. Since submitting your letter of intent have you
4 contacted any members of the Commission about your
5 candidacy?

6 A. No, sir.

7 Q. Are you familiar with Section 2-19-70, including
8 the limitations on contacting members of the General
9 Assembly regarding your screening?

10 A. Yes, sir.

11 Q. Since submitting your letter of intent have you
12 sought or received a pledge of any legislator either prior
13 to this date or pending the outcome of your screening?

14 A. No, sir.

15 Q. Have you asked any third parties to contact
16 members of the General Assembly on your behalf, or are you
17 aware of anyone attempting to intervene in this process on
18 your behalf?

19 A. No, sir.

20 Q. And finally, have you received and do you
21 understand the Commission's guidelines on pledging and
22 South Carolina Code 2-19-70(E)?

23 A. Yes, sir.

24 MR. FRANKLIN: I would note that the Upstate
25 Citizens Committee found Mr. Thigpen well qualified in the

1 evaluative criteria of ethical fitness, professional and
2 academic ability, character, reputation, experience and
3 judicial temperament, and qualified as to the remaining
4 evaluative criteria of constitutional qualifications,
5 physical health and mental stability.

6 The Committee stated in summary: "The
7 Committee is extremely impressed with Mr. Thigpen's depth
8 of experience. He has practiced in every area of the
9 family court. He has significant experience as a guardian
10 ad litem, the number of guardian ad litem cases he has
11 handled indicates his peers and judges trust his judgement,
12 ethics and knowledge;

13 "Additionally, a candidate with such extensive
14 guardian ad litem experience indicates the ability to work
15 well with others, and we believe is a positive indicator
16 for a desirable judicial temperament."

17 I would just note for the record that any
18 concerns raised during the investigation regarding the
19 candidate were incorporated into the questioning of the
20 candidate today. Mr. Chairman, I have no further
21 questions.

22 CHAIRMAN RANKIN: Representative Smith.

23 REPRESENTATIVE SMITH: Thank you, Mr.
24 Chairman.

25 EXAMINATION BY REPRESENTATIVE SMITH:

1 Q. Mr. Thigpen, I appreciate you being here today.
2 One anomaly I found on these ballot box criteria is you --
3 is interesting is you have the same issue that Mr.
4 Lounsberry had, and there is someone that says, "Because
5 I'm running against Mr. Lounsberry for the seat, I don't
6 know how proper it is for me to make comments."

7 Was that you that made those comments on Mr.
8 Lounsberry's --

9 A. No, sir.

10 Q. 'Cause you have the same one on your yours too.
11 Somebody made similar comments and says, "'Cause I'm
12 running against Mr. Thigpen, I do not know whether it's
13 proper for me to do that."

14 I presume you had a third party -- another
15 candidate in this race that dropped out?

16 A. Yes, sir.

17 Q. So he's made -- so obviously he made comments on
18 your ballot box, your opponent did, and on Mr. Lounsberry's
19 ballot box.

20 A. It was specific enough that I was able to
21 identify that's who it was, because it also said we have
22 one pending case at this time. I did not have any pending
23 cases with Mr. Lounsberry.

24 Q. Okay. So this was the guy who was running
25 against you all, that dropped out?

1 A. That's my best guess that it's very -- it's clear
2 enough that, that's who it was.

3 Q. Yeah. So you don't think it was Mr. Lounsberry
4 that made that comment then.

5 A. No, sir.

6 Q. Okay. All right.

7 CHAIRMAN RANKIN: On motion of Mr.
8 Hitchcock, seconded by Representative Murphy, we're going
9 to go into executive session.

10 (Off the record.)

11 CHAIRMAN RANKIN: We are back on the record.
12 And while in executive session no decisions were made and
13 no votes were taken. And now we will resume the questions
14 of Mr. Thigpen. Mr. Franklin, any questions you have? Or
15 you had concluded, I think, is that right?

16 MR. FRANKLIN: Yes, sir.

17 EXAMINATION BY CHAIRMAN RANKIN:

18 Q. I want to just jump right to the -- to the ballot
19 box and commend you for your well -- almost unanimous
20 response in terms of how your peers deem your candidacy and
21 your ability to handle the job that's required.

22 Again, twenty-six folks say glowing things about
23 you. And two, as Mr. Franklin mentioned, perhaps the
24 naysayers. But I think you had said sufficiently explained
25 those. What's going to be the difference in your life if

1 you are sitting in judgement of versus advocating for those
2 who you have represented in your career thus far? What do
3 you see the difference in how you're going to be fulfilling
4 your job?

5 A. The difference is, is an advocate -- as you all
6 know, you have to look at it from your client's
7 perspective, argue for what they want whether it's in their
8 best interest or their client -- or their children's best
9 interest.

10 As a judge you have to look at it from a custody
11 case from the child's perspective. As I stated, I've got
12 extensive guardian ad litem experience. I've got extensive
13 DSS experience representing volunteering guardian ad
14 litem. So I believe I've been doing that for years.

15 Also serving as a mediator you've got to look at
16 both sides. I've been doing that -- been certified since
17 2002. I've mediated cases from time to time, but until it
18 became mandatory it wasn't a big business. I've done that
19 for over five hundred cases in the last five years.

20 So I believe I've basically -- what I put in my
21 thing, and I really believe is, in my humble opinion
22 serving as a family court mediator is the best off-the-
23 bench training one can receive before taking the bench.
24 And I truly believe that, because it requires you to look
25 at all sides to see all the different issues from each --

1 all different ways.

2 CHAIRMAN RANKIN: Questions of other members
3 of the Commission they may have for Mr. Thigpen? Senator
4 Young.

5 SENATOR YOUNG: Thank you, Mr. Chairman.

6 EXAMINATION BY SENATOR YOUNG:

7 Q. Mr. Thigpen, I noticed on your PDQ that you have
8 many years of experience, I think it was thirteen, handling
9 abuse and neglect cases as a contract attorney --

10 A. Yes, sir.

11 Q. -- for DSS?

12 A. It's probably longer than that. There was a
13 period where I was appointed to represent them a good bit.
14 There was a period where the friends -- what they call the
15 Friends of the Guardian ad Litem Program was a -- it's an
16 organization that raises funds for them, and paid us to do
17 it.

18 Thirteen years is actually the State of South
19 Carolina, I had a contract. But it's probably more closer
20 to fifteen years.

21 Q. One question I have for you is based on your
22 experience with abuse and neglect cases. Do you have any
23 ideas that you could potentially -- if you were elected to
24 the family court bench, that you could suggest or implement
25 as to how you could improve the system for the families and

1 the children in the -- in abuse and neglect cases in family
2 court?

3 A. The only thing I can say, and I think our judges
4 have tried to do a good job of this -- I actually looked at
5 the docket last night. To tell you how much time this
6 takes, we have two judges in Spartanburg this week, two of
7 them will be doing DSS afternoon, and both of them will be
8 doing DSS all day Thursday.

9 One of them will be doing DSS all day Wednesday,
10 doing TPRs, which we're trying to move a lot quicker. One
11 of them on Friday morning will be doing permanency planning
12 judicial review hearings. Another one, if it -- if the
13 court gets to it, is set for a two-day trial, starting
14 tomorrow, behind a case I'm involved in.

15 So basically, I don't know how much more time and
16 resources the family court can devote to DSS. But I do
17 think that in my circuit at least, we've been trying -- and
18 I was in -- fortunately early on, involved in this where
19 Judge Fraley came up with the system that we have now where
20 you basically put everybody on a 35-day time line and try
21 to get these cases tried and moved.

22 And they're devoting a lot of court time and a
23 lot of resources to put -- basically, making those cases a
24 priority of everything else, quite frankly.

25 SENATOR YOUNG: Thank you, sir.

1 CHAIRMAN RANKIN: Other questions? Ms.
2 McIver.

3 EXAMINATION BY MS. MCIVER:

4 Q. Thank you, Mr. Thigpen. We've heard from some of
5 the family court judges that there's been an issue with
6 attorneys scheduling hearings for fifteen minutes, and
7 perhaps they need a bit more time than that, which causes a
8 backlog of the cases for the day.

9 Q. Have you had that experience at all?

10 A. Yes, I have had that experience where I go into a
11 fifteen-minute hearing and I've been retained to represent
12 the defendant, and the plaintiff's lawyer takes fifteen
13 minutes, and then you feel like the judge is mad at you
14 because you're wanting to at least get as much time as they
15 had.

16 So I think that is a problem. I think that
17 lawyers are picking up on the fact that judges are somewhat
18 frustrated with that. If you have a complex case, we have
19 the ability to ask for at least a thirty-minute motion
20 without any -- other than tell the court it's complex, if
21 we need an hour we can go to the -- or administrative judge
22 and they'll try to give us that as quick as possible.

23 Q. If you were on the bench, what would your
24 approach be to lawyers who have not asked for sufficient
25 time, and the litigants are there for their day in court

1 **when they have fifteen minutes?**

2 A. I think it's a balancing act. I mean, you've got
3 to balance those litigants -- it's not their fault that
4 somebody didn't ask for enough time. So you try your best
5 to work it in. But then you also have to be considerate of
6 the lawyers and other litigants waiting in the hall.

7 I mean, I'll probably continue it or just say,
8 "Hey, we're going to stop here. Hopefully, I'll get a
9 break this afternoon or sometime this week that I can bring
10 you back in and finish this."

11 I'm not going to punish the litigants for people
12 not asking for enough time. But I may have a private
13 conversation with the lawyers about, you know, "You can't
14 do this. Because it's uncourteous to other lawyers, other
15 litigants to get the court behind when you knew you needed
16 an hour hearing and you asked for fifteen minutes."

17 **Q. Thank you, Mr. Thigpen.**

18 CHAIRMAN RANKIN: Representative Smith.

19 EXAMINATION BY REPRESENTATIVE SMITH:

20 **Q. Let me follow up on that. If you have temporary**
21 **hearings -- when I did family court with fifteen minutes,**
22 **it wasn't all uncommon that we would back up and we would**
23 **wait for other cases to get disposed of. You know, are you**
24 **experiencing now the -- I guess court time in family court**
25 **is precious. It always has -- it always has been. And so**

1 if you want a hearing within fifteen -- or within a few
2 weeks, don't you normally have to ask for fifteen minutes
3 in order to get that temporary hearing before a judge?

4 A. Well, the Supreme Court has basically mandated
5 that motions for temporary relief as supposed to be heard
6 within thirty days. I mean, I'm not going to sit here and
7 tell you that's working perfectly. I know that the clerk's
8 office -- we're always kind of being pushed by the
9 administrative judges to trying to get that done.

10 But you're right. We had a situation a few years
11 ago where I was representing -- represented the mother in a
12 contested custody case, and the father's lawyer had done
13 the right thing and asked for thirty minutes. It happened
14 to be like in -- at the end of May, we had some judges on
15 vacation and that kind of thing, and not -- people couldn't
16 -- basically lack of judges during those couple months.

17 He's like, "Well, I don't know if I should ask
18 for fifteen -- or thirty minutes anymore, because it took
19 me sixty days to get to court."

20 But I think our court has tried to correct that
21 based on the Supreme Court -- prior to the Supreme Court's
22 mandate that, basically, these cases need to be set in --
23 for thirty days. I know our docket clerk is instructed to
24 keep -- reserve motion time regardless of what you ever
25 have, they can't put in a fifteen-minute uncontested

1 divorce hearing in that motion slot.

2 So I think they're trying to reserve the time to
3 make that happen, but I don't -- I'm not going to say it
4 always happens.

5 Q. Well, that was the concern that I have. If
6 judges are going to hold people to fifteen minutes, and
7 then those who follow the rules say, "I need a thirty-
8 minute hearing," that's going to be unusual, or a temporary
9 hearing, a forty-five minute.

10 And, you know, my experience when I did family
11 court is you may never get your case scheduled 'cause they
12 couldn't find forty-five minutes, while if you put fifteen
13 minutes and argue forty-five minutes, then you were okay
14 and you got your case scheduled.

15 So, you know, I always -- I was wondering how
16 that was being handled now. But you certainly would
17 accommodate -- we've heard two modes of handling the --
18 we've screened sitting family court judges, and some say,
19 "Look, you know, I take my time," you know, "we get these
20 cases heard."

21 Alternatively, we say, you know, "The end of the
22 fifteen minutes, the time's up. We'll have to have your
23 case later." Which one would -- which way would you handle
24 it?

25 A. Well, first of all, temporary hearings are

1 supposed to be decided on affidavits, financial
2 declarations and exhibits. So basically what we're talking
3 about in the fifteen-minute time slot is not reading, you
4 can take it under advisement if you need to. So I would
5 not -- basically, the arguments of the attorneys -- which
6 we have some judges that say, "I don't take any argument."

7 **Q. That was going to be my next question. Do you**
8 **anticipate taking arguments, or are you deciding it on the**
9 **record at temporary hearings?**

10 A. I do anticipate taking arguments. I think that -
11 - I guess 'cause I've been on the other side so long, I
12 think your clients expect you to have some time to talk.
13 At least -- I mean, I went in front of one judge who's a
14 great judge, don't get me wrong, alimony was an issue. It
15 really wasn't in my opinion -- I had the husband, it wasn't
16 really an alimony case.

17 I was able to circle on your financial
18 declaration -- which I'm sure he read this, but I thought I
19 should be able to -- just to give you an example, she was
20 spending \$750 a month on clothing. These people weren't
21 wealthy. I mean, I think I could have said she can't show
22 the need because here's the expenses that are inflated, at
23 least I should have five minutes to say that. So I do
24 anticipate taking arguments.

25 **Q. So it's just the time -- it's just a matter of**

1 managing the arguments of attorneys.

2 A. Right.

3 Q. I'm sure you've been experienced with attorneys
4 who like to argue for -- they would take fifteen minutes
5 plus some if they had the opportunity.

6 A. We had one judge who basically went one day at
7 lunch, who had motions all morning, and they all ran over.
8 And she went back and got a -- I'm not joking, just an egg
9 timer and said, "I'm going to give you seven and a half
10 minutes and I'm going to give you seven and a half."

11 And I said, "Well, when they take fifteen are you
12 going to reset it for fifteen for me?"

13 I mean, it was a joke -- a little bit of a joke.
14 But I mean, it's true you've got to balance -- you can't
15 let one lawyer have a lot more time than the other.

16 REPRESENTATIVE SMITH: Thank you, Mr.
17 Thigpen.

18 EXAMINATION BY CHAIRMAN RANKIN:

19 Q. And I'm going to kind of follow-up on this line
20 of questioning Ms. McIver started. We have heard kind of
21 in the context of the crush of the calendar, the crush of
22 the roster and so little time in a day. A lot of the folks
23 who have -- and attorneys who have requested in advance
24 only fifteen minutes, perhaps needing thirty or forty-
25 minutes to an hour.

1 And we've kind of seen it all over the board in
2 terms of how judges react to it. And some being an
3 incredible stickler, rather, for the clock, and in fairness
4 to all the litigants if you've only asked for fifteen, you
5 shouldn't get more than fifteen.

6 Others who have gone to the degree of saying,
7 "You have the choice after they start the hearing to
8 continue it or to -- was it mis-try? Did we hear mis-try
9 the case? Starting it all over again after plowing however
10 long into that hearing itself.

11 What's your experience with that as a litigant,
12 and how do you propose that you, if you're successful in
13 your candidacy, cure that?

14 A. I guess I grew up under both -- both sets of
15 standards. I grew up under Judge Kinard Johnson, he's now
16 retired from Greenville, and basically if you had fifteen
17 minutes, you better get it done in fifteen minutes. If you
18 didn't, he stopped the hearing and that was it.

19 I had other judges that I think probably are
20 coming to the point where they're saying, "Hey, if you had
21 fifteen minutes and you're not finished, I'm declaring a
22 mistrial and you can start over." That was a -- that was
23 what I'd say his approach was.

24 I don't think I would be that way. I don't think
25 that's fair to the litigants. Like I said earlier, what I

1 would probably do is say, "Look, it's obvious you all need
2 more time."

3 I know we're crunched for court time as it is,
4 but there's always some time in the week usually -- I mean,
5 make them -- one judge did to us is, okay, "You all have
6 taken your fifteen minutes and I haven't had time to read
7 anything. I'll see you all at Friday afternoon at one
8 o'clock."

9 I mean, I'm not trying to say you punish the
10 lawyers. But I think for the fairness to all the litigants
11 you maybe work that case in later within the -- and I'm not
12 talking about thirty or sixty days from now, I'm talking
13 about within the next -- hopefully a few days if not weeks.

14 And then like I said, again talk to the lawyers.
15 If it's -- fortunately in family court you pretty much get
16 to know all the lawyers. If you get the same lawyer doing
17 it every time, you may call them to the side, or have the
18 administrative judge call them to the side and say, "Look,
19 this is becoming a recurring problem. You need to start
20 asking for thirty minutes."

21 Or you may have to use a drastic measure of
22 stopping the hearing and declaring a mistrial, that kind of
23 thing.

24 **Q. And you don't pre-try those motion hearings? Or**
25 **do you know?**

1 A. No, sir.

2 Q. And if you get a stack of affidavits, not two but
3 twenty, and the issue is maintaining a split of children or
4 the temporary support maintenance, etc., you on the
5 advocacy side and you have your opponent coming with twenty
6 affidavits, and they've only asked for fifteen minutes, how
7 do you handle that?

8 A. I've said that I think the judges are doing it
9 kind of on a sua sponte on their own motion, but I would
10 make the objection for judges to set it for fifteen
11 minutes. I'd limit myself to -- and my client to the eight
12 pages that you allow. I would ask that they pick out the
13 eight pages they want to use. And I've seen judges grant
14 that motion.

15 Q. The last kind of in this theme -- and it may be
16 geographic that this problem exists. Spartanburg -- Judge
17 Sinclair was here, I think, last week -- does not seem to
18 experience what some other areas of the state are
19 experiencing in that vein.

20 Do you think that this is -- this complaint that
21 we've heard mention of here is unique to busier circuits
22 where there's far greater motion practice, where one
23 described almost the stacks and stacks of motions behind
24 the clerk and the judge, waiting to be heard? Is that
25 unique to busier areas?

1 A. I'm not familiar with anything but the Upstate.
2 I don't think that Spartanburg is any less busy as far as
3 motions. I had a conversation the other day on this very
4 top with Judge Fraley, who as you all know I'm asking to
5 take his seat once he retires, said he doesn't think the
6 number of motions is up as much as the number of thirty-
7 minute motions.

8 So and Judge Sinclair, I love him to death, a
9 great guy, a wonderful judge, but he will admit to you, "I
10 know I get behind, I know I'm slow, but I'll get it done."

11 You know, he's -- he's laid back. He's a great
12 guy. Most of you have served with him in the House so -- a
13 lot of you did, so I don't know that we're any less busy.
14 I just think Justice Sinclair did it for thirty years
15 before he took the bench. I think he takes it very
16 seriously, but he also basically says, "I'm going to attack
17 each case in front of me as they come." And he probably
18 takes more time on some than others.

19 Q. Well, let me commend to you that style as
20 compared to perhaps others. In this context alone, he had
21 nary not one negative comment by those who could skewer him
22 if they wanted with the anonymous ballot box surveys. So
23 three or four to this commission's chagrin, I kept asking
24 him, "How do you recommend that we handle this across the
25 state? Is there some silver bullet that you can share with

1 the rest of the bench?"

2 Perhaps if you're successful you might figure out
3 that patient style of getting it done, but also being fair
4 to everybody at the beginning and the end of this process.

5 A. I think I would -- just my personality, what I've
6 done is -- many years I've been doing this, I think I would
7 be definitely skewed to Judge Sinclair's side versus the
8 mistrial or, "I'm sorry you're done. You're finished.
9 Come back another day."

10 I mean, I would do everything I could to keep
11 that side from happening.

12 Q. The last question from me and then I'll hush, for
13 your benefit and again the Commission's as well. You cited
14 as one of your cases in 2004, that you handled with George
15 Speedy? Am I reading that correctly? Did you work with
16 the Speedy firm --

17 A. No, sir.

18 Q. -- ever?

19 A. No, sir.

20 Q. Maybe I misread that. Do you know who George
21 Speedy is?

22 A. No, sir.

23 Q. I totally missed that then.

24 CHAIRMAN RANKIN: All right. Representative
25 Murphy.

1 EXAMINATION BY REPRESENTATIVE MURPHY:

2 Q. Mr. Thigpen, just real quickly. I've been just
3 kind of listening and going through some things. Is there
4 another Todd Thigpen attorney that practices -- that
5 practices in Spartanburg? Or are you also known as Todd
6 Thigpen?

7 A. Yes, sir.

8 Q. In 2003 there was a -- I noticed in the
9 Spartanburg County Public Index, a debt collection that
10 says "Todd Thigpen Esquire." Were you a party to that? It
11 says that there was a judgement.

12 A. 2003?

13 Q. 2003. It was disposed of.

14 A. No, sir.

15 Q. It says Todd Thigpen Esquire.

16 A. I don't know anything about a 2003 judgement.

17 Q. Because it did not come and it wasn't stated on
18 your PDQ or your SLED website. But I did look at the Bar
19 website and there is no other Thigpen attorney in
20 Spartanburg -- Todd Thigpen. But you go by "Todd" as well,
21 correct?

22 A. I go by my middle name. I do go BY "Todd." Now,
23 I will say this, I've been through screening three times --
24 this is the third time, I should say. I've never had that
25 come up, so I don't have a clue what that is. I could look

1 into it. I mean, I've looked at the public index, trying
2 to respond to the questions about lawsuits, and I don't
3 know anything about it.

4 SENATOR YOUNG: Thank you, Mr. Chairman.

5 EXAMINATION BY SENATOR YOUNG:

6 Q. Mr. Thigpen, I noticed you have your MBA from
7 USC, as well as your law degree?

8 A. Yes, sir.

9 Q. Have you done anything with your MBA since you've
10 been out of school? Or did you just go straight into --

11 A. I went straight out of law school into practicing
12 law. I opened my own office in 1996. I've been a sole
13 practitioner since then.

14 CHAIRMAN RANKIN: Senator Hayes.

15 EXAMINATION BY SENATOR HAYES:

16 Q. Judge, briefly, I noticed -- and I appreciate
17 your willingness to persist and keep running. 'Cause I
18 think you certainly got the experience to make a good
19 judge. On your resume, if you had to pick out one
20 weakness, what weakness would you have on your resume in
21 becoming a judge?

22 A. I would say that because -- and I put this in my
23 application, that one thing that I know that I need to work
24 on is -- because I've always been a sole practitioner, I've
25 taken very good pride in my work, I do a lot of things

1 myself, but I know once I become a judge I'll have to
2 delegate more to the administrative assistant or somebody
3 like that.

4 But talking about vision and stuff like that, I
5 draft my own orders, I draft -- a lot of times draft my own
6 pleadings. I mean, I do a lot of things on my own that
7 most lawyers would have paralegals do. And I know that I
8 won't be able to keep doing that if I become a judge.

9 **Q. What involvement do you have outside of your**
10 **legal work in the community? What do you -- and I know**
11 **that's probably -- you're a sole practitioner, there's not**
12 **a great deal of time for that. But what involvement do you**
13 **have in the community?**

14 A. I pretty much on my spare time and not working,
15 spend time with my wife and my family. We do have a lake
16 house, we go down there a good bit. I basically have to
17 relax on the few days I do have off a month.

18 SENATOR HAYES: No further questions.

19 CHAIRMAN RANKIN: All right. Anything else?

20 (Hearing none.)

21 CHAIRMAN RANKIN: Mr. Thigpen, this will now
22 conclude this portion of our screening process. And I
23 appreciate your patience and being here early. I want to
24 remind you that pursuant to our criteria, we look and
25 expect you as a candidate to maintain both the spirit and

1 the letter of the South Carolina ethics rules and law. Any
2 violation or the appearance of impropriety will be deemed
3 serious and potentially deserving of very heavy weight and
4 screening.

5 That noted, and as you know, the record will
6 remain open until the record of qualifications is issued.
7 We would have the right to call you back should the need
8 arise, which we don't expect that to be the case. You
9 understand that, correct?

10 MR. THIGPEN: Yes, sir.

11 CHAIRMAN RANKIN: Thank you very much again
12 for your willingness to serve and your participation in
13 this process.

14 MR. THIGPEN: Thank you all.

15 (Candidate excused.)

16 MS. CRAWFORD: Off the record.

17 (Off the record.)

18 CHAIRMAN RANKIN: And we're back on the
19 record. And for the record I'd like to state that the
20 Judicial Merit Selection Commission has neither cast any
21 votes nor made any decisions while we were in executive
22 session. And now we'll proceed to a motion on the first
23 ballots, the first candidates. Representative Rutherford.

24 REPRESENTATIVE RUTHERFORD: Mr. Chairman, I
25 would move that Matthew Price Turner and Michael Todd

1 Thigpen both be found qualified and nominated.

2 CHAIRMAN RANKIN: A second to that?

3 REPRESENTATIVE SMITH: Second.

4 CHAIRMAN RANKIN: All in favor say "aye."

5 (At this time the members audibly say "aye.")

6 CHAIRMAN RANKIN: The ayes have it. And
7 Senator Hayes votes by proxy as well, and is physically
8 sitting here still. So thank you for that. And now
9 another motion by Representative Murphy.

10 REPRESENTATIVE MURPHY: Mr. Chairman,
11 previously we had moved that we would waive the public
12 hearings for two candidates, the Honorable Huntley Crouch
13 and the Honorable FitzLee McEachin. And that was pursuant
14 to Section 2-19-40 South Carolina code. At this time I
15 would move that their sworn statements, their PDQ and any
16 amendments be entered into the record.

17 CHAIRMAN RANKIN: Seconded by -- all in
18 favor say "aye."

19 (At this time the members audibly say "aye.")

20 CHAIRMAN RANKIN: All right. On motion and
21 seconded and all adopted, those exhibits will be made a
22 part of the record for Judges Crouch and McEachin.

23 (EXHIBIT NO. 7 - JUDICIAL MERIT SELECTION
24 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
25 HONORABLE HUNTLEY SMITH CROUCH)

1 (EXHIBIT NO. 8 - JUDICIAL MERIT SELECTION
 2 COMMISSION SWORN STATEMENT OF THE HONORABLE
 3 HUNTLEY SMITH CROUCH)

4 (EXHIBIT NO. 9 - JUDICIAL MERIT SELECTION
 5 COMMISSION SWORN STATEMENT OF THE HONORABLE
 6 FITZLEE HOWARD MCEACHIN)

7 (EXHIBIT NO. 10 - JUDICIAL MERIT SELECTION
 8 COMMISSION SWORN STATEMENT OF THE HONORABLE
 9 FITZLEE HOWARD MCEACHIN)

10 (Off the record.)

11 CHAIRMAN RANKIN: Judge, if you will let's
 12 start by having you raise your right hand.

13 WHEREUPON,

14 THE HONORABLE JOSEPH C. SMITHDEAL, being
 15 duly sworn and cautioned to speak the truth, the whole
 16 truth and nothing but the truth, testifies as follows:

17 CHAIRMAN RANKIN: You have before you two
 18 documents, a PDQ and a sworn statement. Are those ready to
 19 be submitted without addition?

20 JUDGE SMITHDEAL: Yes, sir.

21 CHAIRMAN RANKIN: And you don't object to
 22 those being made a part of the record?

23 JUDGE SMITHDEAL: No, sir.

24 CHAIRMAN RANKIN: Thank you.

25 (EXHIBIT NO. 11 - JUDICIAL MERIT SELECTION

1 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
2 HONORABLE JOSEPH C. SMITHDEAL)

3 (EXHIBIT NO. 12 - AMENDMENT TO PERSONAL DATA
4 QUESTIONNAIRE OF THE HONORABLE JOSEPH C.
5 SMITHDEAL)

6 (EXHIBIT NO. 13 - JUDICIAL MERIT SELECTION
7 COMMISSION SWORN STATEMENT OF THE HONORABLE
8 JOSEPH C. SMITHDEAL)

9 CHAIRMAN RANKIN: Judge, you've done this
10 before.

11 JUDGE SMITHDEAL: Yes, sir.

12 CHAIRMAN RANKIN: When's the last time?

13 JUDGE SMITHDEAL: '13. '12. I was elected
14 in '13, Senator.

15 CHAIRMAN RANKIN: Your familiar with the
16 nine evaluative criteria that the Commission uses to study
17 your candidacy. I know you are. But for the record, that
18 includes a ballot box survey, a thoroughly study of your
19 application materials, verification of your compliance with
20 state ethics laws, a search of newspaper articles in which
21 your name appears, a check for economic conflicts of
22 interest, and of course a study of your previous
23 screenings.

24 No one has filed an affidavit in opposition
25 to your election, and no witnesses are here to testify for

1 you or against you. You have the opportunity to make a
2 brief statement if you'd like. Otherwise, I'll turn it
3 over to Ms. Riley, who will open the questions. And then
4 maybe members of the Commission will ask you as well.

5 JUDGE SMITHDEAL: Very briefly. I'd just
6 like to say thank you to Ms. Crawford, she's been very
7 helpful, friendly and professional in this whole process.
8 She's done a wonderful job. Ms. Riley has been an excellent
9 screening attorney for me, and prepared -- I believe
10 prepared me well. I guess we'll see in a few minutes.

11 CHAIRMAN RANKIN: Great. Ms. Riley.

12 EXAMINATION BY MS. RILEY:

13 Q. Good afternoon, Judge Smithdeal. After serving
14 approximately six years on the family court, why do you
15 want to continue serving as a family court judge?

16 A. I love it. I absolutely love it. It's a very
17 challenging, sometimes very stressful job. But I feel like
18 the work we do is good work. It's not always -- it's not
19 always easy, but once in a while I feel like we can help
20 some people. Especially the juveniles, I'm particularly
21 partial to those -- to the juveniles that come in front of
22 me.

23 Q. Thank you. Judge Smithdeal, please explain one
24 or two brief accomplishments that you feel you have
25 completed during your tenure, and then a goal you would

1 **like to accomplishment if reelected.**

2 A. I initiated a new ticketing system in Greenwood.
3 In the -- in the 8th Circuit our juvenile courts were badly
4 backlogged. We had as many juveniles as Spartanburg
5 County, which is three times our size. We had more than
6 Aiken County, which is three times our size.

7 And so I hooked up with a friend of mine, Ouida
8 Dest, from York County, she's the -- she's the juvenile
9 solicitor up there. I had observed her and her staff in
10 several of my terms of court which were held in York
11 County. I saw how they were doing things. I asked Ouida
12 if she would be willing to help me implement that same type
13 of system in Greenwood.

14 And she did. I brought her down and I also
15 brought the public defender down, and we had a luncheon
16 where she basically explained what they did -- they
17 explained what they did in York County.

18 And in a nutshell, what it does is it eliminates
19 a lot of the -- a lot of the hassle and headache of getting
20 juveniles and their parents to court on time. And it does
21 it in a much -- a much more timely manner. The juveniles
22 know their first and second court dates as soon as they
23 make contact with law enforcement.

24 If law enforcement released the juvenile to their
25 -- to their parent or guardian, it's only upon the

1 signature of the parent of guardian and the juvenile on the
2 ticket itself. And the ticket explains the initial court
3 appearance and the second court appearance. And it's
4 eliminated the sheriff having to go out at all to find the
5 juvenile who -- and they often move and change telephone
6 numbers. So anyway, our numbers have come down. And it's
7 been a -- in my view it's been a good success.

8 I might be stumped on a second accomplishment. I
9 imagine there might be one. But what was the second part
10 of the question, Ms. Riley?

11 **Q. What goals you would like to accomplish going**
12 **forward.**

13 A. Yeah, I've already -- I've been -- I've been
14 trying to implement that same system -- I've been talking
15 to the solicitor about getting that same system implemented
16 in Laurens County as well. They've got quite a few
17 juveniles as well, but nothing as near as big as Greenwood.

18 I don't want to accomplish anything except being
19 a decent judge that follows the law. That's all I want to
20 accomplish. And I don't want to be -- I don't really
21 want to -- I don't have any big goals as far as being on
22 the Supreme Court or court of appeals or anywhere else. I
23 just want to do the best I can every single day. And I
24 think I'm doing that.

25 **Q. Thank you, Judge Smithdeal. What do you think**

1 your reputation is among attorneys that practice before
2 you?

3 A. I think it's -- I think it's fine. I'm always on
4 time. I'm always early. I know the files. I read the
5 files before the attorneys and the litigants come in, so
6 I'm not -- so I'm not unfamiliar with them. I believe I'm
7 very familiar with the law. I rule timely.

8 I don't have a lot of patient, sometimes, for
9 parents that abuse children. I'm trying to get better on
10 that. But I think basically the lawyers that come in front
11 of me think that -- think that I'm a good judge.

12 Q. Thank you. The Commission received 351 ballot
13 box surveys regarding your candidacy, with 20 additional
14 comments. The ballot box survey, for example, contained
15 the following positive comments:

16 "This judge displays excellent judicial demeanor
17 and his highly qualified based on this, and his knowledge
18 and application of the law. Judge Smithdeal is thoughtful
19 and well reasoned in his deliberations and gregarious in
20 his temperament. His demeanor with the Bar and pro se
21 litigants is professional and polite. He is fair and
22 impartial throughout his proceedings, imparting equal
23 justice and equity without bias. I would strongly
24 recommend Judge Smithdeal for reappointment."

25 Seven of the twenty written comments expressed

1 concerns. The seven concerns indicated that you rule based
2 on your religion. What response would you offer to this
3 concern?

4 A. Honorable, Ms. Riley, it's hard to -- it's hard
5 to respond without knowing a little bit more. However, I
6 would say that my Christian faith is part of who I am. If
7 that makes -- if that means anything. I've never -- never
8 once, never would ever care what religion a person was that
9 came in front of me.

10 I have, certainly, and will continue to admonish
11 people who put children in bad positions. Bringing their
12 boyfriends into their home, when their boyfriends are
13 cooking meth, yeah, I -- I will tell people that's not
14 right. And that's wrong to do.

15 But as far as -- as far as -- as far as my
16 religion goes, I've never -- never once mentioned. I don't
17 know that I ever would mention it, or see a reason to
18 mention my religion. But it is a part of who I am. And I
19 do treat people -- I try to treat all people with respect,
20 just because I -- just because they're people. And I think
21 that's part of my religion. So I guess -- I guess I'm
22 guilty of that.

23 Q. Thank you for your response, Judge Smithdeal.
24 After you met with me, you amended your sworn statement to
25 reflect some fundraising activities with the Knights of

1 Columbus. Could you please explain for the Commission your
2 involvement with the Knights of Columbus, and any activity
3 that you participated in.

4 A. I would like to apologize to the Commission for
5 my -- for my oversight. I filled out this application back
6 in July, I believe. And once a year the Knights of
7 Columbus does what's called a Tootsie Roll Drive. It's --
8 you might have seen them outside of Walmart, they wear
9 yellow vests, and it says, "Help disabled citizens." And
10 they hand out Tootsie Rolls to anybody walking in the door.

11 And then if the person wants to give a donation
12 of any sort, a penny or a dollar or ten dollars, they can
13 put it in the can. And so I wasn't -- and it only occurs
14 for four hours per year. I did -- it was unintentional
15 that I left that off.

16 I wasn't considering fundraising in that sense
17 when I filling this application out. I was thinking more
18 along the lines of capital campaigns of fundraising for
19 other organizations.

20 But this money is basically distributed to the
21 Burton Center, which is a special needs center which is
22 well known throughout the state, as well as the local
23 school districts in their special ed classrooms. We give
24 them -- we give them checks for iPads and outings --
25 daytime outings and all kind -- whatever they ask for. We

1 just give it all -- every bit of it after the cost of the
2 Tootsie Rolls.

3 And like I said, I did it -- do it for four hours
4 per year. And, you know, if I'm lucky I will -- I might
5 raise two hundred dollars during those four hours. So I
6 just did not consider it, but I should have.

7 **Q. Thank you, Judge Smithdeal.**

8 MS. RILEY: I would note that the Piedmont
9 Citizens Committee reported that Judge Smithdeal's
10 qualified in the evaluative criteria of constitutional
11 qualifications, physical health and mental stability. The
12 Committee found Judge Smithdeal was well qualified in the
13 evaluative criteria of ethical fitness, professional and
14 academic ability, character, reputation, experience and
15 judicial temperament.

16 The Committee commented that Judge Smithdeal
17 acted, soon after being sworn in, to find innovative ways
18 to end the backlog of judicial cases in his court. That
19 effort is enigmatic of the energy and diligence that he
20 brings to the family court bench.

21 BY MS. RILEY:

22 **Q. I'm just going to ask you a couple of**
23 **housekeeping questions.**

24 A. Yes, ma'am.

25 **Q. Since submitting your letter of intent have you**

1 contacted any members of the Commission about your
2 candidacy?

3 A. No, ma'am.

4 Q. Are you familiar with Section 2-19-70, including
5 the limitations on contacting members of the General
6 Assembly regarding your screening?

7 A. Yes, ma'am.

8 Q. Since submitting your letter of intent have you
9 sought or received the pledge of any legislator either
10 prior to this date of pending the outcome of your
11 screening?

12 A. No, ma'am.

13 Q. Have you asked any third parties to contact
14 members of the General Assembly on your behalf, or are you
15 aware of anyone attempting to intervene in this process on
16 your behalf?

17 A. No, ma'am.

18 Q. Have you reviewed and do you understand the
19 Commission's guidelines on pledging and South Carolina Code
20 Section 2-19-70(E)?

21 A. Yes, ma'am.

22 MS. RILEY: I would just note for the record
23 that any concerns raised during the investigation regarding
24 the candidate were incorporated into the questioning today.
25 And with that, Mr. Chairman, I have no further questions.

1 CHAIRMAN RANKIN: Senator Young.

2 SENATOR YOUNG: Thank you, Mr. Chairman.

3 EXAMINATION BY SENATOR YOUNG:

4 Q. Judge, good afternoon.

5 A. Good afternoon, Senator.

6 Q. Nice to see you.

7 A. You too, sir.

8 Q. I have a question, and that relates to abuse and
9 neglect cases. In your time on the bench, I understand
10 that you obviously handled a number of abuse and neglect
11 cases. What I would be interested in knowing is if you had
12 to name one thing that you could do to improve the system
13 for the children and the families in the abuse and neglect
14 system, what would that be?

15 A. Well, I could name something, Senator, right off.
16 But I don't think it could ever be implemented. And what I
17 would name -- and I'll come -- and I'll name something else
18 too. But I would say that the first thing I would name
19 would be to fix the families in this -- in this state. A
20 child that grows up without his father in the home is much
21 more likely to be abused or neglected. That's a
22 irrefutable statistic that -- I see it over and over again.

23 And I know of course that doesn't apply to every
24 single situation, but when these -- but the kids that grow
25 up in situation -- in unstable situations, like I said, are

1 much more likely to be abused.

2 The other thing I would say that maybe more --
3 that we may be able to do as a -- as a society and as a
4 state would be to better train the DSS attorneys. They're
5 very dedicated individuals, extremely. They don't get paid
6 very much. And I don't think they complain about that.

7 The turnover rate is high, but what the problem
8 is I see is that they don't know how to try a case. A lot
9 of them. I'm not -- I don't want to, you know, get too --
10 I don't want to over-generalize too much. But a lot of
11 them are young. A lot of them are in their first jobs.
12 And a lot of them are just learning through the process.

13 And a lot of cases go through their hands. And
14 most cases don't get tried, frankly, because -- for a lot
15 of reasons. And we can go into all of that -- a lot of
16 those reasons. But a lot of them don't get tried. So when
17 they do get tried, I feel like DSS attorneys don't have the
18 trial tools, trial skills that they need.

19 Oftentimes just putting a piece of -- a document
20 into evidence or putting a drug screen into evidence is a
21 fairly simple procedure, but they don't know how to do it.
22 And so that's one thing I think could be fixed.

23 You know, the U.S. attorneys have their school
24 and the solicitors, I think they get some schooling, but
25 the DSS attorneys -- as far as I'm aware don't have a lot

1 of -- a lot of training.

2 But on the other side the defense lawyers on DSS
3 cases, they're usually private attorneys and usually have
4 some trial skills. Not always. Not always, but oftentimes
5 they do, and know to object to different things. So I
6 would say trial skills for DSS attorneys.

7 **Q. Thank you very much.**

8 A. Thank you, Senator.

9 CHAIRMAN RANKIN: Anyone else?
10 Representative Murphy.

11 EXAMINATION BY REPRESENTATIVE MURPHY:

12 **Q. Judge, how are you today?**

13 A. Fine, Representative Murphy. How are you, sir?

14 **Q. Doing good. Good to see you again.**

15 A. You too.

16 **Q. Kind of following up on when Senator Young just**
17 **asked something, and I didn't know if this is the case in**
18 **Greenwood County, but do you -- in Dorchester County, I**
19 **find that the DSS attorney is afraid sometimes to overrule**
20 **the caseworkers, the social worker, and doesn't act as an**
21 **attorney, and basically is acting as just another employee**
22 **of the Department of Social Services.**

23 Do you have that same issue in Greenwood County?
24 Instead of giving legal advice, they just -- if the
25 caseworker says "no contact," then the -- yeah, that's the

1 **DSS attorney's recommendation.**

2 A. Yeah. Yeah, I do see that. I see that all
3 around the state. The DSS is the attorney's client.

4 **Q. But it seems like they're afraid to give their**
5 **client legal advice or to try to help them resolve the**
6 **situation instead of just, I guess, taking the party line.**

7 A. Right. Right. Yeah, I do see that. It is a
8 little frustrating sometimes. Although, you know, a lot of
9 that happens out in the hallway --

10 **Q. Right.**

11 A. -- to be honest. I'm not -- it's not like I'm
12 involved in those conversations or, you know, those
13 negotiations between parents and DSS and their -- or their
14 attorney.

15 Yeah, I mean, I -- if I were -- when I was an
16 attorney, I practiced -- I was a trial attorney for twenty
17 years before I became a judge, and I certainly was never
18 afraid to tell clients when they were wrong.

19 And so, yeah, I would like to see -- I would like
20 to see attorneys -- DSS attorneys take a -- take a more
21 directional role in the outcome of a case. But I'm not in
22 that as much as I -- as much as I --

23 **Q. That seems to be that's not just a Dorchester**
24 **County problem.**

25 A. No. Oh, no. Oh, no.

1 **Q. It's a statewide problem.**

2 A. No. And you see that with solicitors in law
3 enforcement too. You know, a lot of times a solicitor will
4 say that the police aren't going to do it, you know, or the
5 -- or the sheriff said "no." And when I was an attorney, I
6 would say, "Well, who's the attorney here, you or the
7 sheriff?"

8 **Q. Right.**

9 A. But I mean that dynamic and that tension exists,
10 I believe, at all levels. At the individual level with his
11 lawyer and his client, and at the institutional with -- you
12 know, when an attorney is representing the department --
13 the sheriff's department or whoever it might be.

14 So, yeah, I see it. And it might make things run
15 smoothly if the lawyers called all the shots, but DSS is
16 the client.

17 **Q. Let me ask you this, switching gears now. Are**
18 **you still a member of the Knights of Columbus?**

19 A. Yes.

20 **Q. And did you join when you were at the Citadel?**

21 A. No. No, I did not. Not long after, though.
22 I've been a -- I've been a member for twenty-six years.

23 **Q. 'Cause you graduated in '89, correct?**

24 A. '89. Yes, sir.

25 **Q. And I just -- I remember that -- this is an**

1 **aside. The Knights of Columbus would recruit Citadel**
2 **cadets, because that was about the only place you could go**
3 **and have a -- have a beverage.**

4 A. Yeah.

5 **Q. And they'd come pick you up and then they'd take**
6 **you home, especially when you were a freshmen.**

7 A. Yeah, I've got a son who's in the Knights at the
8 Citadel right now. So he knows where he can get that
9 beverage.

10 **Q. Thank you, Judge.**

11 CHAIRMAN RANKIN: Any other questions?
12 Representative Rutherford.

13 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

14 **Q. Judge, can you help me with the comment that you**
15 **punish litigants who do not believe in the same morals as**
16 **you do?**

17 A. Representative Rutherford, I don't know how I can
18 help you with that. I honestly don't. I'm kind of cold on
19 that. And I don't know what to -- what to say that -- I
20 don't -- I don't really know why anybody would say
21 something like that. It's just untrue.

22 **Q. Do you feel like you make people uncomfortable**
23 **with lecturing them on morals and how they should live**
24 **their lives?**

25 A. Definitely, I've made people uncomfortable. But

1 not in terms of any sort of religious -- not based on any
2 sort of religious doctrine or philosophy. I've definitely
3 made some people uncomfortable who have been harming their
4 children. That's just -- like I said, I don't see myself
5 as a rubber stamp, I don't see myself as a activist by any
6 stretch.

7 But at the same time, if I've got two people in
8 front of me and the child -- the little 15-year-old girl is
9 on antidepressants and cutting her wrists on a regular
10 basis, and I see what's going on between these two people,
11 it can be a challenge for me not to say something.

12 Yeah, I mean and I -- if that lawyer is
13 uncomfortable because his client's uncomfortable, I can see
14 that. But I've seen it too many times.

15 **Q. In reference to the case with two people standing**
16 **there, and the 15-year-old cutting themselves, I assume**
17 **that, that's an actual case that you're drawing from?**

18 A. Oh, yeah. Oh, yeah.

19 **Q. Tell me the type of lecture that you would give**
20 **that in scenario.**

21 A. I would say --

22 **Q. Or what did you say?**

23 A. Yeah, I don't -- I don't recall what I might have
24 actually said in that -- on that particular day, but I can
25 tell you -- certainly tell you what I would normally say.

1 Q. Okay.

2 A. Or something along these lines, I would say,
3 "That these people only have one of you and one of you.
4 And the two of you both contributed your DNA to this child,
5 so this child is part of both of you. So when you attack
6 her, or when you attack him or when you undermine him, or
7 when you undermine her, the child is stuck in the middle
8 and hurt by that. The child needs a sense of security and
9 a child that grows up without security is at a much higher
10 risk for all kinds of problems: getting pregnant before
11 she's married, doing drugs, dropping out of school.
12 Various problems that neither you nor I want for this
13 little girl."

14 Those are the kind of things I might say, and
15 have said, to litigants who don't seem to understand the
16 trauma that these kids are going through because they're
17 blinded by the hatred, by fear, by anger, by guilty. Or
18 blinded by a whole range of things and their child is left
19 in the middle, or children are left in the middle.

20 Q. Do you think that these comments are made about
21 you as they related to cases involving children? Or is it
22 something that you also exercise in doing divorce cases
23 without a child involved, passing judgement on people that
24 are married and getting a divorce?

25 A. Generally -- generally, unconcerned in cases

1 where two people just want to go their separate ways.
2 Generally -- I mean, not that I don't care about the
3 people. I do. I care about every single person that comes
4 in front of me. But when there are situations where, you
5 know, the kids are generally being hurt by what their
6 parents are doing, and they're -- and they're -- you know,
7 their client -- I mean, their lawyer, they work for their -
8 - they work for the party, and I'm the only one in the room
9 who doesn't.

10 And I feel that maybe if I can help one of these
11 parents, open their eyes and say, you know, "Your son needs
12 you, pal. Your son needs you." You know, maybe he'll be
13 there. Maybe he'll be around more.

14 **Q. You know, all we have are comments. And I'm just**
15 **trying to figure out exactly what people are saying. Judge**
16 **Riddle, who you I'm sure know, she lectured on a regular**
17 **basis in her courtroom, and I was one of the lawyers that**
18 **appreciated it.**

19 But some lawyers on the other side certainly did
20 not. I raised those questions because I had the advantage
21 of hearing her say it, I knew what type of things she was
22 relating when she spoke to individuals. Because I have not
23 been in your courtroom, I don't know what they're talking
24 about.

25 A. Right.

1 Q. So but hopefully you can learn something from it,
2 and if there's a way to change and do anything better. But
3 I personally don't see anything wrong with telling people
4 how to do better, or helping them -- showing them a better
5 way to do things for their children. So thank you.

6 A. I appreciate it, Senator -- I mean,
7 Representative Rutherford.

8 EXAMINATION BY MR. SAFRAN:

9 Q. Good afternoon, Judge.

10 A. Mr. Safran, how are you?

11 Q. Fine, thank you. Let me see just follow up on
12 that. Number one, I think that we would be remise, and
13 frankly just completely uninformed if we didn't think that
14 anybody that came to the bench brought their personal
15 history with them, their values and morals. I mean, that's
16 who you are. And I get that.

17 I guess we also don't know, as Representative
18 Rutherford pointed out, the particular details of the cases
19 that spawn these comments. And unfortunately, as a -- as
20 an advocate, we're going to look at it sometimes with
21 blinders on, and if we don't get what we want, we may have
22 a skewed view that might not always be compatible with what
23 the facts are. So rest assured, I mean, we certainly take
24 these with a grain of salt.

25 The question I've got, and certainly it seems to

1 be more in line with a concern that's been raised, just by
2 hearing some of the family court judges in terms of the
3 precious time that, you know, is available because of the
4 caseloads. You know, the last thing we want is to be able
5 to -- or to have litigants deprived of their opportunities
6 in court.

7 My personal suspicion is, is that many times
8 litigant's introduction to the court system is through the
9 family court. And I'm personally, again, concerned by what
10 I heard from some other judges as it relates to seemingly
11 more concerned with the clock than what's going on as far
12 as the merits of the case.

13 One of the people suggested here somehow that,
14 well, he is so unpredictable, or some of these things come
15 up to where people are dodging it. Which means that, you
16 know, they're indicating that your time as far as your
17 court docket is thinning while everybody else's is getting
18 kind of inflated. Do you see that actually happened?

19 A. No.

20 Q. So I mean, you're a -- you're load is continuing
21 to be about what it's always been?

22 A. Oh, definitely. Definitely.

23 Q. And, you know, I guess the thing that I
24 understand is that -- you know, the last thing we want is
25 basically having somebody doing nothing, and all the other

1 judges kind of coming and picking up the slack. But you're
2 not seeing that happened.

3 A. No.

4 Q. Okay.

5 A. Not at all.

6 Q. And let me ask you, also, is it your general
7 practice that when people come in, even though it may be
8 slotted for fifteen minutes, that if the circumstances are
9 such that you think, hey, I need to deal with this, it's
10 going to take some more time?

11 Is that really what you ultimately do is -- you
12 know, not necessarily be a clock-watcher in terms of how
13 quickly the docket flows, or focusing on, Hey, I've got to
14 deal with this issue, I've got to deal with these people,
15 it may take another fifteen minutes, but that's what I'm
16 going to do. I mean, has that been your philosophy?

17 A. Mr. Safran, it just depends on the case. And
18 like you said, if it's a case that needs it, I'm not
19 adverse to that at all. I am cognizant of the other
20 litigants that are waiting to come in. But if we have a --
21 you know, if we have a morning docket with ten, sometimes
22 more, temporary hearings. I do try to move them along.

23 And sometimes -- sometimes I won't let the
24 lawyers argue. I'll just read the affidavits because, you
25 know, I'm cognizant of the time. But if a case needs more

1 time -- I've got to seven o'clock more times than I can
2 count right now. Now, the court reporters don't appreciate
3 it and the officers don't appreciate it. But seven o'clock
4 for me is fairly early, as far as my practice goes over the
5 years.

6 Any of the private attorneys, which most of you
7 probably are -- most of you -- you know that seven o'clock
8 is really nothing for an attorney to get home. So it
9 doesn't -- I have to -- a lot of times I have to remember
10 to stop.

11 I'll give you a great example. I had a -- I had
12 a -- well, I had a half day this morning and -- it should
13 have been a half day. A couple of them fell off. But
14 anyway, we had one of the -- one of the things that the
15 clerk squeezed in was a bench warrant for a young guy that,
16 you know, allegedly hadn't paid his child support. And I
17 was making a determination of whether he was guilty of a
18 willful violation of the court order.

19 And by the time he left there, I knew the names
20 of his baby-mommas -- that's what he called them -- his
21 five children's names, their ages, where he worked, where
22 he last worked, and what his health was, his criminal
23 record, and several other things in the conversation that
24 we had.

25 And that's -- that's what I'm going to find out

1 in most cases when the -- when the person comes in, for me
2 to make a determination. I'll talk to a lot of people. In
3 fact, I've had quite a few people actually crying tears,
4 literal tears on the courtroom. And one of them said, "No
5 one's ever asked me these kind of questions before."

6 And I said, "Where's your dad?"

7 "I never knew my dad."

8 And this -- and I remember this one guy he was
9 just -- he looked -- he looked really tough, really mean if
10 you just saw him on the street. But he was as nice as you
11 could possibly be. And he said, "No one's ever asked me
12 these kind of things before."

13 A. I have no problem whatsoever taking all the time
14 I need to make a -- to make a fair decision in any -- in
15 any case. But it's a balancing act. It's a balancing
16 test. You just -- you have to -- you can't take every time
17 -- every bit of time you might want to take because there's
18 a lot of cases. There's just a ton, there really are.
19 There's a lot of cases.

20 Q. And I appreciate that. And as somebody who
21 hadn't been in family court personally in a lot of years, I
22 probably don't have a true appreciation of just the
23 magnitude of the docket.

24 But it just -- again it struck me, just listening
25 several times, that it just seemed like there was -- and

1 I'm not saying unfairly, a real focus on, you know, making
2 sure that the clock struck and we were moving on to the
3 next one. And I guess you see a wide spectrum of things.

4 We heard from one judge the other day who more or
5 less told us, "Hey, if it takes an hour, I'll do it."

6 And I asked him, you know, along the lines of
7 what you said, "Are you staying up there till midnight
8 every night?"

9 "No. No." And I think like he said, things
10 ultimately shake out.

11 A. And they do. Some settle off. You know, some
12 cases will come up will just fall off the docket, and then
13 that will free up fifteen minutes. And so the next thing
14 you know, you're caught up.

15 Q. And I know from past experience, I think you used
16 to do some workers' comp years ago. And what I found and
17 what somebody mentioned earlier is that sometimes a little
18 extra time in the hall leads to some things resolving to
19 where, you know, the problem takes care of itself.

20 A. That's true. And I'll take the agreements first.
21 If they're all scheduled at nine o'clock or 9:30, and we
22 have ten, I'll tell the bailiff that I want to -- I'll take
23 the agreements and the rest can wait, and hopefully --
24 because these lawyers will come in and say, "We haven't
25 spoken."

1 And that kind of -- that kind of makes me mad.

2 **Q. Oh, I get it.**

3 A. Not that I would say anything about it, but I
4 think to myself that's not a -- you're not doing a service
5 to your client, not even speaking to the other side.

6 **Q. I very much appreciate your responses and your
7 candor. And thank you very much for your time.**

8 A. Thank you, Mr. Safran.

9 EXAMINATION BY CHAIRMAN RANKIN:

10 **Q. Judge, I want to call your attention to a couple
11 of things. And Mr. Safran's picked up on one that I saw,
12 one of the comments effectively avoiding you because of
13 your inconsistency. And the measuring stick for that was
14 the docket, such that your docket would fall apart while
15 the others does not. And that is easily rebuffed and
16 debunked by you. And you're as busy as any other family
17 court judge in the state, I'm sure?**

18 A. I don't know about the Lexington judges. We
19 haven't been traveling much this -- we haven't traveled at
20 all this year, Senator. And so our -- the 8th Circuit is
21 not the 11th Circuit, I'll admit that. I think anybody
22 would. But, anyway, it's very -- it's as busy as anybody's
23 in my circuit. And it's busy most every day.

24 **Q. I want to commend you for what is in this day and
25 age not to be a commendation, but effectively being an**

1 activist judge in the sense that you don't mind talking to
2 people and giving them tough love, or some Sermon on the
3 Mount, that perhaps they never forget inside of a family
4 situation, the dysfunction of families that you see day in
5 and day out. And you spoke at the outset, not a bias
6 against adults or parents who abuse their child unless it's
7 proven, I'm sure.

8 But I want to commend you for that. Because too
9 often we are too PC to not have the gumption to go out and
10 tell a child that they matter or tell parents that, "By
11 God, you've got an investment."

12 Now, whether your words are heated or not is not
13 your job to weigh. You hope something takes, I'm sure,
14 right?

15 A. I do. I do. Especially those juveniles you just
16 mentioned. I've visited the Wilderness Camps around the
17 states, I've visited the detention center, I've visited the
18 Upstate Evaluation Center. In fact, the girl's home in
19 Aiken is -- which is run by Clemson, I've been there three
20 or four times, and those are really my heart.

21 I tell these kids that they're important, that
22 they're -- that they matter, that nobody's more important
23 than them in the world, and that they were -- now this may
24 be where the religious thing is coming from. I tell them
25 that they were created to be a wonderful person and a great

1 mom, a great dad.

2 And, you know, I've -- now, I do -- I do like to
3 tell them when they're wrong, and do give them -- give them
4 a little bit of a tongue-lashing sometimes. But I really
5 do love those kids.

6 Q. The last thing. You cited five particular cases,
7 I think in Question 18 and 19, Looney v. Looney, Young v.
8 Young, Mayo v. Mayo, and Johnson v. Johnson, you recall
9 those. But it seems to me that you have somewhat of an
10 underdog leaning here, such that in abused -- or
11 allegations of abuse that weren't founded, tough cases for
12 you of some attempting to set aside a prenup after
13 obviously they gamed the system at the expense of someone.
14 Is there a underdog leaning for you? And by the way, did
15 you pull for South Carolina Saturday?

16 A. I did.

17 Q. So, yes, indeed there's an underdog leaning you
18 have.

19 A. Although, if they're not playing each other --

20 Q. Oh, don't go there. Please.

21 A. Well, but my daughter just graduated -- my second
22 child just graduated from Clemson, and she's a fanatic. My
23 older son is a fanatic. My wife's a fanatic. I mean, I'll
24 pull for the real Bulldogs, the Citadel Bulldogs, and so I
25 really don't have much to root for, year in and year out.

1 Yeah, I think maybe I -- I've always -- I might
2 have a soft spot for the underdog. That's probably why I
3 became a trial lawyer, to be honest with you. But I call
4 it like I see it.

5 I mean, these cases that you just -- that I --
6 that I put down were cases that were -- that were
7 particularly, I don't want to say troubling, but they were
8 -- they were particularly thought-provoking for me.
9 Interesting cases.

10 And, you know, even though I -- even though I
11 might have wanted to be on this little girl's side, who was
12 accusing her dad of sexual assault, I didn't see where the
13 facts weighed in on that side. And I just had to rule the
14 way I saw it.

15 And so I think that my soft spot for the underdog
16 in general is outweighed by my objectivity, which I believe
17 I --

18 **Q. And don't let my question be misconstrued. The**
19 **underdog is the one who perhaps is not false charges are**
20 **being filed against him.**

21 A. Sure. Sure.

22 **Q. So whether it be the falsely accused in a general**
23 **sessions context, the elderly person in the prenup**
24 **situation, the abuse case that again seems to be in the**
25 **prison love affair case --**

1 A. Yeah. Yeah.

2 **Q. -- truth oftentimes is the underdog.**

3 A. Absolutely, Senator. I mean, I -- yeah, I did --
4 I guess I might have misconstrued your question a little
5 bit. But I was -- it was tough for the little girl, I
6 imagine. I mean, it was a strange case. That particular
7 one was a very strange case. And her demeanor was almost
8 robotic, to be honest with you.

9 And but I couldn't imagine one of my daughters --
10 and I have three -- getting up on the stand for any reason,
11 much less to accuse me of something. That would be, I
12 would think, traumatic. So that's why I -- that's why I
13 took it in that light.

14 But, yes, absolutely. When a person is accused
15 of something like that, how do you rebut it? You know, how
16 do you say -- how do you prove that something did not
17 happen? And believe me, he tried. There was a polygraph
18 issue in that case and they -- his lawyer tried to get the
19 results of the polygraph in, and I denied it.

20 And they tried to get Judge Buckhannon from the
21 beach as a witness, they subpoenaed her as a -- subpoenaed
22 her as a witness, and I said I'm not -- no, we're not doing
23 -- we're not going there either. And I think this case
24 still took five days.

25 But at any rate, yeah, even though my heart may

1 be somewhere it's not -- no matter where it is, I will
2 always, always do what I think is right. Every time.

3 **Q. Very well.**

4 CHAIRMAN RANKIN: Any further questions?

5 (Hearing none.)

6 CHAIRMAN RANKIN: I appreciate your being
7 here early and your patience with this. This will conclude
8 this portion of the screening process. And, again, as you
9 know, this Commission takes very serious both the spirit
10 and the letter of the law regarding the South Carolina
11 ethics. And any violation or appearance of impropriety
12 would be considered very serious and potentially deserving
13 of very heavy deliberation by this commission.

14 And with that in mind, you know we would
15 have the right to call you back should anything arise.
16 You're aware of that, correct?

17 JUDGE SMITHDEAL: Yes, sir.

18 CHAIRMAN RANKIN: All right. And that,
19 Judge, will close this record. We appreciate your
20 continued good service to the folks of South Carolina.

21 JUDGE SMITHDEAL: All right. Thank you,
22 Senator. I appreciate it, Commission. Thank you very
23 much.

24 (Candidate excused.)

25 CHAIRMAN RANKIN: Welcome. If you will

1 raise your right hand, please.

2

3 WHEREUPON,

4 THE HONORABLE ALICE ANNE RICHTER, being duly
5 sworn and cautioned to speak the truth, the whole truth and
6 nothing but the truth, testifies as follows:

7 CHAIRMAN RANKIN: You have before you the
8 PDQ and the sworn statement. Any changes that need to be
9 made to those before we put them in the record?

10 JUDGE RICHTER: No changes to either.

11 CHAIRMAN RANKIN: All right. Hand those to
12 Lindi. You don't object to them being included, do you?

13 JUDGE RICHTER: I do not.

14 (EXHIBIT NO. 14 - JUDICIAL MERIT SELECTION
15 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
16 HONORABLE ALICE ANNE RICHTER)

17 (EXHIBIT NO. 15 - JUDICIAL MERIT SELECTION
18 COMMISSION SWORN STATEMENT OF THE HONORABLE ALICE
19 ANNE RICHTER)

20 CHAIRMAN RANKIN: Judge, are you familiar
21 with our process, the nine evaluative criteria that we look
22 at which includes a ballot box survey, a thorough study of
23 or application materials, a compliance and -- verification
24 if you complied with the state ethics laws, a study of
25 previous screenings, a search of newspaper articles in

1 which your name appears, and a check for economic conflicts
2 of interest.

3 No one has filed an affidavit in opposition
4 to your campaign, and no one has signed up to testify
5 against you or for you. I notice you have someone with
6 you. You're welcome to introduce that person.

7 JUDGE RICHTER: My husband, Joseph Cerato.

8 CHAIRMAN RANKIN: Joseph. Spell the last
9 name for the court reporter, please.

10 JUDGE RICHTER: C-e-r-a-t-o.

11 CHAIRMAN RANKIN: Easy as it sounds. Thank
12 you. Welcome. Judge, you are welcome to make a very brief
13 opening statement. It is not required. And if you waive
14 that, we'll jump right into the questions from Mr. Gentry.

15 JUDGE RICHTER: I just appreciate the
16 opportunity to see all of you today. I'm ready whenever
17 you are.

18 CHAIRMAN RANKIN: And thank you for being
19 early.

20 JUDGE RICHTER: Thank you.

21 EXAMINATION BY MR. GENTRY:

22 Q. Judge Richter, after serving over three years on
23 the family court why do you want to continue serving?

24 A. I love to -- I would be honored to continue to
25 serve. I believe this job is something that I look forward

1 to undertaking every day. I truly care about what I'm
2 doing. And I believe in our judicial system. And I love
3 seeing it work every day.

4 On a personal note, it's very fulfilling in terms
5 of being able to provide public service to our state, which
6 I care a lot about. And I care a lot about the people of
7 our state. And certainly, everyone who avails themselves
8 of the court systems is coming before us, trusting that the
9 system will run properties and work fairly. And I am
10 honored to be a part of that.

11 **Q. Please explain one or two brief accomplishments**
12 **that you feel you've completed during your tenure as a**
13 **family court judge, and then a goal you'd like to**
14 **accomplishment if reelected.**

15 A. Sure. I was able to serve as chief
16 administrative judge in Charleston, where I -- where my
17 home seat is, during 2017 and I -- it was an eye-opening
18 system. Charleston is a very, very busy -- is a very busy
19 county, and the 9th Circuit is a busy circuit.

20 So I was able during that time to work with our
21 clerk's office to implement some updated computer coding
22 systems that assisted in tracking cases in Case Progress,
23 which was helpful given our caseload.

24 And then I also worked with the Department of
25 Social Services in Charleston County, to work on trying to

1 identify some issues that they were having with their trial
2 docket in terms of not being able to get things completed,
3 and not being able -- not having sufficient time to get
4 cases tried. And so we implemented a different ABC system
5 to help them have a better use of their court time when
6 they were in for trials.

7 **Q. And then --**

8 A. Sorry. And then in terms of things I'd like to
9 continue to work on, I really -- I'm working with a pro
10 bono for the Bar right now, and I'm enjoying that. I would
11 like to continue to try to serve not just within the
12 judiciary, but also continue to work with attorneys who I'm
13 friends with and I see, and serve our community through the
14 Bar as well.

15 **Q. What do you think your reputation is among**
16 **attorneys that practice before you?**

17 A. I would hope -- and, again, we get very limited
18 feedback about -- every six years we get these anonymous
19 surveys. And other than that, people just don't tend to
20 come tell us anything other than that we're wonderful.
21 Which is appreciated.

22 But so is candor. And so in terms of my
23 demeanor, I attempt or endeavor to be consistent with my
24 demeanor, be patient and calm, be fair and open-minded.

25 I try to ensure that everyone who appears in any

1 court I'm presiding over feels like they've had an
2 opportunity to be fully heard and that they have been
3 treated respectfully.

4 Q. The Commission received 395 ballot box surveys
5 regarding Judge Richter, with 32 additional comments. The
6 ballot box survey, for example, contained the following
7 positive comments:

8 "A truly dedicated and outstanding judge.
9 Respectful to everyone in the courtroom. Listens to
10 arguments and makes fair and thoughtful decisions."

11 Five of the written comments expressed concerns.
12 Judge Richter, one comment indicated a concern with your
13 demeanor. What response would you offer to this concern?

14 A. Again, I take all of the comments very seriously.
15 As I said, I appreciate the feedback. I think it's
16 helpful. The comment is somewhat limited, and I don't have
17 any background, so assuming that their concerns were not --
18 were with my demeanor, I do endeavor to, as I said, be
19 consistent, be respectful and maintain a sense of
20 cordiality with everyone who appears.

21 I think it's really important to remember that
22 every case is the most important case that the folks
23 appearing in front of us have going on. And so I think
24 it's a reminder to me to redouble my efforts, to try to
25 ensure that I'm consistent and respectful, and ensure that

1 everyone feels like they've been treated fairly anytime
2 they appear in a court in which I'm presiding over.

3 **Q. Two comments indicate a concern that you show**
4 **bias towards certain attorneys you know. What response**
5 **would you offer for this concern?**

6 A. This took me a little bit off guard. I'm very --
7 I try to be very vigilant about not showing favor to
8 anyone. I think everyone who walks into the courtroom has
9 to be treated fairly, or the system doesn't work. So
10 that's a big, big deal to me.

11 The fact that anybody felt that way concerns me.
12 I don't want anyone to appear in front of me and ever feel
13 that way. Again, as I said, I can -- I will continue to be
14 vigilant and redouble my efforts to ensure that no one does
15 come away from the hearing in front of me with that
16 impression. But beyond that it's of course good feedback
17 to have.

18 **Q. And two comments indicate a concern with your**
19 **experience. What response would you offer to those**
20 **concerns?**

21 A. I think -- I don't know if that was someone who
22 appeared in front of me recently, or someone who appeared
23 in front of me when I first started. I've been on the
24 bench for three and a half years, I think the comment
25 probably would have been apropos when I first started, as

1 it would be with anyone who was just coming on to the
2 bench.

3 I think there's a steep learning curve at the
4 front end of serving in any new role, and I'm thankful for
5 the opportunity to have it. I think I continue to learn
6 things every day. I think that's something that I hope all
7 judges continue to do.

8 One of the things that our position does offer us
9 is an opportunity to read and continue to learn about the
10 law and research. And I think that, that's something
11 that's important to me, that I try to continue to do.

12 So as I said previously, it's good feedback. I
13 appreciate it. And I'll continue to try to be responsive.
14 And I do think I gain experience, you know, every day. And
15 I hope I continue to have the opportunity to serve.

16 **Q. As a new judge have you experienced any specific**
17 **difficulties during your service? And if so, what have you**
18 **done to overcome those difficulties?**

19 A. I wouldn't say difficulties. I think when you
20 first -- as I said, when you first start it's a new -- it's
21 a new position and you're learning the in's and out's of
22 how things work. Traveling from county to county, things
23 are different in different counties. So there is a
24 learning curve.

25 I haven't had problems. I can't overemphasis, I

1 really love my job, so I'm thankful for it. And anything
2 that comes up that is a challenge, I try to look at it
3 positively and learn from it.

4 Q. Since submitting your letter of intent have you
5 contacted any members of the Commission about your
6 candidacy?

7 A. I have not.

8 Q. Are you familiar with Section 2-19-70, including
9 the limitations on contacting members of the General
10 Assembly regarding your screening?

11 A. Yes, I am.

12 Q. Since submitting your letter of intent have you
13 sought or received a pledge of any legislator either prior
14 to this date or pending the outcome of your screening?

15 A. No, I have not.

16 Q. Have you asked any third parties to contact
17 members of the General Assembly on your behalf, or are you
18 aware of anyone attempting to intervene in the process on
19 your behalf?

20 A. I am not. And I have not.

21 Q. Have you reviewed and do you understand the
22 Commission's guidelines on pledging and South Carolina Code
23 Section 2-19-70(E)?

24 A. I do.

25 Q. Thank you, Judge Richter.

1 MR. GENTRY: I would note to the Low Country
2 Citizens Committee found Judge Richter to be qualified as
3 to constitutional qualifications, physical health and
4 mental stability, and well qualified as to ethical fitness,
5 professional and academic ability, character, reputation,
6 experience and judicial temperament. The Committee
7 comments that Judge Richter is bright, radiant, humble,
8 excellent.

9 I would also note for the record that any
10 concerns raised during the investigation regarding the
11 candidate were incorporated into the questioning today.
12 Mr. Chairman, I have no further questions.

13 CHAIRMAN RANKIN: Thank you. Senator Young.

14 SENATOR YOUNG: Thank you, Mr. Chairman.

15 EXAMINATION BY SENATOR YOUNG:

16 Q. Judge Richter, thank you for being with us today.
17 And thank you for your service on the family court bench.

18 A. Thank you.

19 Q. A question I have for you is in the area of abuse
20 and neglect. And that question is: If you could suggest
21 one thing to change, to improve the family court system or
22 the families and the children involved in the abuse and
23 neglect area, what would that be?

24 A. Without getting into judicial advocacy, and
25 without attempting how to tell you all how to do what you

1 do so well, I think that the Department of Social Services
2 in our state, unfortunately, has a very high caseload.
3 It's heavy. You know the statistics, I'm sure I don't have
4 to anyone those. Our state always ranks very high in terms
5 of risks to females and children in terms of domestic
6 violence issues and other issues of abuse.

7 And so we do see a lot of cases, particularly in
8 the part of the state where I sit. Charleston, I think in
9 terms -- we're sort of neck-and-neck with Greenville in
10 terms of how many cases we process. And I don't know that
11 there's one solution. I think that, that would be a
12 disservice to say that there is.

13 I think that certainly the children of our state
14 and the people of our state deserve all the resources that
15 we can provide for them, in terms of providing the
16 Department of Social Services with what it needs in terms
17 of staff, funding, etc.

18 **Q. So it sounds like you're saying that there's**
19 **needs to be additional resources for caseworkers --**

20 A. I don't have the ability --

21 **Q. -- and DSS attorneys?**

22 A. I don't know enough about the inner workings of
23 the Department of Social Services from your side of things
24 in terms of funding. But I do see there's a very heavy
25 caseload.

1 Q. So that's what I'm more interested in is your
2 perspective from being on the bench.

3 A. Sure.

4 Q. So do you think that the -- in Charleston, which
5 I assume is where you hold court most of the time.

6 A. Yes, sir.

7 Q. Are the DSS caseworkers and the DSS attorneys, do
8 they -- are they there, prepared to move forward when a
9 case comes before you? Have they had negotiations before
10 they come before you? What's your -- what's your
11 perception?

12 A. I think that -- and I'm speaking -- you asked
13 about Charleston, so I'm speaking about Charleston. And I
14 think it varies sort of from county to county, based on
15 what I've seen. In Charleston, what I've seen is attorneys
16 who really care about what they're trying to do, and
17 caseworkers who really try to do a good job.

18 So I do see people come in, most of the time, in
19 terms of the attorneys and the -- and the caseworkers,
20 prepared and familiar with their cases. Occasionally, I
21 will see something otherwise.

22 As I did say, I think earlier, it does vary from
23 county to county. I'm most familiar of course with
24 Charleston, Berkeley, and Dorchester counties, as well as
25 Richland. I spend a lot of time sitting in Richland.

1 In all of those counties, I think that the
2 attorneys endeavor to do a very good job. I think
3 resources -- the issue or resources is cited often by
4 caseworkers and the department attorneys. I don't know
5 other than what they represent to us in terms of what their
6 resources are and what their needs are, what that actually
7 -- what their needs actually are.

8 **Q. Okay. Thank you.**

9 CHAIRMAN RANKIN: Other questions?
10 Representative Rutherford.

11 EXAMINATION BY REPRESENTATIVE RUTHERFORD:

12 **Q. Judge Richter, how are you?**

13 A. I'm well, thank you. How are you?

14 **Q. You scared me for a minute, because I remember**
15 **when you got elected and I had to go ask how long ago that**
16 **was, because it would have been six years a real term --**

17 A. No, not quite that long.

18 **Q. Right. And thank you -- because I remember your**
19 **race, and I remember supporting you. So to see the**
20 **responses that you get from the Bar makes me feel good that**
21 **you've done so well. So I just want to commend you for**
22 **that.**

23 A. Well, thank you. I'm humbled, truly.

24 **Q. Well, thank you.**

25 CHAIRMAN RANKIN: Any other comments?

1 (Hearing none.)

2 CHAIRMAN RANKIN: I want to commend you too.
3 And I well remember meeting you in my office in Conway.

4 JUDGE RICHTER: Yes.

5 CHAIRMAN RANKIN: And I think I've told you
6 to tell your dad to stay outside. Of if I didn't, I wanted
7 to.

8 JUDGE RICHTER: Yes, I think that --

9 CHAIRMAN RANKIN: Your father had a
10 reputation for being very firm, in a loving way at times
11 caustic.

12 JUDGE RICHTER: Yes.

13 CHAIRMAN RANKIN: You've heard that. And
14 perhaps I use the word "then."

15 JUDGE RICHTER: I not only have heard, I've
16 experienced it.

17 CHAIRMAN RANKIN: Yeah. Judges make great
18 parents, too, perhaps, right?

19 JUDGE RICHTER: They do.

20 CHAIRMAN RANKIN: So you have two of your
21 own that you perhaps will repeat that firm parental style.
22 I want to commend you, though, because there are a couple
23 of comments -- again give some or no weight to them, but
24 complimentary in one, "She is tough. Clearly has
25 expectations in the courtroom that I deem as old school,

1 which is not always a bad thing."

2 And then the second and last is the comment
3 that you have become a strong presence on the bench, what
4 appears at times to be second-guessing is actually a
5 continuing self evaluation to make sure that every decision
6 is the best it can be as the circumstances presented. With
7 humility and grace, you conduct your courtroom professional
8 and efficiently to the benefit of all before you.

9 JUDGE RICHTER: Wow.

10 CHAIRMAN RANKIN: That's pretty good. Again
11 there's some folks that might have something else to say.
12 But the overwhelming majority, I think, their comments
13 really, essentially go to those two points. And so
14 congratulations for doing it well and not wearing your robe
15 too heavily. Which has got to be a tremendous risk.

16 JUDGE RICHTER: Yes.

17 CHAIRMAN RANKIN: So I appreciate your being
18 here and your husband being here. Unless there are other
19 questions, we will close this portion of the record.

20 And as you did in 2015 -- I wasn't here on
21 this side but on the elected side -- but you be mindful
22 that we take very seriously both the spirit and the letter
23 of the South Carolina rules ethics, and your abiding by
24 them. Any violation or the appearance of any -- of
25 impropriety in that regard would be deemed very serious and

1 deserving of us bringing you back here for further
2 questions.

3 We trust that will not happen. But you're aware
4 of that rule, right?

5 JUDGE RICHTER: I am. And I take it very
6 seriously as well.

7 CHAIRMAN RANKIN: Very well. And with that,
8 we'll close your record. And thank you very much for --
9 both of you for being here, and being here early.

10 JUDGE RICHTER: Thank you all as well. It's
11 nice to see everybody. Take care. Thank you.

12 (Candidate excused.)

13 CHAIRMAN RANKIN: Welcome, Judge.

14 JUDGE CREECH: Thank you. Nice to be here.

15 CHAIRMAN RANKIN: Thank you for being here
16 early as well.

17 JUDGE CREECH: Yes, sir.

18 CHAIRMAN RANKIN: I'm going to try to make
19 early work of your return back to Charleston, right?

20 JUDGE CREECH: It would be nice. Moncks
21 Corner.

22 CHAIRMAN RANKIN: Very well. You're still
23 taking 26 to get there.

24 JUDGE CREECH: Yes, sir.

25 CHAIRMAN RANKIN: I'm going to put you under

1 oath. We're not going to ask you what you think about the
2 highways in South Carolina.

3 JUDGE CREECH: Yes, sir.

4 CHAIRMAN RANKIN: Raise your right hand,
5 please.

6 WHEREUPON,

7 THE HONORABLE WAYNE M. CREECH, being duly
8 sworn and cautioned to speak the truth, the whole truth and
9 nothing but the truth, testifies as follows:

10 CHAIRMAN RANKIN: Judge, you've completed
11 two forms, a PDQ Personal Data Questionnaire and a sworn
12 statement. Are those ready to go in the record?

13 JUDGE CREECH: Yes, sir. There was one
14 thing that I -- and I can't point to the place in it right
15 offhand, but at some point I said that I had twenty-four
16 years of service. And actually I have thirty. And I was
17 cutting and pasting and made a mistake.

18 CHAIRMAN RANKIN: Other than that, do you
19 have any objection to those --

20 JUDGE CREECH: No, sir.

21 CHAIRMAN RANKIN: -- documents being put in
22 the record?

23 JUDGE CREECH: No, sir.

24 (EXHIBIT NO. 16 - JUDICIAL MERIT SELECTION
25 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE

1 HONORABLE WAYNE M. CREECH)

2 (EXHIBIT NO. 17 - AMENDMENT TO PERSONAL DATA
3 QUESTIONNAIRE OF THE HONORABLE WAYNE M. CREECH)

4 (EXHIBIT NO. 18 - JUDICIAL MERIT SELECTION
5 COMMISSION SWORN STATEMENT OF THE HONORABLE WAYNE
6 M. CREECH)

7 CHAIRMAN RANKIN: Judge, you were screened
8 the last time, how long ago?

9 JUDGE CREECH: It was in 2012.

10 CHAIRMAN RANKIN: A little different now,
11 but essentially you're familiar, I'm sure, with the rules
12 and our -- our evaluative criteria that we're looking at,
13 nine of them. Particularly the ballot box survey, a study
14 of your application materials, a verification of your
15 compliance with state ethics laws, a search of newspaper
16 articles in which your name appears, a study of past
17 screenings, and a check for economic conflicts of interest.

18 No affidavits have been filed in opposition
19 to your election, and no one has requested to testify
20 against you or for you. It's just you. And with that,
21 I'll turn it over to you to make an ever-so-brief opening
22 statement if you feel the need to. Otherwise, Ms. Mottel
23 will start the questions and the Commission will finish up
24 as well.

25 JUDGE CREECH: I would like to make a brief

1 opening statement, and that's simply to say thank you for
2 the privilege of serving for thirty years in a job that
3 I've absolutely loved. And still do. And I pray that the
4 service I've given has been as faithful to those I've
5 served as it has been fulfilling to me.

6 CHAIRMAN RANKIN: Very well. Thank you.

7 EXAMINATION BY MS. MOTTEL:

8 Q. Judge Creech.

9 A. Yes, ma'am.

10 Q. After serving over thirty years on the family
11 court bench, why do you want to continue -- or why do you
12 want to continue serving as a family court judge?

13 A. Well, you know, the family court is a new court
14 that was started in 1977. So it's sort of a frontier of
15 law in South Carolina. And actually, over the course of my
16 career there have been so many changes and developments and
17 opportunities to contribute to the development of the law
18 in South Carolina, in domestic relations and family law.
19 That's something that's exciting to me.

20 And then also just helping with some of the
21 administrative aspects, I've been working on various things
22 over the years to try to make things go a little smoother.
23 And I've seen that happen.

24 Q. Thank you. Judge Creech, please explain one or
25 two brief accomplishments that you feel you have completed

1 during your tenure, and then a goal you would like to
2 accomplish if reelected.

3 A. I'd say the greatest, probably single most
4 important accomplishment is that for years now, maybe ten
5 years or longer, I've been producing what was originally
6 intended to be a bench book for the South Carolina family
7 court judges, but now is referred to as the South Carolina
8 Family Court Toolkit which is available only to family
9 court judges, and was produced and is maintained by myself
10 and an assistant. And we provide that to the judges,
11 annually, at either the spring or the summer conference.

12 The judge's school -- the new judge's school,
13 they teach from it. And I think, at least according to the
14 family court judges, that it's been a significant
15 contribution to the betterment of family law for them. I'd
16 say that's probably my greatest accomplishment.

17 Second to that would be work in developing forms
18 that are used, often statewide, and they have been provided
19 at different times to clerk's of court or, you know,
20 through the Family Court Judge's Association. They are
21 things like visitation schedules -- it took me -- I was
22 probably on the bench for fifteen years before I realized
23 that nobody had a standard visitation schedule.

24 And so I printed one up and did it, circulated
25 it. Not with the intention that everybody would use that

1 one, but that it would sort of jog everybody into having
2 one. And I think, pretty much universally now on family
3 court, the judges have their own standard visitation
4 schedules that came from that.

5 And then what did I hope to accomplish?

6 **Q. A goal.**

7 A. Would just be a continuation of those things.
8 And also to be an encourager to family court judges. There
9 are -- the decision-making process in deciding hard things
10 can be somewhat burdensome, depending on an individual's
11 personality. And thanks to the Grace of God, it is not a
12 difficult thing for me. I don't know why, but it's not.

13 But I have a lot of judges that call me, in
14 difficult circumstances, and talk with me. And it gives me
15 an opportunity to encourage them and to help them in
16 various ways. And I'd like to do that. I enjoy that when
17 I get the opportunity to do it.

18 **Q. Thank you.**

19 A. Yes, ma'am.

20 **Q. Judge Creech, you indicated in your PDQ that**
21 **since your last screening a lawsuit was filed against you**
22 **in 2012 in federal bankruptcy court. There was a hearing**
23 **for emergency relief that was scheduled a few days after**
24 **you were served, and that matter was dismissed against you;**
25 **is that right?**

1 A. Yes, ma'am. Correct.

2 **Q. Do you have any other comment that you'd like to**
3 **share with the Commission about that matter?**

4 A. No, ma'am. Just that there was a -- well, there
5 was a practice that was going on, and has been going on
6 across the state, and probably across the country, where
7 some individuals who owe large sums of child support file
8 frivolous bankruptcy filings in an effort to avoid dealing
9 with those arrearages. And that was an instance where I
10 believe that to be the case, and found someone in contempt
11 of court.

12 I was threatened by a lawyer rather than -- a
13 lawyer called me -- the bankruptcy lawyer called me, and
14 basically said this to me, "Judge, you locked up my client.
15 And if you don't release him, we're going to sue you."

16 And I said, "If you would come and make a motion
17 in family court, instead of having ex parte communication
18 with me, or call the other lawyer, I would be glad to deal
19 with that. And if your agreement is sound, then I'll
20 consider that. But I'm not going to let somebody out of
21 jail just because you called me and threatened to sue me."

22 Well, I didn't let him out. And she sued me.
23 And the judge dismissed it, so that's where it went.

24 **Q. Thank you. Judge Creech, what do you think your**
25 **reputation is among attorneys that practice before you?**

1 A. You know, I'd like to think that it's very good.
2 The best measure that I have of that is a conversation that
3 I had with Professor John Freeman. You know, when you talk
4 to lawyers -- and, Gentlemen, please don't be offended by
5 this. But, you know, sometimes you're concerned that
6 lawyers are going to tell you, you know, like, "You're the
7 best judge I've ever been in front of," when in fact they
8 don't really mean that.

9 But I had a telephone conversation with Professor
10 Freeman, a few years ago -- it hasn't been maybe three
11 years ago. And Professor Freeman, in the course of the
12 conversation said, "Judge, you are a class act." You know,
13 he referred to me as one of the finest judges on the family
14 court bench. And I was blown away.

15 And I said, you know -- well, you know, Professor
16 -- you know, he was my ethics professor when I was in law
17 school. And I said, "Well, you know, Professor, you know,
18 we all have enemies."

19 And then he said something to me that just --
20 again, it was one of those things that -- he said, "Yes,
21 Judge. But you've got all the right enemies."

22 And I'd like to think that, that's true. But,
23 you know, your reputation is something that is beyond your
24 control. What people say about you is really beyond your
25 control. You can do all the right things, but if you're

1 dealing with certain groups of people, that doesn't stop
2 them from saying bad things about you. Or you can do wrong
3 things, and in the right company wrong things are
4 commended. I would like to think that I'm a good judge.

5 Q. Thank you.

6 A. You're welcome.

7 Q. The Commission received 481 ballot box surveys
8 regarding you, with 56 additional comments. And I'd like
9 just to read a few of those positive comments:

10 "Judge Creech is an absolute asset to the family
11 court. He's consistent, reasonable and fair, and more than
12 courteous. Always a pleasure appearing in front of him.
13 Judge Creech sets the bar for all South Carolina judges.
14 Brilliant, controlled, honest and honorable."

15 Judge Creech, a few of the comments expressed
16 concerns. One concern was that you have poor judicial
17 temperament, and that you can be difficult with attorneys
18 and litigants. What response would you offer to this
19 concern regarding your temperament?

20 A. Well, I think that you all know that if anyone
21 wants to send an effective form of hate mail to the
22 committee, the way that they need to fashion it is an
23 attack on temperament. Because that's one of those things
24 that none of us wants to see in the judiciary is someone
25 who is a bull in a china closet, who is, you know, not

1 polite and not courteous.

2 And as you all have heard the expression, "Has
3 contracted Robeitis." You know, that's a thing we want to
4 stay away from. I think, though, when you see large
5 numbers of people who filed responses, and then a
6 relatively small number with negative remarks, what you're
7 going to find is that -- and I hope this is true, it proves
8 that I have all the right enemies.

9 These individuals don't like me. They will rate
10 you -- usually when it's hate mail, they rate you badly on
11 everything: You don't know the law, you don't know --
12 you're not on time. Everything is bad. And you're
13 temperament's bad and "I want to make a comment about it."

14 You know, there have been lawyers that I have
15 referred to the Grievance Committee, they don't like me,
16 okay? They have an opportunity to rate me poorly through
17 this anonymous process. There are lawyers themselves who
18 are bullies, and I don't do well with bullies.

19 Some litigants are bullies. And, you know, you -
20 - I want to be as nice as everyone will let me be. I
21 recognize as part of my faith, that everybody's made in the
22 image of God, and that alone entitled them to complete
23 respect and courtesy.

24 I try to show that in addition to the ethical
25 requirements to be dignified, courteous and polite, and to

1 listen to all sides. There's the idea in my -- and sort of
2 my mantra has been, since I've been on the bench, I'm here
3 to help and not hurt. That's it, pretty simply.

4 **Q. Thank you. Judge Creech, another concern**
5 **indicated that you play favorites with certain attorneys.**
6 **What response would you offer to the Commission regarding**
7 **this concern and your treatment of attorneys?**

8 A. Again, I would say that's not true. I think that
9 the vast number of responses indicate that to be not true.
10 And I would say that, again, you've got somebody that's got
11 hurt feelings or something like that, they wish things had
12 gone differently. And I get that, you know.

13 You know, this job sometimes is like being an
14 umpire. You know, you're pulling for your team and you
15 don't care whether it's really a strike or a ball, you just
16 want it to go your way. And if your umpire doesn't call it
17 your way, you get mad.

18 I mean, I get that. I can't stop people from
19 saying bad things. I can only stop those things from being
20 true.

21 **Q. And one last concern indicated that you may have**
22 **an old-fashioned approach to the law, and may sometimes be**
23 **rigid in your application. How would you like to respond**
24 **to that?**

25 A. I have an old-fashioned approach to the law. I

1 am rigid in my application of it, okay? And that means
2 simply this: I follow the law whether I like it or I don't
3 like it. I follow the rules whether I like them or I don't
4 like them. I believe that whatever laws you pass, I
5 interpret and apply. I don't make law. I follow it.

6 And I can't help it if when I'm applying it, if
7 it's against your client or not, I am -- if you're asking
8 me to do something that is outside the parameters of the
9 law that's been passed, I rigidly will refuse to do that.

10 **Q. Thank you, Judge.**

11 A. Yes, ma'am.

12 **Q. Judge Creech, you have now served on the bench**
13 **for thirty years. What would you like your legacy to be?**

14 A. I would like to be thought of as someone who was
15 faithful and honorable, a good man, and loved as an
16 encourager to my brothers and sisters on the -- on the
17 bench.

18 **Q. Thank you.**

19 A. Yes, ma'am.

20 MS. MOTTEL: I would note that the Low
21 Country Citizens Committee reported that Judge Creech is
22 overall well qualified in the criteria of constitutional
23 qualifications, physical and mental stability. The
24 Committee found Judge Creech well qualified in the
25 remaining evaluative criteria of ethical fitness,

1 professional and academic ability, character, reputation,
2 experience and judicial temperament.

3 Additionally, the Low Country Citizens
4 Committee commented that Judge Creech was, "A-plus, plus
5 humble, classy, courteous, empathetic, wise, on and on. We
6 are very lucky to have him as a judge. Gold standard."

7 BY MS. MOTTEL:

8 Q. And now I have a few housekeeping issues to
9 address with you.

10 A. Yes, ma'am.

11 Q. Judge Creech, since submitting your letter of
12 intent have you contacted any members of the Commission
13 about your candidacy?

14 A. No, ma'am.

15 Q. Are you familiar with Section 2-19-70, including
16 the limitations on contacting members of the General
17 Assembly regarding your screening?

18 A. Yes, ma'am.

19 Q. Since submitting your letter of intent have you
20 sought or received a pledge of any legislator either prior
21 to this date or pending the outcome of your screening?

22 A. No, ma'am.

23 Q. Have you asked any third parties to contact
24 members of the General Assembly on your behalf, or are you
25 aware of anyone attempting to intervene in the process on

1 your behalf?

2 A. No, ma'am.

3 Q. Have you reviewed and do you understand the
4 Commission's guidelines on pledging and South Carolina Code
5 Section 2-19-70(E)?

6 A. Is that the 48-hour?

7 Q. Yes, I think it is.

8 A. Yes.

9 MS. MOTTEL: I would just note for the
10 record that any concerns raised during the investigation
11 regarding the candidate were incorporated into the
12 questioning today. Mr. Chairman, I have no further
13 questions.

14 CHAIRMAN RANKIN: Thank you. Senator Young.

15 SENATOR YOUNG: Thank you, Mr. Chairman.

16 EXAMINATION BY SENATOR YOUNG:

17 Q. Judge Creech, thank you for your interest in
18 continuing your service. Thirty years on the family court
19 is quite an accomplishment. And you are to be commended
20 for all that you've done. And I'm just thrilled to see
21 that you want to continue to serve the state. And I have a
22 question in the area of abuse and neglect cases.

23 A. All right, sir.

24 Q. And the question is: If you could make one
25 improvement to how those cases are handled in the family

1 court, so that it would be better for the families and the
2 children involved, what would that be?

3 A. I would like to see the rules -- the way the
4 statute deals -- is set up now, you don't require
5 responsive pleadings from the parties. And there are --
6 you know, there's a 35-day deadline on when you're going to
7 get to try the case and that sort of thing.

8 The problem -- one of the problems that I have is
9 a situation where you have possible private custody action
10 and DSS action all going on at the same time. I would like
11 to see those compatible, where you have the same period to
12 file an answer, discovery being available.

13 The truth of the matter is that while we've got
14 these schedules that are for the trial of these cases,
15 they're unrealistic. And I think the only reason we have
16 them is because of some federal funding -- or if I'm not
17 mistaken, the availability of federal funds being related
18 somehow to that.

19 But it seems to me that what you end up -- I
20 don't know of any complicated DSS case that gets tried
21 within the time frame. It is simply impossible. You get a
22 sex abuse case where you've got to have -- or even a shaken
23 baby case where you've got to have expert testimony, you
24 need time for discovery and for, you know, a proper trial
25 to be conducted.

1 And I think the deadlines that are implemented
2 now are artificial. And I know they're well intended, and
3 for those cases are relatively uncontroverted, they're
4 effective in getting an early disposal. But for real trial
5 cases, they are not. I don't know if that makes sense, but
6 that's my comment.

7 **Q. I appreciate it.**

8 CHAIRMAN RANKIN: Any other questions?
9 Representative Smith.

10 EXAMINATION BY REPRESENTATIVE SMITH:

11 **Q. Judge Creech, I appreciate you being here.**

12 A. Yes, sir.

13 **Q. I appreciate your service. I found interest on**
14 **this that you were elected in 1988. I believe you're the**
15 **second longest serving family court judge. Is that**
16 **correct?**

17 A. I believe that's the case, yes, sir.

18 **Q. And soon you're going to be the first when one**
19 **hits the retirement age on December 31st of this year.**

20 A. You know, that may well be the case. You know,
21 you're going to find that the older you get, the less you
22 want to pay attention to those kind of things.

23 **Q. And that's what I -- I'm looking over here, I'm**
24 **just wondering whether you're going to be the longest**
25 **serving -- I think we screened your elder, so to speak,**

1 here a few weeks ago, and he said he's the longest serving
2 family court judge in the history of South Carolina.

3 Are you going to exceed that when you're up
4 there, if you continue on till you're age 72?

5 A. Well, you know, I'll leave that in God's hands.
6 At some point everyone's work career needs to come to an
7 end. You know, I have been blessed because I have been
8 allowed to be in a job that I love. And, you know, a lot
9 of people don't have the luxury of going to work every day,
10 looking forward to it instead of dreading it.

11 And I still feel the same way about serving on
12 the family court as I have my entire career. Which is
13 great. I mean, I love it. I love being in dispute
14 resolution and having an opportunity to sometimes quiet
15 things down and, you know, make things work.

16 But how long I'm going to be on? You know, as a
17 function of health and also, you know, what I might
18 perceive as God's direction for my lie.

19 Q. And that was the question I was going to ask you
20 is, you started thirty years ago and you were a younger
21 lawyer, and I presume you had a lot of enthusiasm for the
22 job. Do you continue to have that same enthusiasm, the
23 same excitement of going into work and doing -- and sitting
24 in judgement of cases and listening to litigants and
25 handling them?

1 A. I do. And if that's weird, you know, I can't
2 help it. I mean, but, yes, I've -- you know, I've found a
3 place where I belong. And I'm so grateful for it. You
4 know, I would never have imagined that I could hold any job
5 for thirty years. But I've loved it. I do love it. I
6 love the people I work with. It's challenging. It's fun.
7 Funny things happened. I mean, it's a -- you know, it's a
8 great place to be in the practice of law.

9 Q. Judge, we have family court judges come, mostly
10 like you, sitting family court judges who are unopposed,
11 and we've been discussing issues with them. And one of the
12 issues that's come up is, obviously, the need for temporary
13 hearings. And we've heard about how the Supreme Court's
14 issued certain directives to the clerk's of court and all
15 that.

16 And one of the issues have come up over the --
17 that we've heard throughout this screening process is about
18 fifteen-minute temporary hearings occurring, and they're
19 going to last thirty minutes, or go over.

20 How do you handle those situations when someone
21 schedules a fifteen-minute hearing and it's going over, to
22 some degree, and you're getting backed up on your docket?

23 A. As you work on the bench, you go through this
24 juggling process. And in the beginning when I first came
25 on the bench, I took what I used to refer to as the "Wapner

1 approach." You know, and that was -- do you remember Judge
2 Wapner used to be on TV? Yeah, People's Court.

3 And what Judge Wapner did, I'd have the lawyers
4 come in, the litigants would come in, they'd bring their
5 affidavits, and then I'd turn to Lawyer One and I'd say,
6 Sir or Madam, "I'll hear a brief summary of your client's
7 position, not to exceed five minutes."

8 Five minutes worth of argument there, "I'll hear
9 a brief summary of your client's position, not to exceed
10 five minutes."

11 Five minutes of argument there, "I'll hear one
12 minute rebuttal or reply."

13 Then I said, "Thank you, Ladies and Gentlemen.
14 We're going to take a brief recess while I read the
15 affidavits. I'll come back and give you a decision in a
16 few minutes." The Wapner approach.

17 I went back into my office, read all the
18 affidavits, and did everything. I came up with a decision,
19 announced it in court, and there was it. And there are a
20 lot of people who believe that, that's the way that it's
21 supposed to work.

22 The problem with that is that while I'm back
23 there reading the affidavits and coming up with a decision
24 and deliberating like I'm supposed to, all of the other
25 lawyers and litigants are sitting out in the waiting room,

1 waiting for me to finish after forty-five minutes or more
2 with my fifteen-minute hearing.

3 I can say truthfully, that I don't need thirty
4 minutes for a temporary hearing. I can handle any
5 temporary hearing you've got in fifteen minutes. Mr.
6 Murphy can attest to it, and that is, "I'll hear five
7 minutes from your client, I'll hear five minutes from your
8 client, I'll hear a one-minute rebuttal. Thank you, Ladies
9 and Gentleman. I'm taking the matter under advisement.
10 I'll give you a decision by e-mail."

11 I set a one-week goal and do not linger in making
12 a decision. But I've actually found that doing it that way
13 does two things. Number one, the lobby doesn't get clogged
14 up. Number two, litigants who have hourly wages aren't
15 there at two o'clock waiting till four o'clock to get in,
16 and losing time at work. And three, you are able to take
17 the time to actually deliberate and decide the cases and
18 take the amount of time that's necessary.

19 Usually, I decide my cases during lunch. I bring
20 my lunch. I sit at the desk or at the bench and I pull all
21 the affidavits, I read them and I make the decision. I
22 type instructions and send it out to the lawyers, get an
23 order drawn.

24 And that does something that's very important.
25 When you announce a decision in court, like in the Wapner

1 way, you know, "Ladies and Gentlemen, custody is going to
2 Dad, and Mom's getting supervised visitation," you run the
3 risk that once they get out in the parking lot, trouble is
4 going to break out. And they're going to be cussing the
5 lawyers out and all kinds of things are going to happen.

6 But when you do it -- take it under advisement
7 and send it by e-mail, you eliminate all of that. That's
8 my strategy.

9 Q. Let me ask you this: How do you as a judge sit in
10 the courtroom and listen to Representative Murphy talk for
11 five minutes in a row without it becoming annoying?

12 A. I actually find it enjoyable.

13 Q. All right. And how many times have you held him
14 in contempt?

15 A. I don't -- you know, it's anonymous. So I don't
16 know if he's one of the ones that wrote one of those things
17 or not.

18 Q. Judge, he's handing me a list of fifteen
19 questions to ask you --

20 A. Yeah.

21 Q. So let me ask you this too. As, you know, what
22 Representative Young -- he used to be a representative and
23 now is a Senator, he's got demoted to the Senate from the
24 House.

25 Let me ask you about the Department of Social

1 Services. We've been -- as I've listened today to -- been
2 talking about attorneys and the DSS attorneys, and how
3 they're handling their cases, are you finding that they're
4 -- that they're independently handling their cases where
5 they -- where they are making the legal decision as they
6 come before you?

7 Or are they more following the instructions of
8 the caseworkers and the Department of Social Services, and
9 really not screening or vetting their cases?

10 A. That's a big problem. And that's one of the
11 reasons for high turnover with lawyers with the Department
12 of Social Services on contracts -- on a contract basis.
13 Lawyers who do their job usually don't stay very long with
14 the Department of Social Services.

15 Because the Department of Social Services have
16 all their policies and all of the things that they think
17 should be done, and they don't want to listen to their
18 lawyer's advice. They don't tell the lawyer what to do.

19 I've tried cases -- tried cases that were
20 presented to me, that were the stupidest waste of time that
21 you have ever seen, and the whole reason was because DSS
22 didn't want to make the decision to dismiss that; they
23 wanted the judge to do it.

24 And the lawyer is telling them, "We don't have a
25 case. I mean, we're -- don't make me go in here and do

1 this."

2 Q. And I see that -- I see that. And as an aside,
3 I'll tell you that when I was a young lawyer, as most
4 lawyers did before we had contract attorneys, I collected
5 all the appointments of the older lawyers in the office,
6 and off I would go to court. And I'll never forget Judge
7 Mobley, one time from Lancaster -- Berry Mobley, I believe
8 was his name.

9 A. Absolutely.

10 Q. And so I tried my first DSS case, and at the end
11 he told me that there was a -- he said, "Aren't you making
12 a motion pursuant to Rule 40 or 41" or whatever it was for
13 a -- what I call directed verdict, but it was an
14 involuntary nonsuit. And he granted that and then -- and
15 then brought me back to chambers and talked about how the -
16 - few attorneys ever challenged DSS, and few judges also
17 would -- were afraid to rule against DSS.

18 And I presumed that -- you know, obviously,
19 you've got to err on the side of the child. But also if
20 cases are before you where they to some degree, I would
21 say, are frivolous or -- really just trying to punt that
22 into your lap, and you're not afraid to make those hard
23 decisions.

24 A. The hardest part of those cases -- and, you know
25 -- and far be it from me to correct anything you would say,

1 Representative Smith. But I always err on the side of the
2 law. You know, two things that, you know, you can easily
3 find yourself in a trap on are DSS cases where you want to
4 err on the side of protecting the child.

5 If the evidence is not there to support the
6 decision or a finding, the case needs to be dismissed. And
7 that can sometimes be the hardest, creepiest, most
8 difficult decision that you can make, is when DSS has not
9 done their job, they haven't presented the case, they have
10 not proved harm, and the case has to be dismissed and the
11 children returned to the parents or to the persons from
12 whom the child -- they were taken.

13 That's terrible. The same thing about domestic
14 abuse cases, battered men and women, you know, this idea of
15 erring on the side of protecting. You know, if you don't
16 prove your case in front of me, I'm going to dismiss it
17 because it's based -- I mean, my job is to follow the law.
18 You prove abuse by a preponderance of the evidence, you're
19 going to get an order. If you don't prove it by a
20 preponderance of the evidence in domestic abuse, the case
21 is going to be dismissed.

22 And you know as good as I do, that if they don't
23 make a good showing, you know, that's the thing where you
24 wake up tomorrow morning and a woman has been killed and
25 they're talking about that she was in front of the judge

1 yesterday and he dismissed the case.

2 I don't want to dismiss cases like that. But you
3 all want me to follow the law, right? I'm not going to be
4 lawless. I'm going to follow the law. I'm not going to do
5 what I think is right. I'm going to do what I think the
6 law requires.

7 Q. And, Judge, I appreciate that approach. I think
8 that's the approach that every judge should take. And I
9 the and if I heard it once -- I don't do family court
10 anymore. I miss some of it. Some of it -- my life is a
11 whole lot easier without having to listen to --

12 A. Yes, sir.

13 Q. -- clients. But by the same token, one of the
14 things that always bothered me sometimes is -- you know,
15 it's a close call, but I've got to err on the side of the
16 child. And I always -- and I always believed that you
17 should -- you should follow what the law is, and hold that
18 standard. And I appreciate your position on that.

19 A. And that's a -- and that's a tough place to be.

20 Q. It is. And so it -- and I've heard it a lot,
21 numerous times from some very well respected judges, that
22 are people who I consider to be friends, and they would
23 always say, "I don't want to wake up in the morning and see
24 something happen and it be in the newspaper and I have to
25 come and account to the Legislature over that."

1 And, you know, I think that's always a -- like it
2 or not, that we've had those issues that have arisen in the
3 judiciary, and that's something that we need to avoid. And
4 as a lawyer, I always find that very troubling when judges
5 have to be accountable for decisions that they make, and
6 they don't realize that you make the decision based upon
7 the evidence that's before you at that time.

8 A. I've told people before, when you come to court
9 it's most often that the judge doesn't know the truth. He
10 just knows what the evidence of the truth is. And you make
11 your decisions based on the standard. So if you find by
12 preponderance of the evidence, that "A" is the truth, that
13 may be 51 percent, there's a 49 percent possibility that
14 you are wrong.

15 And that's not a fun place to be. Because it can
16 happen that the evidence is on your side, the Supreme Court
17 would uphold me, but it wasn't the truth. And, you know,
18 listen, that's when -- that's when I could get called to
19 account.

20 And, you know, all I can do is hope that the
21 decision I made was proper, and that when you hear my
22 explanation of it, you will agree with me. And if my
23 decision was wrong, that you'll either have mercy or let me
24 go. And that's just where it is.

25 Q. All right. Well, thank you, Judge. I wish you

1 success in your career. And hopefully you will set the
2 mark as a -- as the longest serving judge. Although, Judge
3 Morehead's been here for a long time, and a fine judge.

4 A. Yes, sir. That's the top.

5 CHAIRMAN RANKIN: Senator Sabb.

6 SENATOR SABB: Thank you, Mr. Chairman.

7 EXAMINATION BY SENATOR SABB:

8 Q. Judge Creech, good afternoon. I will tell you
9 that, you know, we've screened a number of family court
10 judges over the course of this term, and for some reason
11 you've kind of brought family court to life for me. I
12 don't know whether it's the passion that you have for what
13 you're doing. But I've not felt the emotion in these
14 hearings, that I have -- and this may be to your
15 interchanges between you and members of the Commission.

16 And so thank you for the passion that you have
17 for what you do. You kind of remind me of some of the
18 judges of old, Judge Beltzer and judge -- and that crowd
19 was on the bench when I first started practicing law.

20 I want to, if I might, liken back to the
21 questions that Senator Young posed. And I sort of gathered
22 something from a comment, and I just wanted to know whether
23 or not my thought process is accurate based on your
24 response. Dealing with the abuse and neglect cases, it
25 almost sounds like you were advocating for what I would

1 consider to be a complex case docket as it relates to --

2 A. Oh, sure.

3 Q. -- some of --

4 A. Absolutely.

5 Q. Yeah.

6 A. I mean, I think that would be appropriate with a
7 different way of litigating those cases, a different time
8 line. Really treating them more like general litigants. I
9 think that absolutely is the case. You said it better than
10 I could, Mr. Sabb. Senator Sabb. I'm sorry.

11 Q. Thank you, Judge.

12 EXAMINATION BY CHAIRMAN RANKIN:

13 Q. Judge, maybe to wrap this up, I want to kind of
14 go in a little different direction. And as Senator Sabb
15 recognized, you certainly are not a man lacking in passion.
16 And your comments -- let's go there first. You had many
17 overwhelmingly positive: "A judge's judge. Glad that he
18 wants to remain on the bench. Fair." Over and over.

19 But you can't win them all.

20 A. No.

21 Q. There are not one, not two, but seven particular
22 anonymous writers. And they don't get to do them more than
23 once, so there are a few naysayers.

24 A. Yes, sir.

25 Q. Some you have been asked about. How do you take

1 to criticism?

2 A. Well, you know --

3 Q. If it's -- if it is proper and on point, how
4 about that, versus subjective? And perhaps you mentioned a
5 grieving number of attorneys are one. You don't think that
6 all seven of these are from folks who don't like you? Or
7 maybe you do.

8 A. Candidly, I think that there -- there are people
9 who are disappointed for a reason. You know, I'm not -- I
10 don't believe that I am unkind or harsh to anyone. I don't
11 think that is the case.

12 I will say -- you ask how I respond to criticism,
13 and one of the things that I have -- I say not only for
14 myself, but some of the judges that have been coming up for
15 screening have, you know, kind of talked to me, and they've
16 said, you know, "Wayne, you know, they're going to ask me
17 about this, that and the other."

18 And I said, "Look, let's face it. You know as
19 the Bible says: All have sinned and fall short of the Glory
20 of God."

21 Listen, I'm not claiming to be perfect. And, you
22 know, how you're seen -- you know, sometimes what you think
23 you are is not what other people see. So, you know, you
24 asked me honestly, Senator, did I think all of those people
25 are like gripers, if I want to put it that way. And my

1 honest answer is, I believe they are.

2 Whether they are or not is, you know, a fact that
3 you all need to sort out. I think the overwhelming
4 evidence there is that there is -- that their responses are
5 out of the norm.

6 Now, what I would say -- and you asked me how I
7 respond to criticism. Every time a appeared before you
8 all, and I hear anything that is negative, it's an
9 opportunity for to me to say, "Okay. When you go back to
10 work Monday, Wayne, be sure to watch the tone and the way
11 that you speak. Be sure to treat everybody as politely as
12 you can. To be as patient as you can."

13 It's a learning experience. And so, yes, I'd say
14 that the fact that seven people have said that is something
15 I need to hear and maybe learn from. But honestly -- and
16 can I get a moment of grace from you guys, since this is my
17 last time that I'm going to be here?

18 **Q. Amen.**

19 A. Please. You know, it's a shame we judges can't
20 anonymously rate some lawyers, you know. But when you look
21 at a particular judge, I'm going to say you might find a
22 judge that's got twelve negatives, my question to you is
23 this: Take a look at that judge's docket, where has that
24 person been? What cases has that person been trying? Who
25 has that person been dealing with?

1 Because it's not like, you know, everything is
2 uniform. When you roll into town, you don't know what kind
3 of cases you're going to get. And I'm here to tell you
4 that there are some judges -- and I'm going to use language
5 that you all might -- I hope, again I'm asking for grace.

6 **Q. You got it.**

7 A. There's some judges that are nut-magnets. You
8 roll into town and that mean, crazy lawyer that is in your
9 Bar, and you know who he is because you have to deal with
10 him, is going to appear before you three days out of the
11 week.

12 I mean, you know, that's where I come back to
13 saying, "Listen, if you come before me and you don't want
14 to play by the rules and you want to be a bully and those
15 kind of things, it's just not going to go great. I mean,
16 I'm going to be nice. But I'm not going to give you what
17 you want."

18 And some of those people that rate us
19 anonymously, I am serious, they are rating -- they mean it.
20 They don't like us. They don't think we're nice. They
21 think we're mean. And it's because we didn't give them
22 what they wanted.

23 **Q. And, Judge, I will tell you, as perhaps they are**
24 **my comments when I started this, you -- we are to consider**
25 **all comments --**

1 A. Yes.

2 Q. -- perhaps giving less weight to some than
3 others.

4 A. Hopefully.

5 Q. Do you believe -- do you believe that we should
6 use the ballot box survey as a measuring stick for you?

7 A. I do.

8 Q. Good or bad, right?

9 A. Yes.

10 Q. Thirty years on the bench, how in the world have
11 you not yet developed a heavy robe? You used the term
12 "Robeitis." We all know what that means. But how in the
13 world have you resisted that temptation?

14 A. Well, your life experience -- your life
15 experience --

16 Q. Let me qualify my question. To the seven
17 naysayers notwithstanding --

18 A. Yes, sir.

19 Q. -- there are the overwhelming majority of those
20 who say you haven't. How have you succeeded?

21 A. Well, Sir, I don't think it's a product of me. I
22 think it's a product of life. And I don't know if you've
23 ever -- I mean, you're an accomplished individual, all of
24 you are. You know, and if you're not careful, you can
25 start to get a big head over who you are.

1 What I found in life is that God is capable of
2 putting me in my place. And I don't usually get the big
3 head, because I've been in enough circumstances in life to
4 know that those people that sit out in front of me, they're
5 just like me and my family.

6 You know, I mean -- I mean, I know -- I've got
7 members of my family that have alcohol problems, mental
8 illness issues. You know, there are all kinds of things.

9 You know, and I -- we were doing a bench warrant
10 system and I -- if you want to be here all day, ask me
11 about my family, about my faith, or about my job, or duck
12 hunting. And we'll be here all day.

13 But listen to me, they -- we had a situation with
14 bench warrants in Berkeley County and in other counties,
15 where people were doing them like Monday, Wednesday, and
16 Friday, or two days a week. I said, "No, we can't do that.
17 I want it heard every day where I'm at."

18 And it's just like if my brother got arrested for
19 not paying child support, I wouldn't want him to sit in
20 jail for 48 hours waiting for a -- to get a hearing so he
21 could go home, and maybe lose his job or something like
22 that. You know, I -- it's just life, Senator. I mean,
23 that's -- I don't know. I mean, I -- I don't think I have
24 Robeitis.

25 **Q. Well, apparently, you don't because of -- again,**

1 the esteem you hold with your folks who took the time to
2 participate have yet to say that about you.

3 Two things and them I'm going to be through,
4 unless others have further comments. You mentioned John
5 Freeman in your opening remarks. You cannot employ or
6 enlist the name of a better person, I think, who you said,
7 "You obviously have the wrong enemies." You obviously are
8 doing the right thing.

9 Again, stepping on toes are not -- that he is
10 telling you that, not that he's the Almighty, but he's
11 pretty close in terms of black and white and doing it right
12 or wrong.

13 A. Well, that's the way I've seen it. To hear that
14 come out of his mouth was overwhelming to me.

15 Q. The last thing. You are a father of four?

16 A. Yes, sir.

17 Q. I'm the product of that as well. I was the last
18 of four. So God bless you for that number. But I want to
19 call out particularly one of your four, who enjoys a great
20 reputation. A young lawyer, your son Mr. Creech, who
21 practices with the Elrod firm.

22 A. Yes, sir.

23 Q. His name is bantered about as an accomplished
24 young lawyer. So you're obviously serving well on the
25 bench, and served well as a model for young lawyers in your

1 own home. So God bless you there.

2 A. I'm so proud of him. All my kids.

3 CHAIRMAN RANKIN: Unless there's anything
4 else. Mr. Safran.

5 EXAMINATION BY MR. SAFRAN:

6 Q. Judge, I'll be brief 'cause I know we've probably
7 kept this longer than --

8 A. No, sir.

9 Q. -- anybody anticipated.

10 A. The people out in the lobby just think you all
11 are raking me over the coals. But that's okay.

12 Q. You tell them that when you get out.

13 A. I will. I will.

14 Q. The room hadn't shaken yet.

15 A. No.

16 Q. I think, frankly, in some ways you're a throwback
17 to some -- you know, we have a hard time sometimes
18 balancing what we see in this ballot box, compared to
19 necessarily reality.

20 I think we have strived as a group to try to
21 focus over the last several years on, you know, judges not
22 forgetting who they were when they were lawyers, and
23 remaining, I guess, as gracious and as polite. But, you
24 know, I think sometimes people forget, as maybe I have too,
25 that when I came up there were some judges that certainly

1 made you recognize kind of who was in control and how
2 you're supposed to behave.

3 And I understand that while certain flexibility
4 is always essential in some circumstances, that you control
5 the courtroom. You are the one really in charge of the
6 show. And as long as you're maintaining a certain decorum
7 with everybody, that people need to respect that.

8 And, you know, I get the sense from you that you
9 take it very seriously. And, you know, my rule is, is I
10 got to look in the mirror. You know, I got to be the one
11 that accounts for kind of how I behave. And what I'm
12 hearing from you is, you're okay looking in the mirror.

13 A. I am okay looking in the mirror. If everything I
14 had done in my life, I've been as faithful in as I have
15 been in this job, I would be proud. I have given the best
16 I can. I can say that I have given the best I can to this
17 job. And it's just been a blessing to me that it is
18 compatible.

19 I mean, I think again simply of God's Grace in my
20 life, that He's put me in a position where what He knows
21 I'm capable of doing with relative ease, He has allowed me
22 to have as a career.

23 I mean, if you want a guy that can make a
24 decision, I'm him. I just can. And whatever the
25 consequences are from it, you know, I do my best. And then

1 I'm man enough to say hey -- you know, I've -- I could give
2 you all funny stories all day long.

3 I had one in the Sharps case -- I don't know if
4 you all know the Sharps case. Sharps v. Sharps. I cited
5 it. It was where emancipated kids -- the kids were
6 emancipated, and the wife was seeking to have her alimony
7 modified based on the fact that her child support was
8 dropping.

9 And Constance Anastapoulo was the lawyer
10 representing the husband, and they took a very
11 understandable position that the emancipation of children
12 is a foreseeable event, and therefore can't be a changed
13 circumstance.

14 I disagreed. I said it is a foreseeable event,
15 but it wasn't taken into consideration -- you couldn't take
16 it into consideration when you calculated the lady's
17 alimony. And the man couldn't have paid the alimony she
18 deserved and the child support that he owed.

19 And so we disagreed. We went to the court of
20 appeals, and the court of appeals disagreed with me. It
21 was a foreseeable event, they said, and they reversed me.
22 And I picked up the telephone and called Constance
23 Anastapoulo, and said, "You have done a good job.
24 Congratulations on the victory in the court of appeals. I
25 was wrong."

1 Only to have the joy, later, of having that case
2 go up to the Supreme Court. The Supreme Court then
3 agreeing with Judge Creech, and getting a phone call from
4 Constance Anapoulou, saying, "Judge Creech, a job well
5 done. You were right and I was wrong."

6 That to me is how things are supposed to work.
7 And that's how I want it to work. You know, it's not a
8 war. It's dispute resolution. And it can be fun.

9 **Q. Well, I'll finally echo what the Chairman said,**
10 **is that -- you know, I've had the very, very great fortune**
11 **to become -- and have been for years, friendly with**
12 **Professor Freeman. And what you heard is high praise. And**
13 **it is something to cherish.**

14 A. Well, like I say, you know, he was my ethics
15 professor. I've seen him on this committee in the past,
16 and for him to say those things to me was -- I use the --
17 it was overwhelming.

18 **Q. Thank you for your testimony.**

19 CHAIRMAN RANKIN: Judge, unless we cut you
20 off, you will be here talking about faith --

21 JUDGE CREECH: Senator, you've got to tell
22 me, "Shut up, Wayne. Get out of here."

23 CHAIRMAN RANKIN: As nicely as I can, I
24 will.

25 JUDGE CREECH: All right. Thanks.

1 CHAIRMAN RANKIN: Hold on. This concludes
2 this portion of the screening process. And, Judge, you are
3 almost free to go. I do want to remind you, though, there
4 are serious considerations, hereby, and weight given to
5 both the spirit and the letter of the South Carolina rules
6 of ethics. Any violation of those rules or laws or
7 appearance of impropriety you know we will consider very
8 harshly, severely, and potentially worthy of calling you
9 back.

10 We trust that's not going to happen with
11 you. But you do acknowledge that you're aware of those
12 rules, right?

13 JUDGE CREECH: I am aware.

14 CHAIRMAN RANKIN: All right. Judge, with
15 that, now we'll bid you adieu. Pinopolis is calling.

16 JUDGE CREECH: It is calling

17 CHAIRMAN RANKIN: It is calling your name.
18 God bless you.

19 JUDGE CREECH: Let me tell you -- let me
20 just tell you when I -- now, you talk about Robeitis and a
21 big head, when I call Drew this evening and say that he was
22 mentioned in my screening, that's on you. Thank you very
23 much.

24 (Candidate excused.)

25 CHAIRMAN RANKIN: Judge, you have before you

1 two documents that you prepared for us, a PDQ and a sworn
2 statement. Any objections to those being made a part of
3 the record?

4 JUDGE LONG: No.

5 CHAIRMAN RANKIN: Any changes that need to
6 be made before you hand them to Lindi?

7 JUDGE LONG: There was one change that I
8 made. Back in October, I realized I had misread one of the
9 questions, and made that correction, on the 48-Hour Rule.
10 But I think it's in good shape now.

11 CHAIRMAN RANKIN: Great. If you'll hand
12 those to Lindi, we'll make them part of the record.

13 (EXHIBIT NO. 19 - JUDICIAL MERIT SELECTION
14 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
15 HONORABLE EDGAR HENDERSON LONG JR.)

16 (EXHIBIT NO. 20 - AMENDMENT TO PERSONAL DATA
17 QUESTIONNAIRE OF THE HONORABLE EDGAR HENDERSON
18 LONG JR.)

19 (EXHIBIT NO. 21 - JUDICIAL MERIT SELECTION
20 COMMISSION SWORN STATEMENT OF THE HONORABLE EDGAR
21 HENDERSON LONG JR.)

22 CHAIRMAN RANKIN: You're familiar with this
23 process, and you know the evaluative criteria that we're
24 looking at, nine specifically. But those include a ballot
25 box survey, a thorough study of your application materials,

1 verification of your compliance with state ethics laws, a
2 search of newspaper articles in which your name may appear,
3 a study of previous screenings, and a check for economic
4 conflicts of interest.

5 No one has filed an affidavit to testify --
6 or has requested a time to testify against you or for.
7 There have been no affidavits generated for us to consider.
8 You have someone with you. And you're welcome to introduce
9 her if you'd like.

10 JUDGE LONG: Certainly. This is my wife
11 Amy. And we celebrated our 43rd wedding anniversary in
12 August of this year. And we have two wonderful children.
13 And I always take her with me for moral support whenever I
14 have an appearance. And a new daughter-in-law as well. I
15 almost forgot that one.

16 CHAIRMAN RANKIN: And she knows that it's a
17 yearly deal, and she can get out at any time, right?

18 JUDGE LONG: Yes.

19 CHAIRMAN RANKIN: It's a yearly deal.

20 JUDGE LONG: Right.

21 CHAIRMAN RANKIN: Very well. Judge, you can
22 make any brief opening remarks you want. You don't have
23 to. Otherwise, Maura will take it away with questions, and
24 then the Commission may ask questions as well.

25 JUDGE LONG: Briefly, I'd just like to say I

1 appreciate the opportunity to appear in front of this
2 commission, and I've enjoyed my years on the bench. And I
3 hope to serve several more years on the bench.

4 CHAIRMAN RANKIN: Thank you both for being
5 here, and for being here early.

6 JUDGE LONG: Thank you.

7 MS. BAKER: Thank you, Mr. Chairman.

8 EXAMINATION BY MS. BAKER:

9 **Q. Judge Long, after serving almost nine years --**
10 **over nine years on the family court bench, why do you want**
11 **to continue serving as a family court judge?**

12 A. I truly enjoy my job. It's something different
13 every day. I particularly have enjoyed the opportunity to
14 travel different parts of the state, meet attorneys and
15 litigants from other part of the state, and meet the
16 support staff in different courthouses.

17 It's always interesting and sometimes
18 entertaining. But I particularly have enjoyed my work in
19 areas affecting children. I believe you -- in searching
20 the newspaper articles, you found several on my adoption
21 days that I've been holding for about the last seven or
22 eight years.

23 We recently held one last week, as a matter of
24 fact, and that is -- as I tell people in the hearings,
25 that's absolutely my favorite thing to do in family court.

1 Q. Thank you, Judge. Judge, please explain one or
2 two brief accomplishments that you feel you've completed
3 during your tenure, and then a goal you'd like to
4 accomplish if reelected.

5 A. I've tried to study the docketing system that we
6 use, particularly during the year that was chief
7 administrative judge. I discovered that there was some
8 areas where we could -- where we were not using available
9 court time.

10 And I was able to not dramatically restructure,
11 but just basically tweak several of the areas on the docket
12 to make that -- to make it work more smoothly and to help
13 us get our rates down below the 80 percent milestone that
14 the Chief Justice has directed.

15 I also have enjoyed the opportunity to speak to
16 volunteer guardian groups. I usually speak at their --
17 when they're sworn in, the volunteer guardians for the DSS
18 cases. I've also had the opportunity to speak at several
19 school groups, and I enjoy meeting the people and speaking
20 to them about the judicial process.

21 They always have very interesting questions about
22 what you -- what do you do and why do you do it. And I
23 would like to continue to do that. I think that's
24 important. I think it's important to -- that there's a
25 serious deficiency in the teaching of civics in our public

1 schools, and I think the opportunity to talk to people
2 about how our government functions and the -- what the
3 responsibilities of the different branches of government
4 are is a -- they're important. And I enjoy discussing that
5 with young people.

6 Q. Thank you, Judge. Judge, you disclosed in your
7 PDQ, and I know it's indicated in your SLED report, that
8 since your last screening, a lawsuit was filed against you
9 earlier this year in circuit court by a Mr. Gary Z. Thomas.

10 A. Correct.

11 Q. Could you please explain the nature of the
12 lawsuit and its current status?

13 A. Mr. Thomas appeared before me on a child support
14 rule. He had -- he was in jail on a bench warrant, he had
15 previously been incarcerated in Pickens County on other
16 charges. And when he came before me, he wanted me to give
17 him credit for the time he had served in Pickens on other
18 charges.

19 I told him I did not believe that I had the
20 authority to do that, and if he wished to send me -- he
21 told me he had cases that would support that. I said,
22 "Well, if you'd like to send that to me, I'll be glad to
23 look at it and we can reconvene the hearing."

24 And I never heard from him. Then I was served
25 with a civil lawsuit where he sets out the basic facts that

1 led to the filing of the action, but at the end of the --
2 of his pleadings, he doesn't seek any relief -- no monetary
3 relief, no equitable relief. It just kind of was a
4 recitation of what his grievances were, so to speak.

5 Of course, I've been contacted -- the Insurance
6 Reserve Fund, they appointed an attorney for me. I'm aware
7 that there was a motion -- a 12(b)(6) motion to dismiss
8 that was held in the first part of November.

9 However, the court took that issue under
10 advisement. I checked with the court this morning -- I
11 mean, with my attorney this morning to see whether they got
12 a decision, and we have not received a decision yet.

13 **Q. Thank you, Judge. Judge, what do you think your**
14 **reputation is among attorneys that practice before you?**

15 A. I try and be very fair and open to attorneys. I
16 believe that I am -- and I don't -- I try to be careful
17 when I use this term, I think I'm "lawyer-friendly."

18 By virtue of practicing for twenty-seven years, I
19 understand what it means to be a practicing attorney. And
20 as long as no -- I try and understand when attorneys may
21 have forgotten to bring something, or may have misstated
22 something, as long as it doesn't prejudice either party.

23 I think I have a reputation for being fairly
24 easygoing. That just my personality. I try and -- I try
25 not to put on airs, so to speak. I try and be myself and

1 talk opening with lawyers and handle the -- handle my
2 docket that way.

3 Q. Thank you, Judge. Judge, the Commission received
4 342 ballot box surveys regarding you, with 26 additional
5 comments. The ballot box survey, for example, contained
6 the following positive comments:

7 "I wish all family court judges were as even
8 tempered as he is. Great judge. This judge is an
9 excellent family court judge with an excellent reputation
10 for both his demeanor and knowledge and application of the
11 law to his cases."

12 One of the written comments expressed concerns
13 relating to your handling of conflicts of interest in your
14 courtroom. What response would you offer to that comment?

15 A. First off, I would -- I would want to -- I would
16 want to know, if I could, what type of conflict was being
17 raised. 'Cause there are -- there are different types of
18 conflicts that can arise.

19 My general practice, if it's a prior relationship
20 or prior knowledge of the matter, is to put that on the
21 record at the commencement of the hearing, and give the
22 parties the opportunity to address that if they wish.

23 I had a very -- what I considered unusual
24 situation where I tried a termination of parental rights
25 case for three days. At the -- we had about a half a day

1 left and I realized -- we had a break of several weeks
2 before the final day of the hearing, and I thought that I
3 had recognized one of the parties.

4 So I went back and checked and I discovered that
5 one of the foster parents who had intervened had -- was in
6 fact a former client of mine on an uncontested divorce
7 matter.

8 And so I never confronted something like that, so
9 I did what I think all smart lawyers -- all smart judges
10 do, is I called Professor Freeman and said, "What can I
11 do?"

12 And he said, "Not that big a problem. Don't
13 worry." And he explained to me the process that I
14 followed, to convene the hearing, put on the record what I
15 had learned, stepped out of the hearing, allowed the
16 parties to discuss it with their counsel out of my
17 presence, and then reconvened the hearing and asked them
18 what they wished to do.

19 I subsequently learned that is called a remittal,
20 when the parties are aware of a -- of a potential conflict,
21 that they wish to waive that conflict. And I was glad
22 that, that's what happened. Because I hated that I'd spent
23 that much time without being aware of that.

24 I found another situation where the partner of a
25 friend of mine -- they were physicians, and I was -- I had

1 never met this other person, but I knew the name. And I
2 placed that on the record. And one of the litigants said,
3 "Well, I don't -- I'm afraid he would look on this person
4 the same way he knows the other doctor in that practice."

5 I didn't. But nonetheless, I recused myself in
6 that situation. And that's where I -- I think that's the
7 key is to be open and put everything -- put everything out
8 in the open and let people decide what they want to do.

9 **Q. Thank you, Judge Long.**

10 MS. BAKER: I would note that the Upstate
11 Citizens Committee reported that Judge Long is qualified in
12 the evaluative criteria of constitutional qualifications,
13 physical health and mental stability. The Committee found
14 Judge Long well qualified in the evaluative criteria of
15 ethical fitness, professional and academic ability,
16 character, reputation, experience and judicial temperament.
17 BY MS. BAKER:

18 **Q. Judge Long, a few housekeeping matters. Since**
19 **submitting your letter of intent have you contacted any**
20 **members of the Commission about your candidacy?**

21 A. No.

22 **Q. Are you familiar with Section 2-19-70, including**
23 **the limitations on contacting members of the General**
24 **Assembly regarding your screening?**

25 A. Yes, I'm familiar with that.

1 Q. Since submitting your letter of intent have you
2 sought or received a pledge of any legislator either prior
3 to this date or pending the outcome of your screening?

4 A. No.

5 Q. Have you asked any third parties to contact
6 members of the General Assembly on your behalf, or are you
7 aware of anyone attempting to intervene in this process on
8 your behalf?

9 A. No, I'm not aware of any. And I have not
10 instructed anyone to do so.

11 Q. Have you reviewed and do you understand the
12 Commission's guidelines on pledging and South Carolina Code
13 Section 2-19-70, Subsection E?

14 A. Yes.

15 MS. BAKER: I would just note for the record
16 that any concerns raised during the investigation regarding
17 the candidate were incorporated into the questioning of the
18 candidate today. Mr. Chairman, I have no further
19 questions.

20 CHAIRMAN RANKIN: Thank you, Ms. Baker.
21 Senator Young.

22 SENATOR YOUNG: Thank you, Mr. Chairman
23 EXAMINATION BY SENATOR YOUNG:

24 Q. Judge Long, thank you for your service. I have a
25 question for you. It's in the area of abuse and neglect.

1 A. All right.

2 **Q. Based on your years on the family court bench, if**
3 **you could improve one thing about the -- or make one change**
4 **to the abuse and neglect cases, and how they are heard in**
5 **family court, what would that be?**

6 A. It's a difficult question to answer, because I
7 worked -- in my prior life as a practicing attorney, I was
8 -- for part of that time I was a contract attorney with the
9 Department of Social Services. So I'm well acquainted with
10 the structure that's involved.

11 I think if there's anything I could do to improve
12 it, it would be to attempt to expedite the process as far
13 as the children are concerned. I have often -- back when I
14 was an attorney, I often felt that children were the
15 forgotten victims in divorce and custody matters. Because
16 they're not outspoken, because they don't have any power,
17 so to spoke, they're just kind of pushed to the side. And
18 I think that's grossly unfair.

19 And I wish that -- I think there have been steps
20 taken in that regard. I think the Children's Law Center is
21 a big help. The Foster Care Review Board is very
22 beneficial. I also think that the -- using volunteer
23 guardians is very beneficial.

24 It used to be that we just took the next lawyer
25 on the list, and many times they'd show up with virtually -

1 Q. I am also proud to see a beautifully handwritten
2 note about you, by a former DSS worker, a retired child
3 welfare social worker, Ms. Hughes. And is it --

4 A. Eibs. Yeah, Eibs. Ann Eibs. That's what she
5 goes by.

6 Q. And that's spelled --

7 A. E-i-b-s.

8 Q. E-i-b-s. Which was actually written about what,
9 five and a half years ago?

10 A. Yes. I was -- I didn't know she was going to do
11 that. I'm sure you all have seen it, but she -- when I
12 asked her for the second referral letter or recommendation,
13 she began by saying, "I wrote a letter of recommendation
14 five and a half years ago, and I'm not going to repeat
15 myself."

16 And so I think she attached a copy of the old --
17 the earlier reference. But that surprised me.

18 Q. Are you thinking that she should have said
19 anything nicer?

20 A. No, no. No, not at all.

21 Q. Because she certainly gives you glowing --

22 A. She does.

23 Q. -- remarks and --

24 A. She's a fine lady. And, actually, she spends
25 most holidays with my family. We're very close.

1 Q. Very good. Do you experience at all, any
2 difficulty maintaining your roster calendar? And it's
3 called a -- instead of "calender creep," we'll call it
4 "lawyer creep," who in motions practice don't ask for
5 enough time for hearings to be fully adjudicated by you.
6 How do you handle that? Is it a problem for you?

7 A. I haven't -- I know exactly what you're talking
8 about. And I seldom had that to be a problem. I am very
9 conscientious about running my docket on time. If it says
10 9:30, I'm going to be in the courtroom at 9:30 ready to go.
11 And that helps keep a -- keep abreast of what the docketing
12 time is.

13 Occasionally, cases run over. Occasionally,
14 there's no way to -- lawyers can't anticipate how much time
15 it's going to take. But I generally do my best with -- as
16 long as I'm not inconveniencing the people on the docket
17 after that, to go ahead and hear that case at that time.

18 Sometimes it's not possible. And on occasion, if
19 I -- if I spot it soon enough, I may call -- I may speak to
20 the lawyer and say, "Look, should we set some more time for
21 this? You say you got three more witnesses, and we got ten
22 minutes to finish. Don't you think we should do that?"

23 And generally they understand what I'm talking
24 about. And usually they will make every effort to stay on
25 my schedule to do that. I have had it happen, and

1 occasionally I've had to tell the lawyers to come back
2 another time to do it. But I try to avoid that.

3 Q. With affidavits -- competing affidavits in a --
4 in a fifteen minutes -- or a thirty-minute --

5 A. Right.

6 Q. -- time frame, what is your practice? How do you
7 try to handle and consider and then rule? What's your --

8 A. My general procedure for a temporary hearing is I
9 have -- I have looked at the documents before the parties
10 have come in, I generally call on the moving party to tell
11 me what the issues are that I'm being asked to address, and
12 whether any of the issues have been -- had been agreed upon
13 at that point.

14 I ask the other attorney if they agree that's the
15 issues. I have to occasionally call down lawyers that want
16 to argue their case, when that's not what I want to hear.
17 I then go ahead and read the affidavits. I'm a pretty fast
18 reader, so I've seldom had trouble not completely what
19 they've given to me.

20 I'm aware of the eight-page rule, and I have had
21 lawyers object to that, justifiably so. And usually I take
22 that motion under advisement, because I'm usually able to
23 get through most of the documents that have been provided
24 within fifteen or twenty minutes. Which is what they're
25 usually scheduled for.

1 heavy consideration and possible deliberation by us. And
2 we could call you back if that were to arise. We don't
3 expect that to be the case, though. But you're aware of
4 that, correct?

5 JUDGE LONG: I'm absolutely aware of that,
6 yes, sir.

7 CHAIRMAN RANKIN: All right. Judge Long,
8 that's it. Thank you so much.

9 JUDGE LONG: Thank you. Thank you Members
10 of the Commission.

11 (Candidate excused.)

12 CHAIRMAN RANKIN: Welcome, Judge.

13 JUDGE NEWTON: Good afternoon.

14 CHAIRMAN RANKIN: Please raise your right
15 hand.

16 WHEREUPON,

17 THE HONORABLE ROBERT E. NEWTON, being duly
18 sworn and cautioned to speak the truth, the whole truth and
19 nothing but the truth, testifies as follows:

20 CHAIRMAN RANKIN: And your full name,
21 please, for the record.

22 JUDGE NEWTON: Robert E. Newton. Robert
23 Edward Newton.

24 CHAIRMAN RANKIN: And we call you "Judge."

25 JUDGE NEWTON: Okay.

1 CHAIRMAN RANKIN: You have before you,
2 Judge, two documents you've prepared, a PDQ and a sworn
3 statement; is that correct?

4 JUDGE NEWTON: Yes, sir.

5 CHAIRMAN RANKIN: Any changes that need to
6 be made to those?

7 JUDGE NEWTON: Not that I'm aware of, no,
8 sir.

9 CHAIRMAN RANKIN: You don't object to those
10 to be made a part of the record --

11 JUDGE NEWTON: I do not.

12 CHAIRMAN RANKIN: -- at this point? If
13 you'll hand them to Lindi, we'll do that.

14 JUDGE NEWTON: Thank you.

15 (EXHIBIT NO. 22 - JUDICIAL MERIT SELECTION
16 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
17 HONORABLE ROBERT E. NEWTON)

18 (EXHIBIT NO. 23 - JUDICIAL MERIT SELECTION
19 COMMISSION SWORN STATEMENT OF THE HONORABLE
20 ROBERT E. NEWTON)

21 CHAIRMAN RANKIN: Judge, you were screened
22 the last time, how long ago?

23 JUDGE NEWTON: 2012. This is my first time
24 since being on the bench.

25 CHAIRMAN RANKIN: Well, very good. You're

1 familiar with the evaluative criteria we look at, and that
2 includes a ballot box survey, a study of your application
3 materials, a verification of your compliance with the state
4 ethics laws, a search of newspaper articles in which your
5 name appears, a study of past screenings, and a check for
6 economic conflicts of interest.

7 No one has filed an affidavit in opposition
8 to your candidacy and no one has desired to be present, and
9 no witnesses are here to testify for you or against you.

10 You have with you, though, someone. If
11 you'd like to introduce her.

12 JUDGE NEWTON: I would, if you don't mind.
13 This is my wife, Caroline Newton, of 32 years. She's been
14 with me every time. And I didn't want to break the streak.

15 CHAIRMAN RANKIN: Very good. Welcome and
16 thank you for being here. Judge, you have the opportunity
17 -- you can't go anywhere but downhill after that
18 introduction. But you can talk a little bit more if you'd
19 like. But otherwise, Mr. Triplett will take it away with
20 questions of you. Again, you're welcome to make a brief
21 statement.

22 JUDGE NEWTON: I'd just like to thank
23 everybody for the opportunity to be here, and the work that
24 this body does, as well as the work of the staff. Most
25 particularly, Mr. Triplett, he's been very accommodating

1 and available to me, which I greatly appreciate. Thank
2 you.

3 CHAIRMAN RANKIN: Very well.

4 EXAMINATION BY MR. TRIPLETT:

5 Q. Judge Newton, after serving six years on the
6 family court, why do you want to continue serving as a
7 family court judge?

8 A. Well, I will tell you that December will mark
9 thirty years since I've been a lawyer. And I feel that in
10 those thirty years of my life, I have matured greatly as a
11 man, as a husband, as a father, and as an attorney. In the
12 six years I've been on the bench, I feel I have matured
13 greatly and made strides in the work that I set and the
14 goals that I set for myself.

15 So I will tell you that next to my wife and
16 daughter, being a family court judge is one of the proudest
17 accomplishments of my life. And I hope to be able to
18 continue to serve and to continue to grow in that position.

19 Q. Judge Newton, please explain one or two brief
20 accomplishments that you feel you have accomplished -- or
21 completed during your tenure, and then a goal that you
22 would like to accomplishment if reelected.

23 A. Well, I would note, I guess, as a preliminary
24 matter, that of the six years I've been on the bench, I've
25 served two and a half as chief administrative judge. Which

1 I -- if you're at all familiar with the assignment, that's
2 a little unprecedented. It resulted as a result of a -- of
3 a judge being out of our circuit for a period of time.

4 So in that two and a half years, I was also -- my
5 first year on the bench fortunate enough to be a family --
6 the chief administrative judge when the 365 Rule was
7 reimplemented, to so speak. And anyone who practices
8 extensively in family court knows what a hot-button issue
9 the 365 Rule has been.

10 I feel we made great strides within my circuit in
11 accommodating those demands on the docket in one of the --
12 what I think is one of the busier dockets in the circuit.

13 The other thing is I've been privileged to have
14 been appointed on the pro bono board for the South Carolina
15 Bar, and have been working to try and do some work in that
16 regard with the local committees and the statewide
17 committee. Most particularly, to address the need for
18 possibly some pro bono service to help alleviate our pro se
19 docket, which is another huge issue in the family court.

20 As far as the goal, moving forward I can tell you
21 that my goal would be the same as at any time I've
22 undertaken a job. And it is to try and do a little bit
23 better the next day than I did the day before, and to take
24 every experience, good or bad, as a learning experience,
25 and to hopefully take it to heart and move forward from

1 there.

2 **Q. Judge Newton, what do you think your reputation**
3 **is among attorneys that practice before you?**

4 A. Well, Mr. Triplett, I'm going to -- I'm going to
5 be honest. I'm going to go ahead and jump ahead on this
6 issue. I can tell you that I had a much different
7 perception of what my reputation was until I met with you
8 on October 15th.

9 And I don't -- I don't say that to make light of
10 it. I want everybody to please understand that. I think
11 Mr. Triplett is keenly aware of how troubled I was by those
12 comments that were shared with me by him, and the view that
13 certain lawyers have of my reputation, so to speak.

14 I am very proud of the fact that across the
15 board, it appeared that my reputation as it related to
16 integrity, impartiality and intellect, the knowledge of the
17 law and the fairness of the application of the law, it
18 didn't seem to be in question.

19 It does appear that from those comments -- and I
20 just, to me it's the elephant in the room that I wanted to
21 go ahead and get ahead of. Because Mr. Triplett knows,
22 I've lost sleep since October 15th over that.

23 And to me, I think it's an area that I'm going to
24 have to start working on. There's no question in my mind
25 I'm -- I don't know what more I can do other than to say

1 that, that's what my belief was. I thought I was doing a
2 pretty good job.

3 After six years and four months, never had a
4 complaint filed. Never reversed on appeal. Served on a
5 lot of committees. I thought I was doing okay until this
6 is my first time that I've gotten some feedback. And I
7 certainly have taken it to heart.

8 Q. Well, Judge Turner, the Commission received 314
9 ballot box surveys regarding you, with 25 additional
10 comments. The ballot box -- ballot box survey, for
11 example, contained the following positive comments:

12 "Judge Newton is thoughtful and well reasoned in
13 his deliberations, and gregarious in his temperament. His
14 demeanor with the Bar and pro se litigants is professional
15 and polite. He is fair and impartial throughout his
16 proceedings, imparting equal justice and equity without
17 bias. I would strongly recommend Judge Newton for
18 reappointment. Judge Newton is the best, by every measure,
19 I've ever had the pleasure to appear before. He is fair,
20 knows the law, and is respectful and compassionate towards
21 litigants. This is especially important in family court.
22 Highly qualified. Well reasoned. Settling justice in
23 every case. Fair without exception. Not influenced by
24 extraneous issue or associations. I recommend him without
25 reserve."

1 **Eight of the written comments expressed concerns.**
2 **Judge Newton, several comments indicated that you had an**
3 **unpleasant demeanor on the bench. What response would you**
4 **offer to this concern?**

5 A. Well, as I -- as I said a moment again, Mr.
6 Triplett, and I may have gotten a little bit ahead of the -
7 - of it. And it wasn't intentional, it's just -- as I
8 said, it's an issue that I've thought a great deal about.

9 First off, I would say this: As there were no
10 specifics given, and we talked about this, on any
11 particular aspect of my demeanor or my conduct, I can't
12 respond with particularity. But what I can do is this, is
13 recognize that there were enough responses and there were
14 enough lawyers that felt compelled to make -- take the time
15 to make some comments about my demeanor. So I take them on
16 face value in that regard.

17 I think that it certainly tells me that I need to
18 be more self aware. It tells me that I need to be more
19 aware of the perception that others may have. And I need
20 to do a better job with some, apparently, that I've already
21 worked on, but some feel I may not be doing it
22 appropriately, is to balance an appropriate judicial
23 temperament and demeanor while at the same time maintaining
24 a personable approach and a personable demeanor with
25 litigants on the bench.

1 And I guess that's where sometimes it's difficult
2 to recognize the -- to reconcile the positive comments that
3 say I'm gregarious and have those positives with the
4 negative comments.

5 I don't know if that's completely responsive, Mr.
6 Triplett. I welcome any other questions in that regard.
7 But I would leave it at that, at this juncture.

8 **Q. Judge Newton, another concern indicated that you**
9 **had poor judicial temperament and that you were rude to**
10 **lawyers and made it difficult for attorneys. What response**
11 **would you offer to that concern?**

12 A. And, again, what I would say in that regard is
13 not knowing any specifics, not knowing the context of any
14 of the comments, I'm going to take it on face value that
15 something I did was perceived by a lawyer as being rude.
16 And I will tell you that, that word is something that
17 bothers me a great deal.

18 I was raised in a military family where I was
19 taught "yes, sir," "no, sir," "yes, ma'am," no, ma'am" at
20 all times. And one thing that my father would not tolerate
21 is me being rude.

22 So it personally is something that I understand
23 and take quite seriously. I think that what I will need to
24 do, as I said, is be more self aware, be more cognizant of
25 perhaps how it's being perceived, my demeanor.

1 And it's a balancing act. And I just -- if I
2 could, I'll just give one quick example. Because I've
3 racked my brain to try and come up with specifics on each
4 of these comments. Because as I'm sure, it can be imagined
5 when you get an abstract, you want to -- you want to know
6 why.

7 And I wish I had that crystal ball that I -- not
8 who but why. "Who" is irrelevant to me, quite candidly.
9 And I know that there's a lot of debate about the anonymity
10 aspect of it.

11 But I'm more concerned about the "why" so I can
12 improve, so I know what I did. And if I'm consistently
13 doing it, so I can stop doing it.

14 But I'll give you a quick example. When I first
15 took the bench, I had a young lawyer come in on a temporary
16 hearing, a pro se litigant on the other side. When the
17 hearing was over, the young lawyer who -- and I had known
18 her mother as a practicing attorney for many years, wanted
19 to walk up to the bench, shake my hand. And as she's
20 approaching, she says, "Mom said to tell you Hello."

21 Well, I had just ruled against this pro se
22 litigant who was seated in the courtroom, watching all of
23 this. And we as judges get to see everybody in the
24 courtroom, and the reactions of everybody.

25 So I had to shun the lawyer away. I didn't mean

1 to be rude. I didn't intend to be -- and I'm not saying
2 this is what led to this. I'm using this as an example of
3 the balancing that I've tried to do in being mindful of the
4 perception.

5 Now, I will tell you that later, when I had a
6 chance to speak to that young lawyer's mother, I explained
7 why. I said, "Don't think that I was trying to be curt."

8 But perception and the balancing between lawyers
9 who want to be personable and -- when you've practiced
10 twenty-three years in family court -- and as you know
11 travel has been restricted a great deal, so I'm in my home
12 county a lot with people that I started as a baby-lawyer
13 with. I've grown up with friends of mine.

14 And that's why one of the comments, I think, was
15 particularly troubling. Because it address -- I mean, it
16 seemed like a personal comment, somebody that actually
17 knows me. And when you -- when you have that relationship,
18 it's difficult to maintain that balance.

19 So the answer -- that's a long-winded answer, but
20 I feel -- I feel I need to explain to this body. Because
21 as I -- as I told Mr. Triplett, I've never taken this job
22 for granted. And never will. It's a privilege to serve.
23 And I hope to be able to continue.

24 **Q. Judge Newton, another concern that you sometimes**
25 **raised issues that weren't relevant, and needs to be more**

1 pleasant to litigants. What response would you offer to
2 that concern?

3 A. Well, again, trying desperately to come up with a
4 context on how some of these comments may have generated.
5 Raises issues that weren't relevant? The first comment
6 that I would make, and I say this in all earnestness for
7 the litigators that are in the room, one lawyer's
8 irrelevant issue is another lawyer's core point sometimes.

9 So I don't know the context of it. But what I
10 would say is sometimes I would drill down on issues,
11 because at the end of the day -- as you know in family
12 court, we don't have juries. Every decision that's made is
13 ours on the facts and the law.

14 And I want to try and get it right. And I want
15 to try and do the right thing by the parties that are in
16 front of me. So I will ask questions.

17 In my context in the two and a half years as
18 chief administrative judge, sometimes while I had the case
19 in front of me, I would ask questions about the current
20 posture of the case, had it been mediated and things such
21 as that, being mindful of the approach 365.

22 And as reminder to the lawyers to try and move
23 the case forward, and assist them in trying to move the
24 case forward, was it relevant to the very issues that were
25 before me? Probably not. Was it relevant globally in the

1 case? I think it was. And in my capacity as chief
2 administrative judge, would sometimes touch on those
3 issues.

4 **Q. Judge Newton, with this being the first feedback**
5 **you received since your election in 2012, how do you use**
6 **this information to better yourself as a judge?**

7 A. I can tell you, Mr. Triplett, in all earnestness,
8 since October 15th, it's already impacted how I handle
9 things. I am more self aware. I am more cognizant of
10 perceptions. And I guess this -- you know, shame on me for
11 not having done so before, but when -- as I said, when I've
12 served for six and a half years and I have lawyers
13 approaching me, asking questions and guidance, within the
14 confines of the law I have other asking me to serve on
15 committees and speak at certain events, my perception is
16 that I was -- I was perceived okay. I was doing an okay
17 job.

18 And, obviously, as I said -- and please don't
19 take it that I would necessarily be conceding all of the
20 comments, but I can't do that. I would be doing myself a
21 disservice because I don't know the context of them. But
22 there's enough of them that I -- as I said, I've got to
23 take them on face value and know that I have to drill down
24 on that issue.

25 MR. TRIPLETT: I would note that the

1 Midlands Citizens Committee reported that Judge Newton is
2 well qualified in the evaluative criteria of ethical
3 fitness, professional and academic ability, character,
4 reputation and experience, and qualified in the remaining
5 evaluative criteria of constitutional qualifications,
6 physical health and mental stability and judicial
7 temperament.

8 BY MR. TRIPLETT:

9 Q. And, thank you, Judge Newton. There are a few
10 housekeeping issues to address. First, since submitting
11 your letter of intent have you contacted any members of the
12 Commission about your candidacy?

13 A. No, sir.

14 Q. Are you familiar with Section 2-19-70, including
15 the limitations on contacting members of the General
16 Assembly regarding your screening?

17 A. Yes, sir.

18 Q. Since submitting your letter of intent have you
19 sought or received a pledge of any legislator either prior
20 to this date or pending the outcome of your screening?

21 A. No, sir.

22 Q. Have you asked any third parties to contact
23 members of the General Assembly on your behalf, or are you
24 aware of anyone attempting to intervene in this process on
25 your behalf?

1 A. No, sir.

2 Q. Have you received and do you understand the
3 Commission's guidelines on pledging and South Carolina Code
4 Section 2-19-70(E)?

5 A. Yes, sir.

6 MR. TRIPLETT: I would just note for the
7 record that any concerns raised during the investigation
8 regarding the candidate were incorporated into the
9 questioning of the candidate today. Mr. Chairman, I have
10 no further questions.

11 JUDGE NEWTON: Thank you, Mr. Triplett.

12 CHAIRMAN RANKIN: Mr. Safran.

13 EXAMINATION BY MR. SAFRAN:

14 Q. Judge Newton.

15 A. Yes, sir.

16 Q. You know, I'm impressed by the fact that you've
17 taken to heart some of the things that were discussed with
18 you, you know, during, I guess, the period where you were
19 interviewed. And, look, I remember you as a practicing
20 lawyer.

21 And I think what we really look for is basically
22 judges to certainly do what we all expect, which is just to
23 try to maintain some level of decorum, control of the
24 courtroom, but at the same time temper it with the
25 recollection of how they felt when they were the lawyers.

1 And I think probably what you're seeing at this
2 point is exactly that, and maybe you feel like maybe
3 there's been a little distance that's some. That said, I
4 think it's going to be very difficult for anybody to ever
5 please everybody. And I do commend you for more or less
6 saying, "I'm going to take these things and think about
7 them and try to modify myself."

8 Because I think really all we look for is just
9 for folks to take the bench with the understanding there is
10 going to be some distance; but at the same time, that those
11 people that are appearing in front of you, particularly the
12 attorneys, are ones that are doing the same thing you did
13 before.

14 And I'm sure that there were times you walked out
15 of a courtroom and shook your head and said, "Boy, that was
16 a bad one."

17 A. Yes, sir.

18 Q. And I think that's really it. And as hard as it
19 is maybe to hear, I don't know that I'd say take them
20 personally. I think I'd say take them constructively. And
21 it sure as heck sounds like that's exactly what you're
22 doing. And then all we can ask.

23 A. Yes, sir.

24 Q. You know, perception is certainly a big part.
25 And as you pointed out several times, context. You don't

1 know necessarily whether they were coming from somebody
2 that was legitimately, you know, troubled by what happened,
3 or maybe had such a skewed view of the facts that you
4 couldn't have made them happy under any circumstances.

5 But I think, you know, we're really just trying
6 at this point to make sure that everybody recognizes that -
7 - you know, what we've heard from a couple of the other
8 judges, that everything remains collegial as best it can,
9 and that, you know, the process is better served by that
10 occurring.

11 A. Yes, sir.

12 Q. One thing that we've talked several times about
13 with some of the judges, and you touched on it earlier, is
14 maybe sometimes there's a preoccupation, it seems like with
15 some of the judges, with watching the clock as opposed to
16 necessarily getting into the meat of the case.

17 And I understand more now, having sat here for
18 several days, that it's a different animal than what I'm
19 used to. I will admit to you that I haven't been in family
20 court for many years, and that again you all have certainly
21 parameters that I would find very difficult -- you know,
22 I'd struggle with them.

23 But I mean, do you still believe that you're
24 getting really more to the merits of these cases, you know,
25 in terms of the times your allotted, even if it takes a

1 little bit more time as opposed to saying, you know, "I got
2 ten here, I just got to keep them moving out the door"? I
3 mean, is that really what you're striving for?

4 A. Yes, sir. As I said, Mr. Safran, I'm trying to
5 get it right. And I never let the clock dictate whether or
6 not I get it right. And I used the example of temporary
7 hearings days.

8 Family law practitioners -- you know,
9 particularly if you come to the 11th Circuit, we do them in
10 blocks of time where they're all -- we set a block at 9:30
11 and a block at eleven. And one of the great things -- my
12 greatest phrases that I like to hear is, "Consent order to
13 be submitted."

14 And that -- and the reason I like to hear that is
15 because that means I know I have the luxury of that fifteen
16 minutes that was allocated for that case, to use it on
17 another case, if warranted or necessary. And I will
18 definitely do that.

19 I think if the lawyers were asked, I have --
20 sometimes I think if -- I think the critique, if there was
21 one, would be that sometimes I spend too much time on some
22 cases, trying to get -- trying to understand and asking
23 questions to try and get it right. I don't know if that's
24 responsive but --

25 Q. And I do. And I mean, I guess maybe the other

1 thing is that -- do you ever have any reluctance, if you're
2 sitting there and a case is basically coming to a point
3 where you're saying, you know, "I really gave this thing
4 thirty minutes, it's taking more than we can really handle
5 right now," to say, "Okay. Fine, guys. You all go wait
6 out in the hall. I'm going to take the next ones. If we
7 have some time now, fine. If not, we'll find another day
8 but we're going to be it done"?

9 A. I have done -- I have done that very thing. And
10 in fact, have reconvened hearings during a chambers week,
11 or have them come back on a Friday afternoon when I know I
12 had some available time on the docket.

13 I will tell you that, that's one thing I've
14 worked to do better at is at the start of a case, when it
15 becomes apparent to me that there may be enough time
16 allocated, I'll talk -- if I'm lucky enough to have lawyers
17 on both sides -- and sometimes that's the difficulty.

18 When you have a pro se litigant, you cannot have
19 sometimes more candid discussions that you may have for
20 fear of how the -- what the perception would be, as we
21 talked about.

22 But I'll bring the lawyers up and say, you know,
23 "Do you think you can get it done? Because if you can't,
24 then I'm -- you know, I may have a problem and it may two
25 months before we can --

1 Particularly in my circuit, where we're so backed
2 up even with the work that we do, it may be two or three
3 months. And I'll give them a lot of times the option of
4 whether or not they want to try and get -- you know, let me
5 bite into that apple and see if we can finish chewing it,
6 or whether they -- whether they would rather have a
7 continuance and try to address it.

8 Q. Let me ask one last thing.

9 A. Yes, sir.

10 Q. I got very, I guess, confused. Because I've had
11 a couple of judges over the last couple of days we've done
12 this, talk about going and spending some of this precious
13 time that we're discussing in family court, because time is
14 so limited, and spending a couple of hours -- almost, you
15 know, doing the case and then mis-trying the thing just
16 because they can't finish. I mean, to me that seemed
17 completely senseless, in that it was squandering exactly
18 what you find --

19 A. Yes, sir.

20 Q. -- so precious, which is the time. I mean, is
21 there a point in doing that? At least from your
22 perspective.

23 A. Not once you got so far into it. It's something
24 that I would try and avoid. And that's what I said -- what
25 I meant when I said I try and bring the lawyers up early

1 and figure it out. If there's an hour on my docket, they
2 schedule the onehour rule to show cause, not knowing there
3 was a lawyer on the other side. And then a lawyer appears
4 on the other side and -- and as the family law
5 practitioners are aware, under Rule 14 you don't have to
6 file a return until the commencement of the hearing.

7 So that return gets handed to the other lawyer,
8 and all of a sudden these issues become very large. And
9 I'll talk to the lawyers, "How many witnesses?" And at
10 that point I'll continue it.

11 And if they don't get it finished, I can tell you
12 that it's -- I can't say I've never done it, but it's
13 something that I would rarely do on a -- on a situation
14 where there had been a significant commitment of time.

15 If I was one hour in and they tell me, "Judge,
16 we're going to need another three hours to finish it," then
17 perhaps it would make more sense to get it before a new
18 judge rather than it be three hours -- three months down
19 the road to get back before me.

20 But it's not something -- as I said, I had a very
21 -- I think it was one of the significant cases I listed on
22 my docket -- I mean, on my PDQ. I had a very contested
23 adoption case that ended up not finishing, and I reconvened
24 that, as I recall, during the Thanksgiving chambers week,
25 because I had tried three -- I think it was two or three

1 days of it, and knew I wasn't -- but I wasn't about to mis-
2 try that case, being that far into it. And we carved out
3 time to finish it.

4 Q. Thank you very much for your time and your
5 responses.

6 A. Well, thank you, sir.

7 CHAIRMAN RANKIN: Senator Young.

8 SENATOR YOUNG: Thank you, Mr. Chairman.

9 EXAMINATION BY SENATOR YOUNG:

10 Q. Judge Newton.

11 A. Yes, sir.

12 Q. Thank you for your interest in continuing your
13 service on the family court bench. And looking at your
14 PDQ, you obviously had an extensive family court practice
15 before you were elected to the family court in 2012.

16 My question to you is in the area of abuse and
17 neglect. And the question is: As it relates to abuse and
18 neglect cases, what would you do -- or what would you
19 change to improve the system -- if you could change one
20 thing, to improve the system for the children and the
21 families involved in the abuse and -- abuse and neglect
22 cases?

23 A. Senator Young, I think I got a similar question
24 by the -- it was either the Citizens Committee or the Bar
25 Committee. And I've thought about this question since that

1 time, and I'm going to take your question in the context of
2 you're not asking me as a sitting judge to address
3 legislation.

4 Q. No, I'm not.

5 A. You're just giving me a wish list --

6 Q. You know, from what you perceive serving on the
7 bench, hearing these cases, what could be improved to try
8 to make it better for the children and the families? You
9 know, it could be multiple things.

10 A. Well, I think if I -- if I had a wish list, and
11 actually carte blanche to say what I thought would be most
12 appropriate, I would tell you what I've told some others in
13 just casual conversation. I think with the volume of --
14 unfortunately, the volume that we have of those cases, that
15 it almost screams out to me at this point that it needs a
16 dedicated court almost, like an administrative law court or
17 something akin to that.

18 Because I can tell you that the -- our
19 institutional dockets have grown -- even in my six years on
20 the bench have grown markedly. Not just the abuse and
21 neglect, but the juvenile cases, the tenor of the juvenile
22 cases has changed, and the burdens on our dockets. And you
23 couple that with the 365 mandate and the civil cases, and
24 there's -- there's a whole lot of balancing that has to go
25 on.

1 So if I could give you that one item that I think
2 would -- I'm not suggesting it's a cure all/fix all. But,
3 you know, where you had a judge that focused simply on that
4 issue, and had that issue before them so that they would
5 have them the luxury of -- for example, the question Mr.
6 Safran had regarding if you try -- you started a case and
7 you couldn't finish it, you would be in much more control
8 of your docket in a situation like that, than you are now
9 in family court.

10 Because if I don't finish it -- a case on
11 Tuesday, I may have forty cases on my docket Wednesday and
12 won't have the luxury of saying, "Hey, you guys come back
13 tomorrow and we're going to finish this case tomorrow."

14 And when you have children involved, you may have
15 to bump some cases and do things like that. It just seems
16 to be one area that is in -- and I have -- I have nothing
17 but Newton's opinion on that, Senator Young. But that
18 would be my answer to that.

19 **Q. Thank you.**

20 A. Yes, sir.

21 CHAIRMAN RANKIN: Senator Hayes.

22 EXAMINATION BY SENATOR HAYES:

23 **Q. I just wanted to thank you for your service. And**
24 **I'm glad to see that you're willing to continue. I do have**
25 **one bit of advice for you. I noticed that you must own a**

1 motorcycle, because you're in three -- three motorcycle
2 clubs; is that right?

3 A. I own them. I don't ride that much anymore.

4 Q. You don't ride. Okay. Well, that's my advice to
5 you, you can own them but not ride them too much if you --

6 A. Senator, I tell you -- I tell people that my
7 garage art. I'm going to keep them -- if I do nothing but
8 sit out on a Saturday afternoon with a cup of coffee and
9 look at them and remember when, I'm going to keep them
10 until then. And I hear some laughter back here.

11 Q. She'll hold you to that.

12 CHAIRMAN RANKIN: Judge, is that actually
13 where she sends you for time out?

14 JUDGE NEWTON: No, that would -- she knows I
15 enjoy that too much. There's other places for time out.

16 EXAMINATION BY CHAIRMAN RANKIN:

17 Q. I do want to thank you for your willingness to
18 continue to do this, and I call attention, though -- and
19 because we won't get to do this for a while, but obviously
20 you're unchallenged, and so this seat is yours for the next
21 term. I appreciate your -- not humbleness, but that at
22 least. Not that you can make everyone happy all the time,
23 that's just, you know, impossible to do.

24 And not so much the comments, again the minority
25 of which have been talked about, you've gotten great

1 reviews.

2 CHAIRMAN RANKIN: And, Ms. Newton, you need
3 to know he's doing a great job.

4 Q. There are some detractors, but that -- that
5 seemingly theme has made it to the Citizens Committee is
6 concerning, but perhaps recognized by you. And that's
7 sufficient.

8 But tell me about the interaction between you and
9 the Midlands Citizens Committee on that front that -- did
10 they talk to you about that? Did they -- you know what in
11 talking about, the comment --

12 A. Yes, sir. There was a -- and I think I mentioned
13 this to Mr. Triplett. In my meeting there was no question
14 that I can recall put to me during my interaction regarding
15 anything of my demeanor, anything such as that. My
16 recollection is there were two attorneys who actually were
17 serving on the Citizens Committee, and I believe they did
18 most of the if not all of the questioning.

19 One question was akin to the question Mr. Safran
20 had regarding mis-trying and continuing cases, I received
21 that. But there was nothing raised regarding the demeanor.
22 And that's why -- I think I shared with Mr. Triplett,
23 that's why I was so taken aback. I'm not minimizing it
24 when I say that, but that's why I was really surprised.
25 And I did take that to heart.

1 Because while I respect the job the lawyers do in
2 always wanting to try and accommodate and be collegial to
3 the scope that I can, at the end of the day one thing that
4 I feel most important about is every one of us, the judges,
5 the lawyers, every one of us is there to serve those
6 litigants. And the fact that a litigant may have felt
7 slighted in some way was particularly troubling to me.

8 So I don't know if that answers the question
9 directly or not. But there was no issues raised regarding
10 demeanor in my interaction with them. And that's why I was
11 particularly surprised by that.

12 **Q. Maybe they know you drive a motorcycle.**

13 A. I wish I -- I wish I could ask.

14 **Q. And you passed them on the interstate.**

15 A. No, sir. Actually, they called and asked me to
16 come early that day. I do recall that. So I was able --
17 just as today, I was able to come a little bit early. I
18 thought everything went very well in that meeting. And
19 that's -- and I came away from that feeling pretty good.

20 **Q. Well, and again the anonymous folks, it's hard to**
21 **know who, what and why. If there's more than one -- you**
22 **know, if there's a lot, certainly this commission, I think,**
23 **gives much more weight to it. That is not the case with**
24 **you. It's again a distinct minority. You have a -- and**
25 **folks know you. Mr. Safran obviously knows of your**

1 reputation up here.

2 But I would commend to you, your recognition that
3 -- again, folks who won't see you again. Unless I'm hauled
4 before you for some -- some juvenile offense, of which
5 these guys accuse me of, not acting my age, but I doubt
6 I'll ever see you on the bench. I'll read about you,
7 perhaps, if you make it to the appellate level in terms of
8 some decision you've made. But wear that robe lightly --

9 A. Yes, sir.

10 Q. -- would be my only request and charge. Because
11 Robeitis, you've heard about. You've seen it. You know
12 what it is to suffer under it, having been out in the
13 practicing world for a while. And I won't ask you to name
14 them, but you know judges that have a reputation for
15 wearing their robe heavily, being curt with litigants, curt
16 with attorneys.

17 And sometimes the attorneys need to be given a
18 loving back of your hand. No question about it. But wear
19 it lightly would be -- to the degree that I have any nice
20 things to say to you as we move you along, I would
21 certainly ask you to do that.

22 A. Thank you, sir.

23 CHAIRMAN RANKIN: All right. Any other
24 questions of anybody else?

25 (Hearing none.)

1 CHAIRMAN RANKIN: With that, then we will --
2 this will close this portion of your hearing. And I want
3 to remind you that the record will not close until, again,
4 the final record of qualifications is issued. We will
5 bring you back if we need to. And why would we do that, if
6 there's any sense of a violation by you as a candidate,
7 violating both the spirit and the letter of the South
8 Carolina ethics laws.

9 Again, we would bring you back to explain
10 that. We expect that will not be the case, but you do know
11 that, correct?

12 JUDGE NEWTON: Yes, sir, I do.

13 CHAIRMAN RANKIN: And with that -- judge's
14 wife, we're glad you're here. Thirty-two years, God bless
15 you.

16 JUDGE NEWTON: And you don't know me that
17 well.

18 JUDGE NEWTON: And for the record, I am not
19 looking at your wife when I say that.

20 JUDGE NEWTON: She needs the accolades.
21 Thank you so much.

22 CHAIRMAN RANKIN: I'm so glad you all are
23 here. Thank you so much.

24 JUDGE NEWTON: I appreciate everybody's
25 service. Thank you.

1 (Candidate excused.)

2 CHAIRMAN RANKIN: Judge, if you will raise
3 your right hand.

4 WHEREUPON,

5 THE HONORABLE TIMOTHY H. POGUE, being duly
6 sworn and cautioned to speak the truth, the whole truth and
7 nothing but the truth, testifies as follows:

8 CHAIRMAN RANKIN: You have before you, two
9 documents that you've gone over and signed, a PDQ and a
10 sworn statement. Any changes you need to make to those?

11 JUDGE POGUE: No, sir.

12 CHAIRMAN RANKIN: Do you have any objection
13 to them being made a part of the record?

14 JUDGE POGUE: None whatsoever.

15 CHAIRMAN RANKIN: If you'll hand those over
16 to Lindi, she'll put them in. And they'll be so marked.

17 (EXHIBIT NO. 24 - JUDICIAL MERIT SELECTION
18 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
19 HONORABLE TIMOTHY H. POGUE)

20 (EXHIBIT NO. 25 - JUDICIAL MERIT SELECTION
21 COMMISSION SWORN STATEMENT OF THE HONORABLE
22 TIMOTHY H. POGUE)

23 CHAIRMAN RANKIN: Judge, you're familiar
24 with this process and the evaluative criteria we look at as
25 we thoroughly investigate your qualifications, which

1 include nine criteria. Particularly, the ballot box
2 survey, a thorough study of your application materials,
3 verification of your compliance with the state ethics laws,
4 a search of newspaper articles in which your name appears,
5 past screenings, and your check for economic conflicts of
6 interest.

7 No one has signed up to testify against you,
8 and no one has filed an affidavit in opposition to your
9 candidacy. You can make a brief opening if you'd like.
10 Otherwise, we'll turn it over to Mr. Pearce for questions
11 and others on the Commission.

12 JUDGE POGUE: It's been a long day. I'll
13 leave it up to you all.

14 CHAIRMAN RANKIN: Thank you. And I
15 appreciate your being here early as well. Mr. Pearce.

16 MR. PEARCE: Thank you, Mr. Chairman.

17 EXAMINATION BY MR. PEARCE:

18 **Q. Judge, good afternoon. After serving eleven**
19 **years on the family court bench, why do you want to**
20 **continue to serve as a family court judge?**

21 A. Well, I practiced law for thirty-one years
22 prior to getting on the bench. I pretty much did all
23 phases of family court work. I was a contract attorney for
24 DSS for twelve, thirteen years. I was a part-time public
25 defender and did all the juvenile work in Marion County

1 from the time the family court system started in 1977. I
2 did that for about twenty years.

3 And, of course, I was in solo practice of law
4 most of those thirty-one years, and done a lot of divorces,
5 done a lot of adoptions. And that was the area that I felt
6 I could do the most good and felt I was well qualified, and
7 very much admired my predecessor, Judge Buckin. And do to
8 her untimely passing, I felt like it was time for me to
9 step up to the plate. And I, hopefully, have done a good
10 enough job.

11 **Q. And along that line, Judge, could you explain**
12 **briefly an accomplishment you felt you completed your last**
13 **term, as well as a goal that you would like to complete if**
14 **reelected.**

15 A. Well, the last time I was here six years ago,
16 there was a complaint filed against me by a guardian ad
17 litem who was not involved in any case that I had. And it
18 was -- that was -- I had not been on the bench but about a
19 year at that time. And I don't think I was rude.
20 Everything was running late that day, and it was the first
21 day of court that day, and we actually worked through
22 lunch.

23 But I have made it a point, now, all of my cases
24 where I have a guardian ad litem, whether it's DSS or
25 whether it's private cases or whatever, to make sure that

1 thank the guardian ad litem for their work. Because they
2 do very -- a wonderful job. And, you know, that's one of
3 the things I think that I've done better with as far as my
4 duties as a family court judge.

5 As far as what I hope to accomplishment these
6 next few years, I have been the past president of our
7 association. We need to -- we need to try to figure out
8 what to do with all these pro se's that are coming before
9 the court now.

10 I was in court today in Florence, the way we do
11 it in Florence is on Monday -- Monday mornings we have pro
12 se. So I did about fifteen pro se's this morning, and
13 hopefully to continue to work with the pro se people and
14 make sure that they have access to justice.

15 **Q. What do you think your reputation is among**
16 **attorneys that practice before you, as well as the court**
17 **personnel whom you work with?**

18 A. I feel that I have a very good relationship with
19 all of the court personnel. I get Christmas cards from
20 clerks of court. I get thank you notes from the clerks of
21 court. I think I have a very good reputation and a very
22 good working relationship with all of the court reporters.
23 I've got a court reporter today that's with me all this
24 week, that hadn't been with me for a couple of years, and
25 she came up and gave me a big hug and said, "I'm so glad to

1 work with you this week, Judge Pogue."

2 The attorneys -- I feel like the attorneys can
3 come to me. I don't think I've ever thrown an attorney
4 under the bus in front of his client. I try to look at the
5 files beforehand, see what the case is about, and if there
6 is a problem with the case I'll call the attorneys in
7 first, and discuss it with them. Because I certainly don't
8 ever want to throw an attorney under the bus in front of
9 his client.

10 I think I have a great working relationship with
11 all the attorneys that I have worked with. I've been now
12 in, I think, thirty-seven or thirty-eight counties now.
13 I'm not but about six or seven short, I think, of being in
14 all the counties in my almost eleven years on the bench.
15 And, you know, I think attorneys can come to me and know my
16 door's open to talk with.

17 **Q. Judge Pogue, the Commission received 307 ballot**
18 **box surveys regarding you, with 26 additional comments.**
19 **The ballot box survey, for example, contained the following**
20 **positive comments:**

21 **"Intelligent, efficient, and very professional.**
22 **Treats everyone with courtesy and respect. Does not lose**
23 **his temper. A fine jurist who is committed to treating all**
24 **parties in his courtroom fairly."**

25 **In addition to those comments, two written**

1 comments expressed some concerns. One commenter indicated
2 you suffer from Robitis, and need to tone it down. What
3 response would you offer to this expressed concern?

4 A. Unfortunately, I think all of us that have been
5 on the bench for quite some time -- you know, I don't think
6 we have Robeitis. Sometimes in the -- when you've got the
7 caseload that we have, you want to try and push things
8 along and get them through.

9 At some point in time, unfortunately, you're
10 going to make somebody upset or somebody mad. I certainly
11 don't think that I make that a general practice at all. I
12 think you can tell from the other comments. But I will
13 always keep that in mind and learn from that and try and do
14 better.

15 Q. Another commenter expressed concerns that you
16 could show more compassion, and at times you jump to
17 conclusions too soon, that you need to listen better to the
18 attorneys who appear in your courtroom. What responses
19 would you offer to these expressed concerns?

20 A. Well, I feel like -- once again, I try to make
21 sure that I run my docket on time. As far as -- I try to
22 make it a practice -- the first week that I was on the
23 bench, I was with Judge Rucker.

24 And one of the things that Judge Rucker taught me
25 was, "Tim, always ask if there's anything else they want to

1 say. Anything else you want to tell me? Anything else you
2 want to tell me? And when they finally say, 'No, I don't
3 have anything else I want to tell you,' then yes, I will
4 start to rule at that time.

5 I like to rule from the bench. I do not like to
6 take things under consideration. And of course if it's a
7 complicated case, I will. But, you know, justice delayed
8 is justice denied. And, you know, I try to make my
9 decision on a -- on a timely basis.

10 But I feel that I give everybody the opportunity
11 to speak their mind. And of course the family court rules
12 say once the judge starts to rule, that's it. But I reckon
13 that would be my response.

14 **Q. Judge, as you mentioned, you were last screened**
15 **in 2012. At that time you stated that you enjoyed the**
16 **practice of law, and as you restated here today, brought**
17 **thirty years of legal work to the bench. You also shared**
18 **at that time, that your main goal in continuing to serve in**
19 **the family court bench would be to serve and hopefully**
20 **provide valuable service to this state as a family court**
21 **judge.**

22 **Would you share with the Commission what you have**
23 **done towards this goal that you expressed then.**

24 **A. Well, as I said, I was the president of our**
25 **association for a year. I have spoken in about every bench**

1 bar family court seminar that we have. I'm lined up to
2 speak next Friday at the family court bench bar.

3 I speak -- I think if you'll look at my screening
4 sheet that, you know, I have taught, I have spoken at every
5 opportunity that I have to make the public aware of what's
6 going on. And I've been on different commissions and been
7 on the advisory committee and feel that -- and am always
8 ready, willing, and able -- and all my colleagues know that
9 any help they need, I'll be there to do it.

10 Whenever there's been a judge that has not been
11 able to work for some reason, and I'm in chambers or on
12 vacation, I'll normally go and take that judge's place.
13 Because we have a strong camaraderie amongst the family
14 court judges.

15 MR. PEARCE: And just for the benefit of the
16 Commission, that list does appear on page 7 on the PDQ that
17 Judge Pogue filed with the Commission.

18 BY MR. PEARCE:

19 Q. Thank you so much. Judge Pogue, we do have some
20 housekeeping issues, of course.

21 A. Yes, sir.

22 Q. Since submitting your letter of intent have you
23 contacted any members of the Commission about your
24 candidacy?

25 A. No, sir.

1 Q. Are you familiar with Section 2-19-70 of the
2 South Carolina Code, including the limitations on
3 contacting members of the General Assembly regarding your
4 screening?

5 A. Yes, sir.

6 Q. Since submitting your letter of intent have you
7 sought or received the pledge of any legislator either
8 prior to this date or pending the outcome of your
9 screening?

10 A. No, sir.

11 Q. Have you asked any third parties to contact
12 members of the General Assembly on your behalf, or are you
13 aware of anyone attempting to intervene in this process on
14 your behalf?

15 A. No, sir.

16 Q. Have you reviewed and do you understand the
17 Commission's guidelines on pledging and South Carolina Code
18 Section 2-19-70, Subsection E?

19 A. Yes, sir.

20 MR. PEARCE: I would note that the Pee Dee
21 Citizens Committee reported that Judge Pogue is qualified
22 in the evaluative categories of constitutional
23 qualifications, physical health and mental stability.
24 Additionally, they found Judge Pogue to be well qualified
25 in the evaluative categories of ethical fitness,

1 professional and academic ability, character, reputation,
2 experience and judicial temperament.

3 I would just note for the record that any
4 concerns raised during my investigation of this candidate
5 were incorporated into my questioning here of him today.
6 Mr. Chairman, I have no further questions at this time.

7 CHAIRMAN RANKIN: All right. Mr. Pearce,
8 thank you very much. Senator Young.

9 SENATOR YOUNG: Thank you, Mr. Chairman.

10 EXAMINATION BY SENATOR YOUNG:

11 **Q. Judge Pogue, my question to you is in the area of**
12 **abuse and neglect. If you could improve the system in the**
13 **family court for children and the families involved in**
14 **abuse and neglect cases, what would you do?**

15 A. Well, as I said, I was a contract attorney for
16 DSS for twelve, thirteen years, Senator. Unfortunately, I
17 guess it would have to be in the area of education to the
18 parents, because unfortunately it's just a vicious, vicious
19 cycle, a vicious circle of those that have been abused, of
20 course, end up becoming abusers.

21 Educational on their part -- you know, the
22 purpose of the statute -- and that's what I tell every DSS
23 case when I -- if I have a removal case before me on a
24 merits hearing, I tell them, "The purpose of this
25 proceeding is to get you in a position to get your children

1 back. DSS is not the enemy. Don't look at DSS as the
2 enemy. They want you to be a success story. They want you
3 to get your children back. So, you know, they're going to
4 set up these services for you to do to get them back. And
5 the important thing for you to do is not only to obtain
6 these services, and succeed in these services, but then
7 when the children come back, to maintain those services and
8 maintain the progress that you make."

9 'Cause it's a lot different to be doing it when
10 the children aren't there then when the children get back
11 in the home. I would suggest that -- you know, a lot of
12 times we put it in our final orders, you know, when they've
13 completed the treatment plan, we say, you know, "Go on
14 back. We're going to close. Have a wonderful life
15 together."

16 We probably need to monitor probably every DSS
17 case for sixty or ninety days after the children come back,
18 to make sure that they have maintained the services that
19 they successfully achieved. Does that answer your
20 question?

21 **Q. Thank you, sir.**

22 **A. Yes, sir.**

23 EXAMINATION BY CHAIRMAN RANKIN:

24 **Q. Judge, I know you daily, daily thank the Good**
25 **Lord for Ms. Ritta Hennecy.**

1 A. Yes, sir.

2 Q. Fifty-three people that voted for her more than
3 you, and elected her to the Marion County School Board.

4 A. I thank her every day.

5 Q. In 2006 or 2004? When was that?

6 A. Had to be 2004, I believe.

7 Q. I'm looking through your PDQ. And I'm familiar
8 with you. And your daughter works for Judge Hyman.

9 A. Hyman. Yes, sir.

10 Q. And doing a great job, I'm sure. I appreciate
11 your willingness to do this, and to continue doing it. And
12 to obviously in the view of those who have participated in
13 this bench -- ballot box survey, to say that you're doing
14 so well.

15 So your involving -- or have been involved in so
16 many things, and so it's not a stranger that they're
17 appearing before. Though, sometimes in the negative
18 comment, perhaps about Robeitis, is always before you. How
19 have you resisted that -- that heavy weight of the robe?

20 A. I look forward -- I mean, I look forward to every
21 day to getting up and doing my job. I really do. And for
22 many people, a lot of attorneys and the litigants -- most
23 of the litigants that come before me, sometimes it's the
24 first time and the only time they're ever going to come
25 before me.

1 So I have tried in the last few years to make it
2 a practice not to have that Robeitis, to be more sensitive.

3 One of the things that Mr. Pearce and I talked
4 about, I think someone had made a comment or something
5 about that maybe I show my emotions too quickly or too
6 much. And I said, "Yeah, I do need to work on not letting
7 my facial expressions sometimes give me away." And I'm
8 working hard on that.

9 But I just feel -- I try not to be heavy hand --
10 I try to be -- have a congenial but yet firm personality.
11 And, you know, it's a fine line to have the judicial
12 temperament, to let them know that this is the courtroom.

13 And what I do on most of my pro se cases now, or
14 on temporary hearings where there's a lot of people have
15 their support system back there, I explain to them, I say,
16 "This is a real courtroom with real people. This isn't TV
17 court, you know. We can't sit there and raise our hands,
18 speak out, blurt out. You know, this is a real courtroom
19 with real people. And we're going to conduct ourselves
20 appropriately with the proper decorum that the State of
21 South Carolina expects from you."

22 Most of the time that takes care of that.

23 **Q. You have been in -- I think you numbered the**
24 **counties you've been in holding court.**

25 A. I think I've been -- Senator, I've either been in

1 thirty-eight or thirty-nine counties.

2 **Q. And you're a resident --**

3 A. I'm a resident judge of the 12th Circuit, Marion
4 -- there's three judges, four in the 12th Circuit, and one
5 of them has to be a Marion seat.

6 **Q. Your docket, your roster, week in and week out,
7 are you as busy as some of the other areas?**

8 A. Florence -- Marion's not that busy. When you
9 have the Florence -- the Marion docket, you know, you can
10 get through it. And we have court roughly once every two
11 weeks for Marion.

12 **Q. Folks in Marion just know how to get along?**

13 A. Yeah. And most of them, I represented at some
14 point in time. Florence is what I call a judge-and-a-half
15 court. Like, this week I'm the only judge there. Well,
16 I've got to handle any emergency that comes up, you know,
17 any DSS removal, any juvenile detention hearing, any
18 emergency hearings, any emergency domestic abuses. And
19 I've got to fit them into the schedule.

20 When there's two judges in Florence, you know,
21 you've got enough judges to handle the workload. When
22 you're the only judge there, it gets a little tough.

23 CHAIRMAN RANKIN: All right. Any other
24 questions? Anybody else?

25 (Hearing none.)

1 CHAIRMAN RANKIN: Judge Pogue, thank you.
2 This concludes this portion of the screening process. So I
3 want to let you know that as has been the case before, we
4 will keep this record open until the final record of
5 qualifications is issued. Any violation of the spirit or
6 the letter of the South Carolina ethics laws will be taken
7 very seriously. You're aware of that?

8 JUDGE POGUE: Yes, sir.

9 CHAIRMAN RANKIN: And you understand that we
10 could call you back to testify regarding that, should that
11 need arise. Which we trust will not be the case.

12 JUDGE POGUE: I trust it won't either. I
13 certainly hope not, sir.

14 CHAIRMAN RANKIN: Very well. Thank you
15 again for being here, and being here early. And hopefully
16 you beat the traffic out of here.

17 JUDGE POGUE: And get back to the parking
18 meter before it clicks off.

19 CHAIRMAN RANKIN: Take care. And the record
20 is closed.

21 (Candidate excused.)

22 CHAIRMAN RANKIN: Judge, if you will please
23 your right hand.

24 WHEREUPON,

25 THE HONORABLE ROCHELLE Y. CONITS, being duly

1 sworn and cautioned to speak the truth, the whole truth and
2 nothing but the truth, testifies as follows:

3 CHAIRMAN RANKIN: You have before you two
4 documents that you have finished, signed. And do you have
5 any objections to those being made a part of the record?

6 JUDGE CONITS: I have no objection.

7 CHAIRMAN RANKIN: All right. And no
8 amendments that need to be made?

9 JUDGE CONITS: No amendments that need to be
10 made.

11 CHAIRMAN RANKIN: If you'll hand those to
12 Lindi, we will put them in.

13 (EXHIBIT NO. 26 - JUDICIAL MERIT SELECTION
14 COMMISSION PERSONAL DATA QUESTIONNAIRE OF THE
15 HONORABLE ROCHELLE Y. CONITS)

16 (EXHIBIT NO. 27 - JUDICIAL MERIT SELECTION
17 COMMISSION SWORN STATEMENT OF THE HONORABLE
18 ROCHELLE Y. CONITS)

19 CHAIRMAN RANKIN: Judge, you were screened
20 what year again?

21 JUDGE CONITS: Pardon me?

22 CHAIRMAN RANKIN: Do you remember -- you've
23 been screened before.

24 JUDGE CONITS: I have been screened before.
25 Twice before.

1 CHAIRMAN RANKIN: And the last time was?

2 JUDGE CONITS: For the court of appeals. I
3 ran for the court of appeals and went through the screening
4 process for that.

5 CHAIRMAN RANKIN: You're well familiar with
6 the evaluative criteria that we have. You are, but I got
7 to put this in the record.

8 JUDGE CONITS: Certainly.

9 CHAIRMAN RANKIN: Which includes a ballot
10 box survey, a thorough study of your application materials,
11 verification of your compliance with the state ethics laws,
12 a search of newspaper articles in which your name appears,
13 a study of the previous screenings, and a check for
14 economic conflicts of interest.

15 No one has filed an affidavit in opposition
16 to your campaign, and no one is here to testify for you to
17 against you. And you, ma'am, have the right to make a
18 brief opening statement if you'd like. If not, Ms. Simon
19 will take it away with the questions.

20 JUDGE CONITS: Okay. I'll waive my right to
21 make the statement. I appreciate the opportunity, though.

22 CHAIRMAN RANKIN: Thank you very much.

23 EXAMINATION BY MS. SIMON:

24 Q. Judge Conits, after serving twelve years on the
25 family court, why do you want to continue to serve?

1 A. Well, I believe, obviously, it takes some years
2 of service on the bench to -- to understand all there is to
3 know about being a family court judge. I think after
4 serving twelve years, that I bring that experience then to
5 our bench in Greenville or wherever I'm appointed.

6 Our bench in Greenville is a pretty young set of
7 judges, and so they often come to me, which I love, to ask
8 my opinion on how to handle this or that. And after you've
9 been here twelve years and have done that, you pretty much
10 kind of seen a lot of scenarios. And so I can help them.
11 And I -- and I think that's important.

12 I love my job. I think I'm good at it. I love
13 problem-solving. I love, you know, the opportunity to help
14 people who come to my courtroom, maybe not on such a good
15 path in life, to start them over or put them -- put them
16 back on a -- on a better path.

17 So I'm very passionate and committed to this job
18 and would like the opportunity to keep serving.

19 **Q. Please explain one or two brief accomplishments**
20 **that you feel you have completed during your tenure, and**
21 **then a goal you would like to accomplishment if reelected.**

22 A. Well, I think an accomplishment that I've done
23 outside of being a family court judge, actually holding
24 court and maintaining, you know, a timely docket. I have a
25 good record of my cases being upheld. But in addition to

1 that, I have served on the self-represented litigants, the
2 Access to Justice for a number of years, the commission.

3 I've enjoyed that work very much to help folks
4 who maybe cannot afford attorneys and the costs of such
5 litigation, to have more access to the family court system.
6 Things involving their children, their money, their
7 property. I mean, we handle some pretty important things
8 for South Carolina citizens.

9 So I believe the access to justice for everyone
10 is important. And I've enjoyed my time on that commission.

11 **Q. What do you think your reputation is among**
12 **attorneys that practice before you, and amongst court**
13 **personnel that you interact with on a daily basis?**

14 A. What do I believe my reputation is? I believe
15 they -- the attorneys, you know, have a good understanding
16 of what's going to happen in Courtroom No. 2. I believe
17 over the years I have been consistent in my rulings. And
18 so I think they know coming in what -- you know, with their
19 set of facts, basically what I'm going to do.

20 I think a lot of things can get settled that way.
21 I know when I was a practicing attorney, if you knew who
22 your judge was going to be, then you kind of had an idea of
23 what was going to happen to your case. So I think that I
24 bring that to the attorneys, that I'm consistent and
25 dependable in my rulings.

1 And I believe that the people -- the court
2 administration, the court staff, I get along very well with
3 them. I think they're all wonderful, hardworking people.
4 The deputies in my courtroom, I believe that we get along
5 very well. And I appreciate them so much more than
6 probably they could ever know.

7 **Q. Judge Conits, the Commission received 420 ballot**
8 **box surveys regarding you, with 25 additional comments.**
9 **The ballot box survey, for example, contained the following**
10 **positive comments:**

11 **"Moves a ton of work and is excellent on complex**
12 **cases." "Very smart and incredible temperament." "Treats**
13 **everyone with respect." "Willing to learn." "Top notch**
14 **legal and factual analysis."**

15 **Six of the written comments expressed concerns.**
16 **Three comments indicated you have a poor temperament. What**
17 **response would you offer to that concern?**

18 **A. That I have a poor temperament? Well, I would**
19 **say this -- you know, we don't really have reviews of our**
20 **work, other than cases that are on appeal. So I really**
21 **have appreciated the process of coming through screening,**
22 **'cause it's really the only feedback you get. We don't**
23 **have midterm elections, so to speak, to understand how**
24 **people feel about you.**

25 And I take those -- those comments very much to

1 heart, and, you know, certainly don't want to give that
2 impression to anyone. I would -- I believe I have a calm
3 judicial temperament. I mean, I don't -- I don't believe
4 that I have ever been ugly or rude to anyone.

5 You're in family court, so you certainly have to
6 maintain a level of decorum in your courtroom. Family
7 court can get very emotional, it can get sometimes hostile
8 with the subject matter that you're dealing with.

9 So while I have been firm to litigants and
10 attorneys, I do not believe, and would politely deny, that
11 I have been, you know, of poor judicial temperament. But
12 concerned that someone would say that, and certainly will
13 take that to heart and make sure that -- that why ever --
14 why ever it is that someone felt that way, that -- that I
15 remember that and appreciate the comment.

16 **Q. One commenter alleged you show favoritism to**
17 **former law partners and award higher alimony and attorney**
18 **fees than other judges. What response would you offer to**
19 **those concerns?**

20 A. Okay. I have a question. Are they saying I give
21 higher alimony to former law partners, or higher alimony in
22 general?

23 **Q. Higher alimony in general.**

24 A. In general. Okay. So as to the former law
25 partners, I mean -- and, you know, when you and I were

1 discussing that, I would need to understand a specific
2 situation that they're talking about. I do not believe
3 that to be the case at all. You know, my former law
4 partner that I was the closest to, David Wilkins, has never
5 even been in my courtroom. He doesn't practice family law
6 anymore. He doesn't -- he's never come to my courtroom at
7 all. So I certainly have shown no favoritism to him,
8 because he's not there.

9 I took several years off from hearing any cases
10 to do with -- that Tim Madden was involved in, or Joe
11 Ramseaur. And so I feel like time -- I don't socialize
12 with those guys, we don't run in the same social circle,
13 and I just feel like enough time had passed. I do not feel
14 any bias or prejudice to them whatsoever. And so I would
15 again politely deny that.

16 And as to the alimony, I would say -- I guess
17 that's what Columbia is for. The court of appeals -- I
18 mean, I've not been overturned on any of my alimony awards.
19 I use the -- Tom Traxler's calculator for, you know, an
20 alimony that gives us a range.

21 And, you know, I'm well familiar with the
22 Thirteen Factors of Alimony, I keep up with the case law.
23 So I, you know, again would respectfully deny that I give
24 too much. I think I try to find that right number.

25 You know, paying alimony I understand is hard and

1 difficult, so I do take that seriously when I'm awarding
2 alimony, that there is a payor out there who has to pay it.
3 And is I just believe that I do the best I can do with that
4 calculation.

5 **Q. One comments is as follows: "Ms. Conits would**
6 **benefit from remembering actual lives of actual children**
7 **are at stake when she carelessly addresses their needs and**
8 **makes it clear she could not care less about them."**

9 **What response would you offer to that?**

10 A. You know, that is a heartbreaking thing to hear
11 that -- that someone had that experience or felt that way.
12 I'm there for the children. I care very, very much about
13 what happens to the children involved in my ruling, and the
14 lives of these families. I'm so sorry that anyone ever
15 felt otherwise.

16 And, you know, when you hear these complaints,
17 you try to think back to a specific scenario that they
18 could be talking about. I know when we are handling
19 juvenile matters, often parents will, you know, be too
20 upset to really see clearly what needs to happen. And I
21 think that if ever I had discussion with a parent, it would
22 be in a juvenile matter.

23 And I know that's especially difficult for
24 parents who have children in trouble, and oftentimes they
25 don't agree with what I think we need to do with this

1 child. So I can see that kind of comment coming from that
2 kind of context.

3 But again, I think it's beneficial and useful to
4 go through the screening process, to hear that someone
5 feels that way, and to make sure to check myself and make
6 sure that I'm addressing any concern like that.

7 **Q. The final negative comment is as follows: "This**
8 **candidate is almost always late beginning court, does not**
9 **concentrate on cases when they are heard, is often doing**
10 **other things during court, such as balancing her checkbook**
11 **or responding to a message on her phone.**

12 They have been quoted as saying this is the best
13 part-time job they ever had. They appear to put less into
14 their job than any other resident family court judge in
15 Greenville. They are -- they are present, but she does not
16 focus on her job as a judge."

17 **What response would you offer?**

18 A. Well, I had not heard that. I had not heard that
19 comment before. Again, I would say just in general, I'm so
20 sorry that anyone feels that way. That is not my feeling
21 toward my job.

22 I take my job very seriously. You know, I'm on
23 my bench, I have my computer at -- I mean, we're lucky to
24 have computer access to our forms that we need, and can
25 look up legal research. And so I'm doing that a lot. I'm

1 working with Tom Traxler's alimony or child support.

2 We have realtime reporting, so, yes, I am using
3 my computer a lot. I don't believe that I've ever balanced
4 checkbooks. You know, maybe -- maybe in-between hearings
5 I'll, you know, do some personal things, but not during a
6 hearing. So I would say to that person I'm so sorry that
7 it appears that way. I'm listening. I'm taking notes and
8 I care very much about what's going on.

9 **Q. To-date what has been your most significant**
10 **order?**

11 A. I would say my -- the order that initially was
12 overturned over by the court of appeals, the Dawson case,
13 it was a reported opinion, and then moved up to the Supreme
14 Court where my original order of adoption was reinstated
15 and the court of appeals was overturned.

16 And that case involved the adoption of a little
17 girl out of Union County from -- the foster parents sought
18 to adopt. And so the whole -- it was a 64-page order that
19 I drafted myself. It dealt with whether or not foster
20 parents have standing to adopt, can they intervene in these
21 adoption actions that are DSS, or can they intervene in
22 these DSS actions.

23 And I'll tell you when -- we tried that case for
24 over a week in Union County. I took another week to do
25 legal research and draft my own order. I knew it was a big

1 legal battle. It was a lot of complex litigant. I was so
2 thankful for the week after the trial, to be able to draft
3 my own order without asking other attorneys to draft the
4 order.

5 And when the court of appeals overturned me, I
6 really took that to heart. Because I was so worried about,
7 you know, the time that the little girl had remained in
8 foster -- with her foster family. That was a whole other
9 year she had of bonding with that family, and if I got that
10 wrong then I had, you know, just exacerbate her problem.,

11 But when the -- when the Supreme Court came down
12 and said that, yes, it was -- it was a correct ruling, and
13 that my ruling stood, then, you know, I had a little -- a
14 little renewed hope in my ability to do that. And I
15 believe that's my most significant and important order.

16 **Q. Now for some housekeeping issues. Judge Conits,**
17 **since submitting your letter of intent have you contacted**
18 **any members of the Commission about your candidacy?**

19 A. No, ma'am.

20 **Q. Are you familiar with Section 2-19-70, including**
21 **the limitations on contacting members of the General**
22 **Assembly regarding your screening?**

23 A. Yes.

24 **Q. Since submitting your letter of intent have you**
25 **sought or received the pledge of any legislator either**

1 prior to this date or pending the outcome of your
2 screening?

3 A. No.

4 Q. Have you asked any third parties to contact
5 members of the General Assembly on your behalf, or are you
6 aware of anyone attempting to intervene in this process on
7 your behalf?

8 A. No.

9 Q. Have you reviewed and do you understand the
10 Commission's guidelines on pledging and South Carolina Code
11 Section 2-19-70, Subsection E?

12 A. Yes, I am familiar with that.

13 MS. SIMON: I would note that the Upstate
14 Citizens Committee reported Judge Conits to be well
15 qualified as to ethical fitness, professional and academic
16 ability, character, reputation, experience and judicial
17 temperament, and qualified as to constitutional
18 qualifications, physical health and mental stability.

19 I would also note for the record that any
20 concerns raised during the investigation regarding the
21 candidate were incorporated into the questioning of her
22 today. And, Mr. Chairman, I have no further questions.

23 CHAIRMAN RANKIN: Okay. Thank you, Ms.
24 Simon. Senator Young.

25 SENATOR YOUNG: Thank you, Mr. Chairman.

1 EXAMINATION BY SENATOR YOUNG:

2 Q. Judge, thank you for your interest in continuing
3 your service to our state on the family court bench. My
4 question to you is in the area of abuse and neglect cases.
5 It's apparently to me, from reading your PDQ, that you've
6 had extensive experience in family court and your private
7 practice, and now after, I think, about twelve -- eleven
8 years? Twelve years on the bench?

9 A. Right. A little -- yes.

10 Q. Anyway, if you could improve the system in family
11 court, as it relates to the children and the families who
12 are in the system in the abuse and neglect cases, what
13 would that be? What would you do?

14 A. I believe that's what happen -- I believe the
15 biggest problem in the DSS abuse and neglect cases is the
16 lack of docket time that we are able to give to DSS cases.
17 You know, I would love to see a dedicated docket, maybe --
18 maybe one judge serving a three-month or a six-month term
19 where all that judge does is to move and try those cases.

20 You know, if family court judges aren't trying
21 cases, and on the bench adjudicating, then I think we're
22 wasting what we're supposed -- we're wasting the time that
23 we're given. But when you try to work a private litigant
24 into a DSS docket, and we're bouncing back and forth like
25 that, I think we just waste so much time.

1 And I think DSS desperately needs judicial
2 oversight in, you know, what's going on. They're supposed
3 to have hearings within so many days, those hearings are
4 not happening because we don't have enough court time to
5 give DSS. And of all the cases I believe that are, you
6 know, entitled to court time, it would be the children in
7 foster care, the DSS cases.

8 **Q. I agree. One question, too, I have is in**
9 **Greenville County, is there -- have you all tried mediation**
10 **of DSS cases?**

11 A. I started that probably spent six or seven years
12 ago, Senator, where on Friday we would allow -- and give
13 attorneys for 408 credit for it -- but come to family court
14 and mediate your placement plan, your treatment plans.

15 And that took a -- that, you know, took off
16 strong and then kind of fizzled out 'cause you just could
17 not get -- the mediators, you couldn't get the attorneys
18 interested in coming up there to mediate.

19 I think DSS appreciated it, I think the families
20 appreciated it, but we -- we had a hard time scheduling
21 mediators to be available. And then of course we were
22 available if they reached an agreement to put -- to put
23 that on the record right then and there.

24 **Q. Thank you.**

25 A. Thank you. Thank you.

1 CHAIRMAN RANKIN: Any questions? Ms.
2 McIver.

3 MS. MCIVER: Thank you, Mr. Chairman.
4 EXAMINATION BY MS. MCIVER:

5 Q. Judge Conits, I want to read a couple of comments
6 before I ask my question, if that's okay.

7 A. Okay. Certainly.

8 Q. In one of your letters -- this is from David
9 Wilkins who says, "She brings to the bench her true
10 compassion on a sincere desire to better the lives of those
11 who come before her for assistance and guidance in settling
12 disputes of the most intimate and personal nature."

13 So I'm going to compare that comment to some that
14 came in the ballot box, that I think have already been
15 mentioned. The comments about you are that you move a ton
16 of work, you're fair and fast.

17 Now to my question: A couple of judges have
18 expressed concerns with the temporary hearing fifteen-
19 minute limit --

20 A. Yes.

21 Q. -- and how to move those when there are lawyers
22 who are desperately seeking court time, and the only way to
23 get the court time is to seek a fifteen minutes hearing so
24 that their clients can be heard.

25 A. Right.

1 **Q. How do you manage that and handle the fifteen-**
2 **minute hearing request?**

3 A. And so, you know, you'll have a docket and you're
4 set -- we call it Motion Monday. So on Motion Monday,
5 starting back at two o'clock you have a fifteen-minute
6 hearing every fifteen minutes until the day's done.

7 And so to really -- they're limited to eight
8 pages of affidavits, but even that -- I mean, if you take
9 that info -- that ton of information and try to apply the
10 law to it, I mean, you -- really, it feels like this in the
11 afternoon.

12 And so what I typically do is to allow the
13 attorneys to speak first. A lot of judges will read these
14 affidavits first, and then allow attorneys to speak. But
15 the attorneys who are excellent and who are familiar with
16 the facts of that case and familiar with what we really
17 need to know, you know, it's all got to be on the upside
18 down triangle, and let's get down to what the point is.

19 So I allow the attorneys to speak first and tell
20 me -- tell me what the holdup is, what do we need to focus
21 us. And then I -- and I hear from both attorneys. I read
22 through as fast as I can, 'cause we only have fifteen
23 minutes and a hall full of people.

24 But I think that's what moves it along fast is to
25 let the attorneys be the good attorneys that they are, and

1 let me know as fast as they can what they need from me.

2 Q. If you have attorneys who aren't able to
3 succinctly express their positions, and the time is going
4 well over fifteen minutes, how would you handle that?

5 A. I start asking questions. If you're not telling
6 me what I need to know, I start asking those questions.

7 Q. Thank you.

8 A. Thank you.

9 EXAMINATION BY CHAIRMAN RANKIN:

10 Q. Have you ever gotten in the middle of a motion
11 hearing that the time requested was blown out -- right out
12 of the case, and you knew it wasn't going to be a fifteen-
13 minute hearing? Obviously, you've had that happen. What
14 do you do? Do you -- do you say, "Let's reschedule this"?
15 Do you say -- how do you handle that?

16 A. What I say is -- no, I would never reschedule. I
17 mean, we're here. We have a problem. Let's -- we'll
18 figure this out. But what I would do is hear from the
19 attorneys, let them tell me what they want to tell me, and
20 if we're running too far over, then I know it's going to
21 really, really knock us out, I'll take it under advisement.

22 And I have your affidavits, I have your financial
23 declarations, I'll go through all of that just to make sure
24 I don't have any questions about -- especially about the
25 financial declarations. I let the attorneys tell me what

1 their big points are -- I mean, what the true fuss is
2 about, and then I'll just take it under advisement and keep
3 going on with my docket and get back to that one.

4 **Q. Greenville is a busy area --**

5 A. Yes.

6 **Q. -- Richland and Charleston, I mean, around the**
7 **state you're rotating judges --**

8 A. Yes.

9 **Q. -- to meet the demand. Your docket itself, are**
10 **you Monday through Friday?**

11 A. Monday --

12 **Q. Steady in and steady out, Monday through --**

13 A. Monday through Friday, steady in and steady out.

14 We do stop court at noon on Friday, or 12:30 on Friday.

15 But, yes, Monday through Friday, steady in and steady out.

16 **Q. Mediation has relieved you of trying some of the**
17 **cases --**

18 A. Certainly.

19 **Q. -- right?**

20 A. Mediation is wonderful. And a lot times I'll get
21 into a case, like a rule to show cause, and understand that
22 there is an underlying fuss and send them to mediation. I
23 mean, so I'll order mediation even where it's not required.
24 Because they can -- they can figure this out if would just,
25 you know, come together and take the time to do that.

1 CHAIRMAN RANKIN: Any other questions? Any
2 comments?

3 (Hearing none.)

4 CHAIRMAN RANKIN: I want to also ditto the -
5 - at least mention the letter from David Wilkins, both from
6 the professional and the personal standpoint of you, and
7 commend you for handling it all as you have done. And,
8 again, to the minority of naysayers who might not recognize
9 the wisdom of your ways, you are held in very high regard
10 by those who appear before you. So I want to commend you
11 for, again, your willingness to continue doing this.

12 JUDGE CONITS: Thank you.

13 CHAIRMAN RANKIN: And with that this will
14 close this portion of our screening process. Let me remind
15 you that pursuant to our criteria, we expect you as a
16 candidate to abide by both the spirit and the letter of the
17 South Carolina rules and laws of ethics. Any violation of
18 those or any appearance of impropriety would be deemed very
19 serious and potentially deserving of heavy consideration
20 and deliberation by the Commission.

21 If that were to arise, we would call you
22 back. You're aware of that rule, correct?

23 JUDGE CONITS: Certainly. Certainly.

24 CHAIRMAN RANKIN: We don't expect that to be
25 the case, but we've got to put that on the record.

1 JUDGE CONITS: Thank you, sir.

2 CHAIRMAN RANKIN: All right. Judge, that's
3 it. And thank you for being here early. And you are done
4 before your time was supposed to begin.

5 JUDGE CONITS: Look at that. I appreciate
6 it so much. Thank you all so much.

7 CHAIRMAN RANKIN: Yes, ma'am.

8 (Candidate excused.)

9 CHAIRMAN RANKIN: On motion of Senator
10 Hayes, seconded by Mr. Safran, we're going to go into
11 executive session.

12 (Off the record.)

13 CHAIRMAN RANKIN: We're back on the record.
14 And for the record I'd like to say that while in executive
15 session no decisions were made and no votes were taken.
16 Now we are ready to proceed with nomination and
17 qualification of these judges. Is there a motion?

18 REPRESENTATIVE SMITH: Representative
19 Rutherford.

20 REPRESENTATIVE RUTHERFORD: Yes, I would ask
21 that we find qualified and nominated the candidate -- the
22 slate of candidates that we saw this afternoon.

23 CHAIRMAN RANKIN: Seconded by Representative
24 Murphy. All in favor say "aye."

25 (At this time the members audibly say "aye.")

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CHAIRMAN RANKIN: Any opposition?

(Hearing none.)

CHAIRMAN RANKIN: The ayes have it. And that will conclude today's screening.

(OFF THE RECORD AT 5:14 P.M.)

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